

Leveraged Equities Finance Limited



Make the most of your
potential



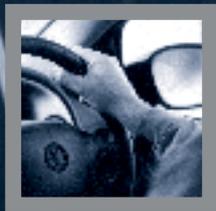
**LEVERAGED
EQUITIES**
FINANCE LIMITED



Leveraging a portfolio of shares
may significantly increase your



and fixed interest securities
return on investments over time



corner the

opportunities ;



Are you seeking an opportunity to maximise your wealth...

Isn't it frustrating when you see a great investment opportunity come along that you would like to participate in, be it in the sharemarket or elsewhere, but your capital is locked into investments which are not readily accessible, or which you don't wish to sell?

Welcome to the Margin Lending Facility provided by Leveraged Equities Finance Limited ("Leveraged Equities").

We help investors access these opportunities utilising their existing investment portfolio. It is the securities market equivalent of borrowing money on the security of real property.

We achieve this by providing a Margin Lending Facility. Inside this document is information about margin lending and the benefits of leveraging your existing investment portfolio in this manner.

Leveraged Equities was established in 1994 as a service provider of margin lending facilities for sharebroking firms. Accordingly, established relationships exist with most sharebroking firms operating in the New Zealand market.

We have built a solid business through providing a flexible facility and a commitment to quality service.

So when you are ready to maximise the opportunities from within your investment portfolio contact [Leveraged Equities on 0800 Margin \(0800 627 446\)](tel:0800627446).

What is Margin Lending?

A traditional wealth creation strategy used by New Zealand investors has been to gear into property (especially housing). Gearing simply means borrowing money to invest. Over time your investment has the potential to grow in value over and above the cost of borrowing.

Leveraged Equities applies this same principle and offers investors the means to gear by using money that you already have to invest and/or your existing portfolio plus a margin loan. Put simply, our money and your shares (or fixed interest securities) enable you to take advantage of investment opportunities as they arise.

The Margin Lending Facility is flexible. For example, you have the flexibility to decide what investments you make with the proceeds of the loan, when you draw down and repay the loan, how much you borrow (subject to the amount of credit we give you), and whether you pay interest on a periodic basis or have the interest capitalised and added to your loan.

Benefits of leveraging a portfolio include:

- **Maximise your wealth** by increasing your return on investment over time;
- **Diversify your portfolio** to reduce investment risk;
- **Access your equity** and make your existing investments work for you;
- **Flexibility through leverage** to respond to changing market conditions; and
- **Taxation benefits** may be available.

However there are risks with margin lending and we draw your attention to the 'Risks of Margin Lending' on page 9.

MAXIMISE YOUR WEALTH

Leveraging a portfolio of Securities¹ may significantly increase your return on investment over time.

For example, a client has \$30,000 to invest in company ABC Limited. The following table illustrates how their leveraged portfolio can increase in value with different levels of gearing.

	Ungeared	Gearred (50%)	Gearred (70%)
Initial Investment	\$30,000	\$30,000	\$30,000
Margin Lending	-	\$30,000	\$70,000
Total Investment	\$30,000	\$60,000	\$100,000

Leveraged Equities lends up to a percentage of the market value of certain approved Securities and this is known as the margin lending ratio or 'MLR'. Different investments have different MLRs.

To work out the maximum total amount which you can "purchase" the following formula is used:

$$\frac{\text{Initial Investment}}{(100\% - \text{MLR}\%)} \quad \text{e.g.} \quad \frac{\$30,000}{(100\% - 70\%)} = \$100,000$$

By way of example, a deposit of \$30,000 will enable you to purchase up to \$100,000 of ABC Limited with a MLR of 70%. If your deposit is in the form of cash, you can borrow from Leveraged Equities up to \$70,000 (\$100,000 - \$30,000).



2

Scenario 1 (10% Share Price Increase)	Ungeared	Gearred (50%)	Gearred (70%)
Initial Investment	\$30,000	\$30,000	\$30,000
Margin Lending	-	\$30,000	\$70,000
Total Investment	\$30,000	\$60,000	\$100,000

10% Share Price Increase

Increase of 10% on total investment	\$3,000	\$6,000	\$10,000
Value of Investment	\$33,000	\$66,000	\$110,000
Return on Initial Equity (\$30,000)	10%	20%	33%

Scenario 2 (15% Share Price Increase)	Ungeared	Gearred (50%)	Gearred (70%)
Initial Investment	\$30,000	\$30,000	\$30,000
Margin Lending	-	\$30,000	\$70,000
Total Investment	\$30,000	\$60,000	\$100,000

15% Share Price Increase

Increase of 15% on total investment	\$4,500	\$9,000	\$15,000
Value of Investment	\$34,500	\$69,000	\$115,000
Return on Initial Equity (\$30,000)	15%	30%	50%

These examples illustrate capital growth only. Brokerage and interest charges are not included. Further, as Security prices can go down (as well as up) losses may be magnified by gearing. Please refer to our discussion of this risk on page 9.

1. Shares, fixed interest securities, and other securities are referred to as 'Securities' from this point onwards

Another alternative is to transfer Securities as the deposit (rather than cash) in order to borrow from Leveraged Equities. This is illustrated in Scenario 3 below.

In addition to potential gains in Security prices, leveraging can increase earnings through dividends and income credits providing an income stream to offset against interest charged to your Margin Lending Facility.

DIVERSIFY YOUR PORTFOLIO

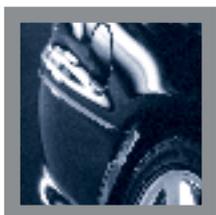
Diversification is a key strategy to reduce investment risk. Rather than selling your Securities, these can be leveraged through our Margin Lending Facility. By borrowing against your existing Securities you have more money to invest and you can use this to spread your risk.

Our clients utilise this facility to diversify their portfolios by investing in a greater number of Securities and also across different sectors, and with respect to New Zealand, Australia, United States and United Kingdom, between markets.

Margin lending is also a strategy used by investors seeking to diversify outside of property investments into different asset classes, thus achieving more balance between property investment and other Securities.

Take the previous example. Our client leveraged their portfolio to buy additional shares in ABC Limited. In the following example, instead of buying additional shares in ABC Limited, you can see that they have diversified their portfolio purchasing shares in three other companies.

Scenario 3	Security Value	Market Value
Initial Investment:		
15,000 ABC shares @\$2.00 (with a MLR of 70%)	\$21,000	\$30,000
Purchases:		
20,000 DEF shares @ \$1.00 (with a MLR of 65%)	\$13,000	\$20,000
40,000 GHI shares @\$0.50 (with a MLR of 60%)	\$12,000	\$20,000
20,000 JKL shares @ \$1.00 (with a MLR of 70%)	\$14,000	\$20,000
Total loan is the market value of the 3 purchases (\$60,000). This is equal to the total Security Value.	\$60,000	\$90,000



ACCESS YOUR EQUITY

When an investment opportunity arises you may not always wish to sell existing Securities. With Leveraged Equities you can put these investments to work without needing to sell them to access your equity. By leveraging your existing investments you can participate in public share floats, rights issues or any other investment or business opportunity that arises.

FLEXIBILITY THROUGH LEVERAGE

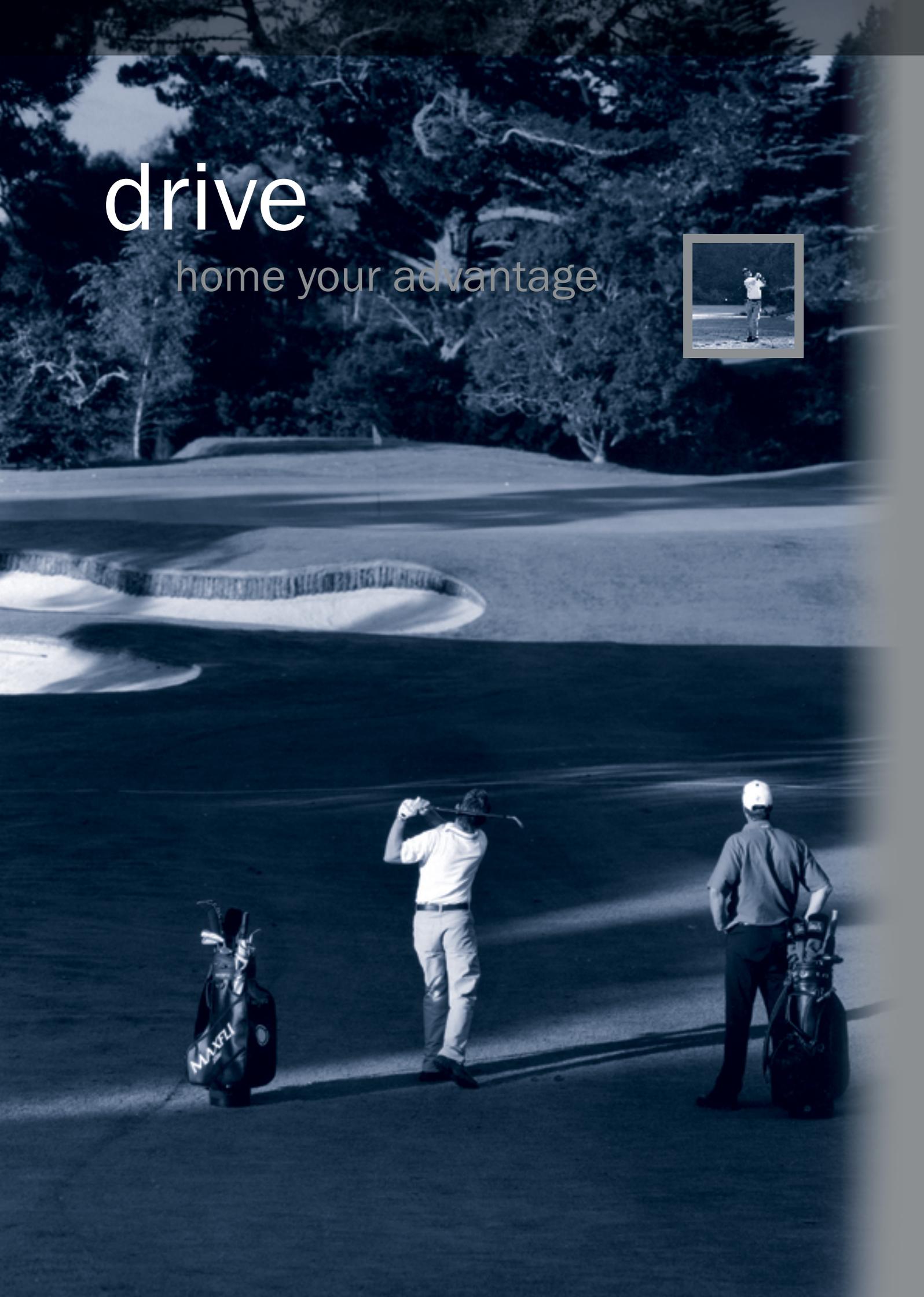
Leveraged Equities offers an alternative to gearing into real estate. Unlike property, investing in listed Securities generally enables you to move in and out of markets quickly with lower associated administration costs. Markets move rapidly and require the ability to respond quickly. Leveraging a portfolio allows you to access funds should conditions change or the funds be required for other purposes.

TAXATION

Interest may be tax deductible provided the funds are used for taxable income generating purposes. Your taxation advisor may be able to assist you and we recommend you seek their advice.

drive

home your advantage





Access greater investment potential...

On the following pages is a summary of the key features of the Margin Lending Facility. Full terms and conditions are contained at the back of this document. Please ensure that you read this in full and seek professional independent advice prior to applying for a Margin Lending Facility with Leveraged Equities.

Who can borrow?

Individuals, companies, partnerships and trusts are all eligible to apply to Leveraged Equities for a Margin Lending Facility.

What type of finance is available?

A Margin Lending Facility with Leveraged Equities will allow you to draw down funds in New Zealand Dollars and Australian Dollars. This will allow you to participate directly in both New Zealand and Australian investment opportunities.

Loans are currently not available in U.S. Dollars or G.B. Pounds. However, you can participate in both United States and United Kingdom listed investment opportunities by contacting your broker to make such an investment. Your broker will then contact us to advise us of the amount required (in either New Zealand Dollars or Australian Dollars) in order to settle the purchase of the United States or United Kingdom Securities. We will then advance the applicable amount in either New Zealand Dollars or Australian Dollars to your broker to settle the purchase.

Generally, advances are made on a floating rate basis.

However, you may be able to elect to draw down some, or all, of your loan on a fixed rate basis. The minimum amount for a fixed rate advance and the funding period to which a fixed rate advance will be made can be found by contacting us.

Once you have decided what amount and funding period you choose for your fixed rate advance, we will advise you whether we are willing to make the advance and the interest rate applicable. You must then confirm whether you accept that interest rate.

How much finance is available?

Finance is available based on the market value of your portfolio. As outlined on page 2 we lend up to a percentage of the market value of certain Securities and this is known as the margin lending ratio (MLR).

Currently, we lend against certain Securities in New Zealand, Australia, the United States and the United Kingdom.

The Securities and MLRs for those Securities change from time to time at our discretion. You can find the current list of such Securities, and their MLRs, on our website at www.leveragedequities.co.nz

These MLRs are set and reviewed by Leveraged Equities in order to manage our business. They should not be taken as a recommendation to purchase a particular Security. Leveraged Equities recommends you seek independent advice prior to making an investment selection.

The maximum amount that you can borrow depends on, amongst other things:

- how much money you have to invest;
- which Securities you invest into; and
- the current MLRs approved on each Security that you invest into.

Securing your loan

The Securities which you wish to borrow against or new investments you make will be held as security against your Margin Lending Facility. To do this, ownership of the Securities is transferred into the name of Leveraged Equities or our nominee. Upon repayment of any outstanding balances, ownership will be transferred back into your name at your request. You may sell any of these Securities through your broker at any time. The proceeds will be credited to your account with Leveraged Equities.

Falls in the market value of the Secured Property may trigger a margin call (see below). If you fail to meet your obligations under a margin call, we may sell some or all of the investments.

Securities held by Leveraged Equities are still available to participate in all dividend and interest payments.



FLEXIBILITY OF REPAYMENTS

Floating Rate Advances

There are no set principal repayments required. Should you wish to make principal repayments, this can be done by giving us one Working Day's notice prior to depositing the payment. You may reduce your debt obligations by selling Securities held in your portfolio without giving prior notice to us.

As with overdraft facilities, Leveraged Equities is entitled to require you to repay outstanding floating rate balances on demand.

Fixed Rate Advances

Fixed rate advances must be repaid on expiry of the applicable funding period. Alternatively, Leveraged Equities may agree to allow you to roll over the advance for a further fixed period at a revised interest rate, or convert the advance to a floating rate advance instead of repaying the funds.

Your Credit Limit

Leveraged Equities sets a New Zealand Dollar credit limit following consultation with you. Your combined fixed and floating rate advances must not exceed the approved credit limit for your Margin Lending Facility. Australian Dollar advances are valued in the New Zealand Dollar equivalent at an exchange rate determined by Leveraged Equities (see section 5 of the Margin Lending Facility Terms and Conditions set out in this document) for the purpose of monitoring credit usage.

You must ensure that any draw down or purchase of Securities does not result in a breach of your approved Credit Limit. Also, we are not obliged to settle any transaction made by you if that transaction were to result in a breach of your Credit Limit.

If your loan balance exceeds your Credit Limit, we will require you to rectify this breach immediately.

What interest do I pay?

Interest on floating rate advances is calculated on a daily basis and charged monthly in arrears on the amount outstanding.

Interest for fixed rate advances is also calculated on a daily basis. The interest payment dates for fixed rate advances vary depending on the funding period selected.

The interest rates charged on each advance are shown on your monthly statement or you may obtain this information by phoning Leveraged Equities at any time during business hours.

FURTHER INFORMATION

What fees are charged?

There are no monthly account fees charged to your Leveraged Equities account.

However, an initial establishment fee will be charged to cover the administration associated with approving and establishing your Margin Lending Facility with us. We will also charge you a fee when considering requests for Credit Limit increases. The current fees can be found on our website, in the current PDS, or by contacting us.

What about Corporate Actions?

We do not send you copies of company annual reports for companies that you have invested in through the Margin Lending Facility. This information can generally be found online via the company's website, or by you requesting this information from the company's registrar. We will pass on to you any information that requires you to take further action.

Generally speaking, you may direct us to vote by proxy on your behalf at company meetings. However, in some limited circumstances we may not be able to vote by proxy on your behalf (e.g. where those Securities are subject to a 'stock lending' arrangement described below and the counterparty has not re-transferred the Securities in sufficient time for the relevant proxy to be lodged).

What happens to Dividends/Interest received on my Securities?

All dividend or interest payments received by us in respect of your Securities are credited to your loan account. Any imputation credits will be passed on to you and we will send you a tax summary at the end of the tax year. You may request that we elect to participate in dividend re-investment plans where applicable.

What Securities do we lend against?

An up-to-date list of approved Securities that we are prepared to lend against can be found on our website. We currently lend on Securities across the New Zealand, Australian, the United States and United Kingdom markets.

LE Shorts

A short selling feature (called 'LE Shorts') can be added to your Margin Lending Facility. With this feature added, you may use your Margin Lending Facility for short selling. Please refer to our separate short selling brochure and application form for details.



Keeping in touch

You will receive a monthly statement either emailed or posted to you, from us outlining your loan balances, interest rates and market value of your investment portfolio and any transactions that you have made during the past month.

In addition, our staff are available to discuss your Margin Lending Facility and they can be reached on 0800 Margin (0800 627 446).

You may access your current statement (at any time) from our website. All you need is your Leveraged Equities account number and your email address. An email will be sent to you immediately with the requested statement attached. The statement will only be sent to an email address that you have authorised us to send statements to.

Managing a leveraged investment

Leveraging a portfolio has become a popular way to maximise wealth. Like any investment strategy however it does have associated risks. It is important that you understand these risks when considering if margin lending is right for you.

Importantly, investing borrowed monies magnifies the returns you receive (both positive and negative).

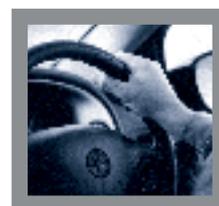
The value of your Securities can fall as well as rise. Margin lending will increase the magnitude of your loss if Security prices fall. This loss is only realised however if the Securities are actually sold. Your returns will depend on the performance of the investment choices you make with the funds we advance to you. It is important therefore that you speak to your financial advice provider and seek independent advice on the investments that you are considering.

You must regularly monitor your portfolio and Margin Lending Facility so you are aware of any changes to the terms of the Margin Lending Facility and can take timely steps to avoid and reduce losses.

You must be able to pay extra money into your loan, or be prepared to sell Securities, at short notice to meet margin calls.

Consider our first example in which our client has \$30,000 invested in ABC Limited. Since making the initial investment, the share price for ABC has decreased by 10%.

Scenario 4 (10% Share Price Decrease)	Ungeared	Geared (50%)	Geared (70%)
Initial Investment	\$30,000	\$30,000	\$30,000
Margin Lending	-	\$30,000	\$70,000
Total Investment	\$30,000	\$60,000	\$100,000
10% Share Price Decrease			
Decrease of 10% on Initial Investment	\$3,000	\$6,000	\$10,000
Value of Investment	\$27,000	\$54,000	\$90,000
Loss on Initial Equity (\$30,000)	10%	20%	33%



RISKS OF MARGIN LENDING

Changes to the value of your investments, interest rates, and foreign exchange rates

Investing borrowed monies by using the Margin Lending Facility magnifies the returns/losses you may receive in the event of an increase/decrease in the market value of your Securities (when compared to investing without borrowing). Examples are set out in scenarios 1, 2 and 4 on pages 2 and 8 respectively. Therefore, there is a heightened risk of incurring substantial losses by using the Margin Lending Facility.

Also, a fall in the value of your Securities may trigger a margin call, which, if not met in full, may result in some or all of your Securities being sold by us.

An increase in interest rates may increase your borrowing costs. If the net return on your Securities (including capital gains and dividends received) is less than your borrowing costs, then you may earn a lower return or incur a greater loss than if you had not borrowed to invest.

In addition to interest rate and price exposures, you will have exposure to changes in foreign exchange rates if your loan and/or Securities are denominated in different currencies.

Events that result in your loan becoming due for payment in a short period

These events include margin calls which can be triggered by market events such as a fall in the market value of the Securities as well as us reducing an MLR or removing a Security from the list of Securities we will lend against, or where you are in default under the Margin Lending Facility terms and conditions. If these occur, this can result in your loan becoming due for repayment (in part, or in full) in a short period of time. These events may be outside your control, can occur at any time and may occur unexpectedly.

Net sale proceeds may not cover the loan

To repay the loan you may have to sell or redeem some or all, of the Securities offered by you or any Guarantor as security for your Margin Lending Facility (the Secured Property). Your liability is not limited by any net sale proceeds from the Secured Property and you will be required to repay your loan in full from other funds if the sales proceeds are not sufficient.

Reliance on Leveraged Equities, any authorised representative, and any stock lending counterparty

You rely on our solvency as well as our risk management and compliance, policies and procedures that we use in the operation of your Margin Lending Facility. You also rely on the actions of any authorised representative that you may appoint. Further, if we enter into stock lending arrangements, you are exposed to counterparty risk that the other party may fail to retransfer the Securities back to us (see page 11 for more details).

If you are not comfortable with taking on an additional level of risk over and above the risk that already exists with investing in the sharemarket, then margin lending is not for you.



MARGIN CALLS

A decline in the market value of a Security as shown above can result in your borrowing exceeding your security value. To assist with small fluctuations in the market we provide what is known as a buffer. This buffer is an amount equal to 5% of the market value of your approved Securities portfolio and acts like a cushion.

Generally speaking, only when your total liability exceeds the total security value of your Secured Property plus the buffer will a margin call be made and a margin payment required.

A margin call represents a demand for payment to bring your loan balance back within your approved lending level again.

We will take all reasonable steps to contact you (and your financial advice provider, if applicable) as soon as a margin call is triggered. If you prefer to be contacted by your financial advice provider, rather than by us, you must notify us in writing.

Margin calls must be met by 3pm the following Working Day and in some circumstances, by 3pm on the day a particular event occurs (for details, see section 6 of the Margin Lending Facility Terms and Conditions set out in this document).

Once a margin call has been issued, you are required to meet it in full even though the market may bounce back.

In order to meet a margin call we ask that you either:

- Repay to Leveraged Equities some of the outstanding balance that you owe; or
- Deposit additional approved Securities to your account; or
- Sell some of the Securities held in your account.

If you do not comply with your obligations we may enforce a margin call by selling part of your portfolio. We will only sell the Securities required to bring your loan balance within the approved limit but it may not take into account your preference of which Securities to sell.

Reduce the risk of a margin call being made

By setting yourself a predetermined gearing level below the maximum allowed you can reduce the risk of receiving a margin call. For example, we may have set a MLR of 70% against the Securities in your portfolio but you may decide that the maximum you wish to borrow at is a ratio of 50%. By not borrowing the full amount permitted on your Margin Lending Facility you have provided yourself with an additional buffer against a margin call being made.

You can reduce your gearing level by either paying money into your loan account, adding Securities to your portfolio, or by selling some of your Securities.

If you do not pay your interest each month once it has been charged to your account, allowing your interest to capitalise and be added to your loan, this will increase your loan balance and your liability to us over time which may lead to a margin call at a future date.

You can also reduce risk and the variability of returns through diversification. Please read the "Diversify your Portfolio" section on page 3.



Further Disclosures

In order for us to maintain security for the margin loan, it is necessary that we have legal title over all the Securities that you provide as security for your margin loan. When you apply for a Margin Lending Facility, you agree that these Securities may be registered in our name or in the name of any nominee that we may elect to hold the Securities.

In addition, you authorise us to enter into what is commonly referred to as a 'stock lending' arrangement where we enter into arrangements with other market participants and investors in the ordinary course of our business, under which we transfer to those persons your Securities on terms that require them to retransfer those Securities (or equivalent Securities) to us.

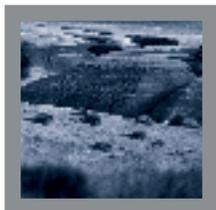
If we enter into such stock lending arrangements, you are exposed to counterparty risk that the other party may fail to retransfer the Securities back to us (e.g. if they become insolvent). We manage this risk by requiring that person to hold cash with us to the value of the transferred Securities plus a 5% margin. This cash buffer will fluctuate depending on changes in the value of the underlying Securities.

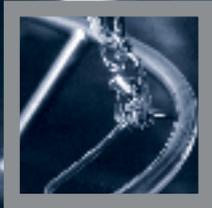
When you transfer Securities to us or our nominee, those Securities will be held in either our name or the name of our nominee together with other Securities held in the Margin Lending Facility.

Whilst we endeavour to keep our interest rates as low as possible, our variable interest rate is determined by the prevailing wholesale funding rates and by parameters set by our banking covenants.

Our Client Service Team cannot provide to you any investment advice. They may advise you only on matters relating to your margin position. Securities on our approved Securities list are not intended to be recommendations to invest. You should seek independent investment advice from your financial advice provider prior to using this service.

We may pay a trail commission to a financial advice provider or broker who introduces you to us. This trail commission is normally paid out of the income that we earn from the Margin Lending Facility (and not by you directly). The amount of the current standard trail commissions are as agreed by you, your financial advice provider, or your broker, and can be found on our website, in the current PDS, or by contacting us.





navigate beyond
your horizons

TAKING ACTION NOW...

On the following pages you will find the terms and conditions for operating a Margin Lending Facility with Leveraged Equities.

Please read this carefully and seek independent advice. Our staff are available to assist you with any questions and they can be contacted at

0800 Margin (0800 627 446)

Leveraged Equities Finance Limited
Level 21, Vodafone on the Quay
157 Lambton Quay
Wellington

Phone 04 495 1327
Fax 04 495 8199

Email info@leveragedequities.co.nz
Website www.leveragedequities.co.nz



This facility is made available by Leveraged Equities. The meaning of capitalised words and some other key words is explained in Part E. Please read the Margin Lending Facility Terms and Conditions prior to applying for a facility with Leveraged Equities. Leveraged Equities recommends you seek independent advice.

SUMMARY OF CONTENTS

PART A - MARGIN LENDING FACILITY

1. What we lend, when and how
2. Interest
3. Fees
4. Payments and Repayments
5. AU Dollar Advances
6. Margin Payments
7. Withdrawal of Availability
8. If You or the Guarantor are in Default

PART B - SECURITY

9. Security Interest

PART C - GUARANTEE

10. Guarantee and Indemnity

PART D - GENERAL

11. Declarations and Undertakings
12. Trustee Declarations and Undertakings
13. Other Costs, Charges and Indemnities
14. What happens to payments we receive?
15. Notices and other communications
16. Assignment and Security interests
17. General Matters
18. Applicable law and serving documents
19. Reliance

PART E - MEANING OF WORDS

MARGIN LENDING FACILITY TERMS AND CONDITIONS

PART A - MARGIN LENDING FACILITY

1.0 What we lend, when and how

1.1 We agree to make available to you the Margin Lending Facility upon the terms and conditions set out in this agreement.

You may draw down Advances under the Margin Lending Facility up to your Credit Limit by following the procedures outlined in this agreement.

Any Advances drawn down under the Margin Lending Facility must be used primarily for business and/or investment purposes.

1.2 We can change the Credit Limit (either by increasing it or decreasing it) as we see fit. We will give you 7 Working Days' notice if we do this (unless you are in default.)

1.3 Subject to the terms and conditions set out in this agreement, you may draw down Advances under the Margin Lending Facility in NZ Dollars and/or AU Dollars, and may request either Fixed Rate Advances or Floating Rate Advances in either currency.

1.4 However, we will only make an Advance if:

- a) You have given us any approval, document or information which we reasonably request and which is satisfactory to us; and
- b) We are satisfied that, if the Advance is not enough to cover the full costs of any property which is to be Secured Property and which you are buying with that Advance, you will pay or have paid the balance remaining; and
- c) You have paid us any fees we require; and
- d) You have executed, and you remain a party to all the Transaction Documents; and
- e) You and the Guarantor (if any) have complied with the Transaction Documents and any other requirement we reasonably impose; and
- f) Where the Margin Lending Facility is entered into before 1 April 2005, we have received an acknowledgement signed by you and each Guarantor (if any) that you and each Guarantor have received a memorandum of initial disclosure and, in the case of each Guarantor, a memorandum of guarantee disclosure for the purposes of section 21 of the Credit Contracts Act 1981 and that the memorandum and annexures contain all the terms and conditions of this agreement (if Part II of the Credit Contracts Act 1981 applies to this agreement); and
- g) Where the Margin Lending Facility is entered into on or after 1 April 2005, we have received from you, a declaration (made prior to execution and delivery of the Application Form) in the form provided with the Application Form that the Advances are to be used primarily for business and/or investment purposes; and
- h) We have no reason to believe that you or the Guarantor are in default, or are likely to be in default as a result of us making the Advance; and
- i) The Secured Property is acceptable to us and is held by us in accordance with this agreement; and
- j) We are satisfied that immediately after the making of the Advance (and any other Advance to be made on the same day):
 - i) The NZ Dollar Equivalent aggregate amount of all Advances drawn down and not repaid (together with any interest that may be capitalised under clause 2.5 and any other amount you owe us under a Transaction Document) will not exceed your Credit Limit; and
 - ii) You will not have an obligation to make a margin payment under clause 6; and
- k) In the case of any Fixed Rate Advance, the amount of the Advance is:
 - i) equal or greater than the minimum amounts for an Advance; and
 - ii) meets the integral multiples criteria of an Advance that we may set from time to time (which may be different in respect of an Advance that is made in NZ Dollars and an Advance that is made in AU Dollars). The current minimum amounts or integral multiples criteria set by us can be obtained by contacting us; and
- l) in the case of any AU Dollar Advance we are able, in the ordinary course of business, to obtain funds in AU Dollars to enable us to make the AU Dollar advance.

1.5 If you want to draw down an Advance under the Margin Lending Facility, you must tell us by 10am (New Zealand time) at least one Working Day before the proposed draw down date:

- a) When you want the Advance to be made (this must be a Working Day); and
- b) The amount of the Advance you wish to draw down (this is subject to the minimum amount and integral multiples criteria for Fixed Rate Advances set out in clause 1.4 and any other criteria we specify from time to time); and
- c) Whether you want the Advance to be a Fixed Rate Advance or a Floating Rate Advance; and
- d) Whether you want the Advance to be made in NZ Dollars or AU Dollars; and
- e) The proposed Interest Period for any Fixed Rate Advance; and
- f) Where or to whom the Advance is to be paid, (for example to a person who is selling you Securities, to your broker, to another person, or to a specified bank account).

We may require this information to be given electronically, orally or in writing. We are not responsible for the application of the funds by the person to whom the Advance is paid.

1.6 In the case of a Fixed Rate Advance, we will then tell you whether we are willing to make the Advance and the interest rate applicable to that Advance (calculated in accordance with clause 2.2). You must then confirm whether you accept that interest rate. We are not obliged to make a Fixed Rate Advance until we have confirmed to you that we are willing to do so and you have confirmed that you accept the interest rate.

1.7 Once you have requested an Advance under clause 1.5 (and, in the case of a Fixed Rate Advance, you have confirmed that you accept the interest rate under clause 1.6), you cannot withdraw that request unless we agree. We may make the Advance on the day of the request instead of the next Working Day if we are able to do so. We are not liable for any loss you may suffer because the prices of any Securities you plan to buy rise or fall, or those Securities cease to be available, during the time we take to make the Advance or forward any communications on your behalf, or because we fail to make an Advance.

1.8 You can draw down as many Advances under clause 1.5 as you wish. However, at any time the New Zealand Dollar Equivalent aggregate amount of all Advances drawn down and not repaid (together with any interest that may be capitalised under clause 2.5 and any other amount you owe us under a Transaction Document) must not exceed your Credit Limit.

1.9 If we have agreed to make an Advance to you on the date you are required to make a payment to us under any Transaction Document, we may apply the whole or any part of the Advance toward satisfaction of the amount you are required to pay us and will then pay you the net difference.

2.0 Interest

What you must pay and when

2.1 You must pay us interest on each Advance in accordance with the rate we specify. We have the right to alter the interest rate charged to you from time to time as we see fit.

2.2 Subject to clause 2.1, the current interest rate for an Advance is:

- a) Where that Advance is a Floating Rate Advance (whether made in NZ Dollars or AU Dollars), the Base Rate plus the applicable Floating Interest Rate Margin.
- b) Where that Advance is a Fixed Rate Advance (whether made in NZ Dollars or AU Dollars), the interest rate agreed between us.

2.3 Where you want to draw down a Fixed Rate Advance, you may select any period that we agree to as the length of the Interest Period for that Fixed Rate Advance.

2.4 Interest is calculated on the daily balance of each Advance (i.e. the amount drawn down and not yet repaid) from and including the day on which we make the Advance. Interest accrues each day, and is calculated on the number of days elapsed and a 365 day year.

Interest:

- a) On a Floating Rate Advance is payable on the last day of each calendar month and on the date for repayment of the Advance; and
- b) On a Fixed Rate Advance is payable on the last day of the applicable Interest Period, and:

- i) If the Interest Period is more than 90 days duration, the last day of each period of 90 days (beginning on the first day of the Interest Period) during that Interest Period; and
- ii) If the Interest Period is a period other than three or six months, on such dates as we advise you prior to draw down of the relevant Fixed Rate Advance.

2.5 Interest calculated and payable under clause 2.4(a) will be added to the amount of your Floating Rate Advance, and you will then be liable for interest on the total amount in the manner set out in clause 2.4(a). (This is known as “capitalising” or “compounding” the interest).

2.6 With respect to Floating Rate Advances, we will notify you of the interest rate and the amount of interest charged each month, but failure by us to do so will not relieve you of your obligation to pay interest.

Default interest charges

2.7 You must pay interest charges at a default rate on:

- a) Any amount while it is overdue; and
- b) Any part of your Total Liabilities which exceeds your Credit Limit. This rate is 4% above the rate set under clause 2.1. Interest accrues each day, and is calculated on the number of days elapsed and a 365 day year, and must be paid to us when we ask for it.

2.8 If you do not pay us default interest when we ask for it, you will then be liable to pay default interest on that amount in the same manner as under clause 2.7.

2.9 Our rights in clauses 2.1 to 2.8 do not affect your obligations to pay us on time, or any Other Rights we may have if you are in default.

2.10 If any amount owing under this agreement is merged in a court order, you must pay interest on that amount as a separate obligation. The interest is payable from the date we first ask you for the amount until that amount is paid. This obligation to pay interest is not affected by the court order. The rate is the default rate under clause 2.7 or the rate in the court order, whichever is the higher.

3.0 Fees

3.1 You must pay us the following fees (unless we in our discretion waive all or any of the fees):

- i) A one-off establishment fee, the amount of which is set out in the Application Form. We are not obliged to establish a Margin Lending Facility for you.
- ii) A Credit Limit increase request fee if you apply for an increase to your Credit Limit, the amount of which is set out in the PDS. We are not obliged to increase your Credit Limit.
- iii) Where funds are Advanced for an application in a public offering and we are responsible for lodging and/or completing the application, a line fee may apply. Details of this will be made available at the time of Advance.

3.2 You must also reimburse us for any costs of settlement incurred by us or on our behalf on transactions involving Australian Securities.

4.0 Payments and Repayments

Payments

4.1 You must pay any amounts you owe under the Transaction Documents on the day due and into the account we specify from time to time. Such payments must be made by 3pm on the day that payment is due. If the due date falls on a non- Working Day, then you must pay us on the last Working Day prior to the due date. Amounts you pay us must be immediately available for our use.

4.2 If we receive a payment from you or a Guarantor (if any) after 3pm, we may treat it as having been received on the next Working Day. Direct credits to our bank account will be treated as having been received the next Working Day unless confirmation of payment has been received prior to 3pm on the day the payment is made.

4.3 You must pay all amounts due under any Transaction Document in full and free of any restriction or condition. You may not set off amounts you believe we owe you or a Guarantor, or counterclaim amounts from us. All payments you make must also be free of any withholding or deduction (including, for taxes), unless the law prevents this.

4.4 We may at any time (without notice or demand) set off any amounts we owe you against amounts you owe us. If any amount is contingently due or is due but not quantified, we may retain and withhold repayment of any amount we owe you (and interest thereon) until that amount becomes due and/or quantified. We may then set off the maximum amount of such liability without notice or demand.

4.5 We are not obliged to exercise our rights of set-off which are without prejudice and additional to our rights set out in clause 9 (and any other Security Interest granted to us) and any right of set-off, combination of accounts, lien or other right to which we are entitled (whether by operation of law, contract or otherwise).

Repayment

4.6 You may:

- a) Elect to repay the whole or any part of a Floating Rate Advance at any time, provided you give us 1 Working Day’s notice;
- b) Not (without our prior written consent) repay the whole or any part of a Fixed Rate Advance prior to expiry of the Interest Period applicable to that Fixed Rate Advance.

Once you give us notice that you want to repay a Floating Rate Advance or we agree to you repaying a Fixed Rate Advance, we will rely on that notice or agreement and therefore you must so repay. A repayment may give rise to additional costs that you will have to pay under clause 13.

You may re-borrow any amount repaid (provided that you comply with the terms of this agreement and your Total Liabilities will not exceed your Credit Limit).

4.7 You must repay each Fixed Rate Advance on the last day of the Interest Period applicable to that Fixed Rate Advance unless we have agreed to:

- a) Allow you to draw down that amount for a further fixed period, the Interest Period for that further fixed period being determined in the manner contemplated by clause 2.3; or
- b) Convert that amount to a Floating Rate Advance on the last day of the applicable Interest Period.

4.8 You must repay:

- a) All Advances if you or the Guarantor are in default (see clause 8 for details) in which case you must repay us in accordance with the notice we give you under clause 8; or
- b) A Floating Rate Advance, if we give you a notice requiring you to repay it, in which case you must repay immediately, or on a day we specify in the notice.

4.9 If you elect to, or are required to repay the whole of any Advance(s), you must at the same time, pay us any other amounts you owe us in relation to the Advance(s) being repaid (such as accrued but unpaid interest and costs we incur as a result of repayment of a Fixed Rate Advance on a date other than expiry of the applicable Interest Period).

5.0 AU Dollar Advances

5.1 If you advise us that you want an Advance to be made in AU Dollars, but express the amount of the Advance in NZ Dollars, the amount of the Advance we make to you will be the AU Dollar Equivalent of the NZ Dollar amount so expressed.

5.2 As set out in clause 1.4, we will only make an Advance if we are satisfied that, immediately after the making of the Advance (and any other Advance to be made on the same day):

- a) The New Zealand Dollar Equivalent aggregate amount of all Advances drawn down and not repaid (together with any interest that may be capitalised under clause 2.5 and any other amount you owe us under a Transaction Document) will not exceed your Credit Limit; and
- b) You will not have an obligation to make a margin payment under clause 6.

5.3 For the purposes of determining the matters set out in clauses 1.4 and 5.2, your Total Liabilities and any other matters, the amount of any AU Dollar Advance, and any other amount due under a Transaction Document in AU Dollars, shall be the NZ Dollar Equivalent of those AU Dollar amounts.

5.4 All interest payable on an AU Dollar Advance must be paid in AU Dollars.

5.5 If we are requested or elect to apply or set off any credit balance in AU Dollars towards or against a debit balance in NZ Dollars (or vice versa) we will first enter into a foreign exchange transaction to convert the credit balance to its NZ Dollar Equivalent or AU Dollar Equivalent (as the case may be) and you agree to pay all costs associated with such foreign exchange transactions.

5.6 If we receive or recover any amount in a currency other than the currency in which it should have been paid, and after we have converted the amount to the correct currency there is not enough to pay the full amount due, then you must pay us the shortfall. You agree that we are not obliged to convert any currency but may do so if we choose at any time.

6.0 Margin Payments

- 6.1 If at any time on any day your Total Liabilities exceed either:
- Your Credit Limit; and/or
 - The total security value (as determined under clause 6.2) of the Secured Property plus 5% of the market value of the Secured Property,
- then by 3pm on the next Working Day you or the Guarantor must:
- Give us Security Interests over additional property (both the property and the Security Interest must be satisfactory to us); and/or
 - Repay to us some of the money you owe us; and/or
 - Sell, or give directions to sell, any Secured Property or any other Securities owned by you in respect of which you have given us the Authorisation Code (and the sale proceeds will be applied in repaying the money you owe us);
- so that your Total Liabilities no longer exceed your Credit Limit and/or the total security value of the Secured Property.
- 6.2 For the purposes of clause 6, the total security value of the Secured Property is the total of the values determined under the following formula in respect of each item of Secured Property:
- $a \times b$
- Where:
- a = the market value of the item of Secured Property as determined under clause 6.3.
- b = the proportion (expressed as a percentage) of the value of that item of Secured Property that we determine from time to time for the purposes of calculating the security value.
- 6.3 Subject to clause 6.4, when determining the market value for the purposes of clauses 6.1 and 6.2:
- If Secured Property comprises a Security listed for quotation on the NZX, ASX or other approved relevant exchange, then its market value at any time is the lower of:
- The last sale price; or
 - The highest buyer bid for that Security;
- otherwise, the market value of Secured Property is the amount we determine.
- 6.4 If we believe there is any uncertainty, the market value of the Secured Property is the amount we believe could be realised (after all selling costs) if the Secured Property was sold that day.
- 6.5 For the purposes of this clause 6, we may from time to time determine, in relation to Securities of a particular Issuer or (where an Issuer has different classes of Securities on issue) in relation to Securities of a given class:
- A limit on the number of Securities; and/or
 - A limit on the market value of Securities;
- that may be counted for the purposes of this clause 6. To the extent Secured Property includes Securities in excess of those limits (referred to in this clause as "excess Securities") this clause 6 shall apply as if the excess Securities did not form part of the Secured Property.
- 6.6 If you have not complied with clause 6.1 at least 2 hours before the end of the time period within which you must comply (or told us by then that you will be complying by the end of that time period) then all or part of the Secured Property provided to us or any other Securities owned by you in respect of which you have given us the Authorisation Code may be sold (before or after the end of the period) by us (and if part only, then that part which we nominate) and the sale proceeds applied to reduce your Total Liabilities so as to restore the correct balance between your Total Liabilities and your Credit Limit and/or the total security value of the Secured Property.
- 6.7 Where you comply with clause 6.1 in the manner contemplated by clause 6.1(b) or (c) or where we exercise our rights under clause 6.6 then:
- Additional costs (such as any loss or costs we may suffer or incur due to early repayment of an Advance) may be incurred that you will have to pay under clause 13; and
 - We may (at our discretion) where:
 - There are no or insufficient Floating Rate Advances outstanding on the date we receive a payment or sale proceeds under clauses 6.1 or 6.6; and
 - You advise us in writing that you do not wish to repay any outstanding Fixed Rate Advances early in whole or in part,

place any such payment or sale proceeds in a suspense account (for so long as we think prudent) to apply towards repayment of your Total Liabilities. You agree that you have no interest in or right to be paid any such payment or sale proceeds or interest on such moneys.

- 6.8 In this clause 6, New Zealand time applies in all instances. Communications under this clause 6 may be oral or written.

7.0 Withdrawal of Availability

- 7.1 We may elect to withdraw the availability of the Margin Lending Facility or the availability of any Fixed Rate Advances or Floating Rate Advances (whether in NZ Dollars or AU Dollars) at any time. If we do so, then regardless of any provisions in this agreement to the contrary, we are not obliged to make any new Fixed Rate Advances and/or Floating Rate Advances (as the case may be) available to you on or after the date of our election. Where possible (as determined by us at our discretion), we will give you one month's notice of our election.
- 7.2 Notwithstanding anything to the contrary in this agreement, you agree to repay to us all Fixed Rate Advances (together with accrued but unpaid interest and any other part of your Total Liabilities) if a demand is made by any of our funders to repay any borrowings or financial accommodation of any kind used by us to make available or fund (or continue to do so) any Margin Lending Facility to any of our clients. If a demand is made, we will give you a notice requiring you to repay those amounts and you must repay immediately or on a day which we specify in the notice. A notice from us to the effect that a demand has been made by any of our funders to repay any such borrowings or financial accommodation (which may be included in the notice to you requiring you to repay earlier) is sufficient evidence that a demand has been made.

8.0 If You or the Guarantor are in Default

When are you or the Guarantor in default?

- 8.1 You and the Guarantor are in default if:
- You do not, or the Guarantor does not pay on time any amount due under this agreement or any other Transaction Document; or
 - You do, or the Guarantor does something which you or the Guarantor agrees not to do under this agreement or any other Transaction Document; or
 - You do not, or the Guarantor does not do something which you or the Guarantor agrees to do under this agreement or any other Transaction Document; or
 - At any time, the aggregate amount of all Advances drawn down and not repaid (together with any interest that may be capitalised under clause 2.5 and any other amount you owe us under a Transaction Document) exceeds your Credit Limit; or
 - You or the Guarantor gives us incorrect or misleading information, including information misleading by omission (including through the provisions of clauses 10, 11 and 12) in connection with a Transaction Document; or
 - An Insolvency Event occurs in respect of you or the Guarantor; or
 - A Transaction Document ceases to be in full force and effect or you or the Guarantor contest the enforceability of a Transaction Document; or
 - Any other party to any of the Transaction Documents is in default or withdraws from a Transaction Document; or
 - Any amount you owe any other person in excess of NZ Dollars 5,000 is not paid when due or is declared to be due and payable prior to its stated maturity by reason of an event of default (however described); or
 - We reasonably believe that the ability of you or the Guarantor to comply with the Transaction Documents has been reduced due to any event or series of events or due to a change in your or the Guarantor's business, assets or financial position; or
 - We reasonably believe that any of the Secured Property is at risk or the value (including priority) to us of any Security Interest (including under this agreement) in any Secured Property is materially and adversely affected; or
 - If you or the Guarantor is a company, there is a change in the effective control of you or the Guarantor (such as a change in the board of directors or change in the holding of voting rights in respect of the company); or
 - The court makes an order in respect of any Secured Property under the Securities Markets Act 1988; or
 - An event of default or termination event (however described) occurs under any other Transaction Document.

What can happen then?

- 8.2 If you are in default, then (without prejudice to any other rights or remedies we may have) we may:
- Withdraw the availability of the Margin Lending Facility with immediate effect;
 - Notify you that your Total Liabilities are due either immediately or on a day we specify in the notice. You must then pay your Total Liabilities when required by the notice; or
 - Exercise all or any of our rights under any Transaction Document and at law; or
 - Appoint a Receiver, who can exercise any of the powers, rights and remedies set out above, remove any Receiver and fix the remuneration of any Receiver. To the extent permitted by law, every Receiver appointed is your agent and you alone will be responsible for the Receiver's acts and defaults.
- 8.3 If you do not comply with any notice to repay your Total Liabilities, we may (without prejudice to any other rights or remedies we may have):
- Sell any Secured Property or otherwise enforce any Security Interest we hold and apply the proceeds towards repayment of your Total Liabilities;
 - Do anything you could do in relation to any Secured Property;
 - Apply any money we hold or control on your behalf towards repayment of your Total Liabilities; and/or
 - Sue you for the amount of your Total Liabilities.

PART B - SECURITY

9.0 Security Interest

- 9.1 Security Interest: You give us a Security Interest in your Mortgaged Securities as security for the Total Liabilities. For this purpose and for the purpose outlined in clause 9.16, you transfer to us (or a nominee elected by us) all your rights, title and interest in the Mortgaged Securities. For the avoidance of doubt, where you have made such a transfer, we do not hold those Mortgaged Securities as your nominee, on trust for you, or on your behalf.
- 9.2 All Mortgaged Securities will be held in our (or a nominee's elected by us) name on the terms set out in this agreement. Without prejudice to the Security Interest created by clause 9.1, you agree to do all things necessary to transfer the Mortgaged Securities to us (or a nominee elected by us), including:
- Ensuring that any relevant clearing house, or Securities depository, and any records maintained by or on behalf of an Issuer, record our interest in the Mortgaged Securities or any negotiable instrument, and do not record any interest of any other person in the Mortgaged Securities; and/or
 - For any Mortgaged Securities held in an electronic transfer and registration system, ensuring that the common shareholder number registered in relation to those Mortgaged Securities is our common shareholder number (as advised by us); and/or
 - Giving such notices and directions as we may require to the manager of the registry of Securities for the relevant Issuer(s); and/or
 - Giving us a properly signed transfer of the Mortgaged Securities.
- 9.3 Without prejudice to the Security Interest created by clause 9.1, where we exercise our rights under clause 9.16 and we (or a nominee elected by us) receive collateral, the transferred Mortgaged Securities or Equivalent Securities from the relevant person, you agree that such collateral and those Mortgaged Securities or Equivalent Securities received from that person will automatically become subject to the Security Interest created by clause 9.1.
- 9.4 The Security Interest created by clause 9.1 will attach in the case of:
- Any existing Mortgaged Securities, as soon as you sign the Application Form or otherwise assent to this agreement (being a security agreement) or we take possession of those Mortgaged Securities, whichever occurs first; and
 - Any after-acquired Mortgaged Securities, as soon as you acquire any rights, title or interest in those Mortgaged Securities. You acknowledge that we have made no agreement with you for the attachment of the Security Interest at a later time.
- 9.5 Until the Security Interest created by clause 9.1 is released, that Security Interest is a running and continuing security for all amounts you owe us under the Transaction Documents, irrespective of any

amounts paid to your credit and even though your account may at any time be or seem to be in credit.

Distributions

- 9.6 Until a default occurs, if any Monetary Rights are due in respect of any of your Mortgaged Securities, we may apply the whole or any part of any such Monetary Rights towards payment of your Total Liabilities and will account to you for any balance. After a default has occurred, all Monetary Rights in respect of your Mortgaged Securities shall be applied by us towards your Total Liabilities.
- 9.7 If at any time an offer is made for Securities in an Issuer which form part of your Mortgaged Securities, which if successful, would result in the offerer holding or controlling not less than 50% of the voting rights in that Issuer, we shall make reasonable endeavours to notify you of the terms of the offer and will ask for you to advise whether or not you would like the offer to be accepted in whole or in part. However, if we are of the reasonable opinion that nonacceptance of the offer could adversely affect our Security Interest created by this agreement, we may accept the offer and if so, any funds derived from the sale of the Mortgaged Securities shall be applied towards repayment of your Total Liabilities.
- 9.8 If any Other Rights become exercisable at any time in connection with any Mortgaged Securities, we shall use reasonable endeavours to provide you with details of the Other Rights, and ask for you to advise whether or not you wish the Other Rights to be exercised. As long as you are not in default, we shall, if requested by you, and at your expense, exercise or cause to be exercised Other Rights in respect of your Mortgaged Securities in accordance with your instructions, provided that no vote shall be cast in a manner which could reasonably be expected to adversely affect our Security Interest created by this agreement.
- 9.9 We shall not be liable for any late exercise of any right or obligation in respect of your Mortgaged Securities, including any obligation to exercise any entitlements, accept any offers or exercise any voting rights unless, at least 5 Working Days before the date on which the rights or obligations are exercisable:
- We have received written instructions from you or your representative about the exercise of any such right or obligation; and
 - If relevant, you have provided us with sufficient cleared funds to exercise any such right or obligation;
- and you are not in default on the date on which the rights or obligations are exercisable.

Remedies

- 9.10 Without limiting our rights under clauses 8.2 and 8.3, if you are in default we are entitled to take possession (to the extent we do not at the relevant time have possession) and sell any Mortgaged Securities pursuant to the Security Interest and apply the sale proceeds towards paying the Total Liabilities or otherwise enforce our Security Interest as provided by the PPSA.

Security to be provided by Guarantor

- 9.11 The Guarantor agrees that if requested by us the Guarantor will grant to us a Security Interest over property that is acceptable to us as security for the Guarantor's obligations under the Transaction Documents. We may retain any Security Interest until we are satisfied there is no risk that any payments or other Security Interests we have received may be set aside or avoided. The provisions of this clause 9 will apply to any Security Interest granted pursuant to this clause 9.11.

PPSA waivers and general

- 9.12 You agree that we can exercise any of our rights under this agreement even if we do not have priority over all other secured parties in respect of the Mortgaged Securities. Sections 108, 109(1), 112 and 120(1) of the PPSA do not apply to the extent they are inconsistent with this clause.
- 9.13 You agree to contract out of:
- Sections 114(1)(a) and 122 of the PPSA (which relate (among other things) to the process of sale of collateral, and notice to you) and sections 133 and 134 of the PPSA (which relate to reinstatement of the security agreement); and
 - Your rights under sections 120(2) and 121 of the PPSA (which relate to the process of retention of collateral).

To the extent permitted by law, in respect of any Security Interest created by this agreement, where we have rights in Part 9 of the

PPSA or in addition to those in Part 9 of the PPSA, those rights shall continue to apply.

You also agree to waive any right to receive a verification statement under the PPSA.

9.14 Nothing in the Transaction Documents shall be construed as:

- a) An agreement to subordinate any Security Interest under the Transaction Documents in favour of any person; or
- b) A consent to any other Security Interest attaching to, or subsisting over the Mortgaged Securities.

9.15 You agree to do everything (such as obtaining consents, giving instructions, signing and producing documents and getting documents completed and signed) that we may require from time to time to give effect to any Security Interest you grant us, including doing all such things as we may require to ensure that we receive and retain at all times a continuously perfected Security Interest under the PPSA with first priority, including:

- a) By giving us possession of the Mortgaged Securities; and/or
- b) Providing any information we request to enable us to complete a financing statement or a financing change statement on the Personal Property Securities Register.

Authority to transfer Mortgaged Securities under 'stock lending' arrangement

9.16 You authorise us to transfer the Mortgaged Securities to any person in the ordinary course of and for the purposes of our business under an arrangement commonly known as a 'stock lending' arrangement which requires that person to undertake to retransfer the Mortgaged Securities or deliver Equivalent Securities to us. You acknowledge that we are not acting as your agent or trustee in transferring Mortgaged Securities to any person as contemplated by this clause.

Our insolvency

9.17 If an Insolvency Event occurs in respect of us:

- a) You authorise us and any Receiver, liquidator, interim liquidator or similar officer to sell any Mortgaged Securities and apply the sale proceeds towards paying the Total Liabilities; and
- b) You will only be obliged to repay your Total Liabilities to us if the sale proceeds of the Secured Property is less than your Total Liabilities, and then only to the extent of the shortfall. For the avoidance of doubt, Total Liabilities includes any additional costs which are or may be incurred as a consequence of repaying the Advances made under this agreement.

PART C - GUARANTEE

10.0 Guarantee and Indemnity

Guarantee

10.1 In consideration of us making Advances to the Borrower from time to time, at the request of the Guarantor, the Guarantor (if any) guarantees the due and punctual payment of all amounts payable under the Transaction Documents and the due and punctual performance of all obligations under the Transaction Documents. This guarantee continues until all those amounts are paid in full and the Guarantor is formally released from its guarantee obligations. If we ask, the Guarantor must pay us any amount that the Borrower does not pay us when it is due under the Transaction Documents. We need not ask the Borrower to pay us or take action to enforce our rights under any Transaction Document before we claim from the Guarantor. As between us and the Guarantor, the Guarantor is a principal debtor, and there is no element of suretyship. We may treat the Guarantor as a principal party in all respects.

The Guarantor makes the same declarations and enters into the same agreements with us as if the Guarantor was named in clauses 11 and 12 instead of the Borrower amended as the context requires. Clauses 8 and 13-19 and Part E also apply to this guarantee and indemnity. In all these clauses "you" includes the Guarantor.

Indemnity

10.2 The Guarantor indemnifies us against, and therefore must pay us all amounts payable under the Transaction Documents as if the Guarantor was the Borrower, including any loss or costs we suffer or incur if:

- a) The Borrower does not, is not obliged to, or is unable to pay us in accordance with the Transaction Documents; or

b) The Guarantor is not obliged to pay us an amount under clause 10.1; or

c) We are obliged, or we agree, to pay an amount to a trustee in bankruptcy or a liquidator (or a bankrupt person or insolvent company) in connection with a payment by the Guarantor or the Borrower. (For example, we may have to, or may agree to, pay interest on the amount).

10.3 This indemnity continues until all amounts payable under the Transaction Documents are paid in full and the Guarantor is formally released from its indemnity obligations.

Acknowledgement

10.4 The Guarantor acknowledges that it is responsible for making itself aware of the financial position of the Borrower and any other person who guarantees the Borrower's obligations under the Transaction Documents.

Our rights are protected

10.5 Rights given to us under the Transaction Documents and the Guarantor's liabilities under them are not affected by any act or failure to act by us, or by anything else that might otherwise affect them under the law relating to guarantees and indemnities, including:

- a) The fact that we vary or replace the Transaction Documents, such as by increasing the Credit Limit; or
- b) The fact that we release the Borrower or give it a concession (such as more time to pay), or settle with the Borrower (such as by agreeing to accept a lesser amount than that due to us) or waive any rights we may have under the Transaction Documents or at law; or
- c) The fact that we exercise, attempt to exercise, or do not exercise any rights we may have under the Transaction Documents or at law; or
- d) The fact that the Borrower opens another account with us; or
- e) The fact that we do not do anything, or tell the Guarantor anything, concerning the Borrower's affairs, finances or transactions with us; or
- f) The fact that we release, lose the benefit of, or do not obtain any Security Interest; or
- g) The fact that we do not perfect any Security Interest which could be perfected; or
- h) The fact that we release any other person who guarantees the Borrower's obligations under the Transaction Documents or do not ask that person for payment or come to any arrangement with that person; or
- i) The fact that the obligations of the Borrower or any other person who guarantees the Borrower's obligations under the Transaction Documents may not be enforceable; or
- j) The fact that any other person who was intended to guarantee the Borrower's obligations under the Transaction Documents does not do so or does not do so effectively; or
- k) The fact that we receive any payments from the Borrower, any other Guarantor or any other person in part payment of amounts payable under the Transaction Documents; or
- l) The fact that we make an error in making a demand of the Guarantor; or
- m) The fact that our rights in connection with the Borrower's obligations are assigned or we go through an amalgamation or reconstruction; or
- n) The fact that an Insolvency Event occurs in respect of the Borrower or any other Guarantor and we receive only part of the amounts payable under the Transaction Documents or no payment at all from them; or
- o) The death, mental or physical disability or insolvency or incapacity of any person including a Guarantor or the Borrower.

The Borrower's and Guarantor's rights are suspended

10.6 As long as any amount payable under the Transaction Documents remains unpaid, neither the Borrower nor the Guarantor may, without our consent:

- a) Reduce its liability under this agreement by claiming that it or any other person has a right of set-off or counterclaim against us; or
- b) Exercise any legal rights to claim to be entitled to the benefit of another guarantee or mortgage, charge or other Security Interest given in connection with an amount payable under

the Transaction Documents. (For example, the Guarantor may not try to enforce any Security Interest we have taken to ensure repayment of amounts payable under the Transaction Documents). Any payments received by the Guarantor in breach of this clause shall be payable to us on demand and prior to demand shall be held on trust for us; or

- c) Claim an amount from the Borrower or another Guarantor for the Borrower's obligations under any right of or obligations owed to it (such as a right of indemnity or set-off); or
- d) Claim an amount in the insolvency of the Borrower or another Guarantor of the Borrower's obligations under the Transaction Documents (including a person who has signed this agreement).

10.7 The Guarantor declares that it does not enter into this guarantee and indemnity as a trustee, unless it has told us otherwise in writing.

When must the Guarantor pay?

10.8 The Guarantor must pay any amount payable to us under this guarantee and indemnity on the date we specify and into the account we specify. Amounts the Guarantor pays us must be immediately available for our use.

10.9 If the Guarantor does not pay us on time, clauses 2.7 to 2.10 apply as if the Guarantor was named in them.

Payments and setting off money owed to the Guarantor (if any)

10.10 The Guarantor must pay all amounts due under this guarantee and indemnity in full and free of any restriction or condition. The Guarantor may not set off amounts the Guarantor believes we owe the Borrower or the Guarantor, or counterclaim amounts from us.

10.11 All payments the Guarantor makes must also be free of any withholding or deduction (including for taxes), unless the law prevents this.

10.12 We may set-off any amounts we owe the Guarantor against any amounts the Guarantor owes us under this guarantee and indemnity. The provisions of clauses 4.4, 4.5 and 5.5 apply in relation to our right of set-off, amended as the context requires.

Additional Guarantors

10.13 If a new person is to provide us with a guarantee of the Borrower's obligations, then the Borrower must ensure that the new person gives us the documents and information referred to in clause 1.4, and that the new person executes an Accession Agreement.

10.14 Once the new person has executed an Accession Agreement, then they will be treated as though they had been an original Guarantor to this agreement and they will be bound by all the obligations in this agreement.

PART D – GENERAL

11.0 Declarations and Undertakings

11.1 You declare that:

- a) You are the sole beneficial owner of the Secured Property and that no-one else has any interest in or rights affecting the Secured Property (such as other Security Interests or the rights of a beneficiary under a trust) other than those agreed to in writing by us; and
- b) All amounts payable to the Issuer of the Mortgaged Securities have been paid and no Issuer holds a lien over the Mortgaged Securities; and
- c) All the information you have given us is correct and not misleading (including by omission); and
- d) You have not withheld any information that might have caused us not to enter into the Transaction Documents with you; and
- e) Neither you nor any other person breach any law or any obligation to another person by signing the Transaction Documents; and
- f) Your obligations under the Transaction Documents are valid and binding and you benefit by entering into the Transaction Documents; and
- g) You have taken such independent financial and legal advice as you think fit prior to entering into the Transaction Documents; and
- h) You must tell us if anything has happened which prevents you from repeating any one or more of the declarations in clauses 11.1 or 12.1, at any time.

You agree to:

- i) Promptly give us any information, title documents or certificates we request; and
- j) Promptly tell us if you are in default, or are about to become in default of any of the Transaction Documents; and
- k) Do everything (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed) to bind you and your successors to the Transaction Documents, and try your best to get other people to bind themselves and others to the Transaction Documents as needed and if we ask; and
- l) Make sure that any new or existing director of you (if you are a company) promptly joins any or all of the Transaction Documents if we ask; and
- m) Promptly pay all amounts due to the Issuer of the Mortgaged Securities which might result in the Issuer having a lien over the Mortgaged Securities; and
- n) Do everything necessary to ensure the Mortgaged Securities are not liable to be forfeited.

You undertake that:

- o) You shall not allow the disposal of any Mortgaged Securities, or permit any other Security Interest to attach to the Mortgaged Securities except as otherwise expressly permitted by us; and
- p) You shall ensure that any legal proceedings are taken or defended as required by us in order to protect our Security Interest in the Mortgaged Securities, or the Mortgaged Securities themselves, at your cost; and
- q) You shall not permit or allow any act or omission to occur, which may result in any of our rights being prejudiced or adversely affected.

12.0 Trustee Declarations and Undertakings

12.1 If you are a trustee of a trust, then you also declare that:

- a) You are a validly appointed trustee of the trust, the trust has been properly constituted and the trust deed is valid and enforceable; and
- b) No action has been taken or proposed to remove you as trustee, or to appoint additional or alternative trustees; and
- c) You have given us true, complete and up-to-date copies of the trust deed and other documents relating to the trust which contain all the terms of the trust; and
- d) You have the power to sign the Transaction Documents, perform your obligations under them, and allow them to be enforced; and
- e) You have signed the Transaction Documents in your personal capacity and also as trustee, and for the benefit of the beneficiaries; and
- f) You have the right to be indemnified out of the trust fund for all of the obligations you incur under the Transaction Documents, and the trust fund is sufficient to cover your right of indemnity; and
- g) No action has been taken or proposed to terminate the trust or revoke any of your powers and (as far as you are aware) no-one intends to take any such action; and
- h) Our rights under the Transaction Documents have priority over the interests of the beneficiaries; and

You agree to:

- i) Exercise your right of indemnity from the trust fund and beneficiaries if you need to, in order to meet your obligations under the Transaction Documents; and
- j) Do everything you have to do as trustee of the trust; and
- k) Not do anything which may negatively affect your obligations to us as trustee of the trust; and
- l) Ensure that the trust is not terminated, that you do not retire or cease to act and are not replaced or removed, that no new trustee is appointed and that the terms of the trust deed are not otherwise varied.

Independent trustees

12.2 If you are an Independent Trustee, we agree that in exercising our powers under this agreement, you will have no personal liability under this agreement and we will not have any recourse to assets that are not trust assets. However, this limitation on our rights will not apply if:

- a) you are in wilful or negligent breach of trust or have acted negligently or dishonestly;
 - b) you lack the power or authority to sign the Application Form in your capacity as trustee;
 - c) any representations or acknowledgements that you have made are untrue or incorrect; or
 - d) you have signed the Application Form in your personal capacity as well as in your trustee capacity,
- and in such case you will have full personal liability under this agreement and we may have recourse to your personal assets as well as to the trust assets.

13.0 Other Costs, Charges and Indemnities

13.1 When we ask, you must pay us for:

- a) The costs and any expenses we incur when we enter into the Transaction Documents, including any taxes, duties, fees or fines we have to pay in connection with those documents, and any amounts we pay to any independent consultant, agent, Receiver or lawyer; and
- b) All costs and expenses incurred by us or on our behalf (including costs on a solicitor and own client basis and debt collector's costs), and any Receiver's costs and remuneration, in connection with recovering or attempting to recover outstanding amounts, or exercising or attempting or failing to exercise, or delaying exercising, any of our rights or any Receiver's rights under the Transaction Documents including enforcement and termination costs; and
- c) Our costs in responding to any inquiry about you from any authority; and
- d) Any increase in our costs of supplying any Advance or other credit to you; and
- e) Any bank charges, financial institutions duty or other duty or charge on receipts or Advances under this agreement; and
- f) Any liabilities arising in respect of the Mortgaged Securities for which we are responsible (such as calls); and
- g) Our administrative charges in relation to the Security Interest or certain applications of the Advances you draw down; and
- h) All costs incurred by us or on our behalf (including costs on a solicitor and own client basis and debt collector's costs) in registration of a financing statement or a financing change statement, protection or perfection of our Security Interest and enforcement of any Security Interest created by the Transaction Documents; and
- i) Any loss or costs (including loss of profit and costs and losses incurred in arranging, liquidating or redeploying deposits or other funds in connection with the Margin Lending Facility) we suffer, whether directly or indirectly, if we receive payment of any amount you owe us before or after its due date, including where a Fixed Rate Advance is repaid or pre-paid (in whole or in part) other than on expiry of the applicable Interest Period; and
- j) All GST and any other taxes or duties in relation to the above costs and expenses.

13.2 You indemnify us against, and must therefore pay us on demand for, any loss, costs, damages or liabilities (including costs on a solicitor and own client basis, loss of profit, and costs and losses incurred in arranging, liquidating or redeploying deposits or other funds in connection with the Margin Lending Facility) we suffer or incur whether directly or indirectly:

- a) If you or a Guarantor are in default under any of the Transaction Documents; or
- b) If all or any part of an Advance is not made on the date requested by you (other than by reason of our negligence or willful default); or
- c) If any amount you or another person has to pay under the Transaction Documents is not promptly paid when due (whether by prepayment, acceleration or otherwise); or
- d) If any party to the Transaction Documents breaches the law; or
- e) If we receive any amount you owe us before or after its due date, including where a Fixed Rate Advance is repaid or pre-paid (in whole or in part) other than on expiry of the applicable Interest Period; or
- f) As a result of any Secured Property being held in our name; or
- g) If we act in good faith on instructions we think have come from you, or an authorised representative via fax or telephone or electronically.

13.3 You must pay us an amount equal to any liability, loss, costs or damages of a kind referred to in this clause 13 suffered or incurred by any Receiver or attorney appointed under a Transaction Document, any of our employees or officers or any purchaser or holder of the Secured Property.

13.4 All payments under any Transaction Document must be free of any withholding or deduction including for taxes. If any withholding or deduction is required to be made by law, you must pay us a further amount so that we receive an amount equal to that we would have received, if no withholding or deduction had been made.

14.0 What happens to payments we receive?

14.1 We may use any payment we receive from you or any Guarantor under this agreement or any other Transaction Document, or any income derived from or proceeds from the sale of any Secured Property, to reduce the amounts owing under the Transaction Documents in any order we choose, unless the Transaction Documents clearly specify the order in which we are to deal with the money paid to us. We may place in a suspense account any payments we receive for as long as we think prudent.

15.0 Notices and other communications

15.1 Notices, certificates, consents and other communications in connection with the Transaction Documents must be in writing and shall be provided in accordance with this clause 15 unless otherwise specified.

15.2 Communications may be:

- a) Left at the address last notified; or
- b) Sent by post to the address last notified; or
- c) Sent by fax to the fax number last notified; or
- d) Sent by electronic mail or given by any other means permitted by law.

15.3 Communications take effect from the time they are received unless a later time is specified in them. If they are sent by post, they are taken to be received on the third Working Day after posting. If they are sent by a fax machine that produces a transmission report, they are taken to be received at the time the transmitting machine produces a report that confirms that the communication was received in full by the recipient's fax machine. If they are sent by electronic mail they are taken to be received upon production of a computer generated receipt indicating that the message has been opened by the recipient. You agree that we may electronically record all telephonic conversations between us and that any such tape recordings may be submitted in evidence in any dispute between us relating to any Transaction Document.

16.0 Assignment and Security Interests

16.1 We may assign our rights under the Transaction Documents. You and the Guarantor agree that we may disclose any information or documents we consider necessary to help us exercise this right.

16.2 Your rights are personal to you and may not be assigned without our written consent.

17.0 General Matters

How we may exercise our rights

17.1 We may exercise a discretion, or right or remedy or give or refuse our consent in any way we consider appropriate including by imposing conditions. If we do not exercise a right fully or at a given time, we can still exercise it later. Our rights and remedies under the Transaction Documents are in addition to other rights and remedies provided by law independently of them. We may enforce our rights and remedies in any order we choose. We are not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy, whether or not caused by our negligence.

17.2 Our rights and remedies may be exercised by any of our directors or secretaries, any of our employees whose title includes the word "manager" or any other person we authorise.

17.3 If at any time any provision in a Transaction Document is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction that illegality, invalidity or unenforceability shall not affect our ability to enforce the remaining provisions of the relevant Transaction Document, nor will the legality, validity or enforceability of those provisions under the law of any other jurisdiction in any way be affected or impaired thereby.

Reinstatement of rights

- 17.4 Under law, a trustee in bankruptcy or a liquidator may ask us to refund or retransfer a payment or transfer we have received in connection with the Transaction Documents. To the extent we are obliged to or we agree to make a refund or retransfer, we may treat the original payment or transfer as if it had not been made. We are then entitled to our rights against you and the Guarantor under the Transaction Documents as if the payment or transfer had never been made and, if we ask, you and the Guarantor must do everything necessary to restore to us any Security Interest we held immediately prior to the payment or transfer.

Our Liability

- 17.5 We are not liable to you, a Guarantor or any other person:
- if we realise more of your Mortgaged Securities than is required to repay your Total Liabilities, or for the composition of the Mortgaged Securities which we select to realise; or
 - if in good faith we realise some or all of your Mortgaged Securities for an amount less than the market value of those Mortgaged Securities at the time of realisation or for any losses on any dealing with the Mortgaged Securities or by reason of any of our acts or omissions; or
 - if we decide to realise your Mortgaged Securities, or fail to do so, within a reasonable time; or
 - for any losses which may occur as a result of the exercise, attempted exercise, non-exercise or delay in exercising of any of our rights, powers or remedies.
- 17.6 If we sell any of your Mortgaged Securities, we shall only be accountable to you for any proceeds that we actually receive.
- 17.7 We shall not be liable to account to you for any loss as mortgagee in possession and may give up our possession of any of your Mortgaged Securities at any time.
- 17.8 You agree to indemnify us out of any funds derived from the sale of your Mortgaged Securities against any losses, expenses or liabilities that may result from the exercise, attempted exercise, failure to exercise or delay in exercising of any of our rights, or powers including losses, expenses and liabilities that may result from a mistake or error of judgement.

No merger

- 17.9 This agreement does not merge with or adversely affect and is not adversely affected by:
- Any guarantee or indemnity or mortgage, charge, Security Interest or other means of securing payment, or right or remedy to which we are entitled at any time; or
 - Payment of any amount by you, the Guarantor or any other person, or any retransfer of the Mortgaged Securities to you; or
 - A judgment or order that we obtain against you or the Guarantor in respect of an amount payable under a Transaction Document (we can still exercise our rights under a Transaction Document as well as under the judgment, order or other guarantee or means of securing payment).

Our certificates

- 17.10 We may give you or the Guarantor a certificate signed by us or our lawyers about a matter or about an amount payable in connection with any Transaction Document. The certificate is sufficient evidence of the matter or amount, unless it is proved to be incorrect.

Variations and waivers

- 17.11 You may not vary or waive a provision of this agreement, or a right created under it, except in writing signed by both you and us. Any waiver by us of any rights we have under a Transaction Document must be in writing to be effective. As long as we give you and the Guarantor two Working Days notice, we may amend or alter this agreement as we see fit.

This agreement and the law

- 17.12 To the extent allowed by law, the Transaction Documents prevail to the extent they are inconsistent with any law.
- 17.13 No provision of the Transaction Documents is intended to have the effect of contracting out of the Consumer Guarantees Act 1993 except to the extent allowed by law or to the extent that any credit made available to you is required for the purposes of a business, and the Transaction Documents will be modified to the extent necessary to give effect to that intention. Every warranty and guarantee from us implied by custom or law is excluded (to the extent allowed by law).

Authorised representatives

- 17.14 We may act upon the electronic, written (including by fax) or oral (including by phone) instructions we receive from you, or any other person authorised by you to act on your behalf (your "authorised representatives" – this includes any stock or sharebroker that sends us for settlement a contract note for Securities bought or sold by you or a person named in section 13 of the Application Form and if you are a company, one of your directors or an authorised signatory). If you want to change your authorised representative, you must tell us in writing.
- 17.15 Where you or any of your authorised representatives make any request, or give, authorise or sign any instructions, notice, information or any other communication (for the purposes of this clause "instructions") electronically, orally (including by phone) or in writing (including by fax) or appear to do so, we have no obligation to make any enquiry or require any evidence as to the validity of the instructions, even where those instructions prove not to have been made, given, authorised or signed by the person who appears to have made, given, authorised or signed them. You are bound by anything we do relying on instructions we receive or appear to receive from you or your authorised representative.
- 17.16 If we engage in any sort of transaction or business with your authorised representative or the Guarantor, then we need not account to you or the Guarantor for any profits we may make out of the transaction.

Confidentiality

- 17.17 You authorise us to, and we may, share all the information you or the Guarantor give us, or that we collect about you or the Guarantor, in connection with the Transaction Documents, with the following people:
- A company that is related to us; and
 - A company that enters into financial arrangements with us; and
 - A company that provides us with marketing services; and
 - Any party to any of the Transaction Documents, any authorised representative and any broker for you or the Guarantor; and
 - Any credit reporting agency at any time, and any debt collection agency if you fail to pay on time any amount due under this agreement or any other Transaction Document; and
 - Any person, if required or allowed by law or by a stock exchange or required by the constituent documents of any entity (Securities in or of which comprise or may comprise Secured Property).
- 17.18 You and the Guarantor authorise us to collect information about you from any source for any purpose connected with the operation of the Margin Lending Facility.

Charges and commission

- 17.19 We may share any money you or a Guarantor gives us, or pay a commission to, any person we choose – including your authorised representative or any broker or agent.

Indemnities

- 17.20 Each indemnity you or a Guarantor gives us is a continuing obligation, separate and independent from any other obligations you or a Guarantor have incurred under this agreement. Each indemnity continues after those other obligations have ended.

Relationship

- 17.21 The Transaction Documents do not create or evidence any fiduciary or other relationship between you and us. The only relationship between you and us is that of debtor/creditor unless we agree otherwise in writing.

Providing information

- 17.22 You agree to immediately provide us with any reasonable information that we request from you from time to time that is needed for us to comply with:
- the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 or similar legislation; or
 - any equivalent or similar overseas law; or
 - any other New Zealand or overseas law that requires the verification and/or identification of a client's identity.
- 17.23 You agree that all information provided to us under clause 17.22 is accurate and complete, and is not misleading (including by omission).
- 17.24 You agree that if you fail to provide the information required under clause 17.22 to our satisfaction, we have the right to terminate your Margin Lending Facility.

18.0 Applicable law and serving documents

- 18.1 This agreement is governed by New Zealand law. Each party submits to the non-exclusive jurisdiction of the courts of New Zealand.
- 18.2 We may serve any document in a court action on you or a Guarantor by delivering it to, or leaving it at, the latest addresses you or a Guarantor respectively have given us, or such other addresses as we agree to at any time. This clause 18.2 does not prevent any other method of service.

19.0 Reliance

- 19.1 Each of you and the Guarantor acknowledges that it has relied on its own judgement (not ours) together with any independent financial, tax, or legal advice it may have received, in deciding to enter into the Transaction Documents or making any investment with any Advance you draw down.
- 19.2 We intend for you and the Guarantor to rely on the promises we make in the Transaction Documents. We do not intend any private communication we may have with you or the Guarantor to suggest that we are making additional promises to anyone.

PART E - MEANING OF WORDS

Unless the context otherwise requires:

Accession Agreement means an agreement by which a New Guarantor joins this agreement, in a form acceptable to us.

Advance means any amount advanced by us in accordance with this agreement and includes:

- Any Fixed Rate Advance, whether in NZ Dollars or AU Dollars; and/or
- Any Floating Rate Advance, whether in NZ Dollars or AU Dollars; and
- Where the context requires, any capitalised interest.

Application Form means the document setting out your details and containing (among other things) your acknowledgement of the risks involved in the transaction contemplated by this agreement and your authorisation for us to check your credit history, signed by you.

ASX means the Australian Stock Exchange.

AU Dollar Advance means an Advance made in AU Dollars.

AU Dollar Equivalent means, on any date, in relation to any amount of NZ Dollars, the amount of AU Dollars which we could purchase with such amount of NZ Dollars on the day in question, calculated at our primary lender's spot rate of exchange for purchasing AU Dollars with such NZ Dollars (as conclusively certified to us by that lender as applying at approximately 10:30am on that date) in a foreign exchange market determined by that lender. A certificate from us as to the identity of our primary lender and its spot exchange rate shall be conclusive evidence of such matters.

AU Dollars or **AUS\$** means the lawful currency of Australia.

Base Rate means the cost of Leveraged Equities' funds for the Margin Lending Facility as determined by us from time to time.

Credit Limit means the Credit Limit we decide to make available to you (that is, the upper limit of the money you can draw down or otherwise owe us under the Margin Lending Facility) which will be expressed as a NZ Dollar amount.

Distribution has the meaning set out in section 2 of the Companies Act 1993.

Equivalent Securities means, in relation to any Mortgaged Securities, Securities:

- Of the same Issuer; and
- Of an identical type, description, nominal value (where relevant) and (unless otherwise agreed between us) amount, to the Mortgaged Securities.

Fixed Rate Advance means an Advance where the interest rate payable on that Advance is fixed in accordance with this agreement.

Floating Interest Rate Margin means a margin (expressed as a percentage) that is set by us from time to time. The Floating Interest Rate Margin will differ depending on the balance of your loan at any time, with smaller loan balances attracting higher margins. The current Floating Interest Rate Margins applicable to the various levels of borrowing can be found in the PDS or by contacting us.

Floating Rate Advance means an Advance where the interest rate payable on that Advance is floating in accordance with this agreement.

Guarantor means the person or persons (if any) who provide the guarantee and indemnity set out in this agreement and referred to in section 18 of the Application Form. If there is more than one, Guarantor means each of them separately, and every two or more of them jointly. Guarantor includes executors, administrators, successors and permitted assignees and New Guarantors.

Including or **such as** when introducing an example does not limit the meaning of the words to which the example relates to that example or to examples of a similar kind.

A person is an **Independent Trustee** if they signed the Application Form as trustee, indicated on the Application Form they are an independent trustee, and, in our opinion, neither the person nor their spouse (de facto or otherwise), civil union partner, child, or grandchild:

- is a beneficiary (discretionary or otherwise) of the trust; or
- has a power of appointment of additional beneficiaries under the trust.

Insolvency Event means the happening of any of these events:

- In relation to any company, an application is made to a court for an order or an order is made or a company resolves or proposes to resolve or any other step is taken for the voluntary administration, liquidation, reconstruction, amalgamation, dissolution, winding up, striking off or removal from the Register of Companies of that company (except a reconstruction or amalgamation while solvent on terms approved by us) or the appointment of a Receiver, liquidator or interim liquidator, inspector, trustee, administrator or other similar person in respect of that company; or
- Except to reconstruct or amalgamate while solvent on terms approved by us, a company enters into, or resolves or proposes to resolve to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors in respect of or affecting any of the indebtedness or it proposes a reorganisation, moratorium or other administration involving any of them; or
- a Company is or states that it is:
 - Insolvent; or
 - Unable to pay its debts when they fall due, or is deemed or presumed to be unable to pay its debts as they fall due; or
- A Receiver, liquidator or interim liquidator, inspector, trustee, administrator, or other similar person is appointed or an application for appointment is made in respect of any company or any part of the property of any company; or
- A person is appointed under the Corporations (Investigation and Management) Act 1989 to investigate any part of the affairs of any company; or
- Any step is taken to appoint, or with a view to appointing, a statutory manager under the Corporations (Investigation and Management) Act 1989 in respect of a company or that company or any "associated person" (as that term is defined in that Act) or either of them is declared at risk pursuant to the provisions of that Act; or
- Any person having the benefit of a Security Interest, mortgage or charge over all or any of the assets of a company or individual takes possession of or otherwise enforces its Security Interest in relation to the whole or any part of the assets of that company or individual; or
- A company or individual stops, suspends or threatens to stop or suspend, payment of any of its indebtedness, or begins negotiations or takes any proceedings to reschedule any of its indebtedness; or
- In respect of an individual, either a creditor of the individual applies to the court for an order of adjudication, or the individual files an application with the Official Assignee for adjudication, under the Insolvency Act 2006; or
- An individual is or is deemed or presumed by law to be unable to pay his or her debts as they fall due, or a meeting of creditors is called, or an application for the Official Assignee to make a summary instalment order is made, or an application is made to the Official Assignee for entry into the no asset procedure, or the individual makes a proposal to creditors for the payment or satisfaction of the individual's debts, or the individual is adjudicated bankrupt, or commits any available act of bankruptcy in terms of the Insolvency Act 2006; or
- An individual makes or proposes to make any assignment or composition with creditors; or
- An individual or company ceases or threatens to cease to carry on all or a material part of its business; or
- Anything analogous or having a substantially similar effect to any of the events specified above happens under the law of New Zealand or any other applicable jurisdiction.

Interest Period means each period by reference to which the interest rate for a Fixed Rate Advance is determined as set out in clause 2. An Interest Period which would otherwise end on a day which is not a Working Day will end on the next Working Day unless the next Working Day falls within another calendar month, in which case the Interest Period will end on the previous Working Day.

Issuer means each respective issuer of the Mortgaged Securities and otherwise has the meaning set out in the Securities Act 1978.

Margin Lending Facility means the loan facility made available to you, on the terms set out in this agreement.

Monetary Rights means dividends, distributions, returns of capital or other moneys or payments of interest.

Mortgaged Securities means:

- The Securities described in section 14 of the Application Form;
- All Securities:
 - a) Acquired (legally or beneficially) by you after the date of *this agreement* with Advances made under *this agreement*; or
 - b) Which you transfer to us pursuant to clause 6.1(a) or 9.1 for the purposes of giving us a Security Interest in those Securities; and
- All Securities transferred to us by you;
- All transferred Securities or Equivalent Securities received by us pursuant to clause 9.16; and
- Any interest you have in any collateral received by us as security for arrangements entered into pursuant to clause 9.16.

And includes all Monetary Rights and Other Rights in connection with any such Securities and all further Securities to which you become entitled by virtue of holding such Securities and all proceeds of all such Securities.

New Guarantor means each person who becomes an additional Guarantor in the future under the procedure in clauses 10.13 and 10.14.

NZ Dollar Equivalent means, on any date: a) In relation to an amount of NZ Dollars, that amount; and b) In relation to an amount of AU Dollars, the amount of NZ Dollars which we could purchase with such amount of AU Dollars on the day in question, calculated at our primary lender's spot rate of exchange for purchasing NZ Dollars with such AU Dollars (as conclusively certified to us by that lender as applying at approximately 10.30am on that date) in a foreign exchange market determined by that lender. A certificate from us as to the identity of our primary lender and its spot exchange rate shall be conclusive evidence of such matters.

NZ Dollars or **NZ\$** means the lawful currency of New Zealand.

NZX means NZX Limited and where the context requires includes the markets operated by NZX Limited.

Other Rights means:

- a) bonus shares, debentures or other Securities;
- b) options to take up Mortgaged Securities, debentures or other Securities;
- c) voting rights; and
- d) other rights, moneys or Securities of any nature including consequent on any consolidation or subdivision of capital, redemption or conversion of Mortgaged Securities, reduction of capital, liquidation or scheme of arrangement, other than Monetary Rights. payable, in relation to an amount, means an amount that is currently payable or will or may be payable in the future.

PDS means the current product disclosure statement for the Margin Lending Facility published on our website from time to time.

person includes an individual, a firm, a body corporate, an unincorporated association and an authority.

PPSA means the Personal Property Securities Act 1999 as amended from time to time and terms defined in the PPSA shall bear those defined meanings in this agreement unless a different defined meaning is given.

Receiver means receiver, receiver and manager, or manager.

Secured Property means the Mortgaged Securities and all other property over which we have a Security Interest under a Transaction Document.

Security means a security of any type, and includes a security within the meaning set out in section 2D of the Securities Act 1978. In the event of any disagreement, we have the sole right to determine whether a security is a Security.

Security Interest includes a Security Interest as defined in the PPSA.

this agreement means these Margin Lending Facility Terms and Conditions including Parts A to E and the Application Form.

Total Liabilities means, at any time, all amounts that you owe us, or will or may owe us in the future under the Transaction Documents, including:

- a) The amount of any Advance drawn down and not repaid; and
- b) Any interest on any Advance; and
- c) Any costs incurred by us in exercising or attempting to exercise any right or remedy under the Transaction Documents.

Transaction Documents means:

- This agreement and any Accession Agreement; and
- Any agreement giving or recording a Security Interest, mortgage or charge over any property (of the Borrower or a Guarantor), or any agreement recording the priority between us and any other person with a Security Interest, mortgage or charge over the Mortgaged Securities or any other property in connection with this agreement; and
- The Application Form; and
- Any other document contemplated by the Transaction Documents or which we agree is a Transaction Document.

We or **us** or our means Leveraged Equities Finance Limited, our successors and anyone we assign our rights to.

Working Day means a weekday on which the banks and the NZX are open for business.

You or **Borrower** means the person who draws down Advances and otherwise owes us amounts under the Transaction Documents, whose details are set out in sections 1, 2 or 3 of the Application Form. If there are more than one, you means each of them separately and every two or more of them jointly. You includes your successors and any person we permit you to assign or transfer your obligations under the Transaction Documents to.

The singular includes the plural and vice versa.

Derivatives of any defined word or term shall have a corresponding meaning.

Headings to clauses in this agreement shall be ignored in construing this agreement.

A reference to:

- A document includes any variation or replacement of it;
- Law includes common law, principles of equity and laws made by parliament (and includes regulations and other instruments under laws made by parliament and consolidations, amendments, re-enactments or replacements of any of them);
- Any thing includes the whole and each part of it.

