

# EQUINOX 6

## Loan Summary Loan and Security Agreement



MACQUARIE  
BANK

# Macquarie Bank loan facilities

- Macquarie Equinox 6 Trust Loan (the “Investment Loan”)
- Macquarie Interest Assistance Loan (the “Interest Assistance Loan”)

## SUMMARY OF THE LOAN FACILITIES

Approved investors may take advantage of an optional Investment Loan to be provided by Macquarie Bank Limited to invest in Units in the Macquarie Equinox 6 Trust. A choice is offered between paying interest quarterly in arrears at either a fixed or floating rate, or annually in advance at a fixed rate.

An Interest Assistance Loan of 75% of the first year's interest amount is also offered to qualifying investors choosing to pay a fixed rate of interest annually in advance.

The Units purchased with the proceeds of the Investment Loan will be used to secure your obligations under the Investment Loan and any Interest Assistance Loan. If you choose to dispose of

part or all of these Secured Units prior to the Capital Protection Date (30 December 2012) you will be obliged to repay the same proportion of money outstanding (including unpaid interest) under the Investment Loan and all of the money outstanding under the Interest Assistance Loan. Break costs may be incurred where a loan is repaid prior to the Capital Protection Date.

Terms not otherwise defined in this document have the meaning given to them in the product disclosure statement, dated 9 May 2005, issued by Macquarie Portfolio Management Limited (ABN 55 092 552 611, AFSL 238321) as responsible entity of the Macquarie Equinox 6 Trust.

The following table summarises the main features of the loan facilities on offer.

Investment Loan		
Feature	Details	
Percentage of Application Amount able to be borrowed under the Investment Loan	100%	
Minimum loan application amount	\$40,000, with \$10,000 increments thereafter	
Term	Approximately 7 <sup>1</sup> / <sub>2</sub> years	
Loan type	Interest only	
Final date for repayment	30 December 2012 or such date thereafter that proceeds from the disposal of Secured Units become available	
Interest Rate choices	The choices are:	
	<ul style="list-style-type: none"> <li>• Fixed rate, paid annually in advance;</li> <li>• Fixed rate, paid quarterly in arrears;</li> <li>• Floating rate, paid quarterly in arrears.</li> </ul>	
Recourse	During Term	At Maturity
• Loan principal	Full	Full
• Interest payments	Full	Full
• Break costs / gains	Full	N/A
Interest Assistance Loan		
Feature	Details	
Available to qualifying investors choosing:	Investment Loans where interest is paid annually in advance with a fixed interest rate	
Percentage of 30 June 2005 interest payment covered by the Interest Assistance Loan	75%	
Term	3 years	
Loan type	Principal and interest	
Repayment	Three equal payments on 30 June 2006, 29 June 2007 and 30 June 2008	
Interest Rate	Fixed for 3 years	
Interest Payments	Annually in arrears on 30 June 2006, 29 June 2007 and 30 June 2008, calculated daily on outstanding principal	
Recourse	During Term	At Maturity
• Loan principal	Full	Full
• Interest payments	Full	Full
• Break costs / gains	Full	N/A

All interest payments under the Investment Loan (subject to clause 3.5(a)(ii) of the attached Loan and Security Agreement), and all payments of interest and principal under the Interest Assistance Loan, are to be made via direct debit from the Borrower's nominated Australian bank account.

**Please do not send a cheque with your application for your first interest payment, even if you are nominating the Fixed Interest Rate, as the interest rates shown in this document are indicative only and may not be the final interest rates. Please ensure you complete the direct debit authority in the Application Form.**

Macquarie Portfolio Management Limited (ABN 55 092 552 611 AFSL 238321) is not an authorised deposit taking institution for the purposes of the Banking Act (Cth) and Macquarie Portfolio Management Limited's obligations do not represent deposits or other liabilities of Macquarie Bank Limited (ABN 46 008 583 542). Macquarie Bank Limited does not guarantee or otherwise provide assurance in respect of the obligations of Macquarie Portfolio Management Limited.

## TAX TREATMENT OF INTEREST EXPENSE

### General Principles

Investors should seek their own professional taxation advice to determine whether they are able to claim a tax deduction for interest expenses incurred on any loan used to fund the acquisition of Units or to fund the interest payable on that loan. Such determination will depend on the tax treatment applicable to the investor's particular circumstances.

You should generally be able to claim a tax deduction for any interest expense incurred on any Investment Loan or Interest Assistance Loan provided that you have incurred that interest expense for the purpose of deriving assessable income from the holding of Units, being that Cash Distributions (or other assessable income other than capital gains) that are expected to be derived from the investment in the Units.

Where interest is deductible under this test, and subject to any application of the thin capitalisation provisions, the interest deductions should be available against all of your assessable income, regardless of its nature. That is, the interest deductions will not be quarantined against the foreign income derived from the investment in the Units.

### Proposed treatment of capital protected products

On 16 April 2003 the Government announced an intention to legislate to deny deductibility of some interest under loans taken out to invest in certain capital protected products. It is considered that this announcement should not apply to any interest expense incurred on an Investment Loan or Interest Assistance Loan. Rather, it is considered that (under both current and proposed legislation) a full deduction for such interest should be available to investors provided the test outlined above is satisfied.

Investors utilising any Investment Loan or Interest Assistance Loan to subscribe for Units should consider the above announcement and consult their own tax adviser where necessary.

### Timing of tax deductions for interest expense

The following comments in relation to timing of tax deductions assume that you will be entitled to deductions for all of your interest payments under any Investment Loan and Interest Assistance Loan.

If you are:

- an individual who does not carry on a business; or
- a Simplified Tax System ("STS") taxpayer,<sup>1</sup>

the timing of your deduction of your interest payments on your Investment Loan and your Interest Assistance Loan should be as shown below.

Amount paid	When deductible
Interest paid quarterly in arrears on an Investment Loan	No later than the time of payment.
Interest paid annually in advance on an Investment Loan	At the time of prepayment provided that in either: <ul style="list-style-type: none"><li>• the Units are in a widely held unit trust (being a trust with more than 300 unitholders where it is not the case that 20 or fewer individuals are entitled to 75% or more of the income or capital of the trust); or</li><li>• the tax positive test is passed.<sup>2</sup></li></ul> Otherwise the deduction will be spread evenly over the period to which the prepayment relates.

### ***Investment by an individual in the course of carrying on a business***

If you make your investment in the Trust as an individual in the course of carrying on a business and you are not an STS taxpayer, you will not be able to claim an immediate deduction for any prepayment of interest on any Investment Loan unless the prepayment is less than \$1,000. If the prepayment is \$1,000 or more, the deduction will be spread over the period to which the prepayment relates.

### ***Investments by non-individuals***

If you are not an individual and you are not an STS taxpayer, you will not be able to claim an immediate deduction for any prepayment of interest on any Investment Loan unless the prepayment is less than \$1,000. If the prepayment is \$1,000 or more, the deduction will be spread over the period to which the prepayment relates.

### ***Independent Tax Opinion***

**Blake Dawson Waldron has provided a tax opinion relating to the above tax comments. This opinion appears in Appendix A.**

<sup>1</sup> You can choose to be a Simplified Tax System taxpayer only if you are carrying on a business and you meet certain tests, including that:

- (a) your average annual turnover is less than \$1,000,000; and
- (b) the sum of relevant values of all of your depreciating assets held at the end of a year is less than \$3,000,000.

This is a broad summary of the tests, and some detail has been omitted.

<sup>2</sup> You will pass the tax positive test for a year if your assessable income from Units for that year equals or exceeds your allowable deductions (including the interest on your Investment Loan and on your Interest Assistance Loan, if you have one) for that year in respect of these Units. Obviously, investors will be unable to satisfy this test for the year ended 30 June 2005.

## Investment Loan Indicative Interest Rates

Investors may choose a fixed interest rate (paying annually in advance or quarterly in arrears) for their Investment Loan or a floating rate (paying quarterly in arrears), but cannot switch between these rates after the Offer Close Date (unless extended, 22 June 2005). Based on market conditions as at 1 May 2005 indicative interest rates on the Investment Loan ("**Indicative Interest Rates**") are:

- Fixed rate:       paid annually in advance:   7.95%  
                          paid quarterly in arrears:     8.25%
- Floating rate:    paid quarterly in arrears:    7.60%

## Interest Assistance Loan Indicative Interest Rate

If an investor chooses the fixed interest Investment Loan, paying interest annually in advance, the investor may also apply for the Interest Assistance Loan to fund 75% of the 30 June 2005 interest obligation. Based on market conditions as at 1 May 2005 the indicative rate on the Interest Assistance Loan (also an Indicative Interest Rate) is:

- Fixed rate:       7.95%

## Final Interest Rates

The final interest rates will be advised to investors seven days prior to the Offer Close Date (unless extended, the Offer Close Date is 22 June 2005) via the Equinox website ([macquarie.com.au/equinox](http://macquarie.com.au/equinox)). Investors without internet access can contact the Macquarie Equinox Service Centre on 1800 02 55 13 for those rates.

It is the responsibility of loan applicants to look on the Equinox website or call the Macquarie Equinox Service Centre to ascertain the applicable interest rate for their Investment Loan and, if applicable, for their Interest Assistance Loan.

Investors will have the opportunity to withdraw their Investment Loan (and, if applicable, Interest Assistance Loan) application(s) after the interest rates are set if the final interest rate applicable to their application is higher than the applicable Indicative Interest Rate. Macquarie must receive notice of the withdrawal of the application prior to the Offer Close Date. Once the Offer Close Date passes, all loan applications that have not been withdrawn will proceed.

When an applicant's Investment Loan (and, if applicable, Interest Assistance Loan) is approved, Macquarie Bank will issue a confirmation of the terms of the loan(s) ("**Confirmation**") to the applicant's address as nominated in the Application Form. The Confirmation will include the Interest Rate applicable to the loan(s) (or, where the Investment Loan is subject to a Floating Interest Rate, the Interest Rate applicable from the loan's drawdown to 31 July 2005).

The fixed rate loans will retain the same interest rate for the life of the loans, while the floating interest rate will be reviewed monthly, with any changes to the floating interest rate being posted on the Equinox website at the commencement of the month.

## Loan Application

To apply for the loan facilities, you will need to review the Loan and Security Agreement (including the Payment Instructions Deed), complete the attached Application Form and provide any required documentation to Macquarie Bank. You should submit the application for the loan(s) together with your completed Macquarie Equinox 6 Trust application form attached to the product disclosure statement issued by Macquarie Portfolio Management Limited as responsible entity of the Macquarie Equinox 6 Trust dated 9 May 2005.

Before making an investment decision on the basis of this document you should consider whether the Investment Loan and the Interest Assistance Loan are appropriate in the light of your particular investment needs, objectives and financial and taxation circumstances.

This document is a general disclosure document and hence does not take into account your objectives, financial situation or needs. You are advised to read this document in its entirety and seek professional legal, taxation and financial advice to determine whether the Investment Loan and the Interest Assistance Loan are appropriate for you.

# BLAKE DAWSON WALDRON

L A W Y E R S

The Directors  
Macquarie Bank Limited  
No. 1 Martin Place  
SYDNEY NSW 2000

The Directors

## **Taxation Report Macquarie Equinox 6 Trust – Loan Summary**

We have reviewed the section headed "Tax treatment of interest expense" in the Equinox - Loan Summary – Loan and Security Agreement to be issued in May 2005 by Macquarie Bank Limited in respect of loans to be provided to invest in units in Macquarie Equinox 6 Trust. We believe that the section correctly summarises the main Australian income tax implications for Australian resident borrowers arising in relation to loans borrowed from Macquarie Bank Limited to invest in Macquarie Equinox 6 Trust Units pursuant to the Macquarie Equinox 6 Trust Product Disclosure Statement to be dated on or around 9 May 2005.

The summary is based on the taxation law and administrative practice in force at the date of this letter and on Government announcements made up to the date of this letter. In forming this opinion, we rely on statements of fact contained in the Equinox – Loan Summary – Loan and Security Agreement, as well as in the Macquarie Equinox 6 Trust Product Disclosure Statement.

Neither the Loan Summary nor this Taxation Report is, or purports to be, advice to any prospective borrower. Prospective borrowers should obtain their own independent professional taxation advice, relevant to their own circumstances.

Yours faithfully



**BLAKE DAWSON WALDRON**

SYDNEY  
MELBOURNE  
BRISBANE  
PERTH  
CANBERRA  
LONDON  
PORT MORESBY  
JAKARTA  
SHANGHAI

Level 36  
Grosvenor Place  
225 George Street  
Sydney NSW 2000

www.bdw.com

Tel + 61 2 9258 6000  
Fax + 61 2 9258 6999

DX 355 Sydney

Locked Bag N6  
Sydney NSW 1225  
Australia

**Partner**  
Andrew Stals  
Telephone (02) 9258 6812

**Contact**  
Kirsten Fish  
Telephone (02) 9258 6708

**Our reference**  
AXS KF 02 1267 8745

9 May 2005

112681528

# Loan & Security Agreement

## **BETWEEN THE BORROWER, THE GUARANTOR (IF APPLICABLE) AND MACQUARIE BANK LIMITED**

### **1. THE FACILITIES**

Subject to this Agreement, Macquarie agrees to provide the Borrower with:

- (a) an Investment Loan; and
- (b) subject to clause 3.4, an Interest Assistance Loan.

#### **1.1 Establishment of Investment Loan**

- (a) The Investment Loan may only be used by the Borrower to acquire Units.
- (b) The Interest Assistance Loan may only be used by the Borrower to pay 75% of the first interest payment due on the Investment Loan.
- (c) The Borrower may only apply for the Investment Loan and if applicable, the Interest Assistance Loan, by completing the Loan Application Form.
- (d) Macquarie agrees to provide to the Borrower the Facilities set out in the Initial Confirmation on the terms set out in the Initial Confirmation and in this Agreement.
- (e) Details relating to the Facilities will be confirmed in the Initial Confirmation and then subsequently in Confirmations during the term of this Agreement.

#### **1.2 Maximum amount available**

The amount of financial accommodation available to the Borrower under this Agreement is the Facility Limit.

#### **1.3 Single drawdown**

The Borrower need not use the Facilities. However, if the Borrower wishes to use either of the Facilities, it must do so by a single drawdown for each Facility. The Investment Loan will be drawn down on the Drawdown Date. The Interest Assistance Loan will be drawn down on 30 June 2005.

#### **1.4 Application of Investment Loan proceeds**

If the Borrower draws the Investment Loan, the Borrower irrevocably authorises and directs Macquarie to apply the proceeds of the drawdown to acquire Units for the Borrower.

#### **1.5 Application of Interest Assistance Loan proceeds**

If the Borrower draws the Interest Assistance Loan, the Borrower irrevocably authorises and directs Macquarie to apply the proceeds of the drawdown to pay 75% of the first interest payment due on the Investment Loan.

#### **1.6 Security**

The Facilities will relate to the particular Units acquired with the Investment Loan and will be secured by the Secured Property.

## **2. CONDITIONS PRECEDENT**

### **2.1 Conditions precedent**

Macquarie is not obliged to provide the Facilities to the Borrower unless:

- (a) Macquarie is satisfied that after providing the accommodation the Facility Limit would not be exceeded;
- (b) where the Borrower submits a Loan Application Form in its capacity as a trustee (including a corporate trustee) of a trust, Macquarie has received a certificate from the Borrower's solicitor as found in Part D of the Loan Application Form;

- (c) where the Borrower is a Corporation, including a corporate trustee, Macquarie has received a director's certificate as found in Part C of the Loan Application Form and a guarantee from the directors of the Borrower also as found in Part C of the Loan Application Form;
- (d) where the Borrower is an individual and Macquarie has determined that it will require one or more Guarantor(s) to guarantee the obligations of the Borrower under this Agreement, Macquarie has received a guarantee from the Guarantor(s) as found in Part C of the Loan Application Form;
- (e) Macquarie is satisfied that the representations and warranties in clause 9 are correct and not misleading at the date each Facility is to be provided;
- (f) Macquarie is satisfied that no Event of Default has occurred and is continuing or would result from the Facilities being provided;
- (g) Macquarie has received an executed copy of the Payment Instructions Deed;
- (h) All Borrowers and Guarantors have executed a power of attorney in favour of Macquarie as found in Part B of the Loan Application Form; and
- (i) Macquarie has received such other documents or information as Macquarie may require.

### **2.2 Benefit of conditions precedent**

Each condition precedent is for the sole benefit of Macquarie and may be waived by it.

## **3. INTEREST**

### **3.1 Interest**

The Borrower agrees to pay interest on the Facilities at the applicable Interest Rate in accordance with this Agreement.

### **3.2 Investment Loan - Interest Rate selection**

The Borrower must elect, in the Loan Application Form, to have either:

- (a) a Fixed Interest Rate; or
  - (b) a Floating Interest Rate
- apply to the Investment Loan.

The Borrower's election in this regard is irrevocable for the term of the Investment Loan.

### **3.3 Investment Loan - Interest Calculations**

- (a) The Borrower may elect to pay the interest charged under the Investment Loan either:
  - (i) in arrears on each Quarterly Interest Payment Date, with interest calculated daily at the prevailing Interest Rate from the Drawdown Date to the first Quarterly Interest Payment Date and thereafter from the day after the Quarterly Interest Payment Date to the next Quarterly Interest Payment Date; or
  - (ii) in advance on each Advance Annual Interest Payment Date, with interest calculated daily at the Fixed Interest Rate from the Drawdown Date to the day preceding the first Advance Annual Interest Payment Date and thereafter from the Advance Annual Interest Payment Date to the day preceding the next Advance Annual Interest Payment Date.
- (b) The Borrower can only elect to pay interest annually in advance under 3.3(a)(ii) where the Borrower elects to pay a Fixed Interest Rate under clause 3.2.

### 3.4 Availability of Interest Assistance Loan

The Interest Assistance Loan is available only where the Borrower elects to pay interest annually in advance under clause 3.3(a)(ii).

### 3.5 Interest Payments

- (a) The Borrower will pay interest on the Drawing under the Investment Loan:
  - (i) on each Interest Payment Date in accordance with the Borrower's election under clause 3.3; and
  - (ii) if the Borrower draws the Interest Assistance Loan, by applying that amount and paying the balance via direct debit for the first Interest Payment Date.
- (b) The Borrower will pay interest on the Drawing under the Interest Assistance Loan in arrears on each Arrears Annual Payment Date, with interest calculated daily at the Fixed Interest Rate from the date the Interest Assistance Loan is drawn down to the first Arrears Annual Payment Date and thereafter from the day after the Arrears Annual Payment Date to the next Arrears Annual Payment Date. .

### 3.6 Default Interest Payments

- (a) If the Borrower does not pay any amount under this Agreement on the due date for payment (including where funds in the Borrower's nominated bank account are not sufficient to pay the amount of interest when due) the Borrower must pay interest on that amount at the Default Rate.
- (b) Interest charged at the Default Rate accrues daily from (and including) the due date to (but excluding) the date of actual payment, and is calculated on actual days elapsed.
- (c) If a liability becomes merged in a judgment, the Borrower agrees to pay interest on the amount of that liability as an independent obligation. This interest:
  - (i) accrues daily from (and including) the date the liability becomes due for payment both before and after the judgment up to (but excluding) the date the liability is paid; and
  - (ii) is calculated at the judgment rate or the Default Rate (whichever is higher).
- (d) The Borrower agrees to pay interest under this clause on demand from Macquarie.

### 3.7 Interest Payment Dates and Repayment Dates

An Interest Payment Date which would otherwise be after the Repayment Date is on the Repayment Date.

### 3.8 Calculations on a daily basis

All interest, amounts in the nature of interest and fees under this Agreement will be calculated on a daily basis and a year of 365 days.

### 3.9 Payment of interest

Subject to clause 3.5(a)(ii), all interest payments will be made via direct debit from the Borrower's nominated account.

## 4. REPAYMENT AND PREPAYMENT

### 4.1 Repayment of the Investment Loan

The Borrower shall repay the Outstanding Monies under the Investment Loan to Macquarie in one amount on the first to occur, where applicable, of:

- (a) if all of the Borrower's Secured Units are redeemed on the Capital Protection Date pursuant to clause 5, the later of:

- (i) the date on which the proceeds from such redemption become available to the Borrower; and
- (ii) the Capital Protection Date;

- (b) if the Borrower advises Macquarie under clause 5 that the Borrower wishes to retain all of its Secured Units after the Capital Protection Date, 20 days prior to the Capital Protection Date;

### 4.2 Repayment of the Interest Assistance Loan

Subject to clause 4.6 and 4.4(a)(ii), the Borrower must repay the Interest Assistance Loan Amount in three equal installments of interest and principal as calculated in the Confirmation(s). Each installment must be paid on the relevant Arrears Annual Interest Payment Date and the Outstanding Monies under the Interest Assistance Loan paid on 30 June 2008.

### 4.3 Partial redemption on Capital Protection Date

If the Borrower wishes to redeem a proportion of its Secured Units on the Capital Protection Date and retain the balance of its Secured Units, then:

- (a) the repayment date set out in clause 4.1 (a) applies to that proportion of the Outstanding Monies under the Investment Loan that relate to the Secured Units redeemed on the Capital Protection Date; and
- (b) the repayment date set out in clause 4.1 (b) applies to the balance of the Outstanding Monies under the Investment Loan.

### 4.4 Prepayment after Disposal of Secured Units

- (a) Subject to clause 4.5, if the Borrower Disposes of a proportion of the Secured Units before the Capital Protection Date, the Borrower shall repay:
  - (i) the same proportion of the Outstanding Monies under the Investment Loan; and
  - (ii) if applicable, all of the Outstanding Monies under the Interest Assistance Loan, in one amount on the date of Disposal, or for redemptions, on the date the proceeds of redemption have been received by Macquarie pursuant to the Payment Instructions Deed.
- (b) Subject to clause 4.5, a prepayment under paragraph (a)(i) will be applied to reduce the same proportion of each of the Principal and any accrued but unpaid interest under the Investment Loan.

### 4.5 Application of funds after redemption

If the Borrower redeems any of the Secured Units, the Borrower authorises Macquarie to apply the proceeds from the redemption as follows:

- (a) first, to pay all indemnity obligations under clause 14, including Break Costs;
- (b) second, to pay all outstanding fees and expenses payable under clause 7;
- (c) third, to pay the same proportion of any Outstanding Monies that is repayable pursuant to either clauses 4.1, 4.3 or 4.4; and
- (d) fourth, to pay the remaining amount of proceeds to the Borrower.

If the proceeds of the redemption are not sufficient to pay all amounts specified in (a), (b) and (c), the Borrower must pay Macquarie the additional amount necessary to pay them.

# Loan & Security Agreement (continued)

## 4.6 Prepayment without Disposal of Units

- (a) The Borrower may prepay all or any part of the Outstanding Monies under an Investment Loan without disposing of any units, on the last day of any calendar month (commencing from the Drawdown Date), subject to the restrictions that:
- such prepayment amounts must be of a minimum of \$10,000, and with \$1000 increments above that amount;
  - such payment amounts must result in the Principal under the Investment Loan remaining no less than \$40,000; and
  - where an Interest Assistance Loan has been utilised, the Borrower must, at the time of that prepayment, prepay all of the Outstanding Monies under the Interest Assistance Loan,

unless Macquarie in its absolute discretion agrees otherwise.

- (b) The Borrower may prepay all (but not part) of the Outstanding Monies under the Interest Assistance Loan on the last day of any month.
- (c) The Borrower may make more than one payment under (a) per calendar year. Macquarie will charge the Borrower a fee of \$50 for each prepayment after the first prepayment in that calendar year.

## 4.7 Process for Prepayment

Where a Borrower is to prepay all or any part of the Outstanding Monies under clause 4.6:

- the Borrower must notify Macquarie of the proposed payment by 11am on the fourth Business Day before the prepayment;
- Macquarie will notify the Borrower of all amounts, including fees and other expenses then accrued and due under clause 7 and an estimate of any indemnity obligations under clause 14 (including estimated Break Costs) by the second Business Day before the proposed prepayment. The final quantum of these amounts (not amounts based on estimates) will be payable by the Borrower in addition to the prepayment;

and the Borrower acknowledges that:

- once given, a notice of prepayment is irrevocable and the Borrower is obliged to prepay in accordance with the notice; and
- the Borrower may be liable for Break Costs and is not entitled to any rebate of interest that he or she has prepaid.

## 4.8 Borrower's acknowledgements

The Borrower acknowledges that his or her obligations under this Agreement, including his or her obligations to repay the Outstanding Monies and pay costs, fees and charges are not affected by:

- the success or failure of the Trust;
- the level of return from or loss of money invested in the Trust; or
- any illegality in connection with the Trust or the PDS.

## 4.9 Amounts may not be reborrowed

Amounts repaid or prepaid may not be reborrowed under this Agreement.

## 5. CAPITAL PROTECTION DATE REDEMPTION REQUEST

Macquarie shall complete and deliver a redemption request to the Trust at least 40 days before the Capital Protection Date for the redemption of all the Secured Units unless the Borrower advises

Macquarie at least 45 days before the Capital Protection Date that it wishes:

- to redeem only a portion of the Secured Units; or
- to retain all of the Secured Units beyond the Capital Protection Date,

(and the Borrower will then be required to make the payment under clause 4.1 and/or 4.3), in which event Macquarie shall request a partial redemption or refrain from requesting redemption of any of the Secured Units, as advised.

## 6. CHANGE OF LAW OR CIRCUMSTANCES

If there occurs any change in law or interpretation which makes it unlawful for Macquarie to give effect to any provision of this Agreement, Macquarie may notify the Borrower and thereupon Macquarie's obligation to make, fund or maintain the Facilities or give effect to the relevant provision shall cease. The Borrower shall immediately (or before the unlawfulness occurs, if applicable) repay the Outstanding Monies under each Facility in full together with any other monies then accrued or due (whether or not yet payable) under this Agreement.

## 7. FEES AND EXPENSES

### 7.1 General fees and expenses

On demand (whether or not either of the Facilities are drawn) the Borrower shall pay or reimburse Macquarie for all costs, charges and expenses (including stamp duty, any tax on goods and services, value added tax, registration fees and legal fees, if any) incurred or payable by Macquarie in connection with or arising out of this Agreement and related documentation, the arrangement and administration of the Facilities and any action required to be taken by Macquarie under this Agreement and the contemplated or actual enforcement of, or preservation of rights' under, this Agreement.

### 7.2 Specific fees and expenses

- Where required by Macquarie, the Borrower shall pay fees to Macquarie for the amount as determined by Macquarie from time to time. As at the date of this Agreement, these include the following:
  - a withdrawal fee, payable when funds under the Facilities are drawn by cheque (including bank cheque) (currently \$10 each), telegraphic transfer (currently \$35), direct bank deposit or bank draft;
  - a fee for extra copies of statements and reports (currently \$10 per page), payable upon request of such copies by the Borrower;
  - a low value transaction fee (currently \$15), payable on debit transactions of less than \$3000; and
  - a retrieval of information fee (currently \$50 plus \$10 per page), payable where the Borrower or its adviser or authorised representative request Macquarie to retrieve, collate, sort and/or provide archived or historical information about the Facilities.
- The fees set out in paragraph (a) shall be payable on demand and form part of the Secured Monies. Macquarie may at any time and from time to time impose new fees and charges and vary any of these fees or the manner in which they are calculated.

## 8. PAYMENTS

- (a) All monies payable by the Borrower and Guarantor under this Agreement shall be paid in full without set off or counterclaim of any kind and free and clear of deduction or withholding of any kind.
- (b) If any amount would otherwise become due for payment on a day which is not a Business Day, that amount shall become due on the immediately following Business Day, or if that Business Day is in another calendar month, on the immediately preceding Business Day.
- (c) A certificate signed by Macquarie stating any amount or rate for the purpose of this Agreement shall, prima facie, be binding on the Borrower.
- (d) Unless Macquarie agrees otherwise, all payments under this Agreement shall be effected by way of a direct debit from an account at a bank or financial institution acceptable to Macquarie and the Borrower agrees to effect the direct debit request contained in the Loan Application Form.

## 9. REPRESENTATIONS AND WARRANTIES OF BORROWER AND GUARANTOR

### 9.1 Representations and warranties

- (a) Each of the Borrower and the Guarantor represents and warrants to Macquarie on the date it signs the Loan Application Form, on the Drawdown Date and on the date the Interest Assistance Loan is drawn that:
  - (i) the financial accommodation provided by Macquarie under this Agreement will be applied wholly or predominantly for business or investment purposes (or both);
  - (ii) on acquisition of Secured Units by the Borrower, the Borrower will be, subject to the Mortgage, the legal and beneficial owner of (unless it submits a Loan Application Form in its capacity as trustee of a trust, in which case it will be, subject to the Mortgage, the legal owner but not the beneficial owner of), and have good title to, the Units free from any Security Interest other than the Mortgage;
  - (iii) on acquisition of the Units by the Borrower and deposit of the title deeds to the Secured Property with Macquarie, this Agreement creates a first ranking fixed mortgage over the Secured Property being an equitable mortgage;
  - (iv) each of the Borrower and the Guarantor obtains various benefits by entering into, exercising its rights and performing its obligations under this Agreement;
  - (v) each of the Borrower and the Guarantor is able to pay its debts as and when they become due and payable;
  - (vi) each of the Borrower's and the Guarantor's obligations under this Agreement are valid and binding and are enforceable against the Borrower and the Guarantor in accordance with their terms;
  - (vii) no Event of Default continues unremedied;
  - (viii) unless stated in the Loan Application Form and unless the Loan Application Form is accompanied by a solicitor's certificate in a form acceptable to Macquarie, neither the Borrower nor the Guarantor enters into this Agreement as a trustee of a trust;

- (ix) in the case of a Borrower or Guarantor who is a Corporation:

- (A) the Borrower has been incorporated in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;
  - (B) the Borrower has power to enter into this Agreement and comply with its obligations under it;
  - (C) this Agreement does not contravene the Borrower's constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;
  - (D) the Borrower has in full force and effect the authorisations necessary for it to enter into this Agreement, comply with its obligations and exercise its rights under it and to allow it to be enforced;
  - (E) no person has contravened or will contravene section 208 or section 209 of the Corporations Act or any other law by entering into this Agreement or participating in any transaction in connection with this Agreement;
  - (F) there is no pending or threatened proceeding affecting the Borrower or its Related Bodies Corporate or any of their assets before a court, governmental agency, commission or arbitrator except those in which a decision against the Borrower or the Related Body Corporate would be insignificant;
  - (G) neither the Borrower nor any of its Related Bodies Corporate is in breach of a law or obligation affecting any of them or their assets in a way which is likely to be a Material Adverse Change; and
  - (H) neither the Borrower nor any of its Related Bodies Corporate has immunity from the jurisdiction of a court or from legal process; and
- (x) in the case of a Borrower who submits an Loan Application Form in its capacity as trustee of a trust:
    - (A) it is the sole trustee of the trust;
    - (B) it is not in breach of trust;
    - (C) it has the right to be fully indemnified out of the trust assets for obligations incurred under this Agreement before the claims of beneficiaries; and
    - (D) this Agreement is for the benefit of the trust.

### 9.2 Acknowledgments

The Borrower and the Guarantor acknowledge that Macquarie:

- (a) has not authorised or caused the issue of the PDS;
- (b) does not make or purport to make any statement in the PDS (or any statement on which a statement in the PDS is based);
- (c) takes no responsibility for any part of the PDS other than the reference to its name and its role and references to the Facilities included in the PDS (if any) with its consent; and
- (d) does not endorse or recommend investment under the PDS.

# Loan & Security Agreement (continued)

## 10. UNDERTAKINGS OF BORROWER AND GUARANTOR

- (a) The Borrower and the Guarantor shall supply to Macquarie when requested to do so:
  - (i) copies of any Financial Statements for the Borrower and the Guarantor for each financial year; and
  - (ii) such additional financial or other information relating to the Borrower and the Guarantor as Macquarie may from time to time reasonably request.
- (b) Unless Macquarie otherwise agrees in writing, the Borrower undertakes:
  - (i) not to create, agree or attempt to create or allow to exist, any Security Interest over or in respect of any Secured Property;
  - (ii) not to Dispose of or otherwise deal with, any of the Secured Property or any interest therein;
  - (iii) to notify Macquarie if any representation or warranty made by the Borrower or the Guarantor in connection with this Agreement is found to have been incorrect or misleading when made;
  - (iv) to do everything necessary to ensure that no Event of Default occurs; and
  - (v) if an Event of Default occurs, to notify Macquarie giving full details of the event and any step taken or proposed to be taken to remedy it.

## 11. MORTGAGE

### 11.1 Creation of Mortgage

- (a) The Borrower as beneficial owner (unless it submits a Loan Application Form in its capacity as trustee of a trust, in which case it acts as trustee and in accordance with its powers as trustee) mortgages to Macquarie all of its present and future right, title and interest in and to the Secured Property by way of a first ranking fixed mortgage as security for the due and punctual payment and satisfaction of the Secured Monies.
- (b) Unless otherwise required by Macquarie, where documents of title exist in relation to the Secured Property, and the Secured Property is a marketable security as referred to under section 262 of the Corporations Act, the Mortgage shall be created in part by the deposit of the documents of title relating to the Secured Property with Macquarie. Accordingly, the Borrower shall authorise the Trust, upon acquisition of the Secured Units by the Borrower, to deposit with Macquarie (or its nominee) all documents of title relating to the Secured Property and any other documents Macquarie requests relating to the Secured Property. The Borrower authorises Macquarie to notify the Trust of the details of the Mortgage.

### 11.2 Macquarie as attorney

Without limiting any rights, powers or remedies conferred upon Macquarie by this Agreement or by law, at any time, whether before or after the occurrence of an Event of Default, the Borrower irrevocably appoints Macquarie as its attorney for any one or more of the following:

- (a) to request the responsible entity of the Trust deliver certificates of title in respect of the Secured Units to Macquarie.
- (b) to complete and deliver, in accordance with clause 5, a redemption request in respect of the Secured Units;
- (c) to insert the name of Macquarie or its nominee (or, but only after an Event of Default has occurred, the name of any

purchaser pursuant to a power of sale conferred by law or the power of sale referred to in clauses 12 and 13) in all or any transfer documents (Transfers) (and other relevant documents, if any) relating to the Secured Property;

- (d) in the name of the Borrower to sign, seal and deliver all or any Transfers (and those other relevant documents);
- (e) to cause all or any Transfers to be registered; and
- (f) to deliver the certificates (if any) deposited with Macquarie in respect of the Secured Property (and/or any certificate issued consequent upon such registration of the Transfers) to any such nominee (or any such purchaser) named in such Transfers.

### 11.3 Continuing security

This Agreement is a continuing security and shall remain in full force and effect until the whole of the Secured Monies have been paid or satisfied in full.

### 11.4 Partial or full release from Mortgage

If all or any part of the Drawing under the Investment Loan is repaid or prepaid under clauses 4.1, 4.3, 4.4 or 4.6, Macquarie must:

- (a) release from the Mortgage the same proportion of the value of Secured Property as the proportion of the Drawing under the Investment Loan that is repaid; and
- (b) if the Outstanding Monies are fully repaid, fully release the Mortgage.

### 11.5 Priority Amounts

- (a) For the purposes only of fixing priorities in accordance with section 282 of the Corporations Act and without affecting any of the Borrower's obligations to Macquarie, the prospective liabilities secured by this Agreement include, without limitation, the prospective liabilities of the nature specified in paragraphs (b) up to the maximum amount specified in paragraph (c).
- (b) The prospective liabilities of the Borrower are the obligation of the Borrower to:
  - (i) repay all of the Principal advanced under this Agreement;
  - (ii) pay interest on the Drawing and other amounts payable under this Agreement; and
  - (iii) pay or reimburse Macquarie for all Costs, increased costs or loss incurred in connection with this Agreement.
- (c) The maximum amount of the prospective liabilities set out in paragraph (b) is twice the Facility Limit.

### 11.6 Further assurances

The Borrower and Guarantor must do all things required by Macquarie to:

- (a) give effect to the intent and purpose of this Agreement; and
- (b) to ensure that Macquarie has the full benefit of the rights and powers contemplated under this Agreement,

which may include the Borrower and/or Guarantor providing additional security in relation to its obligations under this Agreement to Macquarie under a separate security arrangement.

## 12. EVENTS OF DEFAULT

### 12.1 Events of Default

Each of the following events shall be an Event of Default:

- (a) the Borrower fails to pay any monies when due in accordance with this Agreement,

- (b) the Borrower or the Guarantor fails to duly and punctually perform or comply with any of its obligations under this Agreement or an agreement or arrangement in place pursuant to clause 11.6;
- (c) any representation or warranty made by the Borrower or the Guarantor in connection with this Agreement or an agreement or arrangement in place pursuant to clause 11.6 is found to have been incorrect or misleading when made;
- (d) the Borrower or Guarantor (if applicable) breaches the terms of any agreement or arrangement established pursuant to clause 11.6, or any event occurs which is deemed to be an event of default, howsoever defined, under any agreement or arrangement established pursuant to clause 11.6;
- (e) where the Borrower or the Guarantor is a Corporation:
  - (i) an application is made for an order, a meeting is convened to consider a resolution, a resolution is passed or an order is made that the Borrower or the Guarantor be wound up or otherwise dissolved and/or that an administrator, liquidator or provisional liquidator of the Borrower or the Guarantor be appointed; or
  - (ii) a receiver, receiver and manager, administrator, controller, trustee or similar officer is appointed in respect of all or any part of the business, assets or revenues of the Borrower or the Guarantor,
- (f) the Borrower or the Guarantor dies, becomes insolvent or is subject to any arrangement, assignment or composition, or is protected from any creditors or otherwise unable to pay its debts when they fall due;
- (g) any government, governmental agency, department, commission, or other instrumentality seizes, confiscates, or compulsorily acquires (whether permanently or temporarily and whether with payment of compensation or not) any of the Secured Property;
- (h) any litigation, administrative proceedings or other procedure for the resolution of disputes is commenced in which the title of the Borrower to any of the Secured Property will or might be impeached or the Borrower's enjoyment of, or Macquarie's rights under this Agreement to, any of the Secured Property will or might be restrained or otherwise hindered;
- (i) there occurs an event which is, or in Macquarie's opinion may lead to, a Material Adverse Change;
- (j) Macquarie receives any notice from a credit reporting agency or any other credit provider to the Borrower or the Guarantor which indicates that the Borrower or the Guarantor is in default under any other financial, payment or performance obligation with any other party or that any of the events specified in the foregoing paragraphs of this clause 12.1 have occurred; and
- (k) in the case of a Borrower who submits a Loan Application Form in its capacity as a trustee of a trust:
  - (i) the Borrower ceases to be the trustee of the trust or any step is taken to appoint another trustee of the trust, in either case without Macquarie's consent; or
  - (ii) an application or order is sought or made in any court for:
    - (A) removal of the Borrower as trustee of the trust; or
    - (B) property of the trust to be brought into court or administered by the court or to be brought under its control; or
  - (iii) a notice is given or meeting summoned for the removal of the Borrower as trustee of the trust or for the appointment of another person as trustee jointly with the Borrower.

### 13. CONSEQUENCES OF AN EVENT OF DEFAULT

#### 13.1 General consequences of an Event of Default

- (a) If an Event of Default occurs Macquarie may, without being obliged to do so and notwithstanding any waiver of any previous Event of Default, and in addition to any other rights or remedies conferred by this Agreement or by law:
  - (i) declare the Outstanding Monies and all other sums which are accrued or due under this Agreement (whether or not presently payable) to be due and payable, whereupon they shall become immediately due and payable without further demand, notice or other legal formality of any kind; and/ or
  - (ii) declare the Facilities terminated and the obligations of Macquarie under this Agreement shall immediately cease; and/or
  - (iii) do all acts and things and exercise all rights, powers and remedies that the Borrower could do or exercise in relation to the Secured Property including, without limitation, the power to:
    - (A) take possession and assume control of the Secured Property;
    - (B) receive all money or other distributions (whether monetary or otherwise) made or to be made in respect of the Secured Property and give a notice contemplated by the Payment Instructions Deed;
    - (C) Dispose of or otherwise deal with the Secured Property or agree to do the same (whether or not Macquarie has taken possession) on such terms as Macquarie thinks fit in its absolute discretion;
    - (D) employ solicitors, agents, accountants, auctioneers and consultants, on such terms as Macquarie thinks fit;
    - (E) carry out and enforce, or refrain from carrying out or enforcing, rights and obligations of the Borrower which may arise in connection with the Secured Property or obtained or incurred in the exercise of the rights, powers and remedies of Macquarie;
    - (F) institute, conduct, defend, settle, arrange, compromise and submit to arbitration any claims, questions or disputes whatsoever which may arise in connection with the Secured Property or in any way relating to this Agreement, and to execute any related releases or other discharges; and
    - (G) execute documents on behalf of the Borrower under seal or under hand,
 and any monies which Macquarie pays or becomes liable to pay by reason of doing any of the above shall form part of the Secured Monies.

#### 13.2 Appointment of receiver

- Immediately upon or at any time after the occurrence of an Event of Default, Macquarie may appoint in writing any person to be a receiver or receiver and manager ("the Receiver") of any Secured Property and:
- (a) the Receiver may be appointed by Macquarie on such terms as Macquarie thinks fit;
  - (b) Macquarie may remove a Receiver and may appoint another in his place;
  - (c) Macquarie may from time to time determine the remuneration of the Receiver; and

# Loan & Security Agreement (continued)

- (d) if two or more persons are appointed as Receiver they may be appointed jointly and/or severally and may be appointed in respect of different parts of the Secured Property.

## 13.3 Status and Capacity of Receiver

- (a) Unless and until Macquarie by notice in writing to the Borrower and to the Receiver requires that the Receiver act as agent of Macquarie, the Receiver shall be the agent of the Borrower, and the Borrower alone shall be responsible for the acts and defaults of the Receiver, but in exercising any powers of Macquarie, the Receiver shall have the authority of both the Borrower and Macquarie.
- (b) Subject to any specific limitations placed upon it by the terms of his appointment, the Receiver may, in addition to any right, power or remedy conferred upon it by law, do any act, matter or thing and exercise any right, power or remedy that may be done or exercised by Macquarie in relation to the Secured Property.

## 14. INDEMNITIES, EARLY UNWIND AND OTHER COSTS

### 14.1 Borrower obligation

- (a) The Borrower indemnifies Macquarie from and against all actions, suits, claims, demands, losses, liabilities, damages, costs and expenses which may be made or brought against or suffered or incurred by Macquarie arising out of or in connection with:
  - (i) any Event of Default;
  - (ii) the exercise or non-exercise of any right, power or remedy contained or referred to in this Agreement;
  - (iii) any prepayment or repayment of the Facilities including, without limitation, any loss or expense incurred in respect of:
    - (A) any cost associated with Macquarie obtaining an appropriate form of risk management (or instrument of similar effect) with respect to this Agreement or the funding of the Facilities;
    - (B) the exercise or non-exercise by Macquarie of, or the prevention or inability of Macquarie to, exercise any rights under any risk management agreement;
    - (C) the liquidation or redeployment of funds acquired from third parties to make or maintain the Facilities; or
    - (D) the termination or reversal of any arrangements (including without limitation any fixed rate contracts) entered into in connection with the funding of the Facilities;
    - (E) any loss of profits that Macquarie may suffer by reason of the early liquidation or redeployment of such funds or the termination or reversal of such arrangements.
- (b) The Borrower agrees to compensate Macquarie on demand if Macquarie determines that any new or amended law (including without limitation any law which imposes a tax on goods and services), order, official policy, directive or request of any governmental agency, or any change in any interpretation or administration of any law, order, official policy, directive or request of any governmental agency, directly or indirectly:
  - (i) increases the cost to Macquarie of providing, funding or maintaining the Facilities; or
  - (ii) reduces any amount received or receivable by Macquarie, or its effective return, in connection with the Facilities; or
  - (iii) reduces Macquarie's return on capital allocated to the Facilities or its overall return on capital.

- (c) Any amount which Macquarie certifies to the Borrower that it has expended, incurred or will incur, or which it will forego pursuant to clause 14.1(a) or (b) shall, in the absence of manifest error, be binding for all purposes.

Macquarie shall not be responsible for any losses of any kind whatsoever (including, without limitation, the negligence, default or dishonesty of any servant, agent or auctioneer employed by Macquarie, any attorney of Macquarie or the Receiver) which may occur in or about the exercise, attempted exercise or non-exercise of any of the rights, powers or remedies of Macquarie under this Agreement.

### 14.2 Release by Borrower and Guarantor

The Borrower and the Guarantor release Macquarie from all actions, suits, claims, demands and losses in connection with the PDS.

## 15. GUARANTEE, INDEMNITY AND THIRD PARTY PROVISIONS

### 15.1 Guarantor liable

The Guarantor is liable for all the obligations of the Borrower under this Agreement both individually and jointly with any one or more other persons named as Guarantor.

### 15.2 Guarantee

- (a) The Guarantor unconditionally and irrevocably guarantees to Macquarie, jointly and severally, the due and punctual payment and satisfaction of the Secured Monies by the Borrower.
- (b) The amount of the Guarantor's liability as guarantor under this clause 15 is limited to the Secured Monies.
- (c) If the Borrower defaults in the due and punctual payment or satisfaction of any of the Secured Monies, the Guarantor shall pay the whole amount of the Secured Monies to Macquarie immediately upon demand. Macquarie may make such a demand on the Guarantor from time to time and whether or not demand has been made on the Borrower.
- (d) The Guarantor acknowledges incurring obligations and giving rights under this Agreement for valuable consideration received from Macquarie which includes Macquarie entering into this Agreement at its request.

### 15.3 Guarantor responsible for reviewing Borrower

The Guarantor acknowledges that it is responsible for making itself aware of the financial position of the Borrower and any other person who guarantees payment of the Secured Monies, and seeking appropriate legal advice relating to the Guarantor's obligations under this Agreement.

### 15.4 Indemnity given by Guarantor

The Guarantor unconditionally and irrevocably indemnifies Macquarie from all losses and claims arising under this Agreement. This indemnity extends to cover all actions, suits, claims, demands, obligations, liabilities, losses, damages, costs and expenses which have been or may be made or brought against or which have been or may be suffered or incurred by Macquarie if the whole or any part of the Secured Monies:

- (a) is irrecoverable or has never been recoverable by Macquarie from the Borrower; or
- (b) cannot be enforced against the Borrower; or
- (c) is not paid to Macquarie for any other reason whatsoever including, without limitation, by reason of:
  - (i) any legal limitation, disability, incapacity, lack of any power or lack of authority of or affecting any person;

- (ii) any of the transactions relating to the Secured Monies being void, voidable or unenforceable (whether or not the matters or facts relating thereto have been or ought to have been within the knowledge of Macquarie); or
- (iii) any other fact, matter or thing whatsoever.

### 15.5 Payment by Guarantor

- (a) The Guarantor shall pay to Macquarie immediately upon demand an amount equal to the amount of the claims, demands, obligations, liabilities, losses, damages, costs and expenses referred to in clause 15.4. Macquarie may make such a demand from time to time and whether or not demand has been made on the Borrower.
- (b) The Guarantor agrees that the liability under clause 15 is that of principal debtor.

### 15.6 Unconditional nature of obligation

The Guarantor's obligations under this Agreement shall be absolute and unconditional in any and all circumstances and shall not be prejudiced, released or otherwise affected by any one or more of the following (occurring with or without the consent of or notice to any person):

- (a) any release, failure or agreement not to sue, discharge, termination, relinquishment, compromise, release, waiver, concession, indulgence, replacement, amendment, variation, increase, decrease or compounding of the obligations of the Borrower or of any other person under this Agreement or of any of the Secured Monies;
- (b) any of the obligations of the Borrower or any other person under this Agreement being or becoming wholly or partially illegal, void, voidable or unenforceable, whether by reason of any law or for any reason whatsoever;
- (c) any delay, laches, acquiescence, mistake, act, omission or negligence on the part of Macquarie or any other person;
- (d) any defences being available to the Borrower under this Agreement;
- (e) any part of the monies forming part of the Secured Monies being or becoming irrecoverable or never having been recoverable or any part of the obligations forming part of the Secured Monies being or becoming unenforceable or never having been enforceable;
- (f) any non-compliance by Macquarie or any other person with the provisions of any law or with any provision of this Agreement;
- (g) any law or judgment staying or suspending all or any of the rights of Macquarie against the Borrower, or any other person (by operation of law or otherwise);
- (h) any person becoming or not becoming a Guarantor of the Secured Monies or any part thereof or any discharge or release of any such person;
- (i) the insolvency, bankruptcy, winding up, receivership or administration of the Borrower or any other person;
- (j) any setting aside or avoidance of any payment by the Borrower or any other person;
- (k) any failure of Macquarie to enforce the Mortgage, or alteration or variation to this Agreement;
- (l) the full or partial release of the Mortgage; or

- (m) any other fact, matter, circumstance or thing whatsoever which, but for this provision, could or might operate to prejudice, release, discharge or otherwise affect the Borrower's obligations under this Agreement.

### 15.7 Macquarie not required to proceed against Borrower

Macquarie shall not be required to proceed against the Borrower or exhaust any remedies it may have against the Borrower or enforce this Agreement, but shall be entitled to demand and receive payment from the Guarantor when any payment is due under this Agreement and/ or to proceed directly against the Secured Property.

### 15.8 Guarantor's claims against Borrower

Unless and until the whole of the Secured Monies have been paid or satisfied in full, the Guarantor shall not make any claim for any sum paid under this Agreement or enforce any rights which it may have (whether by way of defence, indemnity, set-off, counterclaim, contribution, subrogation or otherwise) against the Borrower or its property.

### 15.9 Judgment

A judgment obtained against the Borrower will be conclusive against the Guarantor.

### 15.10 Conditions precedent

Any condition or condition precedent to the provision of financial accommodation is for the benefit of Macquarie and not the Guarantor. Any waiver of or failure to satisfy such a condition or condition precedent will be disregarded in determining whether an amount is part of the Secured Monies.

### 15.11 Application

This clause 15 will have no application if there is no Guarantor designated as such in the Initial Confirmation.

## 16. SETOFF

### 16.1 Assets of the Borrower

Macquarie may (in addition to any general or banker's lien, right of setoff, right to combine accounts or any other right to which it may be entitled), without notice to the Borrower or any other person, setoff and apply any credit balance (or any part thereof in such amounts as Macquarie may elect) on any account (whether such account is subject to notice or not and whether matured or not) of the Borrower with Macquarie and any other monies owing by Macquarie to the Borrower, against the Secured Monies.

### 16.2 Assets of the Guarantor

Macquarie may (in addition to any general or banker's lien, right of set-off, right to combine accounts or any other right to which it may be entitled), without notice to the Guarantor or any other person, set-off and apply against any monies owing by the Guarantor to Macquarie under this Agreement any credit balance (or any part thereof in such amounts as Macquarie may elect) on any account (whether such account is subject to a notice or not (whether matured or not)) of the Guarantor with Macquarie and any other money owing by Macquarie to the Guarantor.

# Loan & Security Agreement (continued)

## 17. VOTING RIGHTS

- 17.1 Until an Event of Default occurs or the Secured Units are registered in Macquarie's name, the Borrower may exercise the voting rights attached to the Secured Units as it sees fit.
- 17.2 If an Event of Default occurs and is subsisting or the Secured Units are registered in the name of Macquarie, then:
- (a) all rights of the Borrower under clause 17.1 immediately cease; and
  - (b) Macquarie is entitled to exercise the rights referred to in clause 17.1 although Macquarie is not required to exercise such rights.

## 18. TAXATION

If the Borrower is required to deduct any tax from any payment due to Macquarie by the Borrower in connection with the Agreement, then:

- (a) it must pay that amount to the appropriate authority and promptly provide Macquarie with evidence of payment; and
- (b) the amount payable is increased so that (after deducting that tax and paying any taxes on the increased amount) Macquarie receives the same amount it would have received had no deduction been made.

## 19. NOTICES

- (a) All notices and other communications required by this Agreement to be in writing shall be given by the relevant party and shall be sent to the recipient by hand, prepaid post (airmail if outside Australia) or facsimile.
- (b) A notice or other communication shall be deemed to be duly received:
  - (i) if sent by hand, when left at the address of the recipient;
  - (ii) if sent by prepaid post, 5 days after the date of posting; or
  - (iii) if sent by facsimile, upon receipt by the sender of an acknowledgement or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.
- (c) All notices and other communications shall be sent to the addresses of the respective parties as set out in the Loan Application Form or as a party may notify to the other party in writing.

## 20. ASSIGNMENT

- (a) Neither the Guarantor nor the Borrower shall assign or otherwise transfer the benefit of this Agreement or any of its respective rights, remedies, powers, duties or obligations under this Agreement without the prior written consent of Macquarie.
- (b) Macquarie may assign, transfer and otherwise grant participations or subparticipations in all or any part of the benefit of this Agreement and any of its rights, remedies, powers, duties and obligations under this Agreement without the consent of the Borrower or the Guarantor.
- (c) Macquarie may disclose to a potential assignee, transferee, participant or subparticipant such information about the Borrower, the Guarantor, and this Agreement as Macquarie considers appropriate.

## 21. MISCELLANEOUS

### 21.1 Borrower consents to disclosure

The Borrower hereby consents to Macquarie disclosing to the Guarantor and to any other guarantor of the obligations of the Borrower the following information:

- (a) a copy or summary of this Agreement and related material evidencing the obligations of the Borrower to be guaranteed; and
- (b) a copy of any formal demand that may be sent from time to time by Macquarie to the Borrower.

### 21.2 Borrower and Guarantor Granting Power of Attorney

- (a) The Borrower and Guarantor respectively irrevocably appoint Macquarie and each executive director, division director and associate director of Macquarie for the time being, severally, the attorneys of the Borrower and Guarantor to do (either in the name of the Borrower, Guarantor or the attorney) all acts and things that the Borrower or Guarantor is obliged to do under this Agreement or which, in the opinion of Macquarie, are necessary or desirable in connection with the Secured Property or the protection or perfection of Macquarie's interests or the exercise of the rights, powers and remedies of Macquarie.
- (b) The parties hereby irrevocably authorise Macquarie, and each of its officers, agents, employees and solicitors to complete any details and fill in any blanks in this Agreement.

### 21.3 Exercise of rights by Macquarie

The failure or delay of Macquarie in exercising any right under this Agreement will not operate as a waiver of any right and the exercise of a single right or partial exercise of any right by Macquarie under this Agreement will not prevent Macquarie from exercising any other right. The rights of Macquarie under this Agreement are cumulative and are not exclusive of any other rights provided by law.

A waiver by Macquarie shall only be effective if it is in writing signed by an officer of Macquarie.

### 21.4 Severability

Any provision of this Agreement which is or becomes prohibited or unenforceable in any jurisdiction shall be severed from this Agreement only in respect of that jurisdiction.

### 21.5 Indemnities as continuing obligations

The indemnities contained in this Agreement are continuing obligations of the Borrower, separate and independent from their other obligations and shall survive the termination of this Agreement.

### 21.6 Macquarie's discretion

Any consent requested of, or determination by, Macquarie may be given or withheld by Macquarie in its absolute discretion and conditionally or unconditionally except where this Agreement otherwise expressly provides.

### 21.7 Delay by Macquarie

If the performance by Macquarie of any of its obligations under this Agreement or related arrangements is prevented or delayed in whole or in part due to any circumstance which Macquarie is unable to control, this Agreement will nevertheless continue and remain in full force and effect but Macquarie will not be in default under this Agreement or otherwise liable for any loss, cost, expense or damage suffered by the Borrower or the Guarantor for that reason only and Macquarie will be granted a reasonable extension of time to complete performance of its affected obligations.

## 21.8 Macquarie not responsible

Without limiting the terms of Clause 14 or Clause 21.7, Macquarie shall not be responsible for any loss, cost, expense or damage suffered by the Borrower as a result of Macquarie acting in accordance with any request or direction from the Borrower (including in relation to any sale of the Secured Property) or of not acting, or of not acting promptly, in accordance with any such request or direction.

## 21.9 Governing law

This agreement shall be governed by and construed in accordance with the laws of the State. The parties irrevocably and unconditionally submit to the nonexclusive jurisdiction of the courts of the State.

## 21.10 Time of the essence

Time shall be of the essence in respect of each and all of the obligations of each of the Borrower and the Guarantor hereunder.

## 22. PRIVACY

The Borrower and Guarantor consent to Macquarie giving, from time to time, to:

- (a) any of Macquarie's related entities
- (b) the Trust;
- (c) any Guarantor or Borrower as applicable; or
- (d) where the Borrower or Guarantor comprises more than one person, to any Borrower or Guarantor; and
- (e) a person authorised by the Borrower and notified to Macquarie in writing, as the borrower's representative for the purposes of this Agreement,

any information in Macquarie's possession about the Borrower or Guarantor respectively, the Secured Property, the Facilities and this Agreement that they may request from time to time. Macquarie may also give such information to fund managers, and clearing houses to the extent it deems necessary or desirable for effecting transactions in connection with this Agreement. This information may be given in electronic, paper or spoken form. Macquarie is not in any way liable to the Borrower, and the Borrower releases Macquarie, its directors and employees from any liability for the unauthorised accessing or release of any such information (except to the extent, and only to the extent, arising from Macquarie's gross negligence or fraud).

## 23. INTERPRETATION

In this Agreement, unless the context otherwise requires:

**Advance Annual Interest Payment Date** means 30 June 2005 and each anniversary of that date until the date the Investment Loan is repaid under clause 4.1.

**Arrears Annual Payment Date** means 30 June 2006, 29 June 2007, and 30 June 2008.

**Agreement** means this Loan and Security Agreement.

**BBSW** means the 90 day bank bill swap rate (expressed as a percentage) for the applicable period quoted on the page designated "BBSW" on the Reuters Monitor or another page that replaced that system to display the bank bill swap rate.

**Borrower** means each person identified as such (including a joint Borrower) in the Loan Application Form.

**Break Costs** means all costs and expenses which may be made or incurred by Macquarie arising out of or in connection with any prepayment of the Outstanding Monies (whether pursuant to clause

4 or otherwise), including, without limitation, any loss or expense identified in clause 14.1(a)(iii).

**Business Day** means a day on which banks are open for business in the State.

**Capital Protection Date** means 30 December 2012.

**Confirmations** means the confirmations issued by Macquarie to the Borrower from time to time after the issue of the Initial Confirmation, which set out the details of the Investment Loan, Interest Payment Dates, the applicable Interest Rate and where relevant, the Interest Assistance Loan.

**Corporation** has the meaning given in the Corporations Act.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Costs** includes costs, charges and expenses, including those incurred in connection with advisers.

**Default Rate** means 2% plus BBSW per annum.

**Dispose** means transfer, sell or redeem.

**Disposal** means a transfer, sale or redemption.

**Drawdown Date** means the date the Principal under the Investment Loan is drawn down, which is prior to the date when the Units of the Trust are acquired by the Borrower.

**Drawing** means the outstanding Principal from time to time of the drawdown made under a Facility or both Facilities as the context requires.

**Event of Default** means any event specified as such in clause 12.

**Facility** means:

- (a) an Investment Loan; and
- (b) if applicable, an Interest Assistance Loan,

made available under this Agreement and "Facilities" means both of them.

**Facility Limit** means the amount of the Investment Loan and the Interest Assistance Loan (if applicable) approved by Macquarie and notified to the Borrower in the Initial Confirmation.

**Financial Statements** means:

- (a) a statement of financial position;
- (b) a statement of financial performance; and
- (c) a statement of cash flows.

**Fixed Interest Rate** means the interest rate charged under the Investment Loan and the Interest Assistance Loan (if applicable) for the term of that Facility as determined by Macquarie and set out in the Initial Confirmation.

**Floating Interest Rate** means the interest rate charged under the Investment Loan as determined by Macquarie and adjusted on the last day of each calendar month (commencing from the Drawdown Date) unless that day is not a Business Day, in which case the reference date will be the previous Business Day, with the initial Floating Interest Rate set out in the Initial Confirmation.

**Guarantor** means the person identified as such in the Loan Application Form.

**Initial Confirmation** means an acceptance of application delivered by Macquarie to the proposed Borrower in response to the Loan Application Form which sets out the identity of the Borrower, the amount of the Investment Loan, the type of Interest Rate applicable and if applicable, the amount of the Interest Assistance Loan.

**Interest Assistance Loan** means the amount advanced to the Borrower as calculated by Macquarie to represent 75% of the interest charged on 30 June 2005 under the Investment Loan.

# Loan & Security Agreement (continued)

**Interest Payment Date** means

- (a) if the Borrower elects to pay interest in arrears under clause 3.3(a)(i), each Quarterly Interest Payment Date;
- (b) if the Borrower elects to pay interest in advance under clause 3.3(a)(ii), each Advance Annual Interest Payment Date; and
- (c) if the Borrower draws an Interest Assistance Loan, each Arrears Annual Interest Payment Date,

or where any of these dates does not fall on a Business Day, the first preceding Business Day.

**Interest Rate** means either the Fixed Interest Rate or Floating Interest Rate as nominated by the Borrower in the Loan Application Form, as determined by Macquarie from time to time and confirmed to the Borrower in the Confirmations.

**Investment Loan** means the amount advanced by Macquarie to purchase Units under clause 1.4.

**Liquidation** includes receivership or other appointment of a controller, deregistration, compromise, deed of arrangement, amalgamation, administration, reconstruction, winding up, dissolution, assignment for the benefit of creditors, arrangement or compromise with creditors, bankruptcy or death.

**Loan Application Form** means an application form attached to this Loan and Security Agreement.

**Macquarie** means Macquarie Bank Limited (ABN 46 008 583 542).

**Material Adverse Change** means a change which, in Macquarie's opinion, has a material adverse effect on either the Borrower's assets, revenue or financial condition, or its ability to perform its obligations under this Agreement;

**Mortgage** means the mortgage created under clause 11 of this Agreement.

**Outstanding Monies** means the Drawing plus any accrued but unpaid interest or their aggregate (as the case may be).

**Payment Instructions Deed** means the deed entitled the Payment Instructions Deed dated on or about the date of this Agreement between Macquarie, the Responsible Entity and the Borrower, substantially in the form of schedule 1.

**PDS** means the product disclosure statement relating to the offer of Units in the Trust dated 9 May 2005.

**Principal** means:

- (a) in respect of the Investment Loan, the amount drawn down under the Investment Loan on the Drawdown Date; and
- (b) in respect of the Interest Assistance Loan, the amount drawn down under the Interest Assistance Loan on 30 June 2005.

**Receiver** means any receiver or receiver and manager appointed to the Secured Property.

**Related Bodies Corporate** has the same meaning as in the Corporations Act.

**Repayment Date** means

- (a) in relation to the Investment Loan, the date the Investment Loan is repaid under clause 4.1; and
- (b) in relation to the Interest Assistance Loan (if applicable), 30 June 2008.

**Quarterly Interest Payment Date** means the following dates in any year:

- (a) 30 September;
- (b) 31 December;
- (c) 31 March; and

- (d) 30 June.

**Secured Monies** means all monies, obligations and liabilities of any nature whatsoever that may now be, or might at any time in the future become or remain, due, owing or payable, whether actually or contingently, by the Borrower to Macquarie on any account or for any reason whatsoever under the provisions of this Agreement.

**Secured Property** means:

- (a) all of the Borrower's present and future right, title and interest in the Secured Units, including the Borrower's:
  - (i) interest in any distributions in respect of the Secured Units; and
  - (ii) rights consequent upon the disposal, including any interest in the proceeds of disposal, of those Secured Units; and,
- (b) any other asset agreed from time to time by the Borrower and Macquarie to be the Secured Property in connection with this Agreement.

**Security Interest** includes any mortgage, bill of sale, pledge, deposit, lien, encumbrance, hypothecation, arrangement for the retention of title and any other right, interest, power or arrangement of any nature whatsoever having the purpose or effect of providing security for, or otherwise protecting against default in respect of, the obligations of any person.

**Secured Units** means the Units in the Trust acquired by the Borrower utilising the proceeds of the Investment Loan provided by Macquarie.

**State** means that State or Territory of the Commonwealth of Australia in which the office of Macquarie that issues the Confirmation is located.

**Trust** means the Trust known as Macquarie Equinox 6 Trust.

**Unit** means a unit in the Trust as described in the PDS.

In this Agreement, unless the context otherwise requires:

- (i) words importing the singular include the plural and vice versa;
- (ii) references to a person include any type of entity or body of persons whether or not it is incorporated or has a separate legal entity;
- (iii) references to an agreement or document (including, without limitation, a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document; and
- (iv) references to any party to this Agreement include references to its respective successors and permitted assigns.

In this Agreement, where the Borrower comprises two persons:

- (i) an obligation of those persons is joint and several;
- (ii) a right of those persons is held by each of them severally; and
- (iii) a reference to the Borrower is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

If a Borrower submits more than one Loan Application Form:

- (i) the Borrower, the Guarantor (if applicable) and Macquarie must enter into a separate agreement in relation to each Loan Application Form; and
- (ii) each separate agreement will relate to one Loan Application Form.

**<Insert execution clauses here>**

# Schedule 1: Payment Instructions Deed

This Deed dated **<date will be inserted here>** is between:

- (a) Macquarie Portfolio Management Limited (ABN 55 092 552 611) as responsible entity of the Macquarie Equinox 6 Trust of No.1 Martin Place, Sydney NSW 2000, Australia ("Responsible Entity");
- (b) **<borrower name will be inserted here> of <borrower address will be inserted here>** ("Borrower"); and
- (c) Macquarie Bank Limited of 1 Martin Place, Sydney NSW 2000, Australia ("Bank").

## INTRODUCTION

- (A) The Borrower has entered into a Loan and Security Agreement with the Bank dated on or around **<date will be inserted here>** under which the Borrower has mortgaged in favour of the Bank all of its/his or her present and future right, title and interest in the first **<number of Units will be inserted here>** of Units in the Trust ("Secured Units") including the right to receive any distributions in respect of the Secured Units and the proceeds of redemption of the Secured Units.
- (B) The Borrower wishes, in this Deed, to provide irrevocable payment instructions to the Responsible Entity for the payment of any distributions and/or the proceeds from the redemption of the Units payable by the Responsible Entity to the Borrower.
- (C) The Responsible Entity wishes to acknowledge receipt of the irrevocable payment instructions from the Borrower and to confirm that it will act in accordance with the same for the benefit of the Bank.

## AGREEMENT

1. The Borrower irrevocably instructs the Responsible Entity to make the following payments:
  - (a) to pay any distributions in respect of the Secured Units to the Borrower unless the Responsible Entity receives a notice in writing from the Bank requesting that any distribution be paid directly to the Bank, in which case, the Responsible Entity must pay those distributions directly to the Bank; and
  - (b) to pay the proceeds from the redemption of the Secured Units directly and without any deduction to the Bank.
2. The Responsible Entity confirms and acknowledges that it will make the payments in accordance with the terms of Clause 1 for the benefit of the Bank.
3. The notice from the Bank in Clause 1(a) shall be sent by facsimile to the Registrar of the Responsible Entity with a copy by electronic mail to the Registrar.
4. Unless the Bank provides different written instructions to the Responsible Entity, any payment that the Responsible Entity is required to make to the Bank under Clause 1 shall be made by wire transfer to:

Bank: Macquarie Bank Limited  
BSB: 182-222  
A/C#: 203316617  
A/C Name: MBL - Equity Structured Products Trust Account

5. The Borrower agrees that any payment received by the Bank from the Responsible Entity of any distribution or redemption proceeds under Clause 1 fully discharges any obligation that the Responsible Entity has to pay the distribution or the redemption proceeds to the Borrower.
6. This Deed shall be governed and construed in accordance with the laws of the State of New South Wales Australia and the Commonwealth of Australia. The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia.

In Witness of which the parties have entered into this Deed in Sydney on the date given above.

**<Insert execution clauses here>**

# Loan Application Instructions

If you are investing as ...	... your application must be in the name of	for example like this ...	... and your account description (if required) could be ...
An individual	The full given name of the individual	Mrs Yvette Catherine Brown	None required
Joint applicants	The full given names of the individuals	Mrs Yvette Catherine Brown + Mr Jack Michael Brown	None required
A company	The company	Jack Brown Pty Ltd	None required
A trust	The trustee(s), rather than the name of the trust <sup>1</sup>	Mrs Yvette Catherine Brown + Mr Jack Michael Brown	Brown Family A/C
A partnership	The full given names of the partners	Mr Jack Michael Brown + Mr James David Smith	Brown + Smith Partnership A/C

<sup>1</sup>Applications in the name of a trust rather than the trustee will not be accepted

## CHECKLIST

If you are applying for an Investment Loan:

<b>in individual or joint names:</b>	complete and return Parts A and B
<b>in the name of a company:</b>	complete and return Parts A, B & C
<b>in the name of a trust:</b>	complete and return Parts A, B, C & D
<b>All loan Applicants:</b>	where the total application is for an amount of \$500,000 or more (including the Interest Assistance Loan, if any) Part E must also be completed.

Send your completed Investment Loan Application Form together with your Macquarie Equinox 6 Trust Application Form to:

Macquarie Equinox Service Centre

GPO Box 3423

Sydney NSW 2001

Telephone: 1800 025 513

or (02) 8232 1181





**Loan Approval**

Macquarie Bank retains the discretion to decline your application for the Investment Loan and any Interest Assistance Loan, either in whole or in part. If approval is given for a smaller Investment Loan amount than you request, you will be taken to have applied for a reduced number of Units corresponding to the Investment Loan amount that is approved.

Investors will have the opportunity to withdraw their application for the Investment Loan (and the Interest Assistance Loan, as applicable) after the interest rates are set if the Final Interest Rate applicable to the relevant Investment Loan or Interest Assistance Loan, (as set out on the Macquarie Equinox website) is higher than the applicable Indicative Interest Rate set out in the Loan Summary. Macquarie Bank must receive notice of the withdrawal of the application prior to the Offer Close Date. Once the Offer Close Date passes, all Investment Loan (and, if applicable, Interest Assistance Loan) applications that have not been withdrawn will proceed.

It is the responsibility of Applicants to look on the Equinox website or contact the Macquarie Equinox Service Centre to ascertain the applicable Interest Rate(s) for their Investment Loan and any Interest Assistance Loan.

If your application is approved, Macquarie Bank will issue a Confirmation of the terms of the Investment Loan and any Interest Assistance Loan, to your address as nominated in Part A. This Confirmation will include the Interest Rate(s) applicable to the Investment Loan (and any Interest Assistance Loan, where the Investment Loan is subject to a Floating Interest Rate, it will include the Interest Rate applicable from the drawdown of the loan until 31 July 2005).

**Privacy**

I/We consent, acknowledge and agree that:

- a) the information in this Loan Application Form and any other information provided in connection with this application ("Information") is provided by me/us to Macquarie Bank to allow my/our application for the Investment Loan and any Interest Assistance Loan, to be assessed and processed and, if my/our application is successful, to allow the Investment Loan and any Interest Assistance Loan, and my/our obligations under them to be administered and enforced. It may also be used and/or disclosed to affiliates and contracted service providers of Macquarie Bank (together with Macquarie Bank, the "Entities") to offer investment and loan products to me/us;
- b) should I/we fail to provide the Entities with any such information or documentation requested of me/us, my/our application for the Investment Loan and any Interest Assistance Loan, may be refused, Units will not be issued to me and the Entities shall not be liable for any loss arising as a result thereof;
- c) the Information may be collected, held, used and disclosed by the Entities in accordance with the Privacy Act 1988 (Cth) and, without limiting the disclosures permitted under that Act, I/we consent to the Entities disclosing my/our Information to a person authorised by me/us and notified to any Entity in writing as my/our representative (including a person authorised to buy and sell investments on my/our behalf); to fund managers and clearing houses; and foreign regulators;
- d) the Entities will not be in any way liable to me/us, and I/we release the Entities and each of their directors and employees from any liability for the unauthorised accessing or release of any Information (except to the extent, and only to the extent, arising from their gross negligence or fraud); and
- e) I/we may request access to my/our information by contacting the Macquarie Equinox Service Centre using the contact details shown on the Checklist.

I/We consent to the Entities (and any other person or company who at any time provides or has any interest in the credit) doing any of the following at any time:

- f) seeking and using commercial credit information about me/us to assess an application for consumer credit or commercial credit and assessing my/our creditworthiness;
- g) seeking and using consumer credit information about me/us provided by a credit reporting agency to assess an application for consumer credit or commercial credit, to assess my/our creditworthiness, to collect overdue payments from me/us and/or to avoid defaulting on my/our credit obligations;

- h) seeking from and using or giving to another credit provider (including any other credit provider who has lent money on the same security) any information about my/our creditworthiness, credit standing, credit history or credit capacity. In particular, the Entities may provide a reference on me/us;
- i) seeking from and using or giving to any broker, financial consultant, accountant, lawyer or other adviser acting in connection with any financing provided or proposed to be provided to me/us any consumer or commercial credit information;
- j) disclosing any report or personal information about me/us to another person in connection with funding or managing financial accommodation by means of an arrangement involving securitisation;
- k) providing personal information and any of the above to my adviser;
- l) giving a credit reporting agency certain personal and commercial information about me/us, including the following information where applicable:
  - information which is reasonably necessary to identify me/us for example, name, gender, date of birth and current or last known address, current or last known employer, driver's licence number;
  - the fact that credit has been applied for and the amount;
  - that Macquarie Bank is a current credit provider to me/us;
  - that I am/we are at least 60 days overdue in making a payment, including a payment that is wholly or partly a payment of interest, and that Macquarie Bank has taken steps to recover the whole or any part of the amount of credit (including any amounts of interest outstanding);
  - that a cheque for an amount not less than \$100 that has been drawn by me/us has twice been presented by Macquarie Bank and dishonoured;
  - that in the opinion of Macquarie Bank, I/we have, in specified circumstances, committed a serious credit infringement;
  - that I/we have ceased to be overdue in making payments, or that I/we contend that I am/we are not overdue in making payment;
  - that Macquarie Bank has ceased to be a current credit provider in relation to me/us;
  - that the credit provided to me/us by Macquarie Bank has been paid or otherwise discharged;
  - that a court judgment has been made against me/us; and
  - that bankruptcy orders have been made against me/us.

**Security**

Subject to approval of your Investment Loan, you will be issued a number of Units equal to the value of your Investment Loan under the terms of PDS. All Units will be issued to you at \$1.00 per Unit. All Units acquired using the Investment Loan shall be subject to a charge to Macquarie Bank and referred to as your "Secured Units". Upon issue of your Units, you authorise the Responsible Entity to deliver to Macquarie Bank (or a nominee of Macquarie Bank):

- any title documents relating to your Secured Units; and
- any other documents relating to the Investment Loan and any Interest Assistance Loan.

**Signatures and Business Purpose Declaration**

1. I/We acknowledge and declare that:
  - a) all information provided as part of this application is true and correct;
  - b) I/We have read and understand the PDS;
  - c) Macquarie Bank:
    - has not authorised or caused the issue of the PDS;
    - takes no responsibility for any part of the PDS other than the reference to its name in the PDS with its consent; and
    - does not endorse or recommend investment under the PDS;
  - d) Macquarie Bank provides Capital Protection to the Responsible Entity as at the Capital Protection Date on the terms and conditions of the Exposure Agreement;
  - e) I/We understand the risks associated with an investment in the Trust as they are outlined in the PDS. I/we further acknowledge that Units redeemed prior to the Capital Protection Date will not gain access to the benefits of the Capital Protection provided by Macquarie Bank to the Responsible Entity and that Units held beyond the Capital Protection Date will not have the benefit of ongoing protection;
  - f) I/We am/are not aware of any liquidation or bankruptcy proceedings that have been commenced or are intended to be commenced by any person against me/us or which are intended or anticipated by me/us;

- g) I/We have read and understood the terms and conditions of the Loan and Security Agreement (including the scheduled Payment Instructions Deed) (“**Agreement**”) and agree to be bound by the provisions thereof;
- h) if my/our Loan Application Form is approved, the Agreement, will be signed on my/our behalf pursuant to the Power of Attorney contained in this Loan Application Form;
- i) all distributions arising from the Trust will be applied in accordance with the Agreement;
- j) I/We acknowledge that my/our obligations under the Agreement including my/our obligations to repay the Investment Loan and any Interest Assistance Loan, and pay interest costs, fees and charges are not affected by:
- the success or failure of the Trust;
  - the level of return from or loss of money invested in the Trust; or
  - any illegality in connection with the Trust or the PDS; and
- k) investments in the Trust are not deposits with, or other liabilities of, Macquarie Bank or of any entity in the Macquarie Bank Group or of any affiliate of Macquarie Bank, and are subject to investment risk, including possible delays in repayment and loss of income or principal invested. Macquarie Bank and members of the Macquarie Bank Group do not guarantee any particular rate of return or the performance of the Trust nor do they guarantee the repayment of capital of the Trust.
2. I/We declare that the credit to be provided to me/us by the credit provider, Macquarie Bank, is to be applied wholly or predominantly for business or investment purposes (or for both purposes).

**IMPORTANT NOTE: YOU SHOULD NOT SIGN THIS DECLARATION UNLESS THIS LOAN IS WHOLLY OR PREDOMINANTLY FOR BUSINESS OR INVESTMENT PURPOSES (OR BOTH PURPOSES).**

**Authorisation of Applicant A or Company Officer A**

<b>X</b>	<b>SIGN HERE</b>	<b>DATE</b>
Name		
▶ If a company officer, you <b>must</b> specify your corporate title		
Director	<input type="checkbox"/>	Secretary <input type="checkbox"/>
Other		

**Authorisation of Applicant B or Company Officer B**

<b>X</b>	<b>SIGN HERE</b>	<b>DATE</b>
Name		
▶ If a company officer, you <b>must</b> specify your corporate title		
Director	<input type="checkbox"/>	Secretary <input type="checkbox"/>
Other		

**CHECKLIST FOR PART A**

Please ensure you have read and completed all sections in Part A.

**You must now complete Part B.**

<input type="checkbox"/>	<b>PART 1</b>	Applicant details
<input type="checkbox"/>	<b>PART 2</b>	Investment Loan Amount
<input type="checkbox"/>	<b>PART 3</b>	Interest Rate and payment type
<input type="checkbox"/>	<b>PART 4</b>	Bank account details for debit of Interest
<input type="checkbox"/>	<b>PART 5</b>	Financial position and income details
<input type="checkbox"/>	<b>PART 6</b>	Operating instructions
<input type="checkbox"/>	<b>PART 7</b>	Loan consents, acknowledgements and declarations

**Cross out and initial any changes made to the form. Do not use correction fluid to amend.**

# Loan Application Form - Part B

Complete this form using **BLACK INK** and print well within the boxes in **CAPITAL LETTERS**. Mark answer boxes with a cross (X). Start at the left of each answer space and leave a one box gap between words. Please cross out and initial any changes made to the form. Do not use correction fluid to amend.

**FOR ALL LOAN APPLICANTS AND GUARANTORS**



## Power of Attorney

For individual applicants and joint applicants this form must be executed by each applicant (and their Guarantor(s) if required.) For companies (including corporate trustees) this form must be executed by the officers of the company and each of the company's directors as guarantors. Please note, directors signing on behalf of a company will sign this page both on behalf of the company and as Guarantors.

I/We hereby irrevocably and by way of security appoint Macquarie Bank Limited ("Macquarie Bank") and/or any entity associated with Macquarie Bank (and each of its officers, employees, agents and solicitors) separately (the "Attorney") as my/our true and lawful agent and attorney in fact (with full power of substitution, delegation and revocation as the Attorney may deem expedient) to sign and deliver on my/our behalf, the following documents:

- the Loan and Security Agreement in substantially the same form as that provided with this Loan Application Form;
- the Payment Instructions Deed, in substantially the same form as that set out in Schedule 1 to the Loan and Security Agreement; and
- any other document, instrument, act or thing which, in the opinion of the Attorney, is necessary or desirable in connection with the Agreement or the protection or perfection of the interests of Macquarie Bank or the exercise of the rights, powers and remedies of Macquarie Bank.

I/We hereby further authorise the Attorney to do the following with respect to any of the relevant documents referred to above:

- complete any blanks;
- make any amendments or additions;
- instruct Macquarie Portfolio Management Limited (ABN 55 092 552 611) ("Responsible Entity") as responsible entity of the Macquarie Equinox 6 Trust (the "Trust"), or any broker or other person with respect to any dealings (including without limitation, any lodgements, applications, redemptions, releases and the payment method and destination account of any distribution) with my/our Units in the Trust;
- do, execute and perform any other deed, matter, act or thing which in the opinion of the Attorney ought to be done, executed or performed to perfect the relevant documents and make them effective; and
- attend to the stamping or registration of all related and ancillary documentation.

I/We declare that anything done by the Attorney pursuant to the powers hereby given to the Attorney will be binding on me/us as if those acts had been done by me/us. I/we agree to indemnify the Attorney against any loss or costs it suffers or incurs in exercising the powers specified above. The Attorney may exercise the powers granted above even if it involves a conflict of duty or a conflict of interest. PDS means the PDS issued by the Responsible Entity for the Trust dated 9 May 2005.

Signed, sealed and delivered by:

### Authorisation of Applicant A or Company Officer A

<b>X</b>	<b>SIGN HERE</b>	<b>/DATE/</b>
Name		
▶ If a company officer, you <b>must</b> specify your corporate title		
Director	<input type="checkbox"/>	Secretary <input type="checkbox"/>
Other		

### Authorisation of Applicant B or Company Officer B

<b>X</b>	<b>SIGN HERE</b>	<b>/DATE/</b>
Name		
▶ If a company officer, you <b>must</b> specify your corporate title		
Director	<input type="checkbox"/>	Secretary <input type="checkbox"/>
Other		

### Authorisation of Applicant C or Company Officer C

<b>X</b>	<b>SIGN HERE</b>	<b>/DATE/</b>
Name		
▶ If a company officer, you <b>must</b> specify your corporate title		
Director	<input type="checkbox"/>	Secretary <input type="checkbox"/>
Other		

### Authorisation of Guarantor A

<b>X</b>	<b>SIGN HERE</b>	<b>/DATE/</b>
Name		

### Authorisation of Guarantor B

<b>X</b>	<b>SIGN HERE</b>	<b>/DATE/</b>
Name		

### Authorisation of Guarantor C

<b>X</b>	<b>SIGN HERE</b>	<b>/DATE/</b>
Name		

**If applying in the name of a company or a trust, you must now complete Part C.**

This page is left intentionally blank.

# Loan Application Form - Part C

Complete this form using **BLACK INK** and print well within the boxes in **CAPITAL LETTERS**. Note that all company applicants, including corporate trustees, must have directors' guarantees. Macquarie Bank may also require an individual borrower to be guaranteed. Please cross out and initial any changes made to the form. Do not use correction fluid to amend.

**FOR ALL LOAN  
GUARANTORS**



## Personal Guarantees (to be completed by the Guarantors)

Macquarie Bank may require that the obligations of an individual borrower ("**Borrower**") be guaranteed. The guarantor(s) must complete this section accordingly. If more than three guarantors are required, please provide details and signatures of all additional guarantors and witnesses on a separate attachment.

### Directors' Guarantees (to be completed by all directors)

In the case of a company, including a corporate trustee, the obligations of the borrower under the Investment Loan and any Interest Assistance Loan, must be guaranteed by each of the directors of the company. Each director must complete this section accordingly. If a company has more than three directors please provide details and signatures of all additional guarantors and witnesses on a separate attachment.

I/we acknowledge and agree that:

#### General

- I/we have read and understand the PDS;
- Investments in the Trust are not deposits with or liabilities of Macquarie Bank or any affiliate of Macquarie Bank and are subject to investment risk, including possible delays in repayment and loss of income and/or principal invested;
- Neither Macquarie Bank nor any affiliate of Macquarie Bank guarantees any particular rate of return or the performance of the Trust nor do they guarantee the repayment of capital of the Trust. I/we further acknowledge that Macquarie Bank provides Capital Protection to the Responsible Entity as at the Capital Protection Date on the terms and conditions of the Exposure Agreement;
- I/we understand the risks associated with an investment in the Trust as they are outlined in the PDS. I/we further acknowledge that Units redeemed prior to the Capital Protection Date will not gain access to the benefits of the Capital Protection provided by Macquarie Bank to the Responsible Entity on the terms and conditions of the Exposure Agreement and that Units held beyond the Capital Protection Date will not have the benefits of ongoing protection.

#### Privacy

I/we consent, acknowledge and agree that:

- the information in this Loan Application Form and any other information provided by me in connection with this application ("**Information**") is provided by me/us to Macquarie Bank to allow the Borrower's application for the Investment Loan and any Interest Assistance Loan, to be assessed and processed and, if the Borrower's application is successful, to allow the Investment Loan and any Interest Assistance Loan, and my/our obligations as guarantor under the Investment Loan and any Interest Assistance Loan, to be administered and enforced. It may also be used and disclosed to Macquarie Bank's affiliates and/or contracted service providers (together with Macquarie Bank, the "**Entities**") to offer investment and loan products to me/us.
- should I/we fail to provide the Entities with any such information or documentation requested of me/us, my/our guarantee and the Borrower's application for the Investment Loan and any Interest Assistance Loan, may be refused and Units will not be issued to the Borrower, and the Entities will not be liable for any loss arising as a result thereof;
- the Information may be collected, held, used and disclosed by the Entities in accordance with the Privacy Act 1988 (Cth) and, without limiting the disclosures permitted under that Act, I/we consent to the Entities disclosing my/our Information to a person authorised by me/us and notified to any Entity in writing as my/our representative (including a person authorised to buy and sell investments on my/our behalf); to fund managers and clearing houses; and to foreign regulators;
- the Entities will not be in any way liable to me/us, and I/we release the Entities and each of their directors and employees from any liability for the unauthorised accessing or release of any Information (except to the extent, and only to the extent, arising from the Entities' gross negligence or fraud); and
- I/we may request access to my/our information by contacting the Macquarie Equinox Service Centre using the contact details shown on the Checklist.

I/we consent to the Entities (and any other person or company who at any time provides or has any interest in the credit) doing any of the following at any time:

- seeking and using commercial credit information about me/us for the purpose of assessing whether to accept me/us as a guarantor/s for credit applied for by, or provided to the Borrower, and assessing my/our creditworthiness;
- seeking and using consumer credit information about me/us provided by a credit reporting agency to assess my/our creditworthiness, to collect overdue payments from me/us and/or to avoid defaulting on my/our obligations;
- seeking from and using or giving to another credit provider (including any other credit provider who has lent money on the same security) any information about my/our creditworthiness, credit standing, credit history or credit capacity. In particular, the Entities may provide a reference on me/us;

- seeking from and using or giving to any broker, financial consultant, accountant, lawyer or other adviser acting in connection with any financing provided or proposed to be provided to me/us any consumer or commercial credit information;
- disclosing any report or personal information about me/us to another person in connection with funding or managing financial accommodation by means of an arrangement involving securitisation;
- providing personal information and any of the above to my adviser;
- giving a credit reporting agency certain personal and commercial information about me/us, including the following information where applicable:
  - information which is reasonably necessary to identify me/us – for example, name, gender, date of birth and current or last known address, current or last known employer, driver's licence number;
  - information about any overdue payment by me/us as the guarantor/s under the guarantee given against default by the Borrower in repaying all or any of the credit obtained by the Borrower from Macquarie Bank;
  - that a cheque for an amount not less than \$100 that has been drawn by me/us has twice been presented by Macquarie Bank and dishonoured;
  - that in the opinion of Macquarie Bank, I/we have, in specified circumstances, committed a serious credit infringement;
  - that I/we have ceased to be overdue in making payments, or that I/we contend that I am/we are not overdue in making payments;
  - that the credit provided by Macquarie Bank to the Borrower in respect of which I/we am/are guarantor/s has been paid or otherwise discharged;
  - that a court judgment has been made against me/us; and
  - that bankruptcy orders have been made against me/us.

### Director's Certificate (where the Borrower is a company including a corporate trustee; to be completed by one director)

I, the undersigned, am a director of the borrower and certify to Macquarie Bank that:

- the board of directors of the borrower ("**Board**") has passed a resolution approving the transactions ("**Transactions**") contemplated by the Loan Application Form, and the Loan and Security Agreement (including the Payment Instructions Deed) (collectively the "**Documents**") and authorising execution of the Agreement by the attorney;
- I have made due enquiry of all the borrower's other directors. On the basis of these enquiries, to the extent that any director of the borrower has an interest in the Transactions, all disclosures relating to such interests that are required by law have been made;
- in approving the Documents and the Transactions, the Board, after taking into account all relevant factors and having made due enquiry:
  - considers that the borrower is receiving and will receive fair value under the Documents and the Transactions;
  - has resolved that the borrower's entry into and performance of the Documents and the Transactions is in the best interests of the borrower; and
  - is of the view that the borrower is able to pay its debts as they become due, is not engaged or about to engage in business for which its financial resources are unreasonably small, will be able to perform its obligations under the Documents and the Transactions when required to do so and will not become unable to pay its debts as they fall due as a result of the Documents and the Transactions;
- this Loan Application Form has been properly executed by the borrower;
- I am not aware of any liquidation proceedings which have been commenced or are intended to be commenced by any person against the borrower or which are intended or anticipated by the borrower; and
- no additional consents are required by the borrower for entry into, execution or performance of the Transactions or the Documents and the execution and delivery of the Documents and performance of the Transactions will not cause the borrower to be in breach of any obligation or law affecting it.

### Director Signature

<b>X</b>	<b>SIGN HERE</b>	<b>/DAT/</b>
Director Name		
Director Address		





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# Loan Application Form - Part D

Complete this form using **BLACK INK** and print well within the boxes in **CAPITAL LETTERS**. Mark answer boxes with a cross (X). Start at the left of each answer space and leave a one box gap between words. Please cross out and initial any changes made to the form. Do not use correction fluid to amend.

**FOR ALL TRUSTEES**



## Certificate from Trustee's Solicitors

I certify that:

- a) I am a legal practitioner instructed and employed by the trustee applicant(s) independently of Macquarie Bank or any affiliate of Macquarie Bank; and
- b) the trust described in Part A of this Loan Application Form was properly established under its trust deed and is validly subsisting at the date of this Loan Application Form; and
- c) the trustee(s) described in Part A of this Loan Application Form has/have been properly appointed; and
- d) having reviewed the trust documentation, the PDS, the Agreement and this Loan Application Form, the trustee(s) has/have the power to borrow the funds, provide the security, perform all of its/their obligations under the Agreement and appoint attorneys; and
- e) the trust receives benefits from the trustee(s) entering into and performing its/their obligations under the Agreement.

## Solicitor Signature

<b>X</b>	<b>SIGN HERE</b>	<b>DATE</b>
Solicitor Name		
Solicitor Firm		
Address of Firm		

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# Loan Application Form - Part E

Complete this form using **BLACK INK** and print well within the boxes in **CAPITAL LETTERS**. Mark answer boxes with a cross (X). Start at the left of each answer space and leave a one box gap between words. Please cross out and initial any changes made to the form. Do not use correction fluid to amend.

**FOR LOAN  
APPLICATIONS OF  
\$500,000 OR MORE**



## Accountant's Certificate

TO: Macquarie Bank Limited  
GPO Box 3423  
Sydney NSW 2001

I, 



 of 



  
(individual name) (firm name)

certify as follows:

1. I am a qualified accountant for the purposes of the Corporations Act, being a member of the Institute of Chartered Accountants in Australia/Australian Society of Certified Practising Accountants/National Institute of Accountants and am subject to, and comply with, that body's continuing education requirements;

2. I am giving this certificate at the request of, and with reference to 



  
("Borrower")  
and acknowledge that this certificate will be relied upon to make offers of loans to the Borrower;

3. I certify that, having reviewed the financial position of the Borrower,

(a) The Borrower has net assets of at least: \$

(b) The Borrower had a gross income for each of the last 2 financial years of at least: \$

Signature

<b>X</b>	<b>SIGN HERE</b>	<i>DATE</i>
Name		

Notes:

This certificate should be:

1. provided before any offer of a loan is made, and;
2. given no earlier than 6 months before the offer of a loan is made

