

Form 603
Corporations Act
Section 671B

Notice of initial substantial holder

To: **Everest Babcock & Brown Limited**
Level 35 AMP Centre
50 Bridge Street
Sydney NSW 2000

ABN 42 112 480 145

To: **Australian Stock Exchange Limited**

1. Details of substantial shareholder

Name and ABN Deutsche Bank AG (ABN 13 064 165 162) and its related bodies corporate (together, the "Deutsche Bank Group" became a substantial shareholder on **18 March 2008**.

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate had a relevant interest in on the date of the substantial holder became a substantial holder are as follows:

Class of securities	Number of securities	Person's votes	Voting power
Ordinary shares	18,119,460	18,119,460	7.21 %

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest	Class and number of securities (ordinary shares unless stated)
Deutsche Securities Australia Limited and each of its holding companies in the Deutsche Bank Group. Each holding company of Deutsche Securities Australia Limited, including Deutsche Bank, is deemed to have the same relevant interest.	In its capacity as stockbroker, stock borrower and/or in various other related capacities.	19,460

Holder of relevant interest	Nature of relevant interest	Class and number of securities (ordinary shares unless stated)
<p>Deutsche Bank AG (London Branch) and each of its holding companies in the Deutsche Bank Group.</p> <p>Each holding company of Deutsche Bank London Branch, including Deutsche Bank, is deemed to have the same relevant interest.</p>	In its capacity as prime broker under an amended prime brokerage agreement dated 14 March 2008 attached as schedule 2.	18,100,000

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder	Class and number of securities (ordinary shares unless stated)
Deutsche Securities Australia Limited and each of its holding companies in the Deutsche Bank Group.	Pan Australian Nominees Pty Limited	Pan Australian Nominees Pty Limited	19,460
Deutsche Bank AG (London Branch) and each of its holding companies in the Deutsche Bank Group.	ANZ Nominees Limited	AGSO Property Pty Ltd in its capacity as trustee of the Babcock & Brown Prime Broking Trust	18,100,000

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Refer to schedule 1 and schedule 2.

6. Associates

N/A

7. Addresses

The addresses of persons named in this form are:

Name	Address
Deutsche Bank Group	C/- Level 16, Cnr Hunter & Phillip Streets, Sydney, New South Wales, 2000.



Signature

Name Fonnies Mak

Date 20 Mar 2008

Schedule 1 to Form 603

Group Name	ASX	Stock	Trade Date	Trans Type	Trans,Number	Consideration
DEUTSCHE SECURITIES	EBB	ORD	26-Nov-07	B	2,000	-3,420.00
DEUTSCHE SECURITIES	EBB	ORD	27-Nov-07	B	1,419	-2,412.30
DEUTSCHE SECURITIES	EBB	ORD	29-Nov-07	B	4,773	-8,288.43
DEUTSCHE SECURITIES	EBB	ORD	30-Nov-07	B	846	-1,442.43
DEUTSCHE SECURITIES	EBB	ORD	05-Dec-07	B	1,000	-1,604.38
DEUTSCHE SECURITIES	EBB	ORD	05-Dec-07	B	2,031	-3,269.91
DEUTSCHE SECURITIES	EBB	ORD	06-Dec-07	B	8,132	-13,092.52
DEUTSCHE SECURITIES	EBB	ORD	07-Dec-07	B	1,384	-2,373.56
DEUTSCHE SECURITIES	EBB	ORD	10-Dec-07	B	2,817	-4,901.58
DEUTSCHE SECURITIES	EBB	ORD	12-Dec-07	B	2,500	-4,537.50
DEUTSCHE SECURITIES	EBB	ORD	18-Dec-07	B	7,603	-12,160.19
DEUTSCHE SECURITIES	EBB	ORD	19-Dec-07	B	1,000	-1,520.00
DEUTSCHE SECURITIES	EBB	ORD	19-Dec-07	B	2,598	-3,929.67
DEUTSCHE SECURITIES	EBB	ORD	20-Dec-07	B	1,000	-1,605.00
DEUTSCHE SECURITIES	EBB	ORD	24-Dec-07	B	2,128	-3,234.56
DEUTSCHE SECURITIES	EBB	ORD	28-Dec-07	B	1,444	-2,238.20
DEUTSCHE SECURITIES	EBB	ORD	02-Jan-08	B	682	-1,046.87
DEUTSCHE SECURITIES	EBB	ORD	04-Jan-08	B	3,104	-4,671.52
DEUTSCHE SECURITIES	EBB	ORD	07-Jan-08	B	2,500	-3,675.00
DEUTSCHE SECURITIES	EBB	ORD	09-Jan-08	B	5,000	-7,175.01
DEUTSCHE SECURITIES	EBB	ORD	10-Jan-08	B	20,000	-27,240.00
DEUTSCHE SECURITIES	EBB	ORD	11-Jan-08	B	5,000	-6,425.00
DEUTSCHE SECURITIES	EBB	ORD	11-Jan-08	B	1,346	-1,620.39
DEUTSCHE SECURITIES	EBB	ORD	14-Jan-08	B	2,958	-3,206.40
DEUTSCHE SECURITIES	EBB	ORD	14-Jan-08	B	18,000	-19,541.30
DEUTSCHE SECURITIES	EBB	ORD	15-Jan-08	B	3,223	-3,610.88
DEUTSCHE SECURITIES	EBB	ORD	16-Jan-08	B	50,000	-55,000.00
DEUTSCHE SECURITIES	EBB	ORD	16-Jan-08	B	2,401	-2,698.50
DEUTSCHE SECURITIES	EBB	ORD	17-Jan-08	B	5,000	-5,550.00
DEUTSCHE SECURITIES	EBB	ORD	18-Jan-08	B	3,872	-3,994.44
DEUTSCHE SECURITIES	EBB	ORD	18-Jan-08	B	15,000	-15,750.00
DEUTSCHE SECURITIES	EBB	ORD	21-Jan-08	B	10,000	-10,350.00
DEUTSCHE SECURITIES	EBB	ORD	22-Jan-08	B	470	-425.35
DEUTSCHE SECURITIES	EBB	ORD	23-Jan-08	B	10,658	-11,407.33
DEUTSCHE SECURITIES	EBB	ORD	24-Jan-08	B	1,078	-1,029.49
DEUTSCHE SECURITIES	EBB	ORD	24-Jan-08	B	2,000	-1,990.01
DEUTSCHE SECURITIES	EBB	ORD	25-Jan-08	B	5,137	-5,702.07
DEUTSCHE SECURITIES	EBB	ORD	31-Jan-08	B	25,000	-27,600.00
DEUTSCHE SECURITIES	EBB	ORD	01-Feb-08	B	10,000	-11,400.00
DEUTSCHE SECURITIES	EBB	ORD	05-Feb-08	B	2,500	-2,675.00
DEUTSCHE SECURITIES	EBB	ORD	06-Feb-08	B	2,149	-2,234.96
DEUTSCHE SECURITIES	EBB	ORD	08-Feb-08	B	12,353	-12,719.44
DEUTSCHE SECURITIES	EBB	ORD	11-Feb-08	B	470	-472.35
DEUTSCHE SECURITIES	EBB	ORD	14-Feb-08	B	21,670	-20,651.60
DEUTSCHE SECURITIES	EBB	ORD	07-Mar-08	B	10,000	-7,050.00
DEUTSCHE BANK AG, LONDON	EBB	ORD	18-Mar-08	Pursuant to rehypothecation transaction	18,100,000	N/A

SCHEDULE 2

AMENDING AGREEMENT

This Agreement is dated 14th day of March 2008

Deutsche Bank AG, acting through its London branch a corporation domiciled in Frankfurt am Main Germany operating in the United Kingdom under branch registration number BR000005, acting through its London Branch at Winchester House, 1 Great Winchester Street, London EC2N ("Prime Broker")

AND

AGSO Property Pty Limited (ACN 091 342 951) in its capacity as trustee of the Babcock and Brown Prime Broking Trust at Level 39, The Chifley Tower, 2 Chifley Square, Sydney, NSW 2000 ("Counterparty")

RECITALS

- A. The Prime Broker and the Counterparty are parties to a prime brokerage agreement dated 12 May 2006 ("Prime Brokerage Agreement").
- B. In consideration of, among other things, the mutual promises contained herein, the parties agree to vary the Prime Brokerage Agreement as follows:

AMENDMENT

1. The Agreement attached as Schedule 1 to this Amending Agreement ("Amended PB Agreement") constitutes an amendment of the Prime Brokerage Agreement. With effect from the date of this Amending Agreement the Prime Brokerage Agreement is to be taken to be amended as set out in the Amended PB Agreement.
2. Nothing in this Amending Agreement is to be taken to amend the charge contained in clause 6.3 of the Prime Brokerage Agreement which continues in full force and effect.
3. This Amending Agreement has no force or effect until the document entitled "Sixth Amending Agreement" which amends and restates the "Loan Agreement" referred to in the Prime Brokerage Agreement has been executed to the satisfaction of the Prime Broker and has become fully operative in accordance with clause 4 of the Sixth Amending Agreement.
4. Any reference to the "PBA" in the Master Netting Agreement ("MNA") entered into between the parties on 13 June 2006 is taken to be a reference to the PBA as amended by this Amending Agreement.
5. For the avoidance of doubt the parties acknowledge that it has always been their intention and understanding, and continues to be their intention and understanding, that the reference to "Prime Broker" in clause 6.3 of the Amended PB Agreement includes a reference to any branch through which the Prime Broker acts in connection with the Agreement (including both its London and Sydney branches).
6. This Amending Agreement shall be governed by and be construed in accordance with the laws of England.

EXECUTED AS A DEED BY
DEUTSCHE BANK AG,
ACTING THROUGH ITS LONDON
BRANCH acting by:

Name: Jane Parcell

Signature: JM Parcell
Attorney

and

Name: Russell Deal

Signature: R Deal
Attorney

acting under the authority of that company,
in the presence of:

Witness's Signature: A. Todd

Name: Adrian Todd

Address: 126 Phillip St.
Sydney.

EXECUTED AS A DEED BY
AGSO PROPERTY PTY LIMITED acting
by:

Name: Michael Larkin
Attorney

Signature: M. Larkin

and

Name:

Signature:

acting under the authority of that company,
in the presence of:

Witness's Signature: A. Clarke

Name: Angela Clarke

Address:

SCHEDULE 1

PRIME BROKERAGE AGREEMENT

between

(1) DEUTSCHE BANK AG, ACTING THROUGH ITS LONDON BRANCH

and

**(2) AGSO PROPERTY PTY LTD (ACN 091 342 951) in its capacity as trustee of the
Babcock & Brown Prime Broking Trust.**

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THIS PRIME BROKERAGE AGREEMENT is made on the 12th day of May 2006

BETWEEN

- (1) **DEUTSCHE BANK AG**, a corporation domiciled in Frankfurt am Main Germany operating in the United Kingdom under branch registration number BR000005, acting through its London Branch at Winchester House, 1 Great Winchester Street, London EC2N (the "Prime Broker"); and
- (2) **AGSO PROPERTY PTY LTD** (ACN 091 342 951) in its capacity as trustee of the Babcock & Brown Prime Broking Trust of Level 39, The Chifley Tower, 2 Chifley Square, Sydney NSW 2000 (the "Counterparty").

WHEREAS

- (A) The Counterparty is the sole trustee of the trust known as Babcock & Brown Prime Broking Trust (the "Trust").
- (B) The Counterparty may from time to time enter into Transactions (as defined below) in respect of Securities (as defined below).
- (C) The Prime Broker will provide financing and settlement services to the Counterparty.
- (D) Financing may be provided by the Prime Broker against cash or Securities (including Securities which the Counterparty has a right to call for pursuant to an option agreement).
- (E) This Agreement (as defined below) sets out the terms and conditions pursuant to which the Prime Broker provides the services to the Counterparty and which govern each Transaction.

IT IS AGREED that:

PART I – DEFINITIONS

In this Agreement:

References to the plural shall include the singular and vice versa, and references to Appendices, Exhibits, Schedules and Clauses shall be references to appendices, exhibits and schedules to, and to clauses of this Agreement.

"Accounts" means the Cash Account and the Securities Account;

"Act of Insolvency" means the occurrence of any one or more of the following with respect to any party to this Agreement:

- (i) making a general assignment for the benefit of, or entering into a re-organisation, arrangement, or composition with creditors; or
- (ii) admitting in writing that it is unable to pay its debts as they become due; or

- (iii) its seeking, consenting to or acquiescing in the appointment of any trustee, administrator, receiver or liquidator or analogous officer in respect of it or any material part of its property (including actions that are taken by directors or shareholders to appoint an administrator without petitioning a court); or
- (iv) the presentation or filing of a petition or administration in respect of it (other than by the other party to this Agreement in respect of any obligation under this Agreement) in any court or before any agency alleging or for the bankruptcy, winding-up, administration or insolvency of such party (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, administration, liquidation, dissolution or similar relief under any present or future statute, law or regulation, and, in the case of any such presentation or filing in respect of the Prime Broker only such petition not having been stayed or dismissed within 30 days of its presentation or filing (except in the case of a petition for winding-up or any analogous proceeding, in respect of which no such 30 day period shall apply); or
- (v) the appointment of a receiver, administrator, liquidator, trustee or analogous officer of such party or over all or any material part of such party's property; or
- (vi) the convening of any meeting of its creditors for the purposes of considering a voluntary arrangement as referred to in section 1 of the UK Insolvency Act 1986 (or any analogous proceeding) or the filing of documents with the court for a moratorium in respect of such a voluntary arrangement;

"Affiliated Company"

means, in relation to a person ("A"), A and any person who is:

- (a) a parent undertaking of A;
- (b) a subsidiary undertaking of A;
- (c) a subsidiary undertaking of a parent undertaking of A;
- (d) a parent undertaking of a subsidiary undertaking of A;
- (e) an undertaking in which A or an undertaking in (a) to (d) has a participating interest;

and "participating interest" means an interest held by an undertaking or an individual in the shares of another undertaking which it holds on a long-term basis for the purpose of securing a contribution to its activities by the exercise of control or influence arising from or related to that interest. Notwithstanding the aforementioned provision, the term "participating interest" as used in this Agreement shall be construed as having the same meaning as it bears in s.260 of the UK Companies Act 1985 but as if s.260 applied to an interest held by an individual which would be a participating interest for the purposes of s.260 if that individual were an undertaking;

"Agreement"

means this Agreement as defined in clause 29 as may be altered or amended or supplemented by addenda from time to time;

"Business Day"	means any day (other than a Saturday or a Sunday) on which banks in London, New York, Sydney, the place of business of each principal exchange for dealing in the relevant Securities and the principal financial centre of the relevant currency involved are open for a general range of business;
"Cash Account"	means one or more accounts in the books of the Prime Broker in which the Prime Broker records all amounts credited and all amounts debited to the Counterparty under this Agreement;
"Charged Property"	means all property subject to the security created by this Agreement;
"Collateral"	means Collateral Moneys and Prime Broker Securities;
"Collateral Moneys"	means all sums that are and all sums that ought to be credited to the Cash Account;
"Contractual Settlement Date"	means in relation to a Transaction, the date for settlement of that Transaction being the normal market settlement date on the relevant market or exchange or such other date as is agreed between the Counterparty and the Prime Broker;
"Electronic System"	means the data communication system established between the Prime Broker and the Counterparty for, inter alia, the transmission of Instructions and Transaction information;
"Equivalent Securities"	means with respect to any Securities, securities identical in type, nominal value, description and amount to such Securities;
"Event of Default"	has the meaning ascribed to it in Clause 7;
"Instruction"	means an instruction (which, unless the Prime Broker requires otherwise shall be sent by the Electronic System) given by the Counterparty in relation to any specified transaction in such form as may be agreed between the Counterparty and the Prime Broker;
"Loan Agreement"	means the loan agreement dated on or about the date of this Prime Brokerage Agreement between the Sydney Office of Deutsche Bank AG and the Counterparty (as amended from time to time);
"Market Value"	means in relation to Securities and Equivalent Securities, the value of such securities calculated in accordance with clause 5.1;
"Obligations"	means, at any time with respect to a party, all of that party's obligations and liabilities of every kind and nature whatsoever to the other party, under this Agreement (including the Loan Agreement);
"Prime Broker Securities"	means: Securities purchased under Purchase Transactions; all Securities deposited by the Counterparty with the Prime Broker; and any other Securities credited to the Securities Account in connection with this Agreement including all "Shares" under and as defined in the Loan Agreement and includes where applicable Equivalent Securities to any of the above; except in each case, to the extent that they have been subsequently debited to the Securities Account;

"Purchase Transaction"	has the meaning given in clause 1.1.1;
"Rules"	means the rules, regulations, practices and customs of the Financial Services Authority ("FSA") or any other relevant regulatory authority, exchange or other body as the same may from time to time be revised, amended or replaced;
"Sale Price"	means the sale price of Securities to be sold as specified in the relevant Instructions;
"Sale Transaction"	has the meaning given in clause 1.1.2;
"Securities"	means (a) any bond, debenture, note or certificate (whether in tangible or intangible form) or other instrument or equivalent intangible holding evidencing indebtedness; (b) any share, interest or participation in the issued share capital of a company including any replacement shares, interests, or participations following a surrender, cancellation, conversion, sub-division or consolidation; (c) any warrant or future on, or any option or right to subscribe for or purchase any of (a) or (b) above; and (d) any other securities or instrument as agreed between the parties from time to time, and includes in each case an interest in a security accruing by virtue of the fact that the security is held through a clearing system, custodian or other intermediary;
"Securities Account"	means the account in the books of the Prime Broker wherein the Prime Broker records Securities which it holds for the Counterparty. Securities recorded as being held in the Securities Account may be held in any clearing system in the Counterparty's name, in the Prime Broker's name, in the name of the Prime Broker's Affiliated Company(s), or by a recognised or designated investment exchange or by an eligible custodian in accordance with the Rules;
"Specified Account"	means the account for payment as specified in by notice from the Prime Broker to the Counterparty from time to time;
"Taxes"	means all goods and services, value added, stamp, documentary and other similar taxes, duties, levies or withholdings and similar taxes imposed on any payments to be made by the Counterparty to the Prime Broker under this Agreement;
"Termination Date"	has the meaning ascribed to it in clause 8;
"Third Party"	means any party with whom the Counterparty has entered into a Transaction (which may include the Prime Broker and its Affiliated Companies);
"Transaction"	means a Purchase Transaction and/or a Sale Transaction;
"Transferred Securities"	has the meaning given in clause 4.5; and
"Trust Documents"	means the trust indenture and any other constituent documents of the Trust.

PART II – APPOINTMENT

1. APPOINTMENT OF PRIME BROKER

- 1.1 Provided the Counterparty first obtains the Prime Broker's consent (which it may give or withhold in its absolute discretion), the Counterparty may from time to time agree to enter into Transactions where:
- 1.1.1 the Counterparty agrees to purchase Securities from a Third Party and nominates the Prime Broker as its agent for settlement (a "Purchase Transaction"); or
- 1.1.2 the Counterparty agrees to sell Securities to a Third Party and nominates the Prime Broker as its agent for settlement (a "Sale Transaction").

2. REGULATORY STATUS

- 2.1 The Prime Broker is regulated by the FSA in the conduct of investment business.
- 2.2 For the purposes of this Agreement and the Rules the Prime Broker shall treat the Counterparty as an Intermediate Customer, unless previously or otherwise classified as a Market Counterparty, in each case as defined in the Rules.

PART III – FINANCING

3. FINANCING

- 3.1 The Prime Broker may at its discretion provide financing to the Counterparty. Such financing shall be by way of cash financing.
- 3.2 Cash financing may be effected by the making of an advance by the Prime Broker, or in accordance with the Loan Agreement, by Deutsche Bank AG, Sydney Branch, to the Counterparty or by discharging any money obligation of the Counterparty under or in connection with a Transaction. The amount of such cash financing shall be treated as a loan by the Prime Broker to the Counterparty and recorded as a debit to the Cash Account.
- 3.3 Repayment of any loan under cash financing to the Prime Broker by the Counterparty shall be by way of crediting freely transferable and immediately available cash to such account designated by the Prime Broker from time to time, where the Prime Broker has provided cash financing to the Counterparty, howsoever effected. The Counterparty shall be obliged to repay the loan to the Prime Broker at the end of the time period specified in the Loan Agreement or if no time is specified, on written demand.

The obligation to make repayment shall be inclusive of the obligation to pay to the Prime Broker such fees, interest and other charges as may be agreed between the Prime Broker and the Counterparty from time to time at such times as may have been agreed.

Any dividend or other payment attaching to the Securities standing to the credit of the Securities Account will be treated in accordance with Clause 9.

- 3.4 Cash financing may be effected either:
- 3.4.1 pursuant to this Prime Brokerage Agreement (unless the Prime Broker specifies that it requires the Loan Agreement to be used); or
- 3.4.2 pursuant to the Loan Agreement.

If cash financing is undertaken pursuant to the Loan Agreement and a term of this Prime Brokerage Agreement is found to be inconsistent with a term of the Loan Agreement then to the extent of any inconsistency between this Prime Brokerage Agreement and the Loan Agreement, the Loan Agreement is to prevail.

4. SECURITIES

4.1 Omitted.

4.2 Omitted.

4.3 Omitted.

4.4 The Counterparty agrees:

4.4.1 to execute and deliver all necessary documents and give all necessary instructions as the Prime Broker may from time to time require to give effect to the terms of this Agreement;

4.4.2 that no title in any Securities shall pass to the Counterparty under this Agreement except in accordance with the provisions of Clause 6.1 or upon the completion of a transfer of title to such Securities to the Counterparty by the Prime Broker;

4.4.3 that the Prime Broker shall not owe any of the duties of a fiduciary to the Counterparty;

4.4.4 that the Prime Broker may, subject to clause 9.7, deal with the Prime Broker Securities as if it is full legal and beneficial owner thereof; and

4.4.5 that it is not entitled to direct the Prime Broker to transfer out of the Securities Account any Securities until all its obligations under this Agreement have been satisfied in full.

4.5 The Counterparty agrees that the Prime Broker may at all times transfer title to any Prime Broker Securities into the name of the Prime Broker without notice to the Counterparty and without the payment of any fee in order to undertake delta hedging of its equity exposure in respect of the Prime Broker Securities. The Prime Broker may deal with any Securities which it has transferred to itself under this clause ("Transferred Securities") in its absolute discretion (whether by sale, rehypothecation or otherwise) and may retain for its own account all fees, profits and other benefits received in connection with the Transferred Securities. The Prime Broker may elect to transfer back to the Counterparty Equivalent Securities to any Transferred Securities by transferring them to the Securities Account. The credit balance of the Securities Account is to be taken to include any Equivalent Securities that the Prime Broker elects to transfer back under this clause. Transfers in accordance with this clause 4.5 are (unless the Counterparty otherwise requests in particular circumstances) to be undertaken without notification to the Counterparty (and even if the Counterparty had inside information within the meaning of section 1042A of the Corporations Act).

5. MARKET VALUE

5.1 The Market Value of any Securities shall be:

5.1.1 for a day, the volume weighted average price of those Shares for that day as determined by the Calculation Agent at that time in good faith, converted into AUD at the Prime Broker's spot rate for such conversion at that time; or

- 5.1.2 in the absence of such generally recognised source or if an application has been made for the Securities to be de-listed or the Securities are suspended, as determined by the Prime Broker.

PART IV – GENERAL PROVISIONS

6. TITLE

- 6.1 Except for Securities transferred by the Prime Broker in accordance with Clause 4.5, beneficial ownership of any Securities recorded as being held in the Securities Account shall vest or remain vested in the Counterparty, and such Securities shall be held by the Prime Broker, subject to clause 8, upon trust for the Counterparty. However, whenever the Prime Broker chooses, is obliged or is requested to deliver to the Counterparty any Equivalent Securities to Securities transferred by the Prime Broker in accordance with clause 4.5, the Prime Broker may elect in its absolute discretion to deliver instead either Equivalent Securities or the cash value of such Securities (determined, if an Event of Default or a Termination Date has not occurred, by reference to their Market Value or, if an Event of Default or a Termination Date has occurred, in good faith, but in its absolute discretion, by the Prime Broker, but at its absolute discretion), and the delivery of such cash value or Equivalent Securities shall satisfy such request and discharge the Prime Broker's obligations to the Counterparty in respect of such Securities.

Without affecting its right to deliver the cash value of any Securities under this clause 6.1, the Prime Broker confirms that it has no present intention to exercise any right to deliver the cash value of Securities rather than Equivalent Securities.

- 6.2 Following a written request from the Counterparty (or as agreed by the parties) the Prime Broker shall be obliged to deliver to the Counterparty within a reasonable time a consolidated statement of account in respect of Collateral Moneys and the Securities Account.
- 6.3 As security for the payment and performance of its Obligations to the Prime Broker, which it hereby covenants to pay or perform as appropriate, the Counterparty hereby grants to the Prime Broker with full title guarantee and free from any adverse interest whatsoever (a) a security interest by way of first fixed charge over the Prime Broker Securities and any other interests in and rights in relation to the Securities recorded as being held in the Securities Account, and (b) a floating charge over any and all assets of the Counterparty and the Trust held by the Prime Broker under this Agreement and any obligation owed by the Prime Broker to the Counterparty under this Agreement; for the avoidance of doubt such floating charge shall constitute a "qualifying floating charge" for the purposes of paragraph 14 of Schedule B1 to the Insolvency Act 1986 if such floating charge, either alone or together with the fixed charge security referred to in paragraph (a) above, relates to the whole or substantially the whole of the Counterparty's property. Any such charge over any asset of the Trust is given by the Counterparty in its capacity as sole trustee of the Trust. Any such charge over any other asset is given by the Counterparty as beneficial owner.

For the avoidance of doubt, the Charged Property does not include (a) any assets or undertakings of the Counterparty which are not held by the Prime Broker; or (b) any Excluded Securities or any interests in or rights in relation to the Excluded Securities.

The Counterparty covenants with the Prime Broker that it will not allow any other security interest, mortgage, charge, pledge, lien, hypothecation or other charge or encumbrance to subsist or be created over any of the assets which are subject to the security created by this Clause. Any reference in this Agreement to Collateral or to Prime Broker Securities shall be read in conjunction with this Clause 6.3 and shall be interpreted accordingly.

- 6.4 The security constituted by this Agreement shall be a continuing security and shall not be satisfied by any intermediate payment or satisfaction of the whole or any part of the Obligations, and shall not be affected by any other security interest now or subsequently held by the Prime Broker or any of its Affiliated Companies for all or any of the Obligations.
- 6.5 Where any discharge is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be repaid on liquidation or otherwise without limitation, the security constituted by the Agreement and the liability of the Counterparty under this Agreement shall continue as if there had been no such discharge or arrangement.
- 6.6 The Counterparty shall remain liable to observe and perform all the other conditions and obligations assumed by it in respect of any of the Obligations secured by this Agreement.
- 6.7 At any time after the security constituted by this Agreement becomes enforceable, the Prime Broker may at any time without further notice appoint in respect of the Charged Property, under seal or in writing under its hand or in the manner prescribed in Schedule B1 to the Insolvency Act 1986 (as applicable) any one or more persons qualified to be (a) an administrator (as defined in paragraph 1 of Schedule B1 to the Insolvency Act 1986) (an "Administrator") or (b) a receiver (a "Receiver") of all or any part of the Charged Property in every respect as if the Prime Broker had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under that Act. Such Receiver shall have all the rights, remedies, powers and discretions (i) conferred by the Law of Property Act 1925 on a mortgagee and/or receiver (save that the restrictions set out in Section 103 of the Law of Property Act 1925 shall not apply); and (ii) of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver). To the fullest extent permitted by law, any right, power or discretion conferred by this Agreement or by operation of law (either expressly or implicitly) upon a Receiver may, after the security becomes enforceable, be exercised by the Prime Broker without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 6.8 The Prime Broker may remove any Receiver appointed by it and may, whenever it deems it expedient, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated. The Prime Broker may fix the remuneration of any Receiver appointed by it.
- 6.9 Each Receiver or Administrator is deemed to be the agent of the Counterparty for all purposes and accordingly each Receiver is deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law of Property Act 1925. The Prime Broker shall not incur any liability (either to the Counterparty or to any other person) by reason of the Prime Broker appointing a Receiver or Administrator or for any other reason.
- 6.10 The Prime Broker and any Receiver may at any time or times delegate to any person(s) all or any of its rights, powers and discretions under this Agreement on such terms (including power to subdelegate) as the Prime Broker or the Receiver sees fit, and may employ agents, managers, employees, advisers and others on such terms as it sees fit.
- 6.11 No purchaser or other person dealing with the Prime Broker, any Receiver, any Administrator or with its or their attorney or agent, shall be concerned to enquire (a) whether any power exercised or purported to be exercised by it has become exercisable, (b) whether the Obligations have become payable or any money remains due on this security, (c) as to the propriety or regularity of any of its actions or (d) as to the application of any money paid to it.
- 6.12 The rights of the Prime Broker under this Clause 6 may be exercised as often as necessary, are cumulative and are not exclusive of its rights under the general law.

- 6.13 A certificate in writing signed by a duly authorised officer of the Prime Broker and certifying the total amount of the Obligations shall be conclusive evidence of the matters so certified, in the absence of manifest error.
- 6.14 Once the Prime Broker is satisfied (acting reasonably) that the Obligations have been irrevocably and unconditionally discharged, it shall, at the request and cost of the Counterparty, take whatever action is necessary to release the security constituted by this Agreement.
- 6.15 The security interests created in this Clause 6 shall become immediately enforceable and the power of sale and other powers conferred by this Agreement or law shall be exercisable by the Prime Broker following the occurrence of an Event of Default in respect of the Counterparty.
- 6A OMITTED
7. EVENTS OF DEFAULT
- Each of the following shall be an Event of Default:
- 7.1 the Counterparty fails to make payment due under Clause 3.3 or the Counterparty fails to make a payment under the Loan Agreement and the Counterparty does not remedy the failure within 2 Business Days of the due date for payment;
- 7.2 Omitted;
- 7.3 either party is in breach of any other material term or condition of this Prime Brokerage Agreement or the Loan Agreement and such breach continues for more than three Business Days after written notice of the breach has been served on the defaulting party by the non-defaulting party;
- 7.4 any representation or warranty (which the Prime Broker reasonably deems material) made by the Counterparty in this Prime Brokerage Agreement or the Loan Agreement shall prove to have been untrue or misleading in a material respect, or would be untrue or misleading in a material respect if made or repeated at any time by reference to the circumstances then existing; or
- 7.5 there is an Act of Insolvency on the part of either party;
- 7.6 Omitted;
- 7.7 the Trust Documents are (a) terminated or cease to be in full force and effect; or (b) are amended and modified and such amendment or modification may have a material adverse effect on the rights of the Prime Broker under this Agreement or any Transaction or on the ability of the Counterparty to perform its obligations under this Agreement or any Transaction; or
- 7.8 the Counterparty ceases to be the sole trustee of the Trust (unless the Prime Broker has given its consent).

8. SET OFF AND CLOSE-OUT

8.1 On or at any time after the occurrence of an Event of Default (excluding the events described in paragraphs (iv) and (v) of the definition of Act of Insolvency on the part of either party) in relation to either party (the "Affected Party"), the other party (the "Unaffected Party") may elect by written notice to the Affected Party for the following to occur on the date (the "Termination Date") specified in the notice (being not earlier than the date the notice is given):

8.1.1 all the parties' obligations under this Agreement (including in connection with transactions entered into under the Loan Agreement) that are outstanding (including, but not limited to, all Transactions and financing under Clause 3), and any obligation (save those set out in this Clause 8) to do anything in the future in connection with this Agreement (including under the Loan Agreement and including the Prime Broker's obligation to hold Securities on trust under clause 6.1) shall terminate immediately;

8.1.2 the Unaffected Party shall determine in good faith, but at its absolute discretion, the value on the Termination Date immediately prior to termination of:

(i) any Prime Broker Securities excluding any Prime Broker Securities that:

(A) were the subject of a Sales Transaction referred to in sub-paragraph (vi); or

(B) the Prime Broker has transferred to itself under clause 4.5 ("Transferred Securities") except to the extent that it has transferred back to the Counterparty Equivalent Securities to the Transferred Securities;

(ii) the sum of:

(A) any sums standing to the credit of the Cash Account; and

(B) any Transferred Securities, except to the extent that the Prime Broker has transferred back to the Counterparty Equivalent Securities to the Transferred Securities;

(iii) any sums standing to the debit of the Cash Account which evidence cash financing provided to the Counterparty and not repaid under this Agreement;

(iv) Securities the subject of any Purchase Transaction which has been effected but in respect of which the Securities concerned have not yet become Prime Broker Securities;

(v) the amount to be paid for Securities the subject of a Purchase Transaction referred to in sub-paragraph (iv);

(vi) the amount to be received for Securities the subject of a Sales Transaction which has been effected but in respect of which the Securities concerned have not yet been debited to the Securities Account; and

(vii) any other transaction or obligation terminated under clause 8.1.1 whose value the Prime Broker determines is represented by an amount payable:

(A) to the Prime Broker by the Counterparty; or

(B) by the Prime Broker to the Counterparty,

and their value shall be determined in Australian dollars and less any fees, costs and commissions which might reasonably be expected to be incurred in such conversion or if the relevant Prime Broker Securities or Securities were to be disposed of. (The intention behind these calculations is to place a monetary value (representing the Unaffected Party's good faith estimate of market value) on every asset, right and liability of the Counterparty existing in connection with transactions contemplated by this Agreement (including those entered into under the Loan Agreement) to enable a calculation of a net amount owed to or by the Counterparty in connection with this Agreement (including under the Loan Agreement). Despite the specific provisions in Clause 8.1.2, the Unaffected Party must ensure that no double counting occurs in these calculations. For the avoidance of doubt, a reference to a "Securities Account" in this Clause 8.1.2 includes a Securities Account that includes the words "Excluded Securities Account" in its title and a reference to "Prime Broker Securities" includes any that have been credited to a Securities Account that includes the words "Excluded Securities Account" in its title;

8.1.3 the Unaffected Party shall promptly calculate the net amount of the values determined under Clause 8.1.2 above by deducting the aggregate value of sub-paragraphs (iii), (v) and (vii)(A) from the aggregate value of sub-paragraphs (i), (ii), (iv), (vi) and (vii)(B) and the net amount shall be the only sum owing between the parties in respect of all the parties' obligations terminated under Clause 8.1.1 above;

8.1.4 the Unaffected Party shall promptly notify the Affected Party of the net amount calculated under Clause 8.1.3 above; (i) if it is positive, it shall be payable by the Prime Broker to the Counterparty; and (ii) if it is negative it shall be payable by the Counterparty to the Prime Broker; and

8.1.5 the net amount shall be payable promptly by the relevant party following notification under Clause 8.1.4 above and, pending payment, shall bear interest from the Termination Date to the date of payment at the rate which is 2% (two per centum) per annum above the Prime Broker's actual cost of funds (as certified by the Prime Broker), such certificate to be conclusive in the absence of manifest error.

The parties agree that the net amount payable under Clause 8.1.5 above is a reasonable pre-estimate of loss and not a penalty.

8.2 On the occurrence of an Event of Default as a result of the events described in paragraphs (iv) ("Paragraph (iv)") and (v) ("Paragraph (v)") of the definition of Act of Insolvency (whichever occurs earliest) in relation to either party (the "Affected Party"), the Termination Date and the provisions of Clause 8.1.1 shall occur either (a) as of the time immediately preceding the occurrence of such Event of Default if it is of a type described in Paragraph (iv); or (b) immediately on the occurrence of such Event of Default if it is of a type described in Paragraph (v). The provisions of Clauses 8.1.2 - 8.1.5 must then be complied with as soon as reasonably practical after the Unaffected Party becomes aware of the termination.

- 8.3 Any sum due and payable to the Prime Broker under this Clause 8 shall include any additional amount required to ensure that the Prime Broker receives such monies net of any costs, losses, penalties, fines, taxes and damages which it may incur in connection with such action or remedies.

9. DIVIDENDS AND OTHER PAYMENTS

- 9.1 In the event that there is any payment or distribution on any Securities held in the Securities Account (or which would be held in the Securities Account but for the transfer of Securities by the Prime Broker under Clause 4.5), the Prime Broker shall (subject to any contrary provision in the Loan Agreement) on the date of receipt of such payment or distribution (or on the date on which payment would have been received but for the transfer of Securities by the Prime Broker under Clause 4.5) ("Dividend Date");

- 9.1.1 in the case of any cash payment received by the Prime Broker in respect of Securities held in the Securities Account (or which would have been received but for the transfer of Securities by the Prime Broker under Clause 4.5), credit a sum equivalent thereto (the "Dividend Amount") to the Cash Account (and, for the avoidance of doubt, the Prime Broker is not obliged to gross up the cash payment to reflect any franking credit applicable to the cash payment in respect of Securities which have been transferred to the Prime Broker under clause 4.5).

For the avoidance of doubt, where an Event of Default has occurred, the Prime Broker will retain such Dividend Amounts in the Cash Account to meet the Counterparty's payment obligations to the Prime Broker and shall not be required to release the Dividend Amount from the Cash Account;

- 9.1.2 in the case of any distribution received by the Prime Broker by way of additional securities in respect of Securities held in the Securities Account (or which would be held in the Securities Account but for the transfer of Securities by the Prime Broker under Clause 4.5), credit the Securities Account with Equivalent Securities to those additional securities.

- 9.2 In the event that the Prime Broker becomes aware of:

- 9.2.1 a rights issue in respect of Securities held in the Securities Account which requires take-up of Securities and payment therefore (a "Rights Issue"); or
- 9.2.2 an offer to purchase the entire issued share capital of the company of which Securities held in the Securities Account form part, and such offer is declared or becomes by its terms unconditional (a "Take-over Bid"); or
- 9.2.3 a bonus issue in respect of Securities held in the Securities Account which requires an election by the holder thereof between cash and new securities (a "Bonus Issue"); or
- 9.2.4 an option written in favour of the holder of any Securities becomes exercisable entitling such holder either to put the Security to the issuer thereof or to convert the Security to equity in the share capital of the issuer (an "Option");

(each a "Securities Distribution") then the Prime Broker shall inform the Counterparty in accordance with its operating procedures of such Securities Distribution, and the Counterparty shall instruct the Prime Broker in writing.

- 9.3 In the event of a Securities Distribution, such written instructions shall:
- 9.3.1 in the case of a Rights Issue, instruct the Prime Broker to take up such issue, or instruct the Prime Broker to allow any relevant rights to lapse;
 - 9.3.2 in the case of a Take-over Bid, instruct the Prime Broker to accept or reject the offer;
 - 9.3.3 in the case of a Bonus Issue, instruct the Prime Broker either to accept the new securities or to accept the cash alternative; and
 - 9.3.4 in the case of an Option, instruct the Prime Broker to exercise the Option or to allow the Option to lapse.

PROVIDED THAT the Prime Broker will not be required to comply with such instructions unless the Counterparty has caused the Cash Account to be credited with the necessary amount, if applicable.

- 9.4 The Prime Broker shall not be under any obligation to comply with such written instructions received from the Counterparty under Clause 9.3, save that the Prime Broker shall credit the Accounts as if such written instructions had been carried out.
- 9.5 In the absence of such instructions the Prime Broker shall take no action.
- 9.6 If, after the Contractual Settlement Date of any Sale Transaction, the Securities have not been delivered by the Counterparty to the Prime Broker (whether by operation of Clause 3.4 or otherwise) and there is a distribution by way of payment on those Securities, the Counterparty shall account to the Prime Broker for such payment in an amount specified in good faith by the Prime Broker, including but not limited to sums payable in respect of withholding or other tax hereunder. If there is any such distribution, the Prime Broker shall provide the Counterparty with instructions, and the Counterparty agrees to comply with such instructions. In the absence of such instructions, the Counterparty shall take such action as it deems appropriate.
- 9.7 Without limiting its ability to deal with Securities to the extent permitted by this Agreement, the Prime Broker must make available to the Counterparty all available voting rights in respect of the Prime Broker Securities that have not been appropriated under clause 4.5 (Relevant Securities). If, at the relevant time, the Prime Broker controls the Relevant Securities, the Prime Broker agrees to notify the Counterparty when the right to vote in a general meeting becomes exercisable by the Prime Broker in respect of any Prime Broker Securities promptly on becoming aware of the same and in any event in sufficient time to enable the Counterparty to exercise, or give instructions in relation to the exercise of, such rights and:
 - 9.7.1 to exercise such voting rights in accordance with the written instructions of the Counterparty provided that such instructions are received so as to allow the Prime Broker acting in its best efforts to do so. If no instructions are received from the Counterparty then the Prime Broker shall not exercise such voting rights; or
 - 9.7.2 provide the Counterparty with an irrevocable proxy or power of attorney, appointment of a representative or other exclusive authorisation, as the Counterparty requires in order for the Counterparty to exercise such voting rights.

10. OMITTED

11. SETTLEMENT

The Prime Broker shall open and maintain one or more Cash Accounts and one or more Securities Accounts in the name of the Counterparty, and all cash or Securities held by or received by the Prime Broker from or for the benefit of the Counterparty pursuant to this Agreement shall be held in such accounts.

Any part of the Counterparty's property may be co-mingled with cash or securities of the same description of other customers of the Prime Broker and accordingly the Counterparty does not necessarily have the right to any specific securities certificates, but instead is entitled, subject to any applicable laws and regulations and to this Agreement, to the transfer or delivery of an amount of securities of any issue that is of the same description and in the same amount.

- 11.1 Provided the Counterparty first obtains the Prime Broker's consent (which it may give or withhold in its absolute discretion), the Counterparty may at any time give an Instruction to the Prime Broker to either:

- 11.1.1 settle a Transaction entered into between the Counterparty and a Third Party; or
- 11.1.2 enter into a Transaction with the Counterparty whereby the Prime Broker sells Securities to or purchases Securities from the Counterparty.

- 11.2 11.2.1 Where the Prime Broker settles a Transaction on behalf of the Counterparty the Prime Broker shall act as the Counterparty's agent and may communicate this information to any relevant person.

- 11.2.2 The Prime Broker may settle a Transaction by any means considered appropriate, whether or not involving delivery versus payment. Except to the extent caused as the result of negligence, wilful default or fraud on the part of the Prime Broker or its Affiliated Companies, the Prime Broker shall have no liability to the Counterparty in respect of any loss incurred by the Counterparty as a result of any settlement failure.

- 11.3 11.3.1 In respect of each Transaction, the Counterparty shall serve on the Prime Broker Instructions.

- 11.3.2 The Prime Broker may in its absolute discretion reject any Instructions at any time up to and including the Contractual Settlement Date. If the Prime Broker rejects the Instructions in respect of a Transaction, such Transaction will not be settled by the Prime Broker. No entries shall be made on the Accounts in respect of such Transaction and any entries already made shall be reversed.

- 11.3.3 Once given, the Counterparty may not, except at the absolute discretion of the Prime Broker, rescind or amend Instructions given under this clause 11.

- 11.3.4 The Prime Broker may, in its absolute discretion, agree with a Third Party that the rights and liabilities arising under a Transaction between the Counterparty and a Third Party should be novated. Where such novation occurs, the Prime Broker shall, acting as agent for the Counterparty, agree with the Third Party that all rights and liabilities existing between the Third Party and the Counterparty shall terminate. The Prime Broker will thereupon:

- 11.3.4.1 enter into a contract with the Third Party whereby the rights and liabilities existing between the Third Party and the Prime Broker shall be identical to those between the Third Party and the Counterparty except to the extent that the mechanics of settlement dictate otherwise; and
- 11.3.4.2 enter into a contract with the Counterparty whereby the Counterparty agrees that the Prime Broker need only perform its obligations to the Counterparty arising out of the settlement of the Transaction to the extent that the Third Party has performed its obligations to the Prime Broker under the contract identified in the previous Clause 11.3.4.1.

Unless financing has been agreed by the Prime Broker in accordance with Clause 3, the Counterparty shall settle all Transactions on the Contractual Settlement Date.

- 11.4 If the Third Party referred to in clause 11.3 fails to deliver the relevant Securities or to make payment to the Prime Broker, then the Prime Broker shall have the right in its absolute discretion to reverse all relevant entries in the Accounts. The Prime Broker shall inform the Counterparty of any such failure of the Third Party as soon as practicable after the same comes to the attention of the Prime Broker.
- 11.5
 - 11.5.1 Any Securities received or to be delivered by the Prime Broker to the Counterparty pursuant to a Purchase Transaction shall be credited to the Securities Account.
 - 11.5.2 Unless securities are already held by the Prime Broker, settlement of a Sale Transaction by the Counterparty shall be by way of delivery to the Prime Broker by the Counterparty on the Contractual Settlement Date of the relevant Securities which shall be:
 - 11.5.2.1 physical delivery of the relevant share certificates (if applicable) together with blank signed transfer forms in respect thereof, or such other documents of title as may, in the reasonable opinion of the Prime Broker and its advisers, be appropriate; or
 - 11.5.2.2 delivery effected through book entries in an agreed securities clearing system; or
 - 11.5.2.3 delivery by such other method or methods as may from time to time be agreed between the parties.
 - 11.5.3 Subject to the terms of this Agreement, the Prime Broker shall upon settlement of a Sale Transaction by the Counterparty deliver the relevant Securities to the relevant Third Party.
 - 11.5.4 Settlement of a Purchase Transaction by the Prime Broker shall be by way of credit to the Securities Account of the relevant Securities on the Contractual Settlement Date which shall be:
 - 11.5.4.1 physical delivery of the relevant share certificates (if applicable) together with blank signed transfer forms in respect thereof, or such other documents of title as may, in the reasonable opinion of the Prime Broker and its advisers, be appropriate; or
 - 11.5.4.2 delivery effected through book entries in an agreed securities clearing system; or

- 11.5.4.3 delivery by such other method or methods as may from time to time be agreed between the parties.
- 11.5.5 Subject to the terms of this Agreement the Prime Broker shall upon settlement of a Purchase Transaction by the Counterparty transfer the relevant cash to the relevant Third Party.
- 11.5.6 Delivery of Securities released by the Prime Broker under Clause 11.5.3 shall be governed by the rules of the relevant exchange or regulatory body.
- 11.6 11.6.1 Any moneys received by the Prime Broker for the account of the Counterparty pursuant to a Sale Transaction shall be credited to the Cash Account.
- 11.6.2 Settlement of a Purchase Transaction shall be by payment into the Specified Account of the Prime Broker in cleared funds (or, if agreed by the Prime Broker, by way of financing under Clause 3) in the currency denominated in the Instructions to the Prime Broker from the Counterparty under Clause 11.3 and payment out to the Third Party by the Prime Broker from the Specified Account either:
 - 11.6.2.1 through a clearing system agreed between the parties under which same day delivery against payment is available;
or, if such system is unavailable or the parties so agree:
 - 11.6.2.2 through the domestic banking system in the principal centre for dealing in the currency in which such payment is to be made, during normal banking hours in such centre.
- 11.7 11.7.1 Cash held by the Prime Broker for the Counterparty in the Cash Account will be repayable on demand provided the Lender consents to the withdrawal (which it may give or withhold in accordance with the provisions of the Loan Agreement).
- 11.7.2 The Prime Broker shall be obliged, at the request of the Counterparty, to deliver to the Counterparty Equivalent Securities to any Securities recorded in the Securities Account or, at the discretion of the Prime Broker upon receipt of such request, the cash value of such Securities (determined in accordance with clause 5.1).
- 11.7.3 In no circumstances will the Prime Broker be required to pay cash to, or to deliver Equivalent Securities to or to the order of the Counterparty where:
 - 11.7.3.1 the Prime Broker is entitled to apply any such balance in or towards satisfaction of an obligation of the Counterparty to the Prime Broker or to a Third Party; or
 - 11.7.3.2 the Prime Broker believes in its reasonable discretion that such cash or Securities may be required for the discharge of obligations under past, current or proposed Transactions; or
 - 11.7.3.3 the Prime Broker believes in its reasonable discretion that there are potentially payments, expenses, obligations or liabilities which the Prime Broker is or may become subject to in respect of past, current or proposed Transactions; or
 - 11.7.3.4 Omitted.

- 11.8 Where the Counterparty deals with the Prime Broker as principal, settlement shall be as above save that the parties may agree that settlement shall be effected by the crediting and debiting of the relevant accounts of the Counterparty with the Prime Broker without transfer of Securities or cash. For all other purposes of this Agreement Securities or cash dealt with in this way shall be treated as if they had been delivered to or by the Prime Broker and/or the Counterparty in accordance with a Third Party Transaction.

12. INTEREST

- 12.1 Interest shall accrue on any debit balance on the Cash Account which evidences cash financing provided to the Counterparty and not repaid under this Agreement. Interest accrues at an agreed percentage above a reference rate of interest for overnight deposits to be agreed between the Prime Broker and the Counterparty and based on a notional year of 365 days or 360 days (according to market practice for the relevant currency) and shall be paid by the Counterparty monthly in arrears unless otherwise agreed. Interest accrued and unpaid shall be debited to the Cash Account as evidence of the provision of further cash financing to the Counterparty and shall itself bear interest thereafter. In the absence of such agreement the rate shall be as determined by the Prime Broker acting in good faith.
- 12.2 Interest shall accrue on any credit balance on the Cash Account at an agreed percentage below a reference rate of interest for overnight deposits to be agreed between the Prime Broker and the Counterparty and based on a notional year of 365 days or 360 days (according to market practice for the relevant currency), and shall be paid by the Prime Broker monthly in arrears unless otherwise agreed.

13. REPRESENTATIONS AND WARRANTIES AND UNDERTAKINGS

- 13.1 The Counterparty and/or the Prime Broker (as appropriate) hereby make the representations and warranties set out in this Clause 13 to and for the benefit of each other, and acknowledges that the other will rely on the same.
- 13.1.1 It is duly authorised and empowered under its constitutional documents to enter into and perform its obligations under this Agreement and the Transactions contemplated hereby, and that all internal authorisations and approvals have been obtained.
- 13.1.2 No governmental or regulatory approvals, licences, authorities, certificates or permissions are required for its entry into this Agreement or for the lawful performance of its obligations hereunder or under any Transaction, or if such approvals, licences, authorities, certificates or permissions are necessary, that they have been obtained and are in full force and effect.
- 13.1.3 This Agreement is a legally binding obligation binding on it and enforceable against it in accordance with its terms.
- 13.1.4 No insolvency proceedings (or any proceedings analogous thereto) have been instigated against the Counterparty, and no bona fide legal proceedings have been issued against it, or are to the Counterparty's knowledge contemplated which, if resolved in a manner adverse to it, would have a material adverse effect on its financial condition as set out in its latest audited accounts.

- 13.1.5 The Counterparty has taken its own legal and taxation advice, that it has not sought or relied on any representation or warranty made outside the terms of this Agreement by the Prime Broker or any of the Prime Broker's other party's servants or agents, and that the entry of the Counterparty into this Agreement is solely on the basis of its own judgement.
- 13.1.6 The Counterparty's financial statements or similar documents previously or hereafter provided to the Prime Broker do or will fairly present the financial condition of the Counterparty as of the date of such financial statements and the results of its operations for the period for which such financial statements are applicable, have been prepared in accordance with Australian International Financial Reporting Standards.
- 13.1.7 The Counterparty is entering into this Agreement and each Transaction as the trustee of the Trust.
- 13.1.8 The Counterparty has not, without the prior written consent of the Prime Broker assigned (whether absolutely, in equity, by way of security or otherwise), declared any trust over or given any charge over any of its rights under this Agreement or any other Transaction (and, subject to this Agreement, agrees not to do any of these things).
- 13.2 The Counterparty makes the following representations which representations are deemed repeated at the time of entering into any Transaction or of any financing being provided by the Prime Broker under this Agreement (including the Loan Agreement):
 - 13.2.1 it is neither a "United States person" nor a "Foreign person controlled by a United States person" as such terms are defined under Regulation X issued by the Board of Governors of the Federal Reserve System under the Securities Exchange Act of 1934;
 - 13.2.2 (a) it is an Offshore Client (as defined below) and (b) for Transactions involving Securities other than Foreign Securities (as defined below), the person making the investment decision and/or placing the order on behalf of the Counterparty for the Transaction is not located or present in the US. As used herein, (A) "Foreign Security" means (i) a Security issued by an issuer not organised or incorporated under the laws of the US when the Transaction in such Security is not effected on a US exchange or through the NASDAQ system or (ii) a debt security (including a convertible debt security) issued by an issuer organised or incorporated in the US in connection with a distribution conducted outside the US; and (B) "Offshore Client" means (i) an entity not organised or incorporated under the laws of the US and not engaged in a trade or business in the US for federal income tax purposes, (ii) any natural person who is not a US resident or (iii) any entity not organised or incorporated under the laws of the US substantially all of the outstanding voting securities of which are beneficially owned by persons described in (B)(i) and (B)(ii) immediately above.

Regulation X defines "United States person" to include: "a person which is organised or exists under the laws of any state [of the United States] or, in the case of a natural person, a citizen or resident of the United States; a domestic estate; or a trust in which one or more of the foregoing persons has a cumulative direct or indirect beneficial interest in excess of 50% of the value of the trust."

Regulation X defines "Foreign person controlled by a United States person" to include "any non-corporate entity in which United States persons directly or indirectly have more than a 50% beneficial interest, and any corporation in which one or more United States persons, directly or indirectly, own stock possessing more than 50% or the total combined voting power of all classes of stock entitled to vote, or more than 50% of the total value of shares of all classes of stock."

The Counterparty represents that the assets used to consummate the Transactions provided hereunder shall not constitute the assets of (i) an "employee benefit plan" that is subject to the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974 of the United States of America, as amended ("ERISA"), (ii) a "plan" within the meaning of Section 4975 of the Internal Revenue Code of 1986 of the United States of America, as amended (the "Code"), (iii) a person or entity the underlying assets of which include plan assets by reason of Department of Labor Regulation Section 2510.3-101 of the United States of America or otherwise, or (iv) a governmental plan that is subject to any federal, state or local law that is substantially similar to the provisions of Section 406 of ERISA or Section 4975 of the Code;

- 13.2.3 it is a "wholesale client" for the purposes of Chapter 7 of the Corporations Act 2001 (Cwlth); and
- 13.2A The Counterparty represents and warrants to the Prime Broker (which representations and warranties will be deemed to be repeated at all times until the termination of this Agreement) that:
 - 13.2A.1 the Counterparty is the sole trustee of the Trust, it does not propose to retire as the sole trustee of the Trust and, to its knowledge, no action has been taken or is proposed to remove it as sole trustee or to appoint another trustee;
 - 13.2A.2 no event has occurred which has caused the assets of the Trust to be vested in one or more members, no property of the Trust has been re-settled and no action has been taken or proposed to terminate the Trust;
 - 13.2A.3 the copies of the Trust Documents and other documents provided to the Prime Broker disclose all of the terms of the Trust;
 - 13.2A.4 the Counterparty has not committed any material breach of the Trust Documents or its general duties as a trustee of the Trust;
 - 13.2A.5 the Counterparty's execution, delivery and performance of its obligations under this Agreement and each Transaction to which it is a party will not breach the Trust Documents or its general duties as a trustee of the Trust and is consistent with the proper performance of its duties as the trustee of the Trust;
 - 13.2A.6 the Counterparty is entitled to be fully indemnified out of the assets of the Trust as outlined in the Trust Documents;

- 13.2A.7 subject to any encumbrance existing as at, and which the Counterparty disclosed to the Prime Broker in writing prior to, the date of this Agreement, the Counterparty's obligations and liabilities incurred as the trustee of the Trust under this Agreement and each Transaction to which it is a party will constitute a liability of the Trust and, upon the winding up of the Trust, shall be paid in accordance with the winding up provisions of the Trust Documents;
- 13.2A.8 except for any encumbrance existing as at, and which the Counterparty disclosed to the Prime Broker in writing prior to, the date of this Agreement, the Counterparty has not created and will not create without giving the Prime Broker prior written notice of not less than ten (10) Business Days, or permit to be created, any encumbrance on the whole or any part of the Charged Property. For this purpose, "encumbrance" includes any mortgage, pledge, lien, charge, assignment, hypothecation, security interest, title retention, preferential right or other arrangements or agreement the effect of which is the creation of security but does not include the Counterparty's equitable lien or charge over the Trust assets that arises from its role as the trustee of the Trust;
- 13.2A.9 the Counterparty has the right to be fully indemnified out of the assets of the Trust for obligations incurred under this Agreement and each Transaction before the claims of beneficiaries, and this right is unrestricted and has not been prejudiced, and the Trust has sufficient net assets to satisfy this right of indemnity after taking into account any prior claims on the assets of the Trust;
- 13.2A.10 the Counterparty's obligations and liabilities incurred as trustee of the Trust under this Agreement and each Transaction rank and will continue to rank at least equally with all other senior creditors of the Trust and will have priority over the rights of the beneficiaries of the Trust upon a winding up of the Trust;
- 13.2A.11 the copies of the Trust Documents and other documents relating to the Counterparty and the Trust provided to the Prime Broker are accurate and disclose all the terms of the Trust and no supplement to the Trust Documents or consent of the beneficiaries of the Trust is needed as a result of this Agreement or any Transaction; and
- 13.2A.12 the execution, delivery and performance of obligations under this Agreement is for the benefit of the Trust and beneficiaries of the Trust and does not constitute or involve a breach of trust in relation to the Fund.

Counterparty's Undertakings

- 13.3 The Counterparty must:
- 13.3.1 use its best efforts to ensure that none of its representations and warranties above becomes untrue or misleading; and
- 13.3.2 immediately notify the Prime Broker if any representation or warranty by the Counterparty in this Agreement or the Loan Agreement is found to be untrue or misleading in a material respect when made or taken to be made or becomes untrue or misleading in a material respect.

- 13.3.3 perform its obligations under this Agreement as trustee of the Trust and not in any other capacity;
 - 13.3.4 subject to the Trust Documents, exercise its right of indemnity from the Trust to ensure that it can meet the obligations incurred by it under this Agreement and any Transaction to which it is a party;
 - 13.3.5 not vacate the position of trustee of the Trust without giving the Prime Broker prior written notice of not less than ten (10) Business Days; and
 - 13.3.6 not vary, add to or delete any term of the Trust Documents in any manner which may affect its right of indemnity or its ability to perform its obligations under this Agreement without giving the Prime Broker prior written notice of not less than ten (10) Business Days.
- 13.4 The Counterparty will:
- 13.4.1 furnish to the Prime Broker within 120 days after the end of each of its financial years its annual unaudited accounts or, if audited, its annual audited accounts;
 - 13.4.2 furnish to the Prime Broker within 120 days after the end of each of its financial half-years its half-yearly unaudited accounts;
 - 13.4.3 promptly provide such other financial and other information as the Prime Broker may reasonably request or as the parties may separately agree from time to time;
 - 13.4.4 promptly inform the Prime Broker in writing if at any time since the date of its most recent audited financial statements there occurs a material adverse change in the Counterparty's business.
 - 13.4.5 promptly prepare after each board meeting of the Borrower complete and accurate minutes of the meeting and promptly provide a copy of them to the Lender; and
 - 13.4.6 promptly prepare management accounts in a form reasonably satisfactory to the Lender at least quarterly and provide a copy of them to the Lender no later than 10 Business Days after they have been prepared.

Acknowledgement

- 13.5 Each party shall be entitled to rely on the representations and warranties made by the other and set out above, shall be under no duty to make enquiry as to the accuracy or otherwise of the same, and shall not be bound by any imputed or constructive knowledge of any such inaccuracy in such representations and warranties.

14. INDEMNITY: COSTS AND EXPENSES

- 14.1 Except to the extent caused as the result of negligence, wilful default or fraud on the part of the Prime Broker or its Affiliated Companies, the Counterparty shall fully and promptly indemnify the Prime Broker, its officers, directors, employees, agents and Affiliated Companies, from and against any Taxes and all claims, proceedings, expenses, costs, losses, damages and liabilities of every description (including legal fees, accountant's fees, fines and penalties) which may be sustained or incurred by, or asserted against, the Prime Broker, its officers, directors, employees, agents and Affiliated Companies in connection with or arising out of the settlement of any Transaction and the performance of the services provided as agent or counterparty of the Counterparty pursuant to this Agreement.

14.2 Each party agrees to pay and bear its own costs and expenses incurred in connection with the preparation and execution of this Agreement.

14.3 The Counterparty agrees to pay or reimburse to the Prime Broker all the Prime Broker's costs and expenses (including reasonable legal expenses) together with any tax payable thereon, reasonably incurred in connection with the enforcement of any of the Prime Broker's rights under this Agreement and/or any Transaction.

14.4 Except to the extent caused as the result of its negligence, wilful default or fraud, a party shall in no circumstances be liable to the other party for special, indirect and consequential damages arising as a result of any breach by the first party of any provision of this Agreement.

15. TAXES

If the Prime Broker receives payments due from the Counterparty net of Taxes, the Counterparty shall pay to the Prime Broker a sufficient amount to ensure that the Prime Broker receives gross the amount of such payment together with (in the case of a distribution) an amount equivalent to any deduction, withholding or payment for and on account of any Taxes by the relevant issuer or on its behalf in respect of such distribution. If the Prime Broker is compelled to pay any Taxes in respect of payments to the Counterparty the Prime Broker shall make such payments net of any Taxes.

16. CURRENCY INDEMNITY

16.1 If the Prime Broker receives an amount in respect of any liability of the Counterparty under this Agreement or if that liability is converted into a claim, proof, judgement or order in a currency other than the currency (the "contractual currency") in which the amount is expressed to be payable under this Agreement:-

16.1.1 the Counterparty shall indemnify the Prime Broker as an independent obligation against any loss or liability arising out of or as a result of any such conversion;

16.1.2 if the amount received by the Prime Broker, when converted into the contractual currency at a market rate in the usual course of its business is less than the amount owed in the contractual currency, the Counterparty shall forthwith on demand pay to the Prime Broker an amount in the contractual currency equal to the deficit; and

16.1.3 the Counterparty shall forthwith on demand pay to the Prime Broker any exchange costs and taxes payable in connection with any such conversion.

16.2 The Counterparty waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency other than that in which it is expressed to be payable.

17. INCREASED COSTS

17.1 Subject to Clause 17.2, the Counterparty shall forthwith on demand by the Prime Broker pay to the Prime Broker the amount of any increased costs incurred by it or any of its Affiliates as a result of:

17.1.1 the introduction of, any change in, or any change in the interpretation or application of, any law or regulation after the date of this Agreement; or

17.1.2 compliance with any regulation made after the date of this Agreement

including any law or regulation relating to taxation, change in currency of a country or reserve asset, special deposit, cash ratio, liquidity or capital adequacy requirements or any other form of banking or monetary control.

17.2 In this Agreement "increased costs" means:-

- 17.2.1 any additional costs incurred by the Prime Broker or any of its Affiliated Companies as a result of it having entered into, or performing, maintaining or funding its obligations under, this Agreement; or
- 17.2.2 that portion of an additional cost incurred by the Prime Broker or any of its Affiliated Companies in making, funding or maintaining all or any advances pursuant to Clauses 3.2 or 3.3 of this Prime Brokerage Agreement as is attributable to it making, funding or maintaining such advances; or
- 17.2.3 a reduction in any amount payable to the Prime Broker or any of its Affiliated Companies or the effective return to the Prime Broker or any of its Affiliated Companies under this Agreement or (to the extent that it is attributable to this Agreement) on its capital; or
- 17.2.4 the amount of any payment made by the Prime Broker or any of its Affiliated Companies, or the amount of any interest or other return foregone by the Prime Broker or any of its Affiliated Companies, calculated by reference to any amount received or receivable by the Prime Broker or any of its Affiliated Companies from the Counterparty under this Agreement.

17.3 Clause 17.1 does not apply to any increased costs:

- 17.3.1 compensated for by the operation of Clause 15; or
- 17.3.2 attributable to any change in the rate of, or change in the basis of calculating, tax on the overall net income of the Prime Broker (or the overall net income of a division or branch of the Prime Broker) imposed in the jurisdiction in which its principal office is situate or in the UK.

18. CONDITIONS PRECEDENT

18.1 Unless the Prime Broker waives any of the following conditions, it shall be a condition precedent to the Prime Broker entering into any Transaction that it shall first have received:

- 18.1.1 a duly certified copy of a resolution of the Board of Directors of the Counterparty EITHER agreeing to the terms and conditions hereof and appointing a signatory hereto (together with a specimen of his or her signature, OR delegating to the signatory hereto sufficient or greater power than is necessary to execute this Agreement on behalf of the Counterparty, or such other evidence of authority as is acceptable to the Prime Broker as confirming the authority of the signatories hereto and the validity of the execution of this Agreement as binding on the Counterparty);
- 18.1.2 a duly certified copy of the Counterparty's Memorandum and Articles of Association, or its constitutional documents (as applicable) and a duly certified copy of the Trust Documents;
- 18.1.3 a copy of this Agreement duly executed; and

- 18.1.4 where the Counterparty is not UK resident, the Prime Broker may require a legal opinion in form and substance satisfactory to the Prime Broker confirming that the Counterparty is empowered to enter into and perform its obligations hereunder and under each Transaction and that all necessary authorities (internal, governmental and regulatory) have been obtained and are in full force and effect, and such other matters as the Prime Broker may request.

19. BEST EXECUTION

The Rules relating to Best Execution (as defined in the Rules) shall not apply to this Agreement or any Transactions effected pursuant to it.

20. MATERIAL INTERESTS; CONFLICTS OF INTEREST

- 20.1 The Counterparty acknowledges that Deutsche Bank AG or any Affiliated Company provide services in respect of a wide range of investment-related activities to a number of different clients and accordingly that the Prime Broker may have an interest, relationship or arrangement that is material in relation to a Transaction effected with or for the Counterparty (or the investment which is the subject of the Transaction) or that could give rise to a conflict of interest.
- 20.2 The following are some examples of the type of interests, relationships or arrangements that Deutsche Bank AG or any Affiliated Company may have in a Transaction or in the instrument which is the subject of the Transaction:
- 20.2.1 being the financial adviser or lending banker to a company whose Securities are the subject of the Transaction, or acting for, or as adviser to, that company in a merger, acquisition or takeover bid by or for it;
 - 20.2.2 dealing in Securities which are the subject of the Transaction, a related security or an asset underlying the security, as principal for Deutsche Bank AG or any Affiliated Company own account or that of someone else. This could include selling to the Counterparty or buying from the Counterparty and also dealing with or using the services of an intermediate broker or other agent who may be Deutsche Bank AG or any Affiliated Company;
 - 20.2.3 matching (eg by way of a cross) the Counterparty's Transaction with that of another client of the Prime Broker by acting on such client's behalf as well as on behalf of the Counterparty;
 - 20.2.4 buying from the Counterparty and selling immediately to another client of the Prime Broker, or vice versa;
 - 20.2.5 holding a position (including a short position (including a short position in Prime Broker Securities)) in the investment concerned, a related investment or an asset underlying the investment;
 - 20.2.6 sponsoring, underwriting or otherwise participating in, whether previously or concurrently, the issue of the investment or an associated investment;
 - 20.2.7 being a market maker or otherwise having a holding or dealing position in the investment concerned or an associated investment;

- 20.2.8 buying or selling units in a collective investment scheme or managed investment scheme where Deutsche Bank AG or any Affiliated Company is the trustee, responsible entity, operator or manager (or an adviser of the trustee, responsible entity, operator or manager) of the scheme;
 - 20.2.9 being an Affiliated Company of the issuer of the investment or an associated investment;
 - 20.2.10 providing investment research in relation to an entity or group to which it also provides investment advisory or corporate finance services;
 - 20.2.11 providing or having provided venture capital or related advice to the company whose securities are the subject of a Transaction; or
 - 20.2.12 as part of a financing transaction, acquiring securities or an interest in securities which may subsequently be disposed of by the Prime Broker by way of enforcement. This may include securities (i) in respect of which the Prime Broker is a market maker; and/or (ii) which are issued by a company for which the Prime Broker acts; and/or (iii) which were previously the subject of an offering by the Prime Broker.
- 20.3 This Agreement constitutes full disclosure to the Counterparty of all the matters referred to in this clause 20. Except to the extent required by the Rules, such matters do not need to be disclosed on the occasion of each Transaction. Notwithstanding any agency or other relationship with, or fiduciary or other duties owed to the Counterparty, Deutsche Bank AG or any Affiliated Company will not be prevented or inhibited by the existence of any interest, relationship or arrangement of the nature referred to in clause 20 from continuing to act in accordance with this Agreement.
- 20.4 The Prime Broker will be under no duty to account to the Counterparty for any profits, commission, remuneration or other fees accrued to the Prime Broker in connection with the Prime Broker's activities undertaken for the Counterparty or for other clients or for the Prime Broker's own account, and the Prime Broker's fees will not be reduced thereby.
- 20.5 The DB Group maintains and operates permanently effective organisational and administrative arrangements, with a view to taking all adequate measures to recognise conflicts of interest and to avoid an adverse effect on client's interests. Further information as to how the DB Group identifies and manages potential conflicts of interest can be found in the Prime Broker's global conflicts of interest policy available at http://db.com/en/content/policy_conflicts_of_interest.htm.
- 21. CONFIDENTIALITY**
- 21.1 The Prime Broker is part of the Deutsche Bank Group of Companies, the integrated investment banking operation composed of companies controlled by Deutsche Bank AG and personnel of all Affiliated Companies forming part of the Deutsche Bank Group of Companies. The Deutsche Bank Group of Companies work closely together under a single management to ensure that the Counterparty benefits from all the relevant expertise within the Deutsche Bank Group of Companies. Accordingly, information made available by the Counterparty to Affiliated Companies, including information which may be relevant for credit and other prudential purposes, may be made available to other Affiliated Companies. The Counterparty hereby consents to and authorises such disclosure of information and acknowledges that any duties of confidentiality owed by the Prime Broker, howsoever arising, will not be regarded as being breached by any such disclosure.

- 21.2 Subject to Clause 21.1 above each party to the Agreement undertakes that it shall use all reasonable endeavours to keep confidential (and to ensure that its (including in the case of the Prime Broker, its Affiliated Companies and third parties appointed pursuant to Clause 23.2 below) officers, employees, professional and other advisers keep confidential) any information relating to the contents of this Agreement, information of a confidential nature supplied by the other party at any time (including prior to the execution of the Agreement) and information relating to Transactions. Neither party shall use or disclose such confidential information, unless required to do so under any applicable law, rule or regulation, policy or directive of any governmental authority, requirement of any securities exchange or for the purposes of enforcing its rights, without the prior consent of the other party. However, this clause is to be read subject to clause 11 of the Loan Agreement (which authorises the Prime Broker to disclose certain information in connection with an actual or proposed sub-participation).
- 21.3 Notwithstanding any provision of this Agreement to the contrary, the legal obligations of confidentiality hereunder do not extend to the U.S. federal or state tax structure or the U.S. federal or state tax treatment of the transactions contemplated by this Agreement. If any U.S. federal or state tax analyses or materials are provided to any party, such party is free to disclose any such analyses or materials without limitation provided such party notifies the other party prior to making disclosure.
22. **TIME OF THE ESSENCE**
- Time shall be of the essence in this Agreement.
23. **INSTRUCTIONS**
- 23.1 The Prime Broker may in good faith rely upon, and the Counterparty will be bound by, any Instructions which purport to be or originate from a person who reasonably appears to the Prime Broker to be authorised by the Counterparty to give such Instructions. The Counterparty shall be responsible for alerting the Prime Broker to any change in the personnel authorised to act on its behalf. Telephone conversations between the Prime Broker and the Counterparty may be recorded and used as evidence in the event of a dispute. To comply with legal and regulatory requirements, the Prime Broker may require reasonable verification of the Counterparty's identity, which the Counterparty agrees to provide.
- 23.2 The Prime Broker may delegate the performance of any of its obligations under this Agreement to any of its Affiliated Companies and/or, with the prior written consent of the Counterparty, any third parties, and pursuant to such delegation it may appoint any such Affiliated Company or, with the prior written consent of the Counterparty, any third party to act directly for the Counterparty. The Prime Broker or any such Affiliated Company may at any time, and without any liability on its part, refuse to act upon, execute or otherwise implement any Instruction or request without giving any reason, provided that such refusal is notified to the Counterparty promptly where such Instruction is in the reasonable opinion of the Prime Broker contrary to law, or to the Prime Broker's internal compliance procedures.

- 23.3 The Counterparty undertakes and warrants to the Prime Broker that, unless and until the Counterparty notifies the Prime Broker to the contrary in writing and the Prime Broker agrees to it, the Counterparty will be acting as principal and will not be acting as agent for any other person or entity. On such notification the Prime Broker may require that such principal execute a Prime Brokerage Agreement in the same terms as this Agreement, and may also require reasonable verification of the identity of the principal of the Counterparty, confirmation that the Counterparty is authorised to act as agent for the principal and such other information as the Prime Broker may require, which the Counterparty agrees to provide. The Counterparty agrees that providing details of its principal will not make the Counterparty's principal an indirect customer (as defined in the Rules) of the Prime Broker.

24. PRIME BROKERAGE FEES AND CHARGES

- 24.1 The Prime Broker will charge for the services provided pursuant to the Agreement on the basis agreed with the Counterparty from time to time.
- 24.2 For the avoidance of doubt the Prime Broker shall be entitled to debit such fees and expenses (together with interest if applicable) to the Cash Account.

25. CLIENT MONEY AND SEGREGATED SECURITIES

- 25.1 The Counterparty hereby agrees that, under the Rules, any money that the Prime Broker receives from the Counterparty and holds pursuant to this Agreement ("Client Money") will not be subject to the protections conferred by the FSA's Rules relating to Client Money. This means that the Counterparty's money will not be segregated from the Prime Broker's money and the Prime Broker may use it in the course of its investment business.
- 25.2 Securities in registrable form which are held by the Prime Broker in the Securities Account will be registered or otherwise recorded in the Counterparty's own name, or in the name of the Prime Broker's nominee(s), or nominee(s) of any Affiliated Company, or by a recognised or designated investment exchange or by an eligible custodian in accordance with the applicable Rules.
- 25.3 The Prime Broker will exercise reasonable skill, care and diligence in the selection of any sub-custodian, and shall be responsible to the Counterparty for the duration of the sub-custody agreement for satisfying itself as to the ongoing suitability of the sub-custodian to provide custodial services to the Counterparty. The level of assessment conducted with regard to the selection and supervision of an Affiliated Company as sub-custodian will be at least as rigorous as that performed on any non-affiliated company when determining its suitability. The Prime Broker will maintain an appropriate level of supervision over the sub-custodian and will make appropriate enquiries periodically to confirm that the obligations of the sub-custodian continue to be competently discharged.
- 25.4 The Prime Broker will be responsible for the acts of any sub-custodian which is an Affiliated Company (and therefore for losses to the Counterparty arising as a result of such acts) to the same extent as for its own acts, including any act or omission, fraud, negligence or wilful default. Subject to Clause 25.3, where the Prime Broker has appointed a sub-custodian which is not an Affiliated Company, it will not be liable for any act or omission, or for the insolvency, of such sub-custodian or for any loss arising therefrom.

25.5 Securities held on behalf of the Counterparty by the Prime Broker in accordance with Clause 25.2 above may be pooled with segregated Securities belonging to other customers of the Prime Broker. The Counterparty's Securities shall be readily identifiable as such and as separate from those of the Prime Broker. The Counterparty's Securities may be pooled with Securities of the same description of other customers of the Prime Broker and accordingly the Counterparty shall not necessarily have the right to any specific Securities but will instead be entitled subject to any applicable laws and regulations and to this Agreement, to the transfer or delivery of an amount of Securities of the same description and of the same amount.

25.6 The Prime Broker may hold Securities for any or all of its customers (including the Counterparty) with a sub-custodian (appointed on such terms as the Prime Broker may in its absolute discretion agree) in a single account that is identified as belonging to customers of the Prime Broker. The Prime Broker will identify in its books and records that part of the Securities held by a sub-custodian as is held for each relevant customer. Where the sub-custodian is not an Affiliated Company, if the Counterparty objects to the appointment of any sub-custodian in relation to its Securities, the arrangements set out in this Agreement with respect of the Securities shall terminate upon repayment by the Counterparty of any outstanding financing and any interest accrued but unpaid in respect of such Securities.

In the case of any action or omission on the part of a sub-custodian or its agent which the Counterparty considers to involve the negligence, fraud or wilful default on the part of the sub-custodian or agent, the Prime Broker agrees to assign to the Counterparty any rights it may have in respect of the action or omission. If the Counterparty obtains legal advice that the assignment would be ineffective to enable the Counterparty to pursue its claim, then the Prime Broker (at the Counterparty's expense providing the Prime Broker was not negligent or acting in bad faith in appointing or monitoring the performance of such sub-custodian) agrees to claim and pursue the appropriate damages or compensation from the sub-custodian or agent on behalf of the Counterparty.

25.7 Documents of title or certificates which evidence title to the Counterparty's Securities may be delivered to a sub-custodian for safe-keeping.

25.8 Where the Prime Broker holds Securities in overseas jurisdictions, different settlement and regulatory requirements may apply from those applying in the UK, together with different practices for the separate identification of such Securities.

25.9 The Counterparty may instruct the Prime Broker in writing to register investments purchased through the Prime Broker in the name of some other person specified by the Counterparty. If the Counterparty does so instruct the Prime Broker, the consequences of registration carried out in accordance with the Counterparty's instructions rest entirely with the Counterparty.

26. RIGHTS, POWERS AND WAIVERS

26.1 Nothing contained in this Agreement shall constitute an agreement to waive or in any way disapply any rights, powers, privileges or rules of any relevant exchange and in particular any rights the Prime Broker may have to buy-in securities which the Counterparty fails to deliver to the Prime Broker on the due date in accordance with Clause 3.4.2 of this Agreement.

26.2 A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver and a single or partial exercise of any right or power provided in this Agreement shall not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

26.3 Nothing in this Agreement shall exclude any rights or powers provided by law or by the rules of any relevant exchange or regulatory body where such rights or powers may not be validly excluded.

26.4 Each party hereby acknowledges and agrees that for the purposes of the UK Contracts (Rights of Third Parties) Act 1999 or any similar legislation (in each case if and when enacted) that no rights, powers or benefits are or shall be conferred on any person pursuant to this Agreement except for such rights, powers or benefits as are expressly conferred on the parties hereto in accordance with, and subject to the terms of this Agreement.

27. NOTICES

All notices and other communications should be sent, in the case of the Prime Broker, to Prime Brokerage, 4th Floor, Winchester House, 1 Great Winchester Street, London EC2N 2DB and, in the case of the Counterparty, to such address as is notified to the Prime Broker by such Counterparty or, in the absence of such notification, to its last known address for correspondence.

Any information in respect of the Counterparty's financial data (including, without limitation, any information in respect of the Counterparty's net asset value) should be sent to db.navmailbox@db.com.

28. TERMINATION

The arrangements set out in this Agreement may be terminated by either the Counterparty or the Prime Broker serving not less than 30 (thirty) Business Days' written notice of termination on the other, such termination becoming effective on the expiry of such notice period, provided that such termination shall not affect any Transaction or any obligation under this Agreement (including that of indemnity) which is then outstanding and the provisions of this Agreement shall continue to apply to each such Transaction and each obligation until all the obligations of each Party to the other under this Agreement and each such Transaction have been fully performed.

29. SINGLE AGREEMENT AND CONFLICT OF AGREEMENTS

29.1 Each party agrees that all Transactions and financing contemplated by clause 3 are entered into in reliance on the fact that this Prime Brokerage Agreement, the Loan Agreement and all Instructions pursuant to them constitute a single agreement between the parties (collectively referred to as "this Agreement") and the parties would not otherwise enter into any Transaction or financing other than in accordance with this Agreement.

This Agreement shall apply in respect of all Transactions and financing entered into between the parties and all Transactions between the Counterparty and a Third Party which the Counterparty requests the Prime Broker to settle on the Counterparty's behalf, and in respect of all related matters referred to in this Agreement.

29.2 To the extent that the Prime Broker's standard Terms of Business from time to time and this Agreement address the same matters, only this Agreement shall apply. Without limiting the generality of the preceding sentence, the parties agree that this Agreement addresses the matter of the Prime Broker's (and its Affiliated Companies') rights over client investments and rights to calculate a net amount owed to or by the Counterparty in connection with this Agreement.

30. AGENT FOR SERVICE OF PROCESS

The Counterparty appoints the following as its agent for service of process in England and Wales:

Babcock & Brown Limited UK
1 Fleet Place
London EC4M 7NR
United Kingdom
(attention: Neil Lewis)

31. GOVERNING LAW

This Agreement and each Transaction effected pursuant to this Agreement are governed by and shall be construed in accordance with English law and each party hereby irrevocably submits to the non-exclusive jurisdiction of the English courts.

32. COUNTERPARTY'S LIABILITY

32.1 The Counterparty is entering into this Agreement solely in its capacity as trustee of the Trust and the Prime Broker acknowledges that the Counterparty incurs all of its obligations under this Agreement in that capacity. Except as provided in clause 32.2, the Prime Broker may only enforce its rights against the Counterparty to the extent of the Counterparty's right of indemnity out of the assets of Trust.

32.2 Notwithstanding anything else in this Agreement, the Counterparty is liable personally to the extent that a liability under this Agreement arises out of or is not satisfied as a result of the Counterparty's own fraud, negligence, wilful default, breach of trust or breach of duty which disentitles it from an indemnity out of the assets of the Trust in relation to the relevant liability. However, nothing in this clause 32.2 shall make the Counterparty liable for any claim for an amount greater than the amount which the party would otherwise have been entitled to recover from the assets of the Trust in relation to the relevant liability if the Counterparty's right of indemnity out of the Trust's assets had not been reduced or disentitled.

IN WITNESS WHEREOF this Agreement has been signed by duly authorised representatives of each party on the day and date first above written.

SIGNED
FOR AND ON BEHALF OF
DEUTSCHE BANK AG, ACTING THROUGH ITS LONDON BRANCH

.....

.....

SIGNED by **AGSO PROPERTY PTY LTD**
as trustee for the **Babcock & Brown Prime Broking Trust**
by its duly authorised attorney
in the presence of:

.....

Attorney

.....

Witness