
Crown Deed of Guarantee

Her Majesty the Queen in right of New Zealand

and

[Name of Principal Debtor]

Date: 2008

PARTIES

Her Majesty the Queen in right of New Zealand acting by and through the Minister of Finance (*Crown*)

XYZ (*Principal Debtor*)

BACKGROUND

A Given turmoil in world financial markets and the need to maintain public confidence in New Zealand's financial system it appears to the Minister of Finance that it is necessary and expedient in the public interest that the Crown guarantees certain obligations of the Principal Debtor.

B This guarantee shall be in force for 2 years from the Announcement Date which the Minister considers to be sufficient time for confidence to return to the financial system.

THE PARTIES AGREE as follows:

1 INTERPRETATION

1.1 Definitions

In this Deed, unless the context requires otherwise:

Announcement Date means 12 October 2008.

Creditor means any Person to whom the Principal Debtor owes indebtedness under a Debt Security, but does not include:

- (a) a "Related Party" of the Principal Debtor as that term is defined in section 157B of the Reserve Bank Act; or
- (b) a Financial Institution; or
- (c) where the Principal Debtor is not a Registered Bank or is a Registered Bank which is an overseas incorporated Person, Persons who are not New Zealand Citizens or NZ Residents.

Crown Guarantee means the Crown guarantee in clause 2.2 of this Deed.

Debt Security has the meaning in section 2 of the Securities Act 1978.

Default Event means:

- (a) Failure of the Principal Debtor to make a payment in the amount and at the date lawfully due;
- (b) The Principal Debtor becomes insolvent or unable to pay its debts as they become due;
- (c) The Principal Debtor institutes or has instituted against it any form of proceeding seeking a judgement of insolvency or bankruptcy or any similar relief;
- (d) The Principal Debtor seeks or becomes subject to the appointment of a voluntary administrator, liquidator, provisional liquidator or receiver;
- (e) The Principal Debtor has a secured party take possession of all or substantially all its assets, or has a distress execution or attachment or other legal process instigated or enforced;
- (f) The Principal Debtor makes a general assignment, arrangement or compromise, with or for the benefit of, its Creditors (including a moratorium); or
- (g) Any action by the Reserve Bank or the Securities Commission to place the entity into statutory management under the Reserve Bank Act or Corporations (Investigation and Management) Act 1989.

Execution Date means the date of this Deed.

Financial Institution means any Person who carries on the business of borrowing or lending money or securities, or providing financial services, or both, whether located in New Zealand or overseas.

Guarantee Period means the period commencing on the Announcement Date and expiring on 12 October 2010.

Indebtedness means all debt owing to a Creditor under Debt Securities issued by the Principal Debtor.

New Zealand Citizen has the meaning given under the Citizenship Act 1977.

Notice of Assignment means a notice from a Creditor in a form to be determined by the Crown stating that once the Crown has paid the Creditor any amount under the Crown Guarantee the rights of the Creditor against the Principal Debtor shall, to the extent of such payment, be assigned to the Crown.

NZ Resident means a person defined as resident in New Zealand pursuant to the Income Tax Act 2007;

Party means the Crown or the Principal Debtor, and *Parties* means them collectively.

Person includes an individual, a body corporate, any association of persons (whether corporate or not), a trust, and a state and any agency of a state (in each case whether or not having separate legal personality).

Registered Bank means a Person registered as a bank under the Reserve Bank Act.

Reserve Bank Act means the Reserve Bank of New Zealand Act 1989.

Total Aggregate Indebtedness means at any time the total combined Indebtedness of all of the Principal Debtor's Creditors.

1.1 Construction

In this Deed, unless the context requires otherwise:

- (a) *Headings*: headings are for convenience only, and do not affect interpretation;
- (b) *Sections, Clauses and Schedules*: a reference to a Section or a clause or Schedule is a reference to a Section or clause in, or Schedule to, this Deed;
- (c) *Singular and plural*: the singular includes the plural and the converse;
- (d) *Particular party or person*: a reference to a particular party or person includes that party's or person's executors, administrators, successors, substitutes and assigns;
- (e) *Deed or document*: a reference to an *Deed* or a *document* is to the Deed or document as amended, novated, supplemented or replaced from time to time; and
- (f) *Legislation*: a reference to legislation or to a provision of legislation includes any amendments and re-enactments of it, a legislative provision substituted for it and a statutory regulation, rule, order or instrument made under or issued pursuant to it.

2 **GUARANTEE**

2.1 **Eligibility**

It is a condition precedent to the Crown's obligations under this Deed that at the Execution Date no Default Event with respect to the Principal Debtor has occurred and is continuing.

2.2 **Crown Guarantee**

The Crown absolutely and irrevocably guarantees that, during the Guarantee Period, if a Default Event occurs in respect of the Principal Debtor the Crown will, subject to receiving a Notice of Assignment from the Creditor and satisfying itself of the amount of Indebtedness to the Creditor, make payment to the Creditor in the amount of the Indebtedness.

2.3 **Indebtedness Incurred after Default Event not Covered**

Any Indebtedness which arises following a Default Event but within the Guarantee Period, other than interest accruing on Indebtedness existing at the Default Event, shall not be covered by the Crown Guarantee.

3 **FEE**

3.1 If on the Execution Date the Total Aggregate Indebtedness of the Principal Debtor exceeds five billion (5,000,000,000) New Zealand Dollars then the Principal Debtor shall, within 14 days of the Execution Date, pay the Crown a non-refundable fee equivalent to 0.1% (ten basis points) of the Total Aggregate Indebtedness on the Execution Date above five billion (5,000,000,000) New Zealand Dollars.

3.2 If on the first 12 month anniversary of the Execution Date the Total Aggregate Indebtedness of the Principal Debtor exceeds five billion (5,000,000,000) New Zealand Dollars then the Principal Debtor shall, within 14 days of the first 12 month anniversary of the Execution Date pay, the Crown a non-refundable fee equivalent to 0.1% (ten basis points) of the Total Aggregate Indebtedness on the first 12 month anniversary of the Execution Date above five billion (5,000,000,000) New Zealand Dollars.

4 **REPORTING**

4.1 **Principal Debtor to Supply Information to the Crown**

The Crown may at any time during the Guarantee Period require from the Principal Debtor any information relating to the business, management or operation of the Principal Debtor.

4.2 **Third Party Information**

The Principal Debtor authorises the Crown to contact and request information from those third parties that the Crown requires, including (but not limited to):

- (a) The Trustee of any Debt Security issued by the Principal Debtor;
- (b) The auditors of the Principal Debtor;
- (c) the Principal Debtor's bankers or any other providers of finance;
- (d) The Securities Commission;
- (e) The Registrar of Companies;
- (f) Any rating agencies contracted by the Principal Debtor to provide rating information; and
- (g) The Reserve Bank of New Zealand.

4.3 **Sharing of Information**

The Principal Debtor authorises the Crown to share information provided in accordance with clauses 4.1 and 4.2 with the Reserve Bank of New Zealand and authorises the Reserve Bank of New Zealand to share with the Crown any information relating to the Principal Debtor that the Reserve Bank has collected in connection with its functions under the Reserve Bank Act.

4.4 **Failure to Comply with Information Request**

4.4.1 If the Principal Debtor fails to comply with a request under clause 4.1, or supplies information or data that is false or misleading in a material particular, the Crown may give public notice that the Principal Debtor has failed to comply with a information request and that the Principal Debtor has 14 days to comply with the request.

4.4.2 If the Principal Debtor fails to comply within the 14 day period in clause 4.4.1 the Crown may give public notice that the Guarantee will be withdrawn in 14 days.

4.4.3 Following the expiry of the second 14 day period the Crown Guarantee will be withdrawn and Indebtedness created following the date of withdrawal but within the Guarantee Period, other than interest accruing on Indebtedness existing at the date of withdrawal, shall not be covered by the Crown Guarantee.

5 **COMPLIANCE WITH PRUDENTIAL SUPERVISION OR OTHER MATTERS**

5.1 If the Principal Debtor fails to comply with:

- (a) any prudential supervision direction, notice or requirement under the Reserve Bank Act or otherwise; or
- (b) the terms of any Trust Deed for Debt Securities issued by the Principal Debtor;

the Crown may give public notice that the Principal Debtor is in breach of this Deed.

- 5.2 If the breach is not remedied to the Crown's satisfaction within 14 days of the public notice the Crown may give public notice that the Guarantee will be withdrawn in 14 days.
- 5.3 Following the expiry of the 14 day period the Crown Guarantee will be withdrawn and Indebtedness created following the date of withdrawal but within the Guarantee Period, other than interest accruing on Indebtedness existing at the date of withdrawal, shall not be covered by the Crown Guarantee.

6 **ACKNOWLEDGEMENT**

- 6.1 The Parties acknowledge that the offering or entering into of this Deed does not in any respect restrict any regulatory or supervisory action by the Reserve Bank or any action the Crown may take, including but not limited to extending the term of the Crown Guarantee or not extending the term of the Crown Guarantee and offering the Crown Guarantee to any person whether under the same terms or different.

7 **NO ASSIGNMENT**

Neither Party may assign or transfer any of its rights under this Deed.

8 **GOVERNING LAW AND JURISDICTION**

8.1 **Governing Law**

This Deed is governed by and is to be construed in accordance with New Zealand law.

8.2 **New Zealand Courts**

Each of the Parties irrevocably and unconditionally agrees that the Courts of New Zealand shall have exclusive jurisdiction to hear and determine each suit, action or proceeding (proceedings) and to settle disputes, that may arise out of or in connection with this Deed and for these purposes irrevocably submits to the exclusive jurisdiction of those courts.

EXECUTED as a Deed by

Her Majesty the Queen in Right of)
New Zealand by the Minister of Finance in)
the presence of:)

Minister of Finance

Witness' signature:)

Witness' occupation:)

Witness' address:)

Principal Debtor by two Authorised)
Signatories:)

Name:

Name:

DRAFT