



# Loan Terms and Conditions

This document sets out the general terms and conditions that apply to your SBS Unwind Loan and, together with your Loan Schedule and our Reverse Equity Mortgage Fees and Charges Schedule (each as amended from time to time), form your Loan Agreement with us.

Please read these SBS Unwind Loan Terms and Conditions carefully and keep them in a safe place.

A SBS Unwind Loan operates like an overdraft. Subject to a few limitations set out in these SBS Unwind Loan Terms and Conditions, you can draw down and repay your Loan (in part or full) as often as you like as long as you stay within the Credit Limit of your Loan.

You are required to repay your Loan in full (subject to clauses 10 and 11 if applicable) on the Repayment Date which is the earlier of the following:

- the date the Mortgaged Property is sold;
- six months after the last Nominated Resident dies or ceases to reside in the Mortgaged Property or;
- the date we make demand due to a breach of your Loan.

On the occurrence of a Repayment Event:

- we can reduce the Credit Limit to the amount of the Unpaid Balance on your Loan; and
- no further drawdowns will be permitted.

A Repayment Event is defined in clause 28.

We offer a Loan Repayment Guarantee on our SBS Unwind loans. Your Loan may also be eligible for our Equity Protection Guarantee. The terms of these guarantees are set out in full in clauses 10 and 11 of these SBS Unwind Loan Terms and Conditions.

## General Terms and Conditions

Your Loan is also subject to our General Terms and Conditions and any applicable Specific Terms and Conditions. Copies of these terms and conditions are available on our website ([sbsbank.co.nz](https://sbsbank.co.nz)) or free of charge on request.

## Capitalised Terms appearing in these Loan Terms and Conditions

Terms which are capitalised in these SBS Unwind Loan Terms and Conditions have a specific meaning. The meaning of these terms is set out in clause 28 (unless the term is defined in your Loan Schedule).

## Consumer Credit Contracts

Various provisions throughout your SBS Unwind Loan Schedule and these Loan Terms and Conditions only apply if your Loan is a "consumer credit contract" for the purposes of the CCCFA.

The meaning of "consumer credit contract" is set out in section 11 of the CCCFA.

Generally your Loan will be a "consumer credit contract" where you are an individual and the Loan will be used by you solely or mainly for a personal purpose (for example, buying a residential home). If you are a company (or other incorporated entity or group of persons) or a trustee of a family trust, or the Loan will be used solely or mainly for business or investment purposes, then your Loan will not be a consumer credit contract.

The above summary of when your Loan will be a consumer credit contract is provided to assist you to determine what provisions in your Loan Schedule and these Loan Terms and Conditions will apply to your Loan. It does not constitute, and is not a substitute for, legal advice. If you are unsure whether your Loan is a consumer credit contract, we recommend that you obtain separate legal advice.

# Please Read

A SBS Unwind Loan is not suitable for all borrowers. Before we can make your loan available for drawdown, you are required to obtain independent legal advice. You will be required to provide a certificate from a lawyer confirming that they have explained the terms of this Loan to you and that you understand the legal implications of entering into a SBS Unwind Loan. You will need to pay the cost of that advice.

We recommend before you enter into this Loan Agreement that you:

- consider other options that might be appropriate for your circumstances including:
  - downsizing to a less expensive house;
  - using your savings or cashing in investments;
  - applying for government assistance (such as a benefit);
  - borrowing money from family; or
- seek financial advice from an independent qualified financial adviser; and/or
- discuss your options with your family or trusted friends or call the Citizens Advice Bureau or your community law centre.

A SBS Unwind Loan will reduce the equity you have in your home (which will impact on your ability to leave equity to your estate). You should also consider whether this could impact on your ability to move into aged care accommodation or pay for healthcare in the future.

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## **1. Conditions that Apply Before You Can Draw Down Your Loan**

Before we will make your SBS Unwind Loan available to you:

- we must have received signed originals or copies of your Loan Agreement, the Mortgage and all other documents we require (including a certificate from your solicitor).
- the Mortgage must be registered over the Mortgaged Property, or we must be satisfied that the Mortgage will be registered promptly following drawdown.
- you must have in place any insurance we have notified you or your solicitor that we require in respect of the Mortgaged Property.
- you must satisfy any conditions noted or set out in your Loan Schedule or in any other correspondence from us to you or your solicitor, including in any pre-approval letter.
- we must be satisfied that nothing has occurred that, in our opinion, adversely affects:
  - your financial position; or
  - your ability to meet your obligations under your Loan Agreement and/or the Mortgage.
- we must be satisfied that nothing has occurred that adversely affects:
  - the value of the Mortgage or any other security, or Mortgaged Property; or
  - our ability to enforce the Mortgage or any other security.

## **2. Drawdown**

You can draw down your SBS Unwind Loan at any time up to the date of a Repayment Event. You can also make any number of drawdowns under your Loan provided that the Unpaid Balance of your Loan does not (including as a result of any proposed or attempted drawdown), at any time, exceed the current Credit Limit of your Loan.

Any amounts that you repay on your Loan can be redrawn (again provided that such drawdown would not cause the Unpaid Balance of your Loan to exceed the current Credit Limit of your Loan).

## **3. Credit Limit**

The Credit Limit (or Initial Credit Limit) of your SBS Unwind Loan is set out in your Loan Schedule.

The Credit Limit of your Loan will increase on each Interest Date by the amount of interest to be debited to your Loan Account (i.e. interest will capitalise (be added) to your Loan on each Interest Date and the Credit Limit will increase by this amount).

Credit fees and charges, default interest, other outgoings relating to the Mortgaged Property (like rates and insurance) and any other expenses relevant to your Loan, the Mortgaged Property or any Nominated Resident or borrower, will not automatically be capitalised (added to) your Loan. All such expenses must be paid by you. You may drawdown your Loan to pay such expenses if you have a sufficient Credit Limit to do so. Fees, charges and other outgoings are described in more detail in clause 7 below.

### **You can reduce your Credit Limit**

You can ask us to reduce the Credit Limit of your Loan at any time but in these circumstances, we will only reduce your Credit Limit if the Unpaid Balance is equal to or less than the reduced Credit Limit. We will notify you once we have reduced your Credit Limit.

### **We can reduce your Credit Limit**

We may reduce the Credit Limit on your SBS Unwind Loan to the amount of the Unpaid Balance where:

- you are in breach of your loan obligations;
- all Nominated Residents are deceased;
- all Nominated Residents have Ceased to Reside at the Mortgaged Property;
- we have received insurance proceeds in respect of an Insurance Event and applied those proceeds to your Loan; or
- we both agree to reduce the Credit Limit.

## **4. Your Right to Cancel**

If your SBS Unwind Loan Agreement is a consumer credit contract, you are entitled to cancel your Loan for a short period of time after you receive your Loan Agreement.

### **How to Cancel**

To cancel your Loan, you must give us written notice that you intend to cancel your Loan by providing the notice to any of our branches or posting, or emailing the notice to us (our details are set out at the top of the front page of your Loan Schedule) within 30 Calendar Days of the day you receive your Loan Agreement.

### **What you may have to pay if you cancel**

If you cancel your Loan within the period outlined above, you will need to repay any advance that you received under your Loan Agreement. We can also charge you:

- the amount of any reasonable expenses we had to pay in connection with your Loan and its cancellation (including legal fees and fees for valuations etc); and
- interest for the period from the day you received any advance under the Loan until the day you repay the advance.

## **5. Interest on Your Loan**

Interest accrues on your SBS Unwind Loan at the interest rate applicable to your Loan from the Drawdown Date until you fully repay your Loan.

Interest is calculated daily by multiplying the Unpaid Balance of your Loan at the end of each day by a daily interest rate. The daily interest rate is the applicable interest rate on that day divided by 365.

Accrued interest is capitalised (i.e. added) to the Unpaid Balance of your Loan on each Interest Date (being each monthly anniversary of the Drawdown Date). This means that interest will then accrue on interest that has been capitalised to your Loan as set out in this clause. When you repay your Loan in full, interest is charged up to the day before you repay your Loan.

## **6. Interest Rates**

### **Floating Interest Rate**

You must pay us interest on your SBS Unwind Loan at our current Floating Interest Rate plus or less any Margin applicable to your Loan.

We may change our Floating Interest Rate at any time. We will notify you of any change to our Floating Interest Rate before we make any change.

You can get information about our current Floating Interest Rate by contacting us via our website ([sbsbank.co.nz](http://sbsbank.co.nz)), calling us on 0800 SBS BANK (0800 727 2265) or from any of our branches.

### **Margin**

Except for any period we have agreed the Margin is set (as set out in your Loan Schedule or otherwise notified by us), we can, at any time, change any Margin applicable to your Loan, including cancelling any Margin, on giving you notice of such change. Your Loan Schedule will set out whether a Margin has been applied to your Loan.

## **7. Fees, Charges and other Outgoings**

The fees you must pay in connection with your SBS Unwind Loan Agreement are set out in your Loan Schedule and in our Reverse Equity Mortgage Fees and Charges Schedule.

You must also pay to us any costs or losses we incur (including any legal and other professional advisers' costs):

- relating to the preparation, completion and registration of your Loan Agreement and the Mortgage or other security;
- relating to any subsequent withdrawals, releases, variations and consents given or requested in respect of your Loan Agreement or the Mortgage or other security; and
- in obtaining payment of any amounts payable under your Loan, Mortgage or any other security or exercising or attempting to exercise any of our rights, powers or remedies under your Loan Agreement or the Mortgage or other security.

At our discretion we may add the amount of any Reverse Equity Mortgage Fees and Charges and/or costs and losses we incur to the Unpaid Balance of your Loan or debit such amount from any account you have with us.

You are also required to ensure that certain outgoings in relation to the Mortgaged Property, including rates and insurance, are paid when due.

All fees and charges and other outgoings will not automatically be capitalised (i.e. added) to your Loan and you will need to pay these expenses separately. You may drawdown from your Loan to pay these expenses, if your Credit Limit is sufficient.

If you are unable to pay any fees, charges or other outgoings in relation to your Loan or the Mortgaged Property, including where your Credit Limit is insufficient to capitalise (add) these expenses to your Loan, please contact us to discuss as soon as possible. We may, in our discretion, agree to adjust your Credit Limit to allow for payment of these expenses.

If you fail to pay any fees, charges or other outgoings when due, SBS may pay those outgoings on your behalf and capitalise (add) them to your Loan. If this results in your Unpaid Balance exceeding your Credit Limit, you will be in breach of your Loan (see clause 17 for further details).

If you require assistance with the payment of additional expenses which arise as a result of a Repayment Event such as legal expenses and funeral costs (where you are unable to fund these expenses under your Loan), we may (in our discretion) agree to pay these expenses on your behalf and deduct the total sum from any Protected Equity Amount (see clause 11 for a full description of our Equity Protection Guarantee).

## **8. Repaying Your Loan**

A SBS Unwind Loan operates like an overdraft. Subject to a few limitations set out in these SBS Unwind Loan Terms and Conditions, you can draw down and repay your Loan (in part or full) as often as you like as long as you stay within the Credit Limit of your Loan.

You do not have any set regular repayments on your SBS Unwind Loan. You can repay all or part of your Loan at any time. However, you must make such repayments to your Loan Account to ensure that, at all times, the Unpaid Balance of your Loan does not exceed your current Credit Limit. As set out in clause 7 above, you must also pay all fees and charges in respect of your Loan and all other outgoings relating to the Mortgaged Property.

You must repay, in full, the Unpaid Balance of your Loan on the Repayment Date (as set out in your Loan Schedule). The amount you are required to repay in satisfaction of your Loan may be reduced or limited under our Loan Repayment Guarantee (clause 10) or, if it applies, our Equity Protection Guarantee (clause 11).

The Repayment Date for your Loan is the earlier of:

- the date the Mortgaged Property is sold;
- six months after the last Nominated Resident dies or ceases to reside in the Mortgaged Property or;
- the date we make demand due to a breach of your Loan.

### *Nil Balance*

If at any time before the Repayment Date (or before the earlier termination or cancellation of your Loan in accordance with your Loan Agreement) the Unpaid Balance of your Loan is nil (or you have

a credit balance in your Loan Account), your Loan will not be considered to have been terminated or cancelled. Your Loan will continue, unless you request us to cancel your Loan. However, you may not make further drawdowns under your Loan following a Repayment Date Event.

## **9. Payments**

### **Order of Payments**

We will apply any payments you make to us in relation to your SBS Unwind Loan in any order we choose. Generally we will apply payments first in payment of any Reverse Equity Mortgage Fees and Charges and costs, second in payment of any accrued interest, including default interest, and third in repayment of the Unpaid Balance of your Loan.

### **Clear payments**

All amounts due and owing under your SBS Unwind Loan Agreement must be paid in full (except as may be reduced or limited under our Loan Repayment Guarantee (clause 10) or, if it applies, our Equity Protection Guarantee (clause 11)). If you are required by law to withhold or deduct any amount from any payment or repayment to us, you must increase the amount you pay us so that we receive the full amount payable to us.

### **Set-off**

You waive any rights you have to set-off any amounts we owe you against amounts you owe us under your SBS Unwind Loan Agreement unless we specifically agree that you can set-off such amounts.

### **Debit your accounts**

If any amount under your SBS Unwind Loan Agreement is due and owing to us, including principal, interest and Reverse Equity Mortgage Fees and Charges, you agree that (subject to the application of clauses 10 and 11) we can take any such amounts from any account you have with us. To allow us to do this, you agree that we can break any term deposit you have with us.

## **10. Loan Repayment Guarantee**

Your SBS Unwind Loan has two features which, where they apply, are designed to provide some protections around your equity in the Mortgaged Property. They are:

- a Loan Repayment Guarantee described in this clause 10; and
- an Equity Protection Guarantee described in clause 11.



### *Loan Repayment Guarantee*

Our Loan Repayment Guarantee is designed to ensure that, on the Repayment Date, you have no negative equity in the Mortgaged Property (i.e. where you owe to us more than the sale price or value of the Mortgaged Property).

Our Loan Repayment Guarantee means that, subject to the provisions set out below, the maximum amount that is required to repay your Loan (and all other amounts owing under your Loan Agreement up to the Credit Limit) is:

- if you are repaying your Loan by selling the Mortgaged Property, the Net Proceeds of the Mortgaged Property (described further below); or
- if you repaying your Loan without selling the Mortgaged Property or if we have otherwise required you to obtain a Registered Valuation, the Registered Valuation of the Mortgaged Property at the time of repayment (described further below),

less any Equity Protection Guarantee (discussed in clause 11). This is the case even if that amount would not, but for the Loan Repayment Guarantee, be sufficient to fully repay your Loan.

Where the value of the Mortgaged Property has been materially adversely affected by an Insurance Event, the Net Proceeds or Registered Valuation of the Mortgaged Property (as applicable) will include all insurance or other monies you are entitled to receive in respect of that event, to the extent those monies have not previously been received and applied by SBS to reduce the Unpaid Balance of your Loan.

Any Unpaid Balance which in excess of the Credit Limit, is not eligible for inclusion under the Loan Repayment Guarantee.

### *Sale of Mortgaged Property*

If you are repaying your Loan on sale of the Mortgaged Property, subject to the restrictions outlined above, the maximum amount that you are required to pay to us to discharge your Loan is the Net Proceeds of the Mortgaged Property on sale (less any Equity Protection Guarantee (discussed in clause 11)).

If the Mortgaged Property is sold and the Net Proceeds are not sufficient to fully repay your Loan, we may require a valuation of the Mortgaged Property from a registered valuer approved by us (with the valuation to be on the basis of a sale by a willing seller to a willing buyer on arms' length terms) to support the sale price (a **Registered Valuation**). All costs associated with the Registered Valuation must be met by you.

If the value of the Mortgaged Property pursuant to the Registered Valuation is greater than the sale price of the Mortgage Property (i.e. if you sold the Mortgaged Property for less than its valuation), we may determine (in our discretion) for the purposes of the Loan Repayment Guarantee, that the Net Proceeds is an amount not greater than the Registered Valuation.

If the value of the Mortgage Property has been adversely affected by certain actions, we may instruct the valuer to adjust the value for the purposes of the Registered Valuation, as discussed below.

#### *Mortgaged Property not sold*

Our Loan Repayment Guarantee will also apply (subject to the same limitations set out above) where:

- you want to fully repay and discharge your Loan (before it's due to be repaid) and there are no Nominated Residents residing at the property; or
- your Loan is due to be repaid; or
- we require that your Loan is fully repaid (for example, because there has been a material breach of your Loan Agreement),

and the Mortgaged Property has not been (or will not be) sold to repay your Loan.

In that case, subject to the restrictions outlined above, the maximum amount that you are required to pay to us to discharge your Loan is the current value of the Mortgaged Property as determined by a registered valuer approved by us (with the valuation to be on the basis of a sale by a willing seller to a willing buyer on arms' length terms) (a **Registered Valuation**). All costs associated with the Registered Valuation must be met by you.

Note that our Loan Repayment Guarantee does not apply if you want to fully repay and discharge your Loan before it's due and there is one or more Nominated Resident residing at the Mortgaged Property.

#### *Discharge of Mortgage*

We will not have any obligation to discharge the Mortgage over the Mortgaged Property until your Loan has been repaid in full or, where the Loan Repayment Guarantee is triggered, we have received:

- the Net Proceeds on sale of the Mortgaged Property (as determined by us); or
- an amount equal to the Registered Valuation,

(as described above) (less any Equity Protection Guarantee, if applicable).

Accordingly, we strongly recommend that you seek our consent to any sale of the Mortgaged Property before the sale is entered into, where it is possible that the Net Proceeds will be insufficient to fully repay the Unpaid Balance of your Loan.

#### *Registered Valuation may be adjusted*

Where:

- you are in breach of your Loan Agreement; and/or
- we exercise our rights to sell the Mortgaged Property following a breach of your Loan Agreement,

and we determine, in our discretion, that your breach has had, or may have, an adverse effect on the value of the Mortgaged Property, we may adjust the Registered Valuation for the Mortgaged Property. Without limitation, this could include where:

- you (or anyone else) fail to maintain or damage the Mortgaged Property;
- you (or the registered owner) fail to pay rates or insurance when due; or
- the registered owner fails to make an insurance claim in relation to the Mortgaged Property for which they are, or may have been, entitled to receive a payout in respect of an Insurance Event.

In these circumstances, the Net Proceeds or Registered Valuation of the Mortgaged Property for the purposes of the Loan Repayment Guarantee will be the value as determined by the valuer, as it would have been but for the circumstances which caused the adverse effect(s).

## **11. Equity Protection Guarantee**

As noted above, your SBS Unwind Loan has two features which, where they apply, are designed to provide some protections around your equity in the Mortgaged Property. They are:

- a Loan Repayment Guarantee described in clause 10; and
- an Equity Protection Guarantee described in this clause 11.

### *Equity Protection Guarantee*

Our Equity Protection Guarantee is designed to ensure that a certain minimum level of your equity in the Mortgaged Property is protected.

Our Equity Protection Guarantee means that the maximum amount that is required to repay your Loan (including all other amounts owing under your Loan Agreement) is the Net Proceeds or Registered Valuation of the Mortgaged Property (determined in accordance with clause 10 above), less the Protected Equity Amount set out in your Loan Schedule. This means that you get to keep the Protected Equity Amount on repayment of your Loan.

The Protected Equity Amount (if applicable) is expressed as a percentage of the Net Proceeds or Registered Valuation of the Mortgaged Property. Accordingly, it is not possible to know how much this will be in dollars until the Net Proceeds or Registered Valuation is known.

Your Loan Schedule sets out whether or not our Equity Protection Guarantee applies to your Loan. Our Equity Protection Guarantee is subject to payment of a fee, set out in your Loan Agreement.

### *Protected Equity Amount may be reduced*

Our Equity Protection Guarantee may be reduced in the same circumstances as described under the heading "*Registered Valuation may be adjusted*" in clause 10 above (for example, where you are in breach of your Loan and this breach has had an effect on the value of the Mortgaged Property). In these circumstances, if there is any shortfall between the Unpaid Balance on the Repayment Date and the amount received from you after applying the Loan Repayment Guarantee, that shortfall may be deducted from the Protected Equity Amount.

If you require assistance with the payment of additional expenses which arise as a result of a Repayment Event such as legal expenses and funeral costs (where you are unable to fund these expenses under your Loan), we may (in our discretion) agree to pay these expenses on your behalf and deduct the total sum from any Protected Equity Amount.

## **12. Continuing Disclosure**

We will provide you with account statements monthly.

## **13. Unforeseen Hardship**

If your SBS Unwind Loan Agreement is a consumer credit contract and you are unable to meet your obligations under your Loan because of illness, injury, loss of employment, the end of a relationship, or other reasonable cause, and you reasonably expect that you could meet those obligations if your Loan were changed in the ways prescribed by the Act, you will need to:

- make your application in writing;
- explain your reason(s) for the application;
- request a postponement of the date(s) on which any payment is due under your Loan; and
- give the application to us.

You should do this as soon as possible. If you leave it for too long, we may not have to consider your application by law (but may choose to do so, at our discretion).

If you are unable to pay any fees, charges or other outgoings in relation to your Loan or the Mortgaged Property, including where your Credit Limit is insufficient to capitalise (add) these expenses to your Loan, please contact us to discuss as soon as possible. We may, in our discretion, agree to adjust your Credit Limit to allow for payment of these expenses.

If you require assistance with the payment of additional expenses which arise as a result of a Repayment Event such as legal expenses and funeral costs (where you are unable to fund these expenses under your Loan), we may (in our discretion) agree to pay these expenses on your behalf and deduct the total sum from any Protected Equity Amount.

## **14. Mortgage security**

The security that we require in relation to your SBS Unwind Loan is a first registered Mortgage over the Mortgaged Property. We may also require other security. The details of the Mortgage and any other security is set out in your Loan Schedule.

Any security that you have given to us or will give to us, whether in relation to your Loan or any other agreement between you and us, subject to any limitation in the Mortgage or other security, secure all amounts you owe to us (and all of your obligations) under your SBS Unwind Loan Agreement and all other agreements you have with us unless we have agreed any limit or other restriction in relation to any such security in writing.

As with any mortgage, you are required to maintain the Mortgaged Property and pay other outgoings like rates and insurance. We may inspect the Mortgaged Property (not more frequently than every 12 months) on reasonable written notice to you.

The registered owner of the Mortgaged Property is not permitted to:

- grant any subsequent mortgage or other charge over the Mortgaged Property; or
- enter into any guarantee (whether granted to us or any other person) in respect of the obligations of any other person (whether secured or not) without our written consent.

## **15. Substitute Mortgage Security**

You may request to us in writing that we substitute our existing Mortgage for a new mortgage over a replacement property (the "**Replacement Property**"). We must be satisfied:

- with the Replacement Property in all respects; and
- that the Nominated Resident(s) reside or will reside in the Replacement Property.

We will not discharge our existing Mortgage over the current Mortgaged Property until we have been granted a new mortgage (in our current form or such other form of mortgage required by us) over the Replacement Property, and any conditions notified by us (including the payment of any fees) have been satisfied.

Where we agree to substitute our existing Mortgage for a mortgage over the Replacement Property, if you are selling the current Mortgaged Property, any requirement to repay your Loan in full on sale of the current Mortgaged Property (pursuant to the Loan Schedule) will not apply. However, if we reduce your Credit Limit as a condition of agreeing to the substitute mortgage, you will be required to make an immediate payment on your Loan to ensure the current Unpaid Balance does not exceed the new Credit Limit.

## **16. Additional Nominated Residents**

The maximum number of Nominated Residents associated with your SBS Unwind Loan at any time, is two.

You may request that a new or replacement Nominated Resident is added to your Loan. We may accept or refuse your request at our discretion. Our usual lending criteria will apply to any new or replacement Nominated Resident.

We may require a new valuation of the Mortgaged Property and we may, following that valuation, adjust your Loan including the Credit Limit (which may require you to make a payment to reduce your Unpaid Balance so that it does not exceed the reduced Credit Limit).

We may charge any fees (including a valuation fee) and costs incurred by us, associated with approving a new or replacement Nominated Resident. Any such charges may be capitalised (i.e. added) to your Loan if your Credit Limit is sufficient.

## 17. Breach of Your Loan Agreement

If you breach your SBS Unwind Loan Agreement, we can:

- require you to immediately repay your Loan and all other amounts you owe us under your Loan Agreement (including any interest, Reverse Equity Mortgage Fees and Charges and costs) (as may be adjusted under clauses 10 and 11) and/or we can cancel or reduce your Credit Limit;
- change or cancel any Margin applicable to your Loan;
- exercise our rights under the Mortgage or any other security; and
- charge you interest at the Default Interest Rate on any amount you are in default in accordance with clause 18.

You will be in breach of your Loan Agreement if any of the following occur:

- you do not pay any amount due under your Loan Agreement on its due date;
- you materially fail to comply with any of your other obligations under your Loan Agreement or any other agreement you have with us, including the Mortgage;
- you materially breach our General Terms and Conditions or any applicable Specific Terms and Conditions, or we have the right to immediately cancel any of your accounts or withdraw a product or service under our General Terms and Conditions;
- you become insolvent, or we consider there is any reason that you may not be able to meet your obligations under the Loan Agreement;
- your Loan Agreement was not signed in accordance with, or is in breach of, any constitutional documents (including any trust deed);
- we consider that, for any reason, the value of the Mortgage or the Mortgaged Property has reduced significantly due, whether directly or indirectly, to the actions or omissions of you (or anyone else) including causing damage, failure to maintain the property, failure to pay rates or insurance or failure to make a valid insurance claim in relation to an Insurance Event, where applicable;
- we consider that the Mortgage or other security or our ability to enforce the Mortgage or other security, has been adversely affected by any event or situation; and/or
- any information you provide to us (or have previously provided to us) is, or proves to be, wrong or misleading.

You are required to notify us immediately if you become aware of any breach of your Loan.

We will give you written notice of any breach we become aware of and we will endeavour to give you a reasonable period to remedy a breach (where it can be remedied) before taking any enforcement action. You can dispute a breach using our complaints procedure described in clause 22.

## **18. Default Interest and Fees**

If you exceed the Credit Limit on your SBS Unwind Loan, you must pay interest on the excess amount at the Default Interest Rate.

Interest will be charged at the Default Interest Rate from the date you exceed your Credit Limit until the date you cease to exceed the Credit Limit and is calculated by multiplying the excess amount at the end of each day by the daily Default Interest Rate. The daily Default Interest Rate is the Default Interest Rate divided by 365.

Default interest may be capitalised (ie added) to your Loan from time to time at our discretion. Any interest that is capitalised will accrue interest from the date it is capitalised.

If you are in breach of your SBS Unwind Loan Agreement, we may charge you default fees as specified in the Reverse Equity Mortgage Fees and Charges Schedule.

## **19. Changes to the Terms and Conditions of Your Loan Agreement**

We may agree changes to your SBS Unwind Loan Agreement with you. In such case, we will confirm to you the new terms of your Loan Agreement before the changes take effect.

We can also change these SBS Unwind Loan Terms and Conditions or the terms and conditions set out in your Loan Schedule at any time without your consent (for example, we may change the Floating Interest Rate or SBS Unwind Fees and Charges applicable to your Loan). We may not make any changes in clauses 10 and 11 without your consent). We will notify you of the new terms and conditions of your Loan Agreement at least 14 days before any change takes effect (other than for changes to the interest rate(s) applicable to your Loan).

Where we change the Floating Interest Rate or we change any of our Reverse Equity Mortgage Fees and Charges, we may notify you of this change directly (for example, by sending you a notice or letter) or we may notify you of this change by displaying it on our website, at our branches and/or advertising it in a major daily newspaper.

## **20. How We Will Contact You**

If we need to provide you with any information in relation to or about your SBS Unwind Loan or Loan Agreement, including any changes to your Loan Agreement (whether they have been agreed by you and us or we have made changes without your consent), you agree that we can provide that information to you in any one (or more) of the following ways:

- personally providing you with a notice or letter;
- posting a notice or letter to your address;
- sending you an email to your email address;
- making the information available on a website maintained by us and which is available to you;
- displaying a notice on our website and at our branches; and/or
- publishing a notice in a major daily newspaper.

Certain laws require us to disclose some information in a specific manner (for example, the CCCFA). We will comply with any legal requirements when providing you with any information in relation to your Loan Agreement.

Any notice or information provided to you will be considered to have been received by you on:

- the day it was given, if emailed to you;
- three Business Days after it was posted to you;
- the day the information was made available by us on any website maintained by us and available to you; and
- the day any notice was displayed on our website, at our branches or published in a major daily newspaper.

## **21. Information We Hold About You**

You agree and acknowledge that we can collect information about you, your SBS Unwind Loan, the Mortgage and/or the Mortgaged Property from anyone else, including any insurer and that we can use any information we hold at any time for the purpose of establishing, maintaining and managing our relationship and your Loan, and to exercise or use any of our rights under the Loan Agreement, the Mortgage or any other security.

You agree that we may share and disclose any information we hold about you to anyone we consider necessary for the above purposes, including any credit reporting agencies, insurer, local or regional council, and debt recovery agencies.

## **22. Complaints**

If you have any problems or complaints, whether about your Loan or any other matter, we have a free internal dispute resolution process which you can access by:

- Talking to us, in confidence with our Customer Complaints team by phoning 0800 727 2265.
- Writing to us, complete a Customer Complaints brochure which are available in branch or we can post one to you. Alternatively you can email us.

Write: Customer Complaints Team

Southland Building Society

PO Box 835

INVERCARGILL

Email: [customercomplaints@sbsbank.co.nz](mailto:customercomplaints@sbsbank.co.nz)

We will do the best to resolve your problem or complaint as soon as possible.

We are a member of the Banking Ombudsman dispute resolution scheme. If you do not think we have resolved your problem or complaint, or you are not satisfied with our response, you can make a complaint to this scheme. The contact details of the Banking Ombudsman are:



- Phone: 0800 805 950
- Website: bankomb.org.nz
- Business address: Freepost 218002, PO Box 25327, Featherston Street, Wellington 6146

We are a registered financial service provider on the Financial Service Providers Register. Our registered name is Southland Building Society and our registration number is FSP30921.

## 23. Trustees

If you have entered into your Loan Agreement as the trustee of a trust, subject only to the limitation of liability below for Independent Trustees, you are personally liable for all amounts payable to us under the Loan Agreement.

If you are an Independent Trustee, your liability under your Loan Agreement shall be limited to an amount equal to the value of the assets of the relevant trust available from time to time to meet your liability as trustee, to which shall be added the sum (if any) by which the value of those assets has been diminished by any breach of trust caused by your wilful default or dishonesty.

You are an **"Independent Trustee"** if you have no right to, or interest in, any of the assets or property of the relevant trust (other than as trustee).

## 24. Requirement to Provide Information

You must, at your cost (unless agreed otherwise), provide to us (or to any other person advised by us) any information about you, your SBS Unwind Loan Agreement and/or your financial position that we reasonably require on request from us.

In particular, you (or your personal representative) must tell us as soon as practicable if:

- you enter into an agreement to sell the Mortgaged Property;
- a Nominated Resident dies;
- a Nominated Resident is no longer living at the Mortgaged Property (whether or not with an intention to return);
- you make any home insurance claim on the Mortgaged Property or the Mortgaged Property suffers any material damage whether as a result of an Insurance Event or not; and/or
- any legal action or dispute arises in relation to the Mortgaged Property.

We may ask you to complete a questionnaire (no more frequently than annually), to provide us with information relevant to your Loan, including (without limitation), information about the Mortgaged Property, your insurance and your or any Nominated Resident's living arrangements. If you are unable to, or refuse to, complete the questionnaire within the required timeframe (which will be specified in the questionnaire), you agree that we may obtain the requested information from a Nominated Resident, your alternative contact or elsewhere (to the extent we are able). Your failure to comply with our reasonable information requests may constitute a breach of your Loan.

## **25. Multiple Borrowers**

You agree that where there is more than one of you borrowing money under your SBS Unwind Loan, any of you can ask us to make changes to your Loan and we are authorised to act on any request or instructions from any one of you. Subject to any mandatory disclosure requirements in the CCCFA, any disclosure provided or notice sent to one of you will be deemed to have been received and provided to all of you.

## **26. Assignment**

You may not assign or transfer any of your rights and obligations under your SBS Unwind Loan Agreement without our consent.

We can assign or transfer any of our rights and obligations under your Loan Agreement without your consent. If we assign or transfer some or all of our rights and obligations under your Loan Agreement, the person we have assigned or transferred your Loan Agreement to will have the same rights as they would have had if they had been a party to your Loan Agreement.

You agree that we may disclose information about you, your Loan and Loan Agreement to any person we may or are looking to assign or transfer our rights and obligations.

## **27. General**

In the event of any conflict between the terms of your Loan Schedule, these SBS Unwind Loan Terms and Conditions and/or any other agreement you have with us, we will decide which terms will apply.

Your Loan Agreement is governed by New Zealand law and any dispute in relation to your Loan Agreement must be brought before a New Zealand court.

If we do not exercise any of our rights under your Loan Agreement immediately when they are available to us, we can choose to exercise those rights at a later time. By not exercising our rights immediately, we are not waiving or agreeing not to exercise or enforce our rights, unless we have agreed in writing to do so.

You agree that, unless we have made a clear administrative error, any certificate issued by us, or any determination made by us, in relation to any amount payable under your Loan Agreement or any debit or credit to any account we maintain in relation to your Loan, correctly represents the amount owing or the debit or credit made.

Any information, document, confirmation or evidence that you are required to provide to us, or that we may request or require, under your Loan Agreement must be acceptable to us.

Where there is more than one person named as "Borrower" in your Loan Schedule, each of you can sign a separate copy or original of your Loan Agreement. Each copy of your Loan Agreement that has been signed will, when combined with all other signed copies (including any copy attached to an email as a PDF document), constitute one and the same Loan Agreement.

If any payment or other action is due on the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of a month that does not contain such a date, the payment or other action will be due or completed on the last day of that month.

## 28. Definitions

Terms used in your Loan Agreement have the following meaning:

**SBS Unwind Loan** or **Loan** means any Loan described as a "SBS Unwind Loan" in the relevant Loan Schedule.

**SBS Unwind Loan Terms and Conditions** means the terms and conditions set out in this booklet, as amended and varied from time to time.

**Business Day** means any day other than a Saturday or Sunday on which we are open for business.

**CCCFA** means the Credit Contracts and Consumer Finance Act 2003 (as amended or re-enacted from time to time).

**Ceases to Reside** means remaining absent from the Mortgaged Property, whether or not with an intention to return, for six months or more without our prior consent and **Ceased to Reside** shall have a corresponding meaning.

**Credit Limit** means, at any time, the maximum amount that can be drawn down under your SBS Unwind Loan (including all interest and Reverse Equity Mortgage Fees and Charges debited to your SBS Unwind Loan).

**Default Interest Rate** means the Default Interest Rate disclosed in your Loan Schedule or such other rate that we notify you from time to time is our Default Interest Rate.

**Drawdown Date** means the date the SBS Unwind Loan is first available for you to draw down.

**Equity Protection Guarantee** has the meaning set out in clause 11 of these SBS Unwind Loan Terms and Conditions.

**Floating Interest Rate** means our floating interest rate, as varied by us from time to time, applicable to your SBS Unwind Loan.

**General Terms and Conditions** means our General Terms and Conditions for our accounts and services (as updated from time to time).

**Initial Credit Limit** means the Credit Limit of your SBS Unwind Loan on the Drawdown Date (as recorded in your Loan Schedule).

**Insurance Event** means an event or circumstance for which a valid insurance claim would, or could, result in an entitlement to receive payment from an insurer, Government agency or authority or other official person relating to damage to, or loss in value of, the Mortgaged Property or any part of it.

**Interest Date** means the date which is each monthly anniversary of the Drawdown Date.

**Loan Account** means the Loan Account described in your Loan Schedule.

**Loan Agreement** means your Loan Schedule, these SBS Unwind Loan Terms and Conditions, the Reverse Equity Mortgage Fees and Charges Schedule and any letter or notice varying the terms and conditions of your Loan.

**Loan Repayment Guarantee** has the meaning set out in clause 10 of these SBS Unwind Loan Terms and Conditions.

**Loan Schedule** means an SBS Unwind Loan Schedule.

**Margin** means any margin applicable to the Floating Interest Rate under your Loan as set out in your Loan Schedule or as otherwise notified by us.

**Mortgage** means the first ranking mortgage registered, or to be registered, over the Mortgaged Property.

**Mortgaged Property** means the property set out under the heading "*Security*" in the Loan Schedule which has been or will be mortgaged to us, or any Replacement Property we have been, or will be, granted a Mortgage over.

**Net Proceeds** means:

- the sale price of the Mortgaged Property after deducting the costs associated with the sale (including legal costs, advertising and marketing costs, auctioneer's and real estate agent's fees and any other costs incurred in order to effect the sale (including local authority charges, water rates and body corporate levies); or
- such amount determined by us in accordance with clause 10 of these SBS Unwind Loan Terms and Conditions.

**Nominated Resident** means any person(s) described in the Loan Schedule as a Nominated Resident, such person being over the age of 60 years.

**person** includes any individual, company, firm, club, partnership, limited partnership, joint venture, organisation, trust, state or governmental agency, in each case, whether or not having separate legal personality.

**Protected Equity Amount** means the amount of equity, expressed as a percentage of the Net Proceeds or Registered Valuation, which is protected as set out in your Loan Schedule and further described in clause 11 of these SBS Unwind Loan Terms and Conditions.

**Registered Valuation** means the valuation of the Mortgaged Property obtained from a registered valuer approved by us in accordance with clause 10, after deduction for the usual costs of sale as determined by the valuer.

**Repayment Date** means the earlier of the following dates:

- the date of settlement of the sale of the Mortgaged Property;
- 6 months after the date of death of the last Nominated Resident;
- 6 months after the date the last Nominated Resident Ceases to Reside in the Mortgaged Property; and

- the date we make demand under clause 17 in the event you breach your Loan Agreement.

**Repayment Event** means the earlier of the following dates:

- the date of settlement of the sale of the Mortgaged Property;
- the date of death of the last Nominated Resident;
- the date the last Nominated Resident Ceases to Reside in the Mortgaged Property; and
- the date we make demand under clause 17 in the event you breach your Loan Agreement.

**Reverse Equity Mortgage Fees and Charges** means any fees and charges that may be charged by us as set out in your Loan Schedule or our **Reverse Equity Mortgage Fees and Charges** Schedule.

**Reverse Equity Mortgage Fees and Charges Schedule** is a document outlining our standard credit fees and charges, as amended from time to time.

**Specific Terms and Conditions** means our Electronic Banking Terms and Conditions, Telephone Banking Terms and Conditions, Cheque Terms and Conditions and Card Terms and Conditions (each as amended from time to time) and any other terms and conditions relating to a specific product or service that we provide to you from time to time.

**Unpaid Balance** means, on any day, all amounts you owe us under your SBS Unwind Loan (including all amounts you owe us in respect of principal, interest, fees, charges, and costs).

**"we", "us" or "our"** means Southland Building Society and, if we assign or transfer our rights under your Loan Agreement, means the person we have transferred or assigned our rights to.

**"you"** means the person or persons named as "Borrower" in your Loan Schedule. Where there are two or more persons, "you" means each person individually and all persons jointly, and each person must comply with the Loan Agreement and is individually responsible for paying all amounts payable under your Loan Agreement.