

Margin Loan

Revised Terms and Conditions

Agreement Number 5

**These revised terms and conditions,
including the Addendum in Part 10,
will apply from 1 January 2011.**

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Part 1 Definitions and Interpretations

1. Definitions

The definitions in this Clause 1 apply to each Part of the Agreement.

Term	Meaning
Acceptable Investment	A Security or other property (real or personal), whether issued or yet to be issued, which the Lender may accept as part of the Secured Portfolio from time to time.
ACH	The Australian Clearing House Pty Ltd (ABN 48 001 314 503), or any other body performing substantially the same function as Australian Clearing House Pty Ltd.
Administration	Includes bankruptcy, administration arising out of mental illness or incapacity, administration of an insolvent estate, administration or liquidation of a corporation, scheme of arrangement, receivership or winding up or anything similar.
Agreement	<p>These terms and conditions including:</p> <ul style="list-style-type: none"> • Definitions and interpretation – set out in Part 1; • Facility Provisions – set out in Part 2; • Nominee Provisions – set out in Part 3; • Sponsorship Provisions – set out in Part 4; • Guarantee – set out in Part 5; • General Provisions – set out in Part 6; • Mortgage Terms – set out in Part 7; • Privacy Disclosure and Consent – set out in Part 8; • Direct Debit Services Agreement – set out in Part 9; • Application Form after it is executed by the Borrower and, if applicable, the Guarantor; • any other document executed in connection with any of the parts set out above; • any document executed in connection with the Margin Loan Facility; and • any document which the Lender and the Borrower agree is a “transaction document” under the Agreement. <p>The Parts to which the Borrower and the Guarantor, respectively, agree to be bound, are set out in Clauses 2.4 and 2.5, as applicable.</p>
AML	Anti-money laundering and counter terrorism financing.
Application Form	The form (including an electronic form) used to apply for a Margin Loan Facility as required by the Lender from time to time.
Arrangements	Any arrangements from time to time in place between the Borrower or Guarantor and any of the Lender, the Nominee or the Sponsor.
ASIC	The Australian Securities and Investments Commission.
ASX Settlement	ASX Settlement Pty Ltd (ABN 49 008 504 532) or any other body performing substantially the same function as ASX Settlement Pty Ltd.
ASX Settlement Operating Rules	The operating rules of ASX Settlement Pty Ltd as in force from time to time.
ASX	ASX Limited (ABN 98 008 624 691).
Attorney	An attorney appointed pursuant to the power of attorney in Clause 51 (Power of Attorney).

Term	Meaning
Authorised Person	A Person notified by the Borrower to the Lender from time to time and, if the Borrower is a company (including a company trustee), all of its directors jointly and each of them severally.
Borrower	The applicant for a Margin Loan Facility who the Lender may accept by opening a Loan Account and whose details are set out in the Application Form as a borrower.
Borrowing Request	A request to borrow money in accordance with the Facility Agreement.
Break Costs	The Lender's estimate of all losses and expenses incurred or likely to be incurred by the Lender (including where those costs are imposed by the Lender's Related Body Corporate) in respect of a Fixed Rate Loan being repaid or otherwise altered (whether voluntarily or otherwise) prior to the expiration of the Fixed Term.
Broker	A Market Participant as defined in the ASX Settlement Operating Rules. Generally, a broker is a stockbroker admitted to participate in CHESS under the ASX Settlement Operating Rules.
Buffer	An amount equal to the aggregate of the Market Value of each item of the Secured Portfolio multiplied by a percentage determined by the Lender from time to time in its absolute discretion in respect of that item of the Secured Portfolio. Such percentage may vary according to the item of the Secured Portfolio and may be zero.
Business Day	A day on which the ASX is open for business.
Certificate	A share certificate or other document evidencing title for a Security.
Certificated Security	A Security, title to which is evidenced by a Certificate.
CHESS	Has the meaning given in the ASX Settlement Operating Rules.
CHESS Subregister	Has the meaning given in the ASX Settlement Operating Rules. Generally, the CHESS Subregister is part of the securities register of an entity that is administered by the ASX Settlement.
Company Accounts	Profit and loss accounts, balance sheets and cashflow statements together with any statements, reports (including any directors' and auditors' reports) and notes attached to or intended to be read with any of them.
Controlling Participant	Has the meaning given in the ASX Settlement Operating Rules. Generally, the Controlling Participant is a Person that has the capacity in CHESS to Transfer or convert Securities from a Holding.
Conversion	Has the meaning given in the ASX Settlement Operating Rules.
Corporate Action	Corporate events including a takeover, rights issue, bonus issue, company restructure, return of capital, buy back, exercise of an option, share purchase plan and partly paid call payment.
Corporations Act	The Corporations Act 2001 (Cth).
Corporations Regulations	The Corporations Regulations 2001 (Cth).

Term	Meaning
Costs	Includes: <ul style="list-style-type: none"> • charges, expenses, taxes, duties and fines; • costs, charges and expenses in connection with legal, financial and other advisers on a full indemnity basis; • a proportionate share of the costs and expenses of the Lender (including administration costs and expenses whether imposed by a Related Body Corporate of the Lender or not); • any costs, charges and expenses incurred by the Lender in connection with entering into or terminating any hedging, funding or swap arrangements; and • Break Costs.
Credit Limit	The amount which the Borrower requests, and the Lender agrees in its absolute discretion, to be the maximum amount of credit that may be obtained under the Agreement from time to time.
Dealing	<ul style="list-style-type: none"> • Any payment, or any delivery or handing over of an asset, to; or • any acquisition, incurring of Finance Debt, receipt, sale, lease, disposal or other dealing, by, the Security Owner or any Receiver, Attorney or Authorised Person, or any Person who purports or is purported to be a Receiver or Attorney.
Deposit Account	Any account, term deposit, debenture, managed investment scheme or other financial product which the Security Owner and the Lender agree is a deposit account for the purposes of the Agreement.
Direct Debit Request or DRR	A request made by an account holder for amounts to be debited from a Nominated Account in accordance with the Direct Debit Service Agreement.
Direct Debit Service Agreement	The agreement contained in Part 9.
Event of Default	Any event specified in Clause 44 (Events of Default).
Facility Agreement	The agreement between the Lender and the Borrower the terms and conditions of which are set out in Part 1, Part 2 and Part 6.
Facility Balance	The aggregate of all Loans outstanding from time to time under the Agreement including interest and any other amount added in accordance with the Agreement.
Fee Schedule	The schedule of fees and charges as set out in the Margin Loan Product Guide or as otherwise made available by the Lender from time to time.
Finance Debt	Any material indebtedness (whether actual or contingent) in respect of money borrowed or raised or other financial accommodation.
Financial Adviser	A Person who holds or is authorised under an Australian Financial Services Licence to give financial product advice.
Financial Market	Has the meaning given in the Corporations Act.
Fixed Rate Loan	A Loan or an amount intended to be borrowed by the Borrower where the interest rate is fixed for a Fixed Term.
Fixed Rate	The interest rate applicable to a Fixed Rate Loan as determined by the Lender.
Fixed Term	In respect of a Fixed Rate Loan means a period of time in which the interest rate is the Fixed Rate as determined by the Lender.

Term	Meaning
FOS	Financial Ombudsman Service Limited.
Gearing Adjustment	The Margin Loan Facility is subject to gearing adjustment if, as a result of Clauses 11 (Margining Events and Margin Calls), 12 (Credit Limit), 46 (Material Adverse Event) or 47 (Market Disruption), then Clause 43 (Gearing Adjustment) applies.
Gearing Ratio	The ratio, expressed as a percentage, that the Total Amount Owed bears to the sum of the Market Value of all items of the Secured Portfolio as determined by the Lender from time to time.
General Settlement Participant	Has the meaning given in the ASX Settlement Operating Rules. Generally, it covers Participants admitted to participate in the settlement facility of ASX Settlement.
Government Agency	Any government or any governmental, semi-governmental or judicial entity or authority. It also includes any self-regulatory organisation established under statute or any stock exchange.
GST	The Goods and Services Tax as referred to in the A New Tax System (Goods and Services Tax) Act 1999.
Guarantee	The guarantee and indemnity granted by the Guarantor to the Lender, the terms and conditions of which are set out in Part 1, Part 5 and Part 6.
Guaranteed Money	The money referred to in Clause 32 (Guaranteed Money).
Guarantor	Each Person referred to as a guarantor in the Application Form and each Person who subsequently agrees to become a guarantor in accordance with Clause 50 (Additional Guarantors).
Holder Identification Number or HIN	Has the meaning given in the ASX Settlement Operating Rules. Generally, a HIN is similar to a bank account number and is used to identify the owner of the securities.
Holder Record	Has the meaning given in the ASX Settlement Operating Rules. Generally, the Holder Record contains the details recorded by the ASX Settlement in CHESS for the purpose of operating one or more Holdings on the CHESS Subregister.
Holder Record Lock	Has the meaning in the ASX Settlement Operating Rules. Generally, the Holder Record Lock is a feature in CHESS for preventing securities from being deducted from any current Holding to which the relevant lock applies.
Holding	Has the meaning in the ASX Settlement Operating Rules.
IDPS	An investor directed portfolio service.
Initial Contribution	An amount specified as the initial contribution in the Borrower's application for Instalment Plus, such amount being equal to or greater than any minimum amount determined by the Lender from time to time.
Initial Investment	An amount specified as the initial investment in the Borrower's application for Instalment Plus, such amount being equal to or greater than any minimum amount determined by the Lender from time to time.
Insolvent or Insolvency	A Person who is insolvent or insolvent under administration or has a controller appointed (each as defined in the Corporations Act), is in liquidation, is in provisional liquidation, is under administration, has been wound up, is subject to any arrangement, assignment or composition, is protected from creditors under any statute, has been dissolved (other than to carry out a reconstruction while solvent) or otherwise unable to pay debts when they fall due.
Issuer	In respect of securities listed on the ASX, it has the meaning given in the ASX Settlement Operating Rules. Otherwise, it is an entity that issues or makes available or proposes to issue or make available, unlisted Securities.

Term	Meaning
Instalment Plus or Instalment+	The arrangement described in Clause 13 (Instalment Plus).
Instalment Plus Period	The period determined in accordance with Clause 13.4.
Lender	Leveraged Equities Limited (ABN 26 051 629 282) either in its own capacity or as trustee of any trust (whether disclosed or not to the Borrower or the Guarantor), its successors and any Person it assigns any of its rights to and (if applicable) any replacement or additional trustee of any such trust.
Lender's Representative	Each of the following: <ul style="list-style-type: none"> • the Nominee; • the Sponsor; • any director or secretary of the Lender, the Nominee or the Sponsor; • any employee, agent or contractor whose title includes the word “director”, “head of”, “manager”, “team leader” or “supervisor” of the Lender, the Nominee, the Sponsor or any of their Related Bodies Corporate; • any Assign; and • any other Person nominated by the Lender.
Lending Ratio	The percentage allocated from time to time by the Lender in its absolute discretion to particular items of the Secured Portfolio and, if no percentage is allocated by the Lender for a particular item of the Secured Portfolio, means zero.
Lending Value	In relation to the Secured Portfolio is an amount equal to: <ul style="list-style-type: none"> • the aggregate value of all items of the Secured Portfolio determined on the basis that the value of each individual item of the Secured Portfolio is calculated by multiplying the Market Value of that item by the Lending Ratio for that item; less • any amounts as determined from time to time by the Lender in relation to other arrangements between the Borrower and the Lender in connection with the Margin Loan Facility.
Loan	All or part of the principal amount the Lender advances to the Borrower under the Facility Agreement.
Loan Account	The account established by the Lender in respect of the Margin Loan Facility.
Managed Fund	Any managed funds scheme or managed investment scheme within the meaning of the Corporations Act.
Margining Event	An event, series of events whether related or not or condition that occurs or subsists at any time that the Total Amount Owing exceeds the Lending Value by the Buffer (if any) or more than the Buffer (if any).
Margin Call Agent	An agent of the Borrower who, if they are accepted by the Lender, will receive all Margin Calls on behalf of the Borrower.
Margin Call	Occurs when the Lender records that a Margining Event has occurred or is subsisting and, where required, notice of that record is given.
Margin Loan Facility	The line of credit which may be made available under the Facility Agreement.
Margin Loan Product Guide	The brochure called the margin loan product guide, dated 1 January 2011 or later and issued by the Lender in relation to the Margin Loan Facility.

Term	Meaning
Market Disruption	An event or series or events, whether related or not, that are, in the opinion of the Lender, likely to adversely effect the Lender's ability to manage its risks in relation to the Agreement including: <ul style="list-style-type: none"> • a material disruption to the operation of the ASX or other relevant body; • the All Ordinaries Index or any other major market index (such index to reflect the performance of an asset class to which any of the Secured Portfolio can be associated) falling by a material percentage in any 24 hour period; • a significant increase in the degree by which the All Ordinaries Index or any other major market index typically varies on a daily basis; or • other events as notified by the Lender from time to time including by means of a policy published on the Lender's public website.
Master Value	The value of an item of the Secured Portfolio as determined by the Lender at any time in its absolute discretion.
Master Nominee Deed	The deed so entitled between the Lender as the mortgagee and the Nominee as the nominee.
Master Trust/Wrap	The administrator and/or responsible entity of any master trust, wrap service or IDPS and where the context so requires such master trust, wrap service or IDPS.
Material Adverse Event	An event or series or events, whether related or not, that are in the opinion of the Lender, likely to have a material adverse effect on: <ul style="list-style-type: none"> • the ability of the Borrower or the Guarantor to perform its obligations under the Agreement; • the financial condition or business of the Borrower or the Guarantor; or • the value of or ability to sell or redeem any part or all of the Secured Portfolio. • other events as notified by the Lender from time to time including by means of a policy published on the Lender's public website.
Member	The member of the Qantas Frequent Flyer Program as specified in the Borrower's application for Rewards Plus.
Minimum Interest Balance	An amount equal to \$20,000 or as otherwise notified by the Lender from time to time.
Monthly Contribution	The amount specified as the monthly contribution in the Borrower's application for Instalment Plus, such amount being equal to or greater than any minimum amount determined by the Lender from time to time.
Monthly Investment	An amount specified as the monthly investment in the Borrower's application for Instalment Plus, such amount being equal to or greater than any minimum amount determined by the Lender from time to time.
Mortgage	The mortgage, on the Mortgage Terms, that will come into existence if the Lender accepts the Offer of Mortgage.
Mortgage Terms	The terms and conditions titled "Mortgage Terms" in Part 7.
National Guarantee Fund	Has the meaning given to it in section 889A of the Corporations Act.
Nominated Account	An account with an Australian bank or financial institution specified in the Application Form or as otherwise notified to and accepted by the Lender.

Term	Meaning
Nominated Broker	A Broker; <ul style="list-style-type: none"> • nominated by a Security Owner and accepted by the Lender from time to time; or • who sends a contract note, confirmation or other instruction to the Lender that appears, in the opinion of the Lender, to be a valid instruction from a Security Owner in relation to their part of the Secured Portfolio or Securities or property that are intended to become part of the Secured Portfolio.
Nominated Platform	A Master Trust/Wrap: <ul style="list-style-type: none"> • nominated by a Security Owner and accepted by the Lender from time to time; or • who sends a contract note, confirmation or other instruction to the Lender that appears to the Lender to be a valid instruction from the Security Owner in relation to their part of the Secured Portfolio or Securities or property that are intended to become part of the Secured Portfolio.
Nominated Financial Adviser	The Financial Adviser specified in the Application Form or as otherwise notified by the Borrower and accepted by the Lender.
Nominee	All or any of: <ul style="list-style-type: none"> • Pirie Street Custodian Ltd (ABN 64 004 742 581); • Pirie Street Nominees Pty Ltd (ABN 69 077 851 622); or • such other Person the Lender may nominate from time to time.
Nominee Agreement	The agreement between each Security Owner and the Nominee the terms and conditions of which are set out in Part 1, Part 3 and Part 6.
Notice	Any notice (excluding a Margin Call), certificate, demand, consent and other communication in connection with the Agreement given pursuant to Clause 76 (Notices).
Offer of Mortgage	The offer of mortgage contained in the Application Form or made to the Lender at any time thereafter.
Online Service	The electronic service operated by the Lender, or a Related Body Corporate of the Lender, in accordance with Clause 75 (Online Service).
Overdue Money Rate	The interest rate imposed by the Lender at any time in respect of any overdue monies.
Participant	Has the meaning given in the ASX Settlement Operating Rules. Generally, a Participant is a Person who has the capacity on CHESS to transfer or convert Securities from a Holding.
Participant Sponsored Holding	Has the meaning given in the ASX Settlement Operating Rules. Generally, a Participant Sponsored Holding is a holding of securities on CHESS of a person that has a current sponsorship agreement with a participant on CHESS.
Person	Includes a natural person, partnership, bodies corporate, associations and public authorities.
Plan	Any plan to reinvest dividends, interest or other distributions in respect of the Secured Portfolio.
Points	The points awarded under the Qantas Frequent Flyer Program.
Power	Any power, right, authority, discretion or remedy that is conferred on the Lender, the Nominee, the Sponsor or an Attorney or Receiver by the Agreement or by law in relation to the Agreement.
Privacy Disclosure and Consent	The terms contained in Part 8.

Term	Meaning
Product Disclosure Statement or PDS	The statement called the product disclosure statement, dated 1 January 2011 or later, and issued by the Lender in relation to the Margin Loan Facility in accordance with the Corporations Act.
Qantas	Qantas Airways Limited (ABN 16 009 661 901).
Qantas Frequent Flyer Program	The frequent flyer program operated by Qantas.
Receiver	A receiver or receiver and manager.
Related Body Corporate	Has the meaning given in the Corporations Act.
Responsible Lending Obligations	Means the obligations of the Lender set out in Division 4A of Part 7.8 of Chapter 7 of the Corporations Act and the Corporations Regulations which require the Lender to: <ul style="list-style-type: none"> • make reasonable enquiries about the Retail Borrower's financial situation, including those enquiries prescribed by the Corporations Regulations; • take reasonable steps to verify the Retail Borrower's financial situation; and • assess whether the Margin Loan Facility or an increase in the Credit Limit will be unsuitable for the Retail Borrower having regard to the requirements set out in the Corporations Act and the Corporations Regulations.
Retail Borrower	A natural person who is also a Retail Client.
Retail Client	Has the meaning given in the Corporations Act.
Rewards Plus or Rewards+	An arrangement to award Points to a Member, the mechanics of which are set out in Clause 14 (Rewards Plus).
Rights	All assets, rights, powers and proceeds of any nature at any time attaching to, or arising out of, any part of the Secured Portfolio, including: <ul style="list-style-type: none"> • all money, distributions, interest and dividends; • any proceeds from any disposal, share buyback, redemption, compulsory acquisition, liquidation or scheme or arrangement; • any Security resulting from the conversion, consolidation or sub-division of a Security; • any or right to take-up or Security resulting from an allotment, offer, bonus issue or dividend reinvestment plan; and • any certificate or other evidence of title to any of the above.
Scheduled Time	Has the meaning given in the ASX Settlement Operating Rules.

Term	Meaning
Secured Portfolio	<p>Means each of the following:</p> <ul style="list-style-type: none"> • all Securities that are held with the Sponsor under the Sponsorship Agreement; • all Securities and property (real or personal) that are held by the Nominee on behalf of the Security Owner; • all Securities and property (real or personal) that are held by another entity or Third Party Sponsor on terms acceptable to the Lender, in connection with the Agreement; • all Securities and property (real or personal) that are purchased or refinanced by the Security Owner or by the Nominee on behalf of the Security Owner with the proceeds of a Loan or from a Deposit Account (unless the Lender otherwise agrees); • all Securities and property (real or personal) that the Lender agrees in writing is part of the Secured Portfolio from time to time and on such terms as the Lender stipulates; • all rights of the Security Owner in relation to a Deposit Account including all rights to repayment or redemption of money, rights to interest and rights to distribution of income and property, whether or not the interest or distribution is actually credited to the Deposit Account; • all rights to claim under the National Guarantee Fund; • all Rights; and • if any of the above is held or managed through a Master Trust/Wrap, all of the Security Owner's interest in such Master Trust/Wrap unless otherwise agreed by the Lender.
Securities Licence	A securities dealers licence or an Australian Financial Services licence (as applicable) issued under the Corporations Act.
Security	<p>Means each of the following:</p> <ul style="list-style-type: none"> • shares, stock units or units in the capital of a corporation; • debentures, debenture stock, bonds, notes, convertible notes, units, warrants or other securities created, issued or granted by any corporation, government, unincorporated body or other entity; • a unit or other interest in a trust or partnership; • any interest in Master Trust/Wrap or Managed Fund and other rights the subject of a disclosure document or product disclosure statement under the Corporations Act; • a negotiable instrument; • any other financial product determined by the Lender to be a security for the purposes of the Agreement; and • any right or option in respect of any of the above (whether issued or unissued).
Security Interest	Any security for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power.
Security Owner	Any Person (which can include the Borrower or a Guarantor) who has or will provide a mortgage or any other Security Interest to the Lender over any item of the Secured Portfolio or any other assignment or charge to secure the Total Amount Owing or the Guaranteed Money (as the case may be).
Service Provider	A Person engaged by the Lender to provide services or do something on behalf of the Lender including a mailing house, a provider of information technology services, a debt collection agency, auditor or a solicitor.
Settlement Facility	Has the meaning given in the ASX Settlement Operating Rules.
Settlement Participant	Has the meaning given in the ASX Settlement Operating Rules. Generally, Settlement Participant covers persons that are not Brokers but who satisfy certain eligibility criteria in the ASX Settlement Operating Rules.

Term	Meaning
Sponsor	Pirie Street Custodian Ltd (ABN 64 004 742 581, AFSL 240521) or such other Person as the Lender may nominate from time to time.
Sponsorship Agreement	The agreement between each Security Owner and the Sponsor or the Nominee and the Sponsor, the terms and conditions of which are set out in Part 1, Part 4 and Part 6.
Sponsoring Participant	Has the meaning given in the ASX Settlement Operating Rules. Generally, the Sponsoring Participant is a Participant that establishes and maintains a Participant Sponsored Holding.
Subposition	Has the meaning given in the ASX Settlement Operating Rules. Generally, a Subposition is a facility in CHESS for restricting certain activities in relation to securities under CHESS.
Target Facility Balance	Means the amount specified by the Borrower as the target facility balance in the Application Form or as otherwise notified to the Lender from time to time.
Third Party Sponsor	A Person other than the Sponsor appointed by the Security Owner and approved by the Lender to be the Controlling Participant in relation to any CHESS Holding comprising any part of the Secured Portfolio.
Total Amount Owing	At any time, all moneys the Borrower owes the Lender now or in the future, including, without limitation, and whether or not relating to the Margin Loan Facility or otherwise: <ul style="list-style-type: none"> • money which the Borrower actually does owe or will owe the Lender including money which the Lender has loaned to the Borrower, or agreed to pay for the account of the Borrower, interest, fees, Costs, charges, damages and money owing in respect of any indemnities; • money which the Borrower contingently owes the Lender at that time; and • money which the Borrower may owe the Lender after that time if something happens or becomes known. This applies even if there is no existing obligation to pay it, so long as it arises in relation to circumstances which at that time either exist or can reasonably be foreseen or contemplated.
Transfer	Has the meaning given in the ASX Settlement Operating Rules.
Withdrawal Instructions	Has the meaning given in the ASX Settlement Operating Rules. Generally, Withdrawal Instructions are written or oral instructions from the Security Owner to the Sponsor for the withdrawal of Securities from a Participant Sponsored Holding.
Variable Rate	The interest rate applicable to the Margin Loan Facility that may be varied at any time by the Lender.

2. Interpretation

2.1 This Clause 2 applies in relation to the interpretation of each Part of the Agreement.

2.2 Where a term used in the Agreement is defined in the ASX Settlement Operating Rules or the Corporations Act then, unless that term is otherwise defined in the Agreement, the term has the meaning set out in the ASX Settlement Operating Rules or the Corporations Act, as applicable, as amended from time to time.

2.3 Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

(a) the singular includes the plural and the converse;

(b) a gender includes all genders;

(c) if a party comprises two or more persons:

i reference to a party means each of the persons individually and any two or more of them jointly;

ii a promise by that party binds each of them individually and all of them jointly;

iii a right given to that party is given to each of them individually;

iv a representation, warranty or undertaking by that party is made by each of them individually;

(d) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(e) a reference to a person, trust, partnership, unincorporated body or other entity includes any of them;

(f) a reference to a Part, Clause, section, annexure or schedule is a reference to a part of, clause of, section of, or annexure or schedule to, the Agreement unless otherwise specified;

(g) a reference to a party to the Agreement or another agreement or document includes the party's successors and permitted substitutes or assigns;

(h) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;

(i) a reference to writing includes a facsimile and electronic transmission and any means of reproducing words in a tangible and permanently visible form;

(j) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;

(k) the meaning of terms is not limited by specific examples introduced by including, or for example, or similar expressions;

(l) all references to time are to Sydney time;

(m) no provision of the Agreement may be construed adversely to a party solely on the ground that the party was responsible for the preparation of the Agreement or that provision;

(n) where the Agreement, says that the Lender, the Nominee or the Sponsor may do something then it may choose to do or not do that thing in its absolute discretion, unless the Agreement says otherwise;

(o) where an example is given it does not limit what else is included unless there is express wording to the contrary;

(p) a reference to a document or agreement includes a reference to that document or agreement as extended, novated, altered or replaced from time to time; and

(q) a reference to the "Borrower" or the "Guarantor" includes a reference to the Borrower or the Guarantor both in its capacity as a Borrower or a Guarantor (as the case may be) and as a Security Owner (if applicable).

2.4 The Borrower agrees to be bound by the following:

(a) Facility Agreement;

(b) Nominee Agreement;

(c) Sponsorship Agreement;

(d) Mortgage (if an to the extent the Borrower's Offer of Mortgage is accepted by the Lender);

(e) Privacy Disclosure and Consent;

(f) Direct Debit Services Agreement;

(g) Definitions and Interpretation;

(h) General Provisions;

(i) the Application Form after it is executed by the Borrower;

(j) any other document executed in connection with any of the parts set out above;

(k) any document executed in connection with the Margin Loan Facility; and

(l) any document which the Lender and the Borrower agree is a "transaction document" under the Agreement.

2.5 The Guarantor agrees to be bound by the following:

(a) Guarantee;

(b) Nominee Agreement;

(c) Sponsorship Agreement;

(d) Mortgage (if an to the extent the Guarantor's Offer of Mortgage is accepted by the Lender);

(e) Privacy Disclosure and Consent;

(f) Definitions and Interpretation;

(g) General Provisions;

(h) the Application Form after it is executed by the Guarantor;

(i) any other document executed in connection with any of the parts set out above;

(j) any document executed in connection with the Margin Loan Facility; and

(k) any document which the Lender and the Guarantor agree is a "transaction document" under the Agreement.

Part 2 Facility Provisions

3. Borrowing Money

3.1 If the Borrower wants to borrow money under the Margin Loan Facility it must give the Lender a Borrowing Request. The Borrowing Request must include such information and be given to the Lender in such a manner (including written, electronically or verbally) as the Lender may require from time to time.

- 3.2 If the Borrower wants to change or cancel a Borrowing Request or a deemed Borrowing Request it must provide a Notice to the Lender such that the Lender receives the Notice before it has advanced the money requested. The Lender is not responsible for changing or cancelling any instruction to buy or acquire any Security or property the subject of or related to the changed or cancelled Borrowing Request or deemed Borrowing Request.
- 3.3 Without limiting the generality of Clause 3.5, the Borrower is not entitled to give the Lender a Borrowing Request, unless the following conditions are satisfied:
- the Facility Balance, at the end of the Business Day on which the money is to be advanced, will be, in the opinion of the Lender, less than the lesser of the Credit Limit and the Lending Value;
 - the Borrower has paid the Lender any fees owing to the Lender;
 - the Margin Loan Facility is not subject to Gearing Adjustment;
 - an Event of Default is not subsisting and is unlikely to occur; and
 - the Borrower and the Guarantor have complied with such other conditions as the Lender may reasonably impose and have provided the Lender with all documents or information, both in form and in substance satisfactory to the Lender, as the Lender may require.
- 3.4 The conditions precedent in Clause 3.3 are for the benefit of the Lender only. The Lender may impose any one or more of such conditions to reasonably protect its interests.
- 3.5 Even if everything required under this Clause 3 is done, the Lender may in its absolute discretion decline to advance a Loan. The Lender may in its absolute discretion advance a Loan even if everything required under this Clause 3 is not done.
- 3.6 The Borrower acknowledges that the Lender will not open the Margin Loan Facility or increase the Credit Limit unless the Lender is satisfied that the Lender has complied with its Responsible Lending Obligations. The Borrower acknowledges that the Lender may conduct other assessments before agreeing to open the Margin Loan Facility or increase the Credit Limit.
- 3.7 At all times the Borrower must ensure that the Facility Balance is less than the lesser of the Lending Value and the Credit Limit.
- 3.8 Where, despite Clause 3.7, the Facility Balance exceeds the lesser of the Lending Value and the Credit Limit for any reason, the amount of the excess is immediately due and payable to the Lender and will not result in any change to the Credit Limit. Clause 66 (Interest on Overdue Money) will apply to the amount of any excess.

4. Borrowing to Purchase Listed Securities and Rights

- 4.1 This Clause 4 applies to requests to purchase Securities or Rights which are traded on a Financial Market. The Lender, the Nominee or the Sponsor will not act as a Broker on behalf of any Person.
- 4.2 If the Lender receives a contract note or confirmation from any Broker or Platform relating to the purchase of Securities or Rights on behalf of the Borrower or a Guarantor, the Lender is entitled to treat the contract

note or confirmation as a Borrowing Request for the purposes of Clause 3 (Borrowing Money). The Broker will become a Nominated Broker and the Platform will become a Nominated Platform.

- 4.3 Subject to Clause 3 (Borrowing Money), the Lender may advance a Loan necessary to settle the deemed Borrowing Request by paying the amount as specified in the contract note or confirmation.
- 4.4 Unless otherwise agreed by the Lender, the Securities or Rights purchased under this Clause 4 becomes part of the Secured Portfolio and the Lender is entitled to take such action required to register a Security Interest over the Securities or Rights or otherwise give effect to the Mortgage.

5. Borrowing to Apply for an Unlisted Securities, Property and Rights

- 5.1 This Clause 5 applies to requests to purchase or apply for, Securities, property or Rights which are not traded on a Financial Market.
- 5.2 If the Lender receives and accepts an application form or other document, either from the Borrower, a Guarantor or through any Platform, indicating the intention of the Borrower or Guarantor to purchase or apply for any Securities, property or Rights (the Form), the Lender is entitled to treat the Form as a Borrowing Request for the purposes of Clause 3 (Borrowing Money). The Platform becomes a Nominated Platform.
- 5.3 The Borrower undertakes that it will read, or ensure a Guarantor reads (as applicable), the relevant prospectus, product disclosure statement or offer document relating to the unlisted Security, property or Rights (as the case may be) before the Lender is provided with an application form for the unlisted Security, property or Rights.
- 5.4 Subject to Clause 3 (Borrowing Money), the Lender may advance a Loan necessary to settle the deemed Borrowing Request on or before the settlement date by paying the amount as specified in the Form.
- 5.5 If the Borrower wants to change or cancel a deemed Borrowing Request under this Clause 5 it must, in addition to satisfying the requirements set out in Clause 3.2, provide a Notice to the Lender such that the Lender receives the Notice before it has submitted the Form to the issuer.
- 5.6 Unless otherwise agreed by the Lender, the unlisted Security, property or Rights purchased under this Clause 5 becomes part of the Secured Portfolio and the Lender is entitled to take such action as is required to register a Security Interest over the unlisted Security, property or Rights or otherwise give effect to the Mortgage.
- 5.7 If the application for the unlisted Security, property or Rights is wholly or partly unsuccessful, the Lender will apply any refunded application money less the Lender's own Costs towards the repayment of the Total Amount Owing. Interest is payable on the Loan advanced for the application until the Lender receives any refunded application money and applies it to repayment of the Total Amount Owing.

6. Borrowing to Pay Calls, Instalments and Other Amounts

- 6.1 This Clause 6 applies to requests to pay a call, instalment or other amounts relating to any part of the Secured Portfolio whether that part is owned by the Borrower or a Guarantor.
- 6.2 If the Lender receives and accepts an invoice or other notice, either from a Security Owner directly, any Broker or through any Nominated Platform indicating the obligation of the Security Owner, to pay a call, instalment or other amount in relation to Secured Portfolio, the Lender is entitled to treat that notice as a Borrowing Request for the purposes of Clause 3 (Borrowing Money). The Broker becomes a Nominated Broker.
- 6.3 Subject to Clause 3 (Borrowing Money), the Lender may advance a Loan necessary to settle the deemed Borrowing Request on or before the settlement date by paying the amount as specified in the invoice or other notice.
- 6.4 If the Borrower wants to change or cancel a deemed Borrowing Request under this Clause 6 it must, in addition to satisfying the requirements set out in Clause 3.2, provide a Notice to the Lender in such a manner that the Lender receives the Notice before it has accepted the invoice or other notice.
- 6.5 Unless otherwise agreed by the Lender, any Security, property or Rights acquired under this Clause 6 becomes part of the Secured Portfolio and the Lender is entitled to take such action as is required to register a Security Interest over the Security, property or Rights or otherwise give effect to the Mortgage.

7. Interest

- 7.1 Subject to Clause 8 (Fixed Rate Loan), interest is calculated at the Variable Rate on any debit Facility Balance less the aggregate of any Fixed Rate Loans. Interest accrues daily from the date the Lender advances a Loan to the Borrower, up to and including the date the Borrower fully repays the Total Amount Owed. Interest is calculated daily on any debit Facility Balance on the basis of a 365 day year. The Lender will not pay interest on any credit Facility Balance.
- 7.2 Subject to Clause 7.4, the Borrower must:
- (a) pay interest on the last day of each month;
 - (b) if the Lender agrees, pay interest in advance in accordance with Clause 7.3; or
 - (c) pay interest in a manner agreed with the Lender.
- 7.3 If the Lender agrees that interest is payable in advance, the interest:
- (a) is payable at the start of each interest period unless otherwise agreed by the Lender;
 - (b) will continue for the period for which interest has been paid in advance; and
 - (c) is not refundable unless agreed by the Lender.
- 7.4 If the Lender agrees, the Borrower may elect to capitalise interest to the Loan Account when due for payment. If the Lender agrees to the Borrower's election to capitalise interest, the interest payable will be added to the Facility Balance and the Borrower will then be liable for interest (calculated at the Variable Rate) on that increased Facility Balance. If the Lender does not agree to the Borrower's election then the Borrower must pay interest in accordance with Clause

7.2. Any election to capitalise interest will cease if and to the extent that capitalising interest would cause the Facility Balance to exceed the lesser of the Lending Value and the Credit Limit and the Lender is under no obligation to notify the Borrower before interest capitalisation ceases.

- 7.5 The Borrower agrees that, if at any time the Borrower fails to pay interest when due or, if it is entitled to do so, the Borrower fails to elect to capitalise the interest, the Lender may capitalise the interest to the Loan Account. The Borrower will then be liable for interest (calculated at the Variable Rate unless Clause 3.8 applies) on the capitalised amount. Any amounts capitalised under this Clause 7.5 will not constitute an increase in the Credit Limit, nor is it an agreement by the Lender to a change in the Lending Value, and the Borrower must comply with Clauses 3.7 and 3.8 where applicable.
- 7.6 Notwithstanding anything in this Clause 7, the Lender may at any time and at its absolute discretion change the Variable Rate by giving the Borrower a Notice. Any change will take effect on and from the date specified in the Notice where such date will not be less than 2 Business Day from the date the Notice is deemed to be received by the Borrower pursuant to Clause 76 (Notices).
- 7.7 Notwithstanding anything in this Clause 7, the Lender may at any time and at its absolute discretion change the method of calculation, frequency or method of charging or capitalising interest. The Lender will make the change by giving the Borrower a Notice. Any change will take effect on and from the date specified in the Notice where such date will not be less than 5 Business Days from the date that the Notice is deemed to be received by the Borrower pursuant to Clause 76 (Notices).
- 7.8 The obligation of the Borrower to pay interest does not depend on the Lender notifying the Borrower or obtaining the consent of the Borrower.

8. Fixed Rate Loan

- 8.1 If the Borrower requests the Lender may agree to a Fixed Rate Loan. The Lender will determine the Fixed Rate applicable to the Fixed Rate Loan. There may be more than one Fixed Rate Loan under a Margin Loan Facility at any time.
- 8.2 During the Fixed Term, the Borrower must pay the Lender interest calculated at the Fixed Rate on the amount equal to the agreed Fixed Rate Loan and in accordance with Clause 7 (Interest).
- 8.3 Unless the Lender agrees, the Borrower may not repay or terminate (whether voluntarily or not) a Fixed Rate Loan, or change the method of paying interest before the end of the Fixed Term. If the Lender agrees to any change to the Fixed Rate Loan it may impose additional terms and conditions including, without limitation, the payment of any Break Costs.

9. Minimum Interest Balance

- 9.1 If on any day a debit Facility Balance is less than the Minimum Interest Balance, interest will be calculated at the Variable Rate on the Minimum Interest Balance less any Fixed Rate Loans. Interest on any Fixed Rate Loans forming part of such a Facility Balance will be payable at the Fixed Rate.

9.2 This Clause 9 will apply from the date that is 30 calendar days after the first Loan under the Margin Loan Facility unless otherwise agreed by the Lender.

10. Fees and Charges

10.1 The Borrower must pay the fees and charges as set out in the Fee Schedule applicable to the Margin Loan Facility. All fees and charges must be paid when specified or if no time is specified, upon demand. Fees and charges are not refundable.

10.2 The Borrower acknowledges and agrees that if it repays all of the Facility Balance within 4 months of the start of the first Loan a fee will apply as set out in the Fee Schedule.

10.3 The Borrower agrees that if it does not pay fees and charges when payable the Lender may capitalise the overdue amount to the Loan Account. The Borrower will then be liable for interest (calculated at the Variable Rate unless Clause 3.8 applies) on the capitalised amount. Any amounts capitalised under this Clause 10.3 will not constitute an increase in the Credit Limit, nor is it an agreement by the Lender to a change in the Lending Value, and the Borrower must comply with Clauses 3.7 and 3.8 where applicable.

11. Margining Events and Margin Calls

11.1 If at any time a Margining Event occurs in relation to a Margin Loan Facility, the Lender may record the occurrence of a Margin Call. The Lender makes any record of a Margin Call in Sydney.

11.2 If the Borrower is a Retail Borrower then, as soon as practicable after recording a Margin Call, the Lender must take reasonable steps to notify the Retail Borrower of the Margin Call.

11.3 If the Borrower is not a Retail Borrower then, as soon as practicable after recording a Margin Call, the Lender may, but is not obliged to (except to the extent required by law), take reasonable steps to notify the Borrower of the Margin Call.

11.4 If a Margin Call Agent is appointed by the Borrower and accepted by the Lender, the Lender will, to the extent required under this Clause 11, give any notification of a Margin Call to the Margin Call Agent instead of the Borrower.

11.5 Any notification by the Lender of a Margin Call under this Clause 11 will be in a form determined by the Lender in its discretion (such form may include personal information of the Borrower) and given in the manner agreed in Clause 11.16.

11.6 The date and time specified in the record of Margin Call as the time by which the Borrower must take action under Clauses 11.7 or 11.8, must be not less than 24 hours after the time that the Lender records the Margin Call under Clause 11.1.

11.7 Subject to Clause 43 (Gearing Adjustment) and Clause 11.8, then, by the time and date specified in the record of the Margin Call, the Borrower must pay into the Loan Account, in cleared funds, the shortfall amount specified in the record of Margin Call.

11.8 Subject to Clause 43 (Gearing Adjustment), the Lender may, in its sole discretion, agree that, by the time and date specified in the record of Margin Call, the Borrower can do one or any combination of the following in addition to or instead of complying with Clause 11.7;

(a) give or direct a Guarantor to give to the Lender a Security Interest over additional Securities or property that is satisfactory to the Lender in its sole discretion and that becomes part of the Secured Portfolio;

(b) sell, redeem, or give directions to sell or redeem, some or all of the Secured Portfolio and apply the sale proceeds to the Loan Account, provided that such directions are satisfactory to the Lender in its sole discretion.

The Borrower must, by no later than the time and date specified in the record of Margin Call, provide evidence satisfactory to the Lender that the Borrower has taken the actions agreed under this Clause 11.8.

11.9 Without prejudice to the rights of the Lender under Clause 44 (Events of Default), if the Borrower does not comply with this Clause 11, the Margin Loan Facility will become subject to Gearing Adjustment on and from the date and time set out in the record of Margin Call. If the Margin Loan Facility becomes subject to Gearing Adjustment, then Clause 43 (Gearing Adjustment) applies and the Lender is under no obligation to notify the Borrower or Guarantor that the Margin Loan Facility has become subject to Gearing Adjustment.

11.10 If the Lender exercises any rights under the Agreement which results in any actions, suits, claims, demands, losses, liabilities, damages, costs and expenses (Loss), which may be made or brought against or suffered or incurred by the Lender arising out of or in connection with or as a result of the Lender not receiving such evidence as required under this Clause 11, the Borrower will indemnify the Lender against that Loss (regardless of whether the Lender is negligent).

11.11 The Borrower acknowledges that, subject to the obligations on the Lender set out in the Corporations Act, the Lender is not obliged to record a Margin Call immediately upon a Margining Event occurring and the Lender will not be liable to the Borrower for any loss that the Borrower suffers as a result of any delay between the Margining Event and the Lender recording and giving a Margin Call.

11.12 For the purposes of this Clause 11, the Lender will during any period in respect of which interest is fixed, treat as included in the Total Amount Owed any amount that may become payable under Clause 52 (Indemnities) or Clause 70 (Charges, Expenses and Commission) (including, as a consequence of any hedging, funding or swap arrangements the Lender or the Lender's Related Body Corporate enters into in order to agree a fixed rate of interest with the Borrower).

11.13 If the Lender gives a Margin Call in the manner agreed under Clause 11.16 to the last contact details notified to and accepted by the Lender, then the Borrower, or the Margin Call Agent, as applicable, will be taken to have received the Margin Call notwithstanding that the Borrower, or the Margin Call Agent, as applicable, may not actually receive, read or listen to the Margin Call.

11.14 The Lender is under no obligation to give a Margin Call to any Guarantor, an Authorised Person or Nominated Financial Adviser (unless they are a Margin Call Agent). The Borrower undertakes that it will notify all Guarantors of any Margin Call and if the Margin Loan Facility becomes subject to Gearing Adjustment under this Clause 11.

- 11.15 A subsequent Margining Event may occur before any outstanding Margin Call is resolved. Where this occurs the Lender may record and give another Margin Call in accordance with this Clause 11. There may be more than one Margin Call outstanding at any time.
- 11.16 To the extent the Lender is required to notify the Borrower of a Margin Call under this Clause 11, the Borrower agrees that the Lender may give the Margin Call:
- (a) by publishing the Margin Call through the Online Service and sending a text message to a mobile phone notifying the Borrower of the need to check the status of their account through the Online Service;
 - (b) sending a text message to a mobile phone notifying the Borrower of the need to call contact the Lender (or the Lender's Representative as applicable) to obtain a written copy of the Margin Call;
 - (c) in writing and sent electronically including by email and by facsimile;
 - (d) in writing and sent by post;
 - (e) verbally by telephone; or
 - (f) by hand.
- 11.17 To the extent the Lender is required to notify the Borrower of a Margin Call under this Clause 11, the Lender will determine the method for giving any Margin Call having regard to the Lender's obligations under the Corporations Act, the practicality of giving a Margin Call by a particular method at the time the Margin Call is due to be given and any preference for a particular method indicated by the Borrower.
- 11.18 The Borrower acknowledges that a notice of the occurrence of a Margin Call may contain personal information and that the Borrower (or the Margin Call Agent if applicable) may need to take further actions (for example accessing the Online Service) to retrieve full information about a Margin Call.

12. Credit Limit

- 12.1 If the Facility Balance exceeds, or in the opinion of the Lender is likely to exceed, the lesser of the Lending Value and the Credit Limit then:
- (a) Clause 3.8 will apply; and
 - (b) the Lender may take reasonable steps to give a Notice to the Borrower that the Margin Loan Facility is subject to Gearing Adjustment on and from the date and time specified in the Notice. The date and time specified in the Notice may be less than 24 hours after the time the Lender sends the Notice and will be determined by the Lender as a period reasonably required to protect its interests in the circumstances.
- 12.2 The Margin Loan Facility becomes subject to Gearing Adjustment under this Clause 12 even if the Borrower does not actually receive, read or listen to the Notice and the Lender is under no obligation to notify any Security Owner or Guarantor. Clause 43 (Gearing Adjustment) applies while the Margin Loan Facility is subject to a Gearing Adjustment.
- 12.3 The Lender will not be liable to the Borrower for any Loss suffered by the Borrower or the Guarantor which relates to the Facility Balance exceeding the lesser of the Credit Limit and the Lending Value.

13. Instalment Plus

- 13.1 The Borrower may notify the Lender on the Application Form or by other Notice of its request to use Instalment Plus. The Lender may accept or decline such request in its absolute discretion. If the Lender accepts such request, then this Clause 13 will apply to the Margin Loan Facility for the duration of the Instalment Plus Period.
- 13.2 The Borrower agrees to:
- (a) pay in cleared funds, at the commencement of the Instalment Plus Period, the Initial Contribution into the Loan Account;
 - (b) pay in cleared funds, each month of the Instalment Plus Period, a Monthly Contribution into the Loan Account by direct debit from a Nominated Account;
 - (c) ensure the Securities acquired with the proceeds from Instalment Plus:
 - i comprises only Acceptable Investments which are approved from time to time by the Lender for the purposes of Instalment Plus;
 - ii comprises only Acceptable Investments which are acquired in the number and proportion as set out in the Application Form or other Notice accepted by the Lender; and
 - iii become part of the Secured Portfolio.
- 13.3 Subject to the Facility Agreement, the Lender will advance to the Borrower:
- (a) at the commencement of the Instalment Plus Period, a Loan for an amount equal to the Initial Investment; and
 - (b) each month of the Instalment Plus Period, a Loan equal to the Monthly Investment.
- 13.4 The Instalment Plus Period begins on the date that the Lender accepts the Borrower's request to use Instalment Plus and ends on the earlier of the date:
- (a) the Lender ceases to make Instalment Plus available to the Borrower;
 - (b) the Borrower gives the Lender a Notice and the Lender accepts the Borrower's request to cease using Instalment Plus;
 - (c) the Margin Loan Facility is terminated;
 - (d) the Borrower fails to meet its obligations under this Clause 13; or
 - (e) upon the occurrence of an Event of Default.
- 13.5 If the Borrower's use of Instalment Plus ceases as a result of Clauses 13.4(b), 13.4(c), 13.4(d) or 13.4(e) the Lender is not obliged to give the Borrower a Notice that Instalment Plus has ceased. If the Borrower's use of Instalment Plus ceases as a result of Clauses 13.4(a), the Lender may take reasonable steps to give a Notice to the Borrower. If the Lender notifies the Borrower that Instalment Plus will cease to be available, the date specified in the Notice must not be less than 24 hours after the time that the Lender takes reasonable steps to give the Notice to the Borrower.
- 13.6 If:
- (a) an Event of Default occurs;
 - (b) the Margin Loan Facility becomes subject to Gearing Adjustment; or
 - (c) the Facility Balance will or is likely to exceed the lesser of the Credit Limit and the Lending Value,

the Lender may cease to make Instalment Plus available to the Borrower and is not required to notify the Borrower of any cancellation or suspension.

- 13.7 Clause 9 (Minimum Interest Balance) does not apply during the Instalment Plus Period.

14. Rewards Plus

- 14.1 The Borrower may notify the Lender on the Application Form or by other Notice of its request to use Rewards Plus. The Lender may accept or decline such request in its absolute discretion. If the Lender accepts such request, then this Clause 14 will apply to the Margin Loan Facility.
- 14.2 The Borrower may nominate a Member provided the Member is:
- (a) a natural person and a Borrower (joint Borrowers cannot pool Points);
 - (b) a natural person and a Guarantor; or
 - (c) a natural person and the Nominated Financial Adviser.
- 14.3 If the Lender accepts the Borrower's request to use Rewards Plus, the Variable Rate applicable to the Margin Loan Facility may be higher than the Variable Rate which would apply if Rewards Plus was not used. Any such change to the Variable Rate will apply from the beginning of the month in which the Lender accepts the Borrower's application to participate in Rewards Plus.
- 14.4 Despite anything else in this Clause 14, only a Member may be awarded Points.
- 14.5 The Lender may at any time:
- (a) terminate Rewards Plus in whole or in part;
 - (b) cancel, suspend, change or limit:
 - i the continued awarding of Points in relation to the Lender's products, including the Margin Loan Facility;
 - ii the number of Points awarded; and
 - iii the method of calculating the number of Points to be awarded.
- 14.6 The Lender will make any change under Clause 14.5 by giving a Notice to the Borrower. Any change will take effect on and from the date specified in the Notice which must not be less than 24 hours after the time that the Lender publishes or sends the Notice to the Borrower.
- 14.7 If:
- (a) an Event of Default occurs;
 - (b) the Margin Loan Facility becomes subject to Gearing Adjustment; or
 - (c) the Facility Balance will or is likely to exceed the lesser of the Credit Limit and the Lending Value,
- The Lender may cease to make Rewards Plus available to the Borrower or cancel the awarding of Points and is not required to notify the Borrower or the Member of any cancellation or suspension.
- 14.8 The awarding and redemption of any Points are subject to the terms and conditions of the Qantas Frequent Flyer Program.
- 14.9 A Member who is awarded any Points will be required to pay any taxes (including GST) and any airport related charges (and any GST on those charges) which may be due on any payment required to redeem Points.

- 14.10 Any dispute in relation to awarding of Points must be referred to the Lender. The Lender may adjust any award of Points without notice to the Borrower or the Member.

- 14.11 The Lender will calculate the Points to be awarded monthly. The Lender will arrange to transfer any awarded Points to the Member's Qantas Frequent Flyer account at such intervals as determined by the Lender in its absolute discretion.

- 14.12 The Lender is not liable to the Borrower, the Member or any other Person for the operation of the Qantas Frequent Flyer Program, the redemption of Points or any air travel or other goods or services obtained as a result of the program. Qantas will not be liable to the Borrower or any other Person in relation to the supply of services by the Lender.

15. Target Facility Balance

- 15.1 The Borrower may specify a Target Facility Balance in the Application Form or other Notice to the Lender. Subject to the Facility Agreement and while the Lender consents to the Borrower's election, the Borrower:
- (a) where the Facility Balance is less than the Target Facility Balance:
 - i is deemed to have made a Borrowing Request to borrow such amount as would result in the Facility Balance being an amount as close as reasonably practicable to the Target Facility Balance; and
 - ii directs that the Lender advances such amount to the Deposit Account;
 - (b) where the Facility Balance exceeds the Target Facility Balance:
 - i is deemed to have requested that the Lender direct debit the Deposit Account in accordance with the Direct Debit Service Agreement, with such amount as would result in the Facility Balance being an amount as close as reasonably practicable to the Target Facility Balance; and
 - ii directs that the lender deposit such amount into the Loan Account;
 - (c) agrees the Lender will not be liable to the Borrower, Guarantor, another other holder of the Deposit Account or any other Person for any loss, Cost, damage or expense which they may incur or suffer as a result of this Clause 15 or any failure to take action under this Clause 15; and
 - (d) elects to capitalise interest calculated in accordance with Clause 7 (Interest).
- 15.2 The Lender may at any time withdraw its consent to the Borrower's election under this Clause 15 or may cease to do any of the things in this Clause 15. The Lender is not obliged to notify the Borrower of the withdrawal of its consent.

16. Repayment

- 16.1 The Borrower must repay the Total Amount Owing:
- (a) on expiration of the notice of termination of the Margin Loan Facility under Clause 67 (Termination);
 - (b) immediately up the Lender declaring that the Total Amount Owing is due and payable under Clause 45 (Consequences of an Event of Default); or
 - (c) as otherwise specified in the Facility Agreement.

16.2 Proceeds (if any) from the sale of any part or all of the Secured Portfolio will be applied to the reduction of the Total Amount Owed but may or may not be sufficient to repay the Total Amount Owed in full.

16.3 Lender will not pay interest on any amount repaid in excess of the Facility Balance (a credit Facility Balance).

17. Other provisions

17.1 Other terms and conditions forming part of the Facility Agreement are set out in Part 1 and Part 6.

Part 3 Nominee Provisions

18. Appointment and Role of Nominee

18.1 If the Lender requires the Security Owner to hold any part or all of the Secured Portfolio in the name of the Nominee (the Nominee Portfolio), then:

- (a) the Security Owner will transfer that part of the Secured Portfolio to the Nominee;
- (b) the Nominee Portfolio is part of the Secured Portfolio;
- (c) if the Security Owner does not yet own the Securities or property that will become part of the Nominee Portfolio, it will have the Nominee acquire the Security or property on behalf of the Security Owner;
- (d) the Security Owner accepts that the Nominee will hold the Nominee Portfolio on the Security Owner's behalf in accordance with the terms of the Master Nominee Deed; and
- (e) the Security Owner must pay the Nominee the full amount of the purchase price of Security or property that the Nominee acquires on the Security Owner's behalf.

18.2 The Security Owner acknowledges that the credit provided by the Lender under the terms of the Agreement is not provided as consideration or security for the transfer of any part of the Secured Portfolio to the Nominee.

18.3 For the purposes of avoiding ambiguity the Security Owner acknowledges that different Persons may act as the Nominee in respect of different parts of the Nominee Portfolio at any one time.

18.4 If the Nominee holds the Nominee Portfolio on behalf of the Security Owner, it may, but is not obliged to:

- (a) hold and register the Nominee Portfolio under its own name;
- (b) hold any documents of title for the Nominee Portfolio, or deposit it with the Lender in accordance with the Mortgage;
- (c) give the Lender any information it obtains from the Security Owner or that relates to the Nominee Portfolio;
- (d) exercise the voting power in respect of the Nominee Portfolio in the manner the Security Owner instructs, unless the Lender directs otherwise;
- (e) pay to the Security Owner income earned on the Nominee Portfolio, unless the Lender directs otherwise;
- (f) take up any Rights relating to the Nominee Portfolio unless the Lender directs otherwise. If the consent

of the Lender is required by the Agreement, the Nominee must obtain the Lender's consent first;

- (g) participate in any Plan in respect of the Nominee Portfolio (whether or not the Security Owner requests the Nominee to do so or not to do so);
- (h) appoint the Lender or the Lender's Representative as the attorney of the Nominee for the purpose of doing anything in relation to the Nominee Portfolio which the Nominee could do;
- (i) apply any money held by it on behalf of the Security Owner to satisfy any amount of money that the Security Owner or the Borrower owes the Nominee, the Sponsor or the Lender;
- (j) act on other instructions from the Security Owner except to the extent that those instructions are inconsistent with any instruction from the Lender; and
- (k) do anything else (or refrain from doing anything else) that is necessary for the Borrower, the Security Owner, the Nominee and the Lender to comply with its obligations under the Agreement or the Master Nominee Deed.

19. Obligations of the Security Owner

19.1 In addition to any other obligations the Security Owner has under the Agreement:

- (a) it must pay the Nominee upon request:
 - i the fees and charges as specified from time to time by the Nominee; and
 - ii the costs and expenses of the Nominee in acting on behalf of the Security Owner (this may include taxes, duties, fees or penalties);
- (b) if the Security Owner is obliged to do anything in relation to the Nominee Portfolio under the Agreement, then the Security Owner hereby directs the Nominee to do anything necessary to ensure the Security Owner complies with that obligation;
- (c) it must not direct the Nominee to do anything which is inconsistent with the obligations of the Borrower or Security Owner under the Agreement or the Master Nominee Deed (for example the Security Owner must not direct the Nominee to transfer any part of the Nominee Portfolio to the Security Owner or to another Person); and
- (d) it must not terminate the Nominee Agreement.

Part 4 Sponsorship Provisions

20. Appointment of the Sponsor

20.1 If the Lender requires the Security Owner to hold any part or all of the Secured Portfolio in a Participant Sponsored Holding (the Sponsored Portfolio) with the Sponsor, then:

- (a) the Security Owner appoints the Sponsor to be the Controlling Participant in relation to all CHES Holdings comprising the Sponsored Portfolio (except as may otherwise be agreed by the Lender);
- (b) the Sponsored Portfolio is part of the Secured Portfolio;
- (c) the Security Owner directs the Sponsor to convert or transfer any of Sponsored Portfolio which is an eligible Certificated Holding to a CHES Holding; and

(d) the Sponsored Portfolio of the Security Owner will be identified by the Holder Identification Number (HIN) notified to the Security Owner by CHES.

- 20.2 Any prior sponsorship arrangement between the Security Owner and the Sponsor in relation to the Sponsored Portfolio being a sponsorship arrangement which is in the name of the Security Owner as shown on the Application Form is terminated when the Agreement begins without affecting adversely any rights or obligations that arose before its termination.
- 20.3 For the purposes of avoiding ambiguity the Security Owner acknowledges that different Persons may act as the Sponsor in respect of different items of the Sponsored Portfolio at any one time.

21. About the Sponsor

- 21.1 The Sponsor declares that, as a General Settlement Participant in the settlement facility operated by ASX Settlement, it is the holder of an Australian Financial Services Licence under the Corporations Act which authorises it to carry on such business.
- 21.2 The regulatory regime which applies to the Sponsor is the regulation of the clearing and settlement facility operated by ASX Settlement and ACH under the Corporations Act, the ASX Settlement Operating Rules, the operating rules of ACH and the regulation of financial services licensees under the Corporations Act.
- 21.3 ASX Settlement has not approved, and takes no responsibility for, abilities or qualifications of the Sponsor as a General Settlement Participant.
- 21.4 Information about the status of the Sponsor (as a financial services licensee and a General Settlement Participant) can be obtained from the Australian Securities and Investments Commission and ASX Settlement.

22. Instructions

- 22.1 The Security Owner authorises the Sponsor as agent for them to do any act under CHES relating to the Sponsored Portfolio. The Security Owner directs and authorises the Sponsor to sell, transfer, convert or take other action under CHES in respect of the Sponsored Portfolio, so long as it acts in accordance with the ASX Settlement Operating Rules and:
- (a) the Sponsor has received instructions from the Security Owner, the Nominee, the Authorised Person or anyone else appearing to be authorised by the Security Owner;
 - (b) the Sponsor has received instructions from the Lender in relation to the Sponsorship Agreement, the Agreement or the Mortgage; or
 - (c) otherwise under the Sponsorship Agreement or the Mortgage.
- 22.2 The Sponsor must comply with all of the Lender's instructions in connection with the Sponsorship Agreement, the Agreement, the Sponsored Portfolio or the Mortgage.
- 22.3 The circumstances in which the Sponsor can exercise a power of sale in respect of the Sponsored Portfolio are set out in this Clause 22 and Clause 25 (Protection of the Lender's Security Interest).
- 22.4 Where the Security Owner arranges with ACH to lodge Securities in a Participant Sponsored Holding as cover for written positions in the Australian Options Market, and the Security Owner or the Nominee inform the

Sponsor of the arrangement, the Security Owner authorises the Sponsor to take whatever action is reasonably required by ACH in accordance with the ASX Settlement Operating Rules to give effect to that arrangement.

- 22.5 Without limiting Clause 25 (Protection of the Lender's Security Interest), where the Security Owner arranges with any Person to give a charge or any other interest in Sponsored Portfolio in a Participant Sponsored Holding, the Security Owner authorises the Sponsor to take whatever action is reasonably required by the Person in accordance with the ASX Settlement Operating Rules to give effect to that arrangement.

23. Reliance

- 23.1 The Sponsor may refuse to act on any instruction given by the Security Owner, the Nominee, an Authorised Person or anyone else, if:
- (a) any amount is due by the Security Owner in connection with the Sponsorship Agreement;
 - (b) following the instruction would in the opinion of the Sponsor or the Lender result in the Total Amount Owed exceeding the lesser of the Lending Value or the Credit Limit;
 - (c) following the instruction would cause the Security Owner or any other Person to breach the Agreement;
 - (d) following the instruction would be contrary to the ASX Settlement Operating Rules;
 - (e) any condition in Clause 3 (Borrowing Money), Clause 4 (Borrowing to Purchase Listed Securities and Rights) or Clause 6 (Borrowing to Pay Calls, Instalments and Other Amounts) is not satisfied; or
 - (f) the instruction is not capable of being implemented, for example because the Sponsored Portfolio does not contain sufficient Securities to implement the instruction.
- 23.2 In the event of the death or bankruptcy of the Security Owner, the Sponsor may request any information it reasonably requires in order to identify the Person legally appointed to administer the estate.
- 23.3 The Sponsor is not obliged to Transfer Securities into the Sponsored Portfolio, where payment for those Securities has not been received, until payment is received.

24. Transfer, Conversion and Withdrawal Instructions

- 24.1 Subject to this Sponsorship Agreement, the Sponsor will not initiate any Transfer or Conversion into or out of the Sponsored Portfolio without the express authority of the Security Owner.
- 24.2 Subject to Clauses 22 (Instructions), Clause 24.3 and 25 (Protection of the Lender's Security Interest), the Sponsor will initiate any Transfer, Conversion or an action necessary to give effect to any Withdrawal Instructions within the Scheduled Time.
- 24.3 Where the Sponsor claims that an amount lawfully owed to it has not been paid by the Security Owner, the Sponsor has the right to refuse to comply with the Withdrawal Instructions of the Security Owner, but only to the extent necessary to retain Securities of the minimum value held in the Sponsored Portfolio (where the minimum value is equal to 120% of the current value of the amount claimed).

25. Protection of the Lender's Security Interest

25.1 The Security Owner must exercise all of their respective rights in respect of the Sponsored Portfolio in a manner that will preserve the Security Interest of the Lender in the Sponsored Portfolio and under the Agreement generally. If the Sponsor requests, the Security Owner must:

- (a) take whatever action is reasonably required by the Lender (as mortgagee under the Mortgage) in accordance with the ASX Settlement Operating Rules to give effect to the Mortgage;
- (b) direct that the Sponsored Portfolio be transferred to or at the direction of the Sponsor (or anyone else that the Sponsor nominates);
- (c) direct that the Sponsored Portfolio be converted to a holding that is not controlled by the Sponsor, but that is subject to a reserved Subposition in favour of the Lender and on the terms the Lender specifies; or
- (d) do or refrain from doing anything in connection with the Agreement or the Sponsored Portfolio.

25.2 The Security Owner must seek the Sponsor's consent before exercising a right to reserve or release Securities into or out of a Subposition. The Sponsor may only give its consent if the Lender has agreed to the reserve or release.

25.3 Any sale of or other dealing in a Participant Sponsored Holding by the Sponsor under this Clause 25 will be as the attorney of the Security Owner. The Sponsor is not the Lender's agent.

25.4 The Sponsor is not under any obligation or duty to the Security Owner to sell any Participant Sponsored Holdings when it is able to under the Sponsorship Agreement or to postpone selling. In particular:

- (a) if the Sponsor does not sell when it is able and the market value of the Securities falls; or
- (b) if the Sponsor sells any of the Sponsored Portfolio and the market value of the Securities subsequently rises;
the Sponsor will not be liable to the Security Owner for any losses, costs, damages or expenses which may be suffered by the Security Owner.

26. Acknowledgements by the Security Owner

26.1 The Security Owner acknowledges that:

- (a) neither ASX nor a Related Party of the ASX (including ASX Settlement) has any responsibility for supervising or regulating the relationship between the Security Owner and the Sponsor other than in relation to the ASX Settlement Operating Rules relating to sponsorship agreements;
- (b) the Security Owner has read and understood the explanation of the Sponsorship Agreement which is set out in the Margin Loan Product Guide before it signed the Application Form;
- (c) in the event of the death or bankruptcy of the Security Owner, a Holder Record Lock will be applied to all of its Participant Sponsored Holdings, unless its legally appointed representative or trustee elects to remove its Participant Sponsored Holdings from the CHES Subregister;

(d) in the event of the death of the Security Owner, the Sponsorship Agreement is deemed to remain in operation, in respect of the Person legally appointed to administer the estate of the Security Owner, for a period of up to three calendar months after the removal of the Holder Record Lock under the ASX Settlement Operating Rules, unless the Security Owner's legally appointed representative elects to remove the Sponsored Portfolio from the CHES Subregister;

(e) where the Sponsorship Agreement applies to a joint Participant Sponsored Holding and:

- i one of the Persons being a Security Owner dies:
 - A all Participant Sponsored Holdings under the joint Holder Record will be transferred into new Participant Sponsored Holdings under a new Holder Record in the name of the surviving Participant Sponsored Holder(s); and
 - B the Sponsorship Agreement will be valid for the new Participant Sponsored Holdings under the new Holder Record; and
- ii one of the Persons being a Security Owner becomes bankrupt, the Controlling Participant will:

A unless the legally appointed representative of the bankrupt Participant Sponsored Holder elects to remove the bankrupt's Participant Sponsored Holding from the CHES Subregister:

- establish a new Holder Record and transfer the interest of the bankrupt Holder into new Participant Sponsored Holdings under the new Holder Record established for that purpose;
- request the ASX Settlement to apply a Holder Record Lock to all Participant Sponsored Holdings under that Holder Record; and

B establish a new Holder Record and transfer the interest of the remaining joint Participant Sponsored Holders into new Participant Sponsored Holdings under the new Holder Record established for that purpose,

(f) if the Sponsor makes a transfer from the Sponsored Portfolio under the Sponsorship Agreement pursuant to section 9 of the ASX Settlement Operating Rules, then:

- i the Security Owner may not assert or claim against the ASX Settlement (or the relevant Issuer) that the Sponsor either was not authorised to make the transfer or did not make it; and
- ii the Security Owner does not have a claim arising out of the transfer against the National Guarantee Fund under Part 7.5, Division 4 of the Corporations Regulations unless the transfer is also taken to have been effected by a Market Participant of ASX or a Clearing Participant of ACH;

(g) in the event of the death or bankruptcy of the Security Owner the Sponsor may request any information it reasonably requires in order to identify the Person legally appointed to administer the estate.

26.2 The Sponsor holds the benefit of the acknowledgement in Clause 26.1(f) in trust for the benefit of itself, ASX Settlement and the relevant Issuer.

27. Obligations of the Sponsor

27.1 In the event that the Sponsor is suspended from the Settlement Facility, subject to an assertion of an interest in Securities controlled by the Sponsor, where the assertion is made by either a liquidator, receiver, administrator or trustee of the Sponsor:

(a) the Security Owner has the right, within 20 Business Days of ASX Settlement giving notice of suspension, to give Notice to ASX Settlement requesting that the Sponsored Portfolio be removed either:

- i from the CHESS Subregister; or
- ii from the control of the suspended Sponsor to the control of another Sponsoring Participant with whom the Security Owner has entered into a valid sponsorship agreement pursuant to Rule 12.19.10 of the ASX Settlement Operating Rules; or

(b) where the Security Owner does not give Notice under Clause 27.1(a), ASX Settlement may effect a change of Controlling Participant under Rule 12.19.11 of the ASX Settlement Operating Rules, and the Security Owner will be deemed to have entered into a new sponsorship agreement with the substitute Sponsoring Participant, on the same terms as the existing Sponsorship Agreement. Where the Security Owner is deemed to have entered into a sponsorship agreement, the Sponsoring Participant must enter into a sponsorship agreement with the Security Owner within 10 Business Days of the change of Controlling Participant.

27.2 If the Sponsor breaches the Sponsorship Agreement, or if the Security Owner has a complaint against the Sponsor, the Security Owner may refer the breach or complaint to the ASIC, ASX Settlement, or the FOS.

27.3 The Sponsor must:

- (a) comply with the Corporations Act, all other relevant laws and the ASX Settlement Operating Rules;
- (b) exercise all due care in carrying out its duties and obligations; and
- (c) immediately notify the Lender as the mortgagee if it becomes aware of any fact that might render it unable or ineligible to carry out its duties and obligations.

28. Claims for Compensation

28.1 No compensation arrangements apply to the Security Owner as Participant Sponsored Holder.

28.2 If the Sponsor breaches the Sponsorship Agreement, the Security Owner is not entitled to make a claim on the National Guarantee Fund for compensation.

28.3 If the Security Owner makes a claim for compensation against the Sponsor as the Security Owner's Controlling Participant, the Sponsor's ability to satisfy that claim will depend on its financial circumstances.

28.4 The Sponsor has lodged a Sponsorship Bond with ASX Settlement and the Security Owner may be entitled to make a claim under that Sponsorship Bond.

29. Information and Disclosure

29.1 The Security Owner must provide all information and documents which the Sponsor reasonably requires to:

- (a) establish a Holder Record;
- (b) establish the Security Owner's Participant Sponsored Holding in CHESS under the Sponsorship Agreement;
- (c) conduct the Participant Sponsored Holding as set out in the Agreement and the ASX Settlement Operating Rules;
- (d) enforce the Mortgage or any other right under the Sponsorship Agreement; and
- (e) update any information.

29.2 The Lender and the Sponsor may give each other and any Nominated Broker information concerning the Security Owner. The Security Owner irrevocably consent to this.

29.3 If the Security Owner has given its tax file number to the Lender or the Sponsor, the Security Owner authorise the Lender and the Sponsor to disclose its tax file number (as well as its full name (including its title) and postal address) to ASX Settlement, ACH or any relevant Issuer for any purpose relating to CHESS, the Sponsored Portfolio or the payment of dividends, distributions or other benefits.

30. Variation, Termination and Novation of the Sponsorship Agreement

30.1 To the extent that any provision of the Sponsorship Agreement is inconsistent with the ASX Settlement Operating Rules (due to an amendment of the ASX Settlement Operating Rules or otherwise), the Sponsor may vary the Sponsorship Agreement to the extent necessary in its reasonable opinion to remove the inconsistency. The Sponsor must give the Security Owner and the Nominee at least 7 Business Days notice in writing of the variation.

30.2 Subject to Clause 30.1, the Sponsor reserves the right to vary the Sponsorship Agreement at any time in accordance with Clause 65 (Variation).

30.3 Subject to the ASX Settlement Operating Rules, the Sponsorship Agreement will be terminated upon the occurrence of any of the following events:

- (a) by Notice in writing from the Security Owner to the Sponsor;
- (b) by Notice in writing from the Sponsor to the Security Owner;
- (c) upon the Sponsor becoming Insolvent;
- (d) upon the termination or suspension of the Sponsor; or
- (e) upon the giving of Withdrawal Instructions by the Security Owner to the Sponsor under Clause 30.8.

30.4 Termination under Clause 30.3(a) or 30.3(b) will be effective upon receipt of the Notice by the other party where such receipt is to be determined in accordance with Clause 76.3 (Notices).

30.5 Notwithstanding Clause 30.3(a) or 30.3(b) or anything else in the Agreement, for so long as the Mortgage is in force, the Security Owner undertakes that it will not give notice of termination under Clause 30.3(a).

- 30.6 If the Sponsorship Agreement is terminated, the Security Owner must immediately enter into a replacement sponsorship agreement on terms and with a Controlling Participant acceptable to the Lender.
- 30.7 Clauses 30.2 to 30.6 inclusive have effect notwithstanding any other provision of the Agreement.
- 30.8 If the Security Owner receives a Participant Change Notice from the Controlling Participant of the Sponsored Portfolio and the Participant Change Notice was received at least 20 Business Days prior to the date proposed in the Participant Change Notice for the change of Controlling Participant, the Security Owner is under no obligation to agree to the change of Controlling Participant, and may choose to do any of the things set out in paragraphs (a) or (b) below:
- (a) the Security Owner may choose to terminate the Sponsorship Agreement by giving Withdrawal Instructions under the ASX Settlement Operating Rules to the Controlling Participant, indicating whether it wishes to:
- i transfer its Participant Sponsored Holding to another Controlling Participant; or
 - ii transfer its Participant Sponsored Holding to one or more Issuer Sponsored Holdings;
- (b) if the Securities Owner does not take any action to terminate the Sponsorship Agreement in accordance with Clause 30.8(a) and does not give any other instructions to the Controlling Participant which would indicate that the Security Owner does not agree to the change of Controlling Participant then, on the Effective Date, the Sponsorship Agreement will have been taken to be novated to the New Controlling Participant and will be binding on all parties as if, on the Effective Date:
- i the New Controlling Participant is a party to the Sponsorship Agreement in substitution for the Existing Controlling Participant;
 - ii any rights of the Existing Controlling Participant are transferred to the new Controlling Participant; and
 - iii the Existing Controlling Participant is released by the Security Owner from any obligations arising on or after the Effective Date.
- 30.9 The novation in Clause 30.8(b) will not take effect until the Security Owner has received a notice from the New Controlling Participant confirming that the New Controlling Participant consents to acting as the Controlling Participant for the Security Owner. The Effective Date may as a result be later than the date set out in the Participant Change Notice.
- 30.10 The Security Owner will be taken to have consented to the events referred to in Clause 30.9 by the doing of any act which is consistent with the novation of the Sponsorship Agreement to the New Controlling Participant (for example by giving an instruction to the New Controlling Participant), on or after the Effective Date, and such consent will be taken to be given as of the Effective Date.
- 30.11 The Sponsorship Agreement continues for the benefit of the Existing Controlling Participant in respect of any rights and obligations accruing before the Effective Date and, to the extent that any law or provision of any agreement makes the novation in Clause 30.8(b) not binding or effective on the Effective Date, then the Sponsorship Agreement will continue for the benefit of the Existing Controlling Participant until such time as the novation is effective, and the Existing Controlling Participant will hold the benefit of the Agreement on trust for the New Controlling Participant.
- 30.12 Nothing in Clauses 30.8 to 30.11 inclusive will prevent the completion of CHESS transactions by the Existing Controlling Participant where the obligation to complete those transactions arises before the Effective Date and the Sponsorship Agreement will continue to apply to the completion of those transactions, notwithstanding the novation of the Sponsorship Agreement to the New Controlling Participant under Clauses 30.8 to 30.11 inclusive.

Part 5 Guarantee Provisions

31. What is Guaranteed

- 31.1 By entering into the Guarantee, the Guarantor irrevocably guarantees to the Lender that the Borrower will duly and punctually pay the Lender the Guaranteed Money.
- 31.2 Subject to Clause 31.3, the Guarantor's liability under this Guarantee is unlimited except where the Guarantor is a Security Owner in which case its liability is limited to the amount the Lender obtains by enforcing its rights under the Mortgage in respect of the part of the Secured Portfolio identified by the Lender as being the Guarantor's part subject to Clauses 35 (Effects of Limits on Liability) and 36 (Other Amounts Payable).
- 31.3 The limitation of liability in Clause 31.2 does not apply if:
- (a) the Security Owner is a director of a company which is a Borrower including where the Borrower is a company trustee;
 - (b) the Security Owner has made incorrect statements or has acted fraudulently in connection with the Application Form or the Agreement; or
 - (c) the Lender gives Notice to the Security Owner that it does not apply.
- 31.4 If the Borrower does not pay the Lender any amount of the Guaranteed Money when it is due, the Lender can demand that the Guarantor pay that amount to the Lender. The Guarantor must then immediately pay the Lender that amount, along with any loss, Cost, damage or expense the Lender suffers if the Borrower does not pay the Lender that amount. This can happen as often as the Borrower does not pay the Lender. It can happen even if the Lender does not take action to recover the Guaranteed Money from the Borrower.
- 31.5 If an Event of Default occurs or the Margin Loan Facility becomes subject to Gearing Adjustment, then among other things:
- (a) the Lender can sue the Guarantor; and
 - (b) if the Guarantor is a Security Owner the Lender can enforce the Mortgage.
- 31.6 For the purpose of:
- (a) determining the liability of the Guarantor in relation to the Guaranteed Money and the amount of Guaranteed Money recoverable under the Mortgage and this Guarantee; and
 - (b) making demands and enforcing the Mortgage,
- any limit on the Guarantor's liability under Clause 31.2 will be disregarded, but ultimately the amount the Lender can recover from the Guarantor if Clause 31.5 applies is limited to the amount the Lender obtains by

enforcing its rights under the Mortgage in respect of the part of the Secured Portfolio identified by the Lender as being the Guarantor's part .

- 31.7 The Guarantor gives the Guarantee as consideration for the Lender agreeing to enter into the Arrangements.

32. Guaranteed Money

- 32.1 The Guaranteed Money includes all money which the Borrower may owe to the Lender now or in the future on any account whatsoever whether as principal debtor or as surety and whether pursuant to the Agreement as amended from time to time between the Lender and the Borrower, including, without limitation:

- (a) money which the Borrower actually does owe or will owe the Lender. Examples of this include money which the Lender has loaned to the Borrower, or agreed to pay for the account of the Borrower, and interest, fees, charges and damages;
- (b) money which the Borrower contingently owes the Lender at that time. Money is contingently owed where the Borrower has an obligation to pay the Lender if something happens or becomes known. Examples of this include a guarantee or indemnity given by the Borrower, a promise by the Borrower to pay the legal costs the Lender might pay if the Borrower defaults, or a promise to pay the Lender if the Lender suffers a loss or has to make a payment to someone else;
- (c) money which the Borrower owes or will owe the Lender as a result of a transfer to the Lender of an obligation owed by the Borrower. This includes money contingently owed and money which may become owed later as described in Clause 32.1(b); and
- (d) money (including money of the type set out in the above paragraphs) which the Borrower would have owed the Lender but for some reason as described in Clause 33 (Indemnity). It includes in each case any money which the Borrower may owe together with others.

33. Indemnity by the Guarantor

- 33.1 The Guarantor unconditionally and irrevocably indemnifies the Lender, the Sponsor, the Nominee and their Related Bodies Corporate from and against any and all actions, suits, claims, demands, obligations, liabilities, losses, damages, costs and expenses which have been or may be made or brought against or which have been or may be suffered or incurred by the Lender if the whole or any part of the Guaranteed Money:
- (a) is irrecoverable or has never been recoverable by the Lender from the Borrower or from the Guarantor as surety or guarantor;
 - (b) cannot be enforced against the Borrower or against the Guarantor as surety or guarantor; or
 - (c) is not paid to the Lender for any other reason whatsoever including, without limitation, by reason of:
 - i any legal limitation, disability, incapacity, lack of any power or lack of authority of or affecting any Person;
 - ii any of the Arrangements being void, voidable or unenforceable (whether or not any of the matters or facts relating thereto have been or ought to have been within the knowledge of the Lender); or
 - iii any other fact, matter or thing whatsoever.

- 33.2 The liability of the Guarantor under this Clause 33 is as principal debtor.

- 33.3 Everything described in this Clause 33 applies even if the Lender knew of the problem, or should have known. It applies even if, because of the problem, the Borrower could never have been required to pay the Lender the amount.

34. More than One Guarantor

- 34.1 Each Person is individually liable under the Guarantee for the full amount of the Guaranteed Money up to the limit of that Person's liability as specified in Clause 31 (What is Guarantee), even if:
- (a) a Person named as a Guarantor in the Application Form has not signed the Application Form;
 - (b) one or more of the others is not bound by the Guarantee; or
 - (c) one or more of the others becomes a Guarantor under Clause 50 (Additional Guarantor)
 - (d) one or more of the others in the future stops being liable under the Guarantee (for example, because the Lender releases such Person).
- 34.2 The Lender can demand payment from one or more of such Persons without demanding it from the others.

35. Effects of Limits on Liability

- 35.1 If under Clause 31.2 there is a limit on the liability of the Guarantor under the Guarantee then:
- (a) if the Lender does not recover all of the Guaranteed Money by enforcing its rights under the Guarantee, it cannot sue the Guarantor for the balance or apply to have the Guarantor wound up;
 - (b) the Lender may, however, prove for amounts due to it if someone else has applied to have the Guarantor wound up;
 - (c) the Guarantor is not released from any of its obligations under this Guarantee (it only limits the amount the Guarantor must pay); and
 - (d) the Guarantor may also be required to pay other amounts under Clause 36 (Other Amounts Payable).

36. Other Amounts Payable

- 36.1 In addition to the amount that the Guarantor is required to pay in respect of the Guaranteed Money, the Lender may require the Guarantor to pay (whether or not the liability of the Guarantor is limited):
- (a) interest under Clause 66 (Interest on Overdue) on any amount the Guarantor owes the Lender; and
 - (b) expenses and government charges like stamp duty and other amounts under Clause 70 (Charges, Expenses and Commission).

37. Obligations Unconditional

- 37.1 The obligations of the Guarantor under the Guarantee are unconditional. They are not affected by anything which might release the Guarantor from all or part of its obligations, or limit them, if the Guarantor had not agreed to this Clause 37. For example, the Guarantor continues to be liable even if:
- (a) the Lender does not exercise any of its rights against the Borrower or anyone else;

- (b) the Lender gives the Borrower or anyone else time to pay or any other concession;
- (c) the Lender makes any arrangement or compromise with the Borrower or anyone else;
- (d) the Lender gives the Borrower or anyone else any discharge, or release or limits the Lender's rights;
- (e) the Lender does not take security or accept an offer of security (for example, a mortgage or another guarantee) or does not have security, even if that security was mentioned to the Guarantor;
- (f) this or any other document or security is not signed by any Person or is not binding on any Person;
- (g) the Lender is negligent or mistaken, or breaks any agreement; or
- (h) the Guarantor, the Borrower or anyone else:
 - i who is an individual, dies or goes into some form of Administration;
 - ii who is not an individual (for example, a corporation or partnership), has a change in its constitution or membership or goes into some form of Administration; or
 - iii has any claim against the Lender.

38. Change of Arrangements

- 38.1 The Arrangements may change from time to time and the Guarantor acknowledges that the Lender is not required to obtain the consent of the Guarantor to any change in the Arrangements which is made in accordance with the Agreement. The Guarantee covers moneys owed to the Lender under the changed Arrangements or new Arrangements (which may include new loan agreements or credit contracts with the Borrower or agreements in relation to products linked to the Margin Loan Facility), including where the result is that the amount of the Guaranteed Money is increased.

39. Other Security

- 39.1 If the Lender holds any other Security Interest or right for the Guaranteed Money (for example, a mortgage or another guarantee):
- (a) the Lender does not have to enforce it;
 - (b) the Lender can change it or release or give up all or part of it; and
 - (c) the value or effectiveness of that security or right can be reduced or lost, and the obligations of the Guarantor under the Guarantee will not be affected.

This applies even if that security or right was mentioned to the Guarantor. The Lender need not consider the Guarantor's position. Nor will the obligations of the Guarantor be affected if the security or right is lost, or cannot be enforced.

- 39.2 When the Lender has received all of the Guaranteed Money and all other money the Borrower owes it, the Guarantor may get the benefit of any security or rights the Lender then holds. Until then, the Guarantor has no right to it.

40. Borrower Dies or goes into Administration

- 40.1 If the Borrower or the Guarantor dies or goes into Administration and the Lender can make a claim in the estate or Administration, then:

- (a) the Guarantor promises not to make a claim in that estate or Administration until the Lender has been paid all of the Guaranteed Money; and
- (b) if the Lender receives any amount as a result of making a claim, or for any other reason, the Lender can put it to one side.

- 40.2 The Lender need not use such amount to pay the Guaranteed Money until it has received enough in respect of the Guaranteed Money to pay the Guaranteed Money in full. Until that happens, the Guarantor is fully liable for the Guaranteed Money as though the Lender had received nothing up to the limit of the liability of the Guarantor as specified in Clause 31.2.

41. Continuing Guarantee

- 41.1 The obligations of the Guarantor under this Guarantee are continuing. They apply to all of the Guaranteed Money from time to time even though some of it may have been paid by the Borrower or the Guarantor or anyone else in the meantime.

42. Other Provisions

- 42.1 Other terms and conditions forming part of the Guarantee are set out in Part 6.
- 42.2 The Definitions and Interpretation provisions set out in Part 1 apply to this Guarantee.

Part 6 General Provisions

43. Gearing Adjustment

- 43.1 If for any reason, the Margin Loan Facility becomes subject to Gearing Adjustment, then while the Margin Loan Facility is subject to Gearing Adjustment, the Lender may, but is not obliged to:
- (a) declare that some or all of the Total Amount Owing or Guaranteed Money is immediately due and payable;
 - (b) enforce any Mortgage related to the Margin Loan Facility and take any action permitted by the Mortgage;
 - (c) exercise any of the rights of the Lender under Clause 87 (Powers of the Lender under the Mortgage) of the Mortgage Terms;
 - (d) if it considers it necessary or prudent to do so (so far as the interests of the Lender are concerned), sell more of the Secured Portfolio (including all of the Secured Portfolio) than the minimum required to meet the Borrower's or Guarantor's obligations;
 - (e) sell the Secured Portfolio without first contacting the Borrower, the Security Owner or any other Person (except to the extent required by law);
 - (f) sell the Secured Portfolio in the order, proportion or manner it chooses whether or not the Lender's actions result in additional costs or losses for the Borrower, Guarantor or any Security Owner;
 - (g) do any or all of the things in this Clause 43.1 even if there are outstanding Margin Calls or other outstanding Notices; and
 - (h) do any or all of the things in this Clause 43.1 until the Margin Loan Facility is no longer subject to Gearing Adjustment.

- 43.2 The Margin Loan Facility continues to be subject to Gearing Adjustment until the Lender determines that it is no longer subject to Gearing Adjustment. The Lender may do this after it is satisfied, having regard to the reasonable protection of its interests, that the event or condition that caused the Margin Loan Facility to become subject to Gearing Adjustment no longer exists or has been resolved.
- 43.3 The Lender is not obliged to take any action under this Clause 43, but may do so notwithstanding any waiver of any previous default, and in addition to any other rights or remedies conferred by the Agreement or by law.
- 43.4 If it becomes necessary to sell Securities which are listed for quotation on the ASX, such Securities may be sold through any Broker determined by the Lender at a reasonable brokerage rate agreed between the Lender and that Broker.

44. Events of Default

- 44.1 Each of the following events is an Event of Default (whether or not it is in the control of the Borrower or the Guarantor):
- (a) the Borrower or the Guarantor does not:
- i pay an amount payable under the Agreement or any other agreement with the Lender or any Related Body Corporate when due;
 - ii comply with any non-monetary obligation under the Agreement or any other agreement with the Lender within the period specified, or if no period is specified, within 2 Business Days;
 - iii satisfy, within the stipulated time, any actions the Lender requires the Borrower to undertake pursuant to Clause 11 (Margining Events and Margin Calls); or
 - iv satisfy, within the stipulated time, anything that the Lender made a condition of waiving a breach of the Agreement.
- (b) a representation, warranty or statement by the Borrower or the Guarantor in the Agreement, or in connection with the Agreement, is not true in a material respect or is misleading when made or repeated;
- (c) the Margin Loan Facility is subject to Gearing Adjustment for a period longer than 30 calendar days or as otherwise notified by the Lender;
- (d) any money borrowed or raised by the Guarantor or the Borrower from another Person is not paid when due (or within an applicable grace period), or becomes due and payable (or capable of being declared due and payable) before its stated maturity or expiry;
- (e) a Security Owner terminates or attempts to terminate the Sponsorship Agreement or the Nominee Agreement;
- (f) the Lender is of the opinion that the Borrower or the Guarantor is not capable of managing its affairs;
- (g) the Borrower or the Guarantor dies;
- (h) the Borrower or the Guarantor is Insolvent or steps are taken to make the Borrower or the Guarantor Insolvent, or, if the Borrower and/or the Guarantor are natural persons, the Borrower or the Guarantor commits an act of bankruptcy;
- (i) if the Borrower and/or a Guarantor is a company, a controller (within the meaning of section 9 of the

Corporations Act) or similar officer is appointed to the property of the Borrower and/or the Guarantor;

- (j) any Security Interest granted by the Borrower or the Guarantor becomes enforceable or is enforced over a distress, attachment or other execution is levied or enforced over all or any of the assets and undertaking of the Borrower or the Guarantor;
- (k) if the Borrower or the Guarantor makes the Offer of Mortgage or enters into the Agreement in its capacity as a trustee of a trust (Trust):
 - i it ceases to be the trustee of the Trust;
 - ii a new or additional trustee of the Trust is appointed;
 - iii a resolution is passed to wind-up the Trust or the winding-up or termination of the Trust otherwise commences;
 - iv the Trust is held to be, or the Borrower or the Guarantor concedes that it has not been, constituted or to have been imperfectly constituted;
 - v it ceases to be authorised under the Trust to hold property of the Trust in its name or to perform the obligations under the Agreement;
 - vi it ceases to be entitled to be indemnified out of the assets of the Trust in respect of its obligations under the Agreement or its rights of subrogation or indemnity are limited in any way; or
 - vii the trust deed is amended, terminated or revoked without the prior written consent of the Lender;
- (l) all or any part of the Agreement is terminated or is or becomes void, illegal, invalid, unenforceable or of limited force and effect or the Borrower or the Guarantor allege or claim that this is the case;
- (m) legislation or any law that at any time directly or indirectly:
 - i lessens, varies or affects in favour of the Borrower or Guarantor any obligation under the Agreement; or
 - ii delays, prevents or prejudicially affects the Lender, Nominee or Sponsor or the Attorney exercising any Power;
- (n) in the reasonable opinion of the Lender, the value of the Mortgage or of any of the Secured Portfolio is materially adversely affected;
- (o) the Lender believes that the Borrower or the Guarantor has acted fraudulently in connection with the Agreement or any transaction in relation to the Margin Loan Facility;
- (p) any Master Trust/Wrap, Managed Fund or Third Party Sponsor breaches any agreement with the Lender in relation to the dealing with or control of any of the Secured Portfolio; or
- (q) any event occurs which is deemed to be an Event of Default pursuant to the terms of any Arrangement.

45. Consequences of an Event of Default

- 45.1 In addition to any other rights provided by law or by the Agreement, at any time after an Event of Default, the Lender may do any or all of the following:
- (a) declare all or an amount of the Total Amount Owing or Guaranteed Money immediately due and payable;

- (b) declare the Margin Loan Facility immediately terminated;
- (c) cease to make funds or other facilities (whether monetary or otherwise) available under the Agreement;
- (d) enforce any Mortgage related to the Margin Loan Facility and take any action permitted by the Mortgage;
- (e) employ or discharge any Person as professional Financial Adviser, consultant or Broker for any purpose on such terms as the Lender thinks fit;
- (f) make any arrangement or compromise which the Lender considers expedient in its interests;
- (g) bring or defend any action, suit or legal proceedings in the name of the Borrower or the Guarantor or otherwise, for all or any of the above purposes;
- (h) appoint a Receiver to do any of those things; or
- (i) exercise any of the rights of the Lender under Clause 87 (Powers of the Lender under the Mortgage) of the Mortgage Terms.

45.2 The Lender is not obliged to take any action under Clause 45.1, but may do so notwithstanding any waiver of any previous default, and in addition to any other rights or remedies conferred by the Agreement or by law.

46. Material Adverse Event

- 46.1 Without prejudice to the rights of the Lender under Clause 44 (Events of Default), if a Material Adverse Event occurs then the Lender will take reasonable steps to give the Borrower a Notice that the Margin Loan Facility is subject to Gearing Adjustment.
- 46.2 The Margin Loan Facility becomes subject to Gearing Adjustment under this Clause 46 on and from the date and time specified in the Notice. The date and time specified in the Notice may be less than 24 hours after the time the Lender sends the Notice and will be determined by the Lender as a period that is reasonably required to protect its interests in the circumstances.
- 46.3 The Margin Loan Facility becomes subject to Gearing Adjustment under this Clause 46 even if the Borrower does not actually receive, read or listen to the Notice. The Lender is under no obligation to notify any Security Owner or Guarantor.
- 46.4 Clause 43 (Gearing Adjustment) applies while the Margin Loan Facility is subject to a Gearing Adjustment.

47. Market Disruption

- 47.1 Without prejudice to the rights of the Lender under Clause 44 (Events of Default), if a Market Disruption occurs then the Lender will take reasonable steps to give the Borrower a Notice that the Margin Loan Facility is subject to Gearing Adjustment.
- 47.2 The Margin Loan Facility becomes subject to Gearing Adjustment under this Clause 47 on and from the date and time specified in the Notice. The date and time specified in the Notice may be less than 24 hours after the time the Lender sends the Notice and will be determined by the Lender as a period that is reasonably required to protect its interests in the circumstances.
- 47.3 The Margin Loan Facility becomes subject to Gearing Adjustment under this Clause 47 even if the Borrower

does not actually receive, read or listen to the Notice. The Lender is under no obligation to notify any Security Owner or Guarantor.

47.4 Clause 43 (Gearing Adjustment) applies while the Margin Loan Facility is subject to a Gearing Adjustment.

48. Margin Loan Facility Review

48.1 The Lender may conduct periodic reviews of the standing of the Loan Account and Mortgage and any matters that it considers relevant to the ability of the Borrower or the Guarantor to repay the Total Amount Owing or pay the Guaranteed Money as applicable and the integrity and adequacy of the Mortgage and the Guarantee. If any matter that the Lender considers relevant and material is not satisfactory, the Lender may request that the Borrower or the Guarantor to rectify the matter.

49. Secured Portfolio

- 49.1 At any time, the Lender may determine the Market Value of any part of the Secured Portfolio. The Lender may determine and vary valuation methods and policies for determining Market Values in its absolute discretion. The Lender may give the Borrower information about how it will determine Market Values from time to time but this will not limit the Lender's discretion as to how it determines Market Values.
- 49.2 The Lender may, in its sole discretion, decide whether a Security is an Acceptable Investment.
- 49.3 The Security Owner must exercise all of their respective rights in respect of their part of the Secured Portfolio in a manner that will preserve the Security Interest of the Lender and under the Agreement generally. If the Lender requests, the Security Owner must take whatever action is reasonably required by the Lender (as mortgagee under any Mortgage related to the Margin Loan Facility) to give effect to the Mortgage and its Security Interest.

50. Additional Guarantors

- 50.1 In addition to the Persons named in the Application Form, a new Person may agree to become a Guarantor. If this happens, the Borrower must make sure that the new Person signs such form as may be required by the Lender, becomes a Guarantor and gives the Lender any document or information the Lender reasonably requests and that document or information is satisfactory to the Lender.
- 50.2 Once the new Person becomes a Guarantor under this Clause 50, then the new Person will be treated as though they had been a Guarantor since the Margin Loan Facility was established and will be bound by all the obligations in the Guarantee as though it had existed from the time the Margin Loan Facility was established.

51. Power of Attorney

- 51.1 For valuable consideration and to secure the performance of obligations each of the Borrower and the Guarantor irrevocably appoints the Lender, the Nominee, the Sponsor and any Lender's Representative and their respective Assigns, severally as its attorney (each an Attorney) to do all acts and things:
 - (a) which should be done by the Borrower or the Guarantor under Clause 11 (Margining Events and Margin Calls), Clause 43 (Gearing Adjustment),

Clause 44 (Events of Default), Clause 45 (Consequences of an Event of Default), Clause 46 (Material Adverse Event), and Clause 47 (Market Disruption);

- (b) which are reasonably necessary to give effect to the assignment, transfer, novation or delegation referred to in Clause 72 (Assignment and Novation), and any agreement or variation referred to in Clause 72 (including, without limitation, executing any relevant documents);
- (c) which must or may be done by the Borrower or the Guarantor in connection with the Agreement or any transaction contemplated by it including, without limitation, the execution and delivery of any instrument of assignment, transfer, novation or delegation in accordance with Clause 72 (Assignment and Novation);
- (d) which the Borrower or Guarantor instructs the Attorney to do; or
- (e) which the Lender, the Nominee or the Sponsor are authorised to do under the Agreement or by law, and with full power from time to time to:
 - i appoint or remove a substitute attorney,
 - ii to fill blanks, correct errors, sign, seal and deliver as a deed and execute all documents which the Lender or the Attorney consider necessary, advisable, incidental or expedient in connection with the Agreement or any transaction contemplated by it.

51.2 Without limiting the generality of Clause 51.1, each Attorney may do anything specified in Clause 51.1 with respect to real property in Western Australia, whether being land registered under the Transfer of Land Act 1893 (WA) or otherwise.

51.3 The Borrower and the Guarantor indemnify each Attorney against each claim, action, proceeding, judgement, damage, cost, loss, expense or liability incurred or suffered by or bought or made or recovered against the Attorney in connection with the exercise of any of the powers and authorities conferred by this power of attorney or a fail to exercise any power.

51.4 The exercise by the Attorney of the powers and authorities conferred by this power of attorney does not involve any assumption by that Attorney, or any body in which they are a partner or employed, of personal liability in connection with the exercise of the powers and authorities or the consequences of so doing.

51.5 This power of attorney is intended to take effect as a deed.

51.6 Each of the Borrower and Guarantor acknowledge that:

- (a) the Attorney's appointment is irrevocable, for valuable consideration, and to secure the Lender's, Sponsor's, Nominee's and Assigns (as applicable) rights under the Agreement, including, without limitation, Clause 72 (Assignment and Novation); and
- (b) an Attorney may exercise these powers even if it benefits from the exercise of the power.

51.7 The Borrower and the Guarantor must ratify and confirm any act of an Attorney in exercise of its powers under this Clause 51.

51.8 The exercise by the Attorney of the powers and authorities conferred by this power of attorney does not involve any assumption by that Attorney, any body in which they are a partner or employed, or any Related

Body Corporate of the Lender of personal liability in connection with the exercise of the powers and authorities or the consequences of so doing.

52. Indemnities

52.1 Each Borrower and Guarantor indemnifies the Lender, the Nominee, the Sponsor, their Related Bodies Corporate and each Receiver and Attorney for any actions, suits, claims, demands, losses (including consequential or economic loss and loss relating to hedging, funding or swap arrangements), liabilities, damages, Costs and expenses (including legal costs on a full indemnity basis) that any of them may suffer or incur as a result of:

- (a) any Event of Default and any action taken or not taken under Clause 45 (Consequences of an Event of Default);

- (b) any action taken or not taken under Clause 43 (Gearing Adjustment);

- (c) any actual or contemplated enforcement of the Mortgage or failure to enforce the Mortgage;

- (d) any exercise of any Power or failure or delay in exercising any Power;

- (e) the Lender being obliged, or agreeing, to pay an amount to a trustee in bankruptcy or liquidator (or a bankrupt person or Insolvent company) in connection with a payment by the Borrower or the Guarantor;

- (f) the Lender acting in good faith on instructions it has reasonable grounds to believe have come from the Borrower, the Guarantor or an Authorised Person whether in writing or via facsimile, telephone, email or other electronic means; and

- (g) the Loan or any part thereof being prepaid (whether voluntarily or otherwise).

52.2 It is not necessary for any loss or expense to be incurred before the indemnified Person demands payment under the indemnities given to it in Clause 52.1.

52.3 The indemnities and protections in this Clause 52 are continuing indemnities and protections and are independent of other obligations of the Borrower and the Guarantor under the Agreement (i.e. they do not affect, and are not affected by, such other obligations). They continue after the Lender releases the Mortgage and after the termination or expiry of the Agreement.

52.4 Where the indemnities are given in favour of the Nominee, the Sponsor, Receiver or an Attorney then each of them is entitled to the benefit of this Clause 52, which is entered into and may be enforced on behalf of any of them by the Lender and the Lender will be taken to be acting as the agent and on behalf of each of them for that purpose.

52.5 The Borrower agrees to fully compensate the Lender on demand if the Lender determines that any new or amended law (including without limitation any law which imposes a tax on goods and services), order, official policy, directive or request of any governmental agency, or any change in any interpretation or administration of any law, order, official policy, directive or request of any governmental agency, directly or indirectly:

- (a) increases the cost to the Lender of providing, funding or maintaining the Margin Loan Facility;

- (b) reduces any amount received or receivable by the Lender, or its effective return, in connection with the Margin Loan Facility; or
- (c) reduces the Lender's return on capital allocated to the Margin Loan Facility, or its overall return on capital.

53. Authorised Person

- 53.1 Subject to Clause 53.2, an Authorised Person may:
- (a) give to the Lender, the Nominee or the Sponsor instructions;
 - (b) receive Notices (excluding a Margin Call) from the Lender, Nominee or Sponsor; and
 - (c) to do anything that the Borrower is entitled to do under the Agreement.
- 53.2 The Lender, Nominee or the Sponsor may, in its absolute discretion, refuse to accept any instruction from or give any Notice to an Authorised Person instead of the Borrower.
- 53.3 The Borrower must provide the Lender with the names and specimen signatures of all Authorised Persons.
- 53.4 The Lender, Nominee and the Sponsor may rely on any instruction given by an Authorised Person and which purports to be given on the Borrower's behalf without the need to make any enquiry or otherwise verify the authority of that Authorised Person. The Lender, Nominee and the Sponsor are not obliged to notify a Borrower or a Guarantor or any other Person of any instruction received from an Authorised Person. It is the responsibility of the Borrower to ensure that any Authorised Person acts only in accordance with the instructions of the Borrower. The Lender, Nominee and Sponsor accept no liability for the Authorised Person acting without such authority.
- 53.5 Any change or removal of an Authorised Person is effective only after the Borrower gives written Notice of such change or removal to the Lender.
- 53.6 All instructions from an Authorised Person must be in writing (including by electronic means), bearing the signature of an Authorised Person unless the Lender in its absolute discretion decides to accept instructions from an Authorised Person other than by way of writing.
- 53.7 The Borrower is bound by decisions made and any actions taken or any failure to take action by the Lender, Nominee or Sponsor which is done in reliance on instructions received from an Authorised Person or which appear to have been received from an Authorised Person.
- 53.8 If the Lender, Nominee or the Sponsor gives any Notice to an Authorised Person then the Borrower will be taken to have received such Notice notwithstanding that the Borrower may not actually receive, read or listen to such Notice.

54. Securities Lending Prohibited

- 54.1 The Lender, Sponsor and Nominee will not at any time lend or arrange to lend any part of the Secured Portfolio to any other Person whether they are related to the Lender, Sponsor or Nominee or not.

55. Representations and Warranties

- 55.1 Each of the Borrower and the Guarantor represents and warrants to the Lender as follows:
- (a) the Agreement constitutes valid and binding obligations enforceable in accordance with its terms;
 - (b) if the Borrower or the Guarantor are a body corporate, it is properly incorporated and validly exists;
 - (c) in entering into and performing the Agreement, it has not breached (and will not breach) any law or obligation binding on it;
 - (d) it has provided the Lender with all documents and other information relevant to the assessment of the Lender of whether to:
 - i accept the Offer of Mortgage;
 - ii accept any Guarantee; and
 - iii establish the Margin Loan Facility;
 - (e) any documents and information provided under Clause 55.1(d) is correct and not misleading and are up to date, and in full force and effect;
 - (f) all information provided by it is true in all material respects at the time it enters into the Agreement or, if later, when provided. Neither that information nor its conduct or the conduct of the Authorised Person was or is misleading, by omission or otherwise;
 - (g) no Event of Default or any circumstance that may give rise to an Event of Default has occurred;
 - (h) it has obtained independent financial and legal advice as it thinks fit prior to making the Offer of Mortgage and entering into the Agreement;
 - (i) unless it is making the Offer of Mortgage or entering into the Agreement in the capacity of trustee of a trust (in which case the representations in Clause 55.2 will apply), the Secured Portfolio is beneficially owned by it solely (including held by someone solely on its behalf) and no one else has any rights affecting the Secured Portfolio, other than those under the Agreement or which the Lender has consented to in writing;
 - (j) the Secured Portfolio is free from any Security Interest other than the Mortgage and any Security Interest the Security Owner has notified the Lender in writing prior to making the Offer of Mortgage;
 - (k) it obtains various benefits by entering into, exercising its rights and performing its obligations under the Agreement; and
 - (l) it is able to pay its debts as and when they become due and payable.
- 55.2 In addition to Clause 55.1, if the Borrower or the Guarantor is a company (the Company), it represents and warrants to the Lender as follows:
- (a) it has the power to:
 - i make the Offer of Mortgage;
 - ii enter into the Agreement and perform its obligations under, and carry on the transactions contemplated by, the Agreement;
 - iii carry on its business as it is now conducted or contemplated; and
 - iv there is no restriction or condition upon it doing so;

- (b) no action has been taken or proposed to terminate the Company and as far as it is aware no-one intends to take any such action; and
 - (c) the Company complies with all applicable laws.
- 55.3 In addition to Clause 55.1 and Clause 55.2, if the Borrower or the Guarantor is a trustee of a trust (Trust), it represents and warrants to the Lender in its capacity as trustee of a trust and in its own right as follows:
- (a) it is making the Offer of Mortgage and entering into the Agreement in its personal capacity and also as trustee of the Trust, and for the benefit of the beneficiaries;
 - (b) it has the power under the trust deed (Trust Deed) to:
 - i make the Offer of Mortgage;
 - ii enter into the Agreement and perform its obligations under, and carry on the transactions contemplated by, the Agreement;
 - iii carry on its business as it is now conducted or contemplated;
 - iv own the assets of the Trust, in its capacity as trustee of the Trust; and
 - v there is no restriction or condition upon it doing so;
 - (c) it is the only trustee of the Trust (unless it is a joint trustee) and no action has been taken or proposed to remove it as trustee, revoke any of its powers, or to appoint additional or alternative trustees. As far as it knows, no one intends to take any such action;
 - (d) no property of the Trust has been resettled or set aside or transferred to any other trust;
 - (e) no action has been taken or proposed to terminate the Trust and as far as it is aware no-one intends to take any such action;
 - (f) No event for the vesting of the assets of the trust has occurred;
 - (g) its right of indemnity out of, and lien over, the assets of the Trust have not been limited in any way. Without limitation, it has no liability which may be set off against that right of indemnity;
 - (h) the Trust Deed complies with all applicable laws;
 - (i) it has complied with its obligations and duties under the Trust Deed and at law, and no one has alleged that it has not complied; and
 - (j) the rights of the Lender under the Agreement have priority over the interests of the beneficiaries.

55.4 The representations and warranties set out in this Clause 55 are made when the Borrower and the Guarantor sign the Application Form and are repeated each time a Borrowing Request is made or deemed to be made whether or not the Borrowing Request is accepted by the Lender.

55.5 Each of the Borrower and the Guarantor must tell the Lender immediately if anything happens to make the representations and warranties no longer true and correct or makes them misleading.

56. AML Rules

56.1 The Borrower and the Guarantor each agree that the Lender may:

- (a) require the Borrower and the Guarantor to provide to the Lender, or otherwise obtain, any additional

documentation or other information and perform any acts to enable the Lender to comply with any laws relating to AML or any other law;

- (b) at the absolute discretion of the Lender and without notice to the Borrower or the Guarantor take any action it considers appropriate, including suspending, blocking or delaying transactions and refusing to provide services to the Borrower or the Guarantor to comply with any law relating to AML or any other law and if this occurs the Lender is not liable for any consequences or losses whatsoever as a result of taking any such action; and
- (c) in the absolute discretion of the Lender and without notice to the Borrower or the Guarantor report any, or any proposed transaction or activity to any body authorised to accept such reports relating to AML or any other law.

56.2 Each of the Borrower and the Guarantor undertakes to not knowingly do anything to put the Lender in breach of any laws relating to AML or any other law.

57. Undertakings

57.1 Except to the extent the Lender otherwise consents in writing, each of the Borrower and the Guarantor undertakes as follows:

- (a) to notify the Lender as soon as it becomes aware of any Event of Default or of any circumstance that may give rise to an Event of Default;
- (b) to notify the Lender of any changes to its contact details and acknowledge that any Notice or Margin Call will be sent to the contact details held by the Lender at the time the Margin Call or Notice is given;
- (c) to notify the Lender as soon as it becomes aware of any change in its Authorised Persons, giving the Lender specimen signatures of any new Authorised Person appointed, and if the Lender asks, evidence of the authority of any Authorised Person that is satisfactory to the Lender;
- (d) to notify the Lender as soon as it becomes aware of any circumstance that may cause a Material Adverse Event;
- (e) if it is an individual, or individual entering into the Agreement as trustee of a trust, it will use all money advanced to it under the Agreement wholly or predominantly for business or investment purposes;
- (f) unless it is entering into the Agreement in the capacity of trustee of a trust, not to hold any assets at any time forming part of the Secured Portfolio as the trustee of any trust;
- (g) to fully comply with all laws binding on it;
- (h) to supply to the Lender when requested to do so by the Lender such financial accounts or other information relating to it (or any trust in respect of which it is entering into the Agreement as trustee) as the Lender may from time to time request; and
- (i) to ensure that the accounts and information provided to the Lender under Clause 57.1(h):
 - i comply with current accounting practice except to the extent disclosed in them and with all applicable laws; and
 - ii give a true and fair view of the matters with which they deal.

- 57.2 Except to the extent that the Lender otherwise consents in writing, if the Borrower or the Guarantor is a company it undertakes (in addition to Clause 57.1) as follows:
- (a) to do everything necessary to maintain its corporate existence in good standing and not to transfer its jurisdiction of incorporation or enter any merger or consolidation; and
 - (b) to ensure that any new or existing director of it promptly becomes a party to the Agreement if the Lender asks.
- 57.3 If the Borrower or the Guarantor is the trustee of a trust (the Trust), except to the extent that the Lender otherwise consents in writing, the Borrower or the Guarantor (as the case may be) undertakes (in addition to Clauses 57.1 and 57.2) in its capacity as trustee of the Trust and in its own right as follows:
- (a) to comply fully with its obligations under the Trust Deed and at law;
 - (b) not do anything that would cause or enable its removal, nor retire or cease to act, as trustee of the Trust; and
 - (c) to exercise its right of indemnity from the trust fund and beneficiaries if it needs to, in order to meet its obligations under the Agreement.
- 57.4 Each undertaking in this Clause 57 continues from the date of the Agreement until the Agreement is terminated.

58. Inspection

- 58.1 The Lender or any Person it authorises may inspect and copy the records of the Borrower or the Guarantor relating to the Secured Portfolio at any time. The Borrower and the Guarantor will do everything in their power to assist that inspection and copying and ensure that their respective employees and officers do the same.

59. Exercising the Rights of the Lender

- 59.1 The rights and remedies of the Lender under the Agreement may be exercised by the Lender's Representative or any other Person authorised by the Lender, including a Receiver or Attorney.
- 59.2 No failure to exercise and no delay in exercising a Power operates as a waiver. Nor does any single or partial exercise of a Power preclude any other or further exercise of that or any other Power.
- 59.3 Powers in the Agreement are in addition to, and do not exclude or limit, any right, power or remedy provided by law.

60. Consents and Opinion

- 60.1 Except to the extent expressly stated:
- (a) the Lender may give or withhold, or give conditionally, approvals and consents;
 - (b) where a provision requires the Lender to be satisfied as to something, then the Lender may decide whether or not it is satisfied;
 - (c) the Lender may form opinions; and
 - (d) the Lender may exercise its Powers, in each case in its absolute discretion and without giving reasons for doing so.

61. Limited Liability of Lender

- 61.1 The Borrower and Guarantor acknowledge that actions by the Lender, Sponsor or Nominee in relation to the Margin Loan Facility or the Secured Portfolio depend on:
- (a) other Persons nominated by the Borrower or the Guarantor (including for example a Broker, Nominated Platform, Third Party Sponsor, Nominated Financial Adviser, Authorised Person, the Issuer of any Security acquired or sold by the Security Owner and CHESSE);
 - (b) the processes of these other Persons; and
 - (c) the manner in which these other Persons pass instructions to the Lender on behalf of the Borrower or the Guarantor.
- 61.2 The Borrower and Guarantor also acknowledge that time is critical in relation to the Margin Loan Facility and the Secured Portfolio and that the other Persons nominated by the Borrower or the Guarantor can cause delays in actions by the Lender, Sponsor or Nominee.
- 61.3 The Borrower and Guarantor acknowledge that dealing in the Secured Portfolio or Securities may be affected by market factors beyond the control of the Lender, the Nominee or the Sponsor (including for example minimum transaction amounts, volatile prices and illiquid markets).
- 61.4 The Lender, the Sponsor and the Nominee are not liable in contract, tort (including negligence) or otherwise for any loss, cost, damage or expense which the Borrower or the Guarantor may suffer or incur because:
- (a) the Lender exercises or attempts to exercise, fails to exercise, or delays in exercising a any Power;
 - (b) the Lender realises more of the Secured Portfolio than is needed to reduce the Total Amount Owing to an amount equal to or less than the Lending Value;
 - (c) the Lender declines to advance a Loan;
 - (d) the Facility Balance exceeds the lesser of the Lending Value and the Credit Limit;
 - (e) the Lender realises more of Secured Portfolio than the minimum needed to meet the Borrower's obligations;
 - (f) in regard to the composition of Secured Portfolio which the Lender selects to realise;
 - i if acting in good faith, it realises any Secured Portfolio for an amount less than the market value of that Secured Portfolio at the time of realisation; and
 - ii if it decides not to realise, sell, redeem or fails to realise, sell or redeem the Secured Portfolio within a reasonable time or at all;
 - (g) the Lender allows a Borrowing Request to be cancelled but fails (whether because of its negligence or otherwise) to cancel the request or to cancel the request on time;
 - (h) The price of any Securities changes, or because those Securities cease to be available, before the Lender processes the Borrowing Request; or
 - (i) the Lender does not (whether because of its negligence or otherwise) pay the money in the manner and at the time specified in the Borrowing Request.
 - (j) by the Lender, the Sponsor or the Nominee not acting or not acting promptly in accordance with any request or direction from the Borrower, the Guarantor or the Authorised Person.

62. Payments

- 62.1 Each of the Borrower and the Guarantor must pay any money it owes under the Agreement as follows:
- (a) a payment must be made into the account or at the place the Lender specifies from time to time (and the Lender may specify different places or accounts for different payments);
 - (b) a payment must be made on or before the date it is due. If that date is not a Business Day, then the Borrower must pay the Lender on the previous Business Day;
 - (c) if no other time is specified by the Lender in the Agreement or otherwise, the Lender must receive payment by 10am (Sydney standard time) on the date that payment is due. If the Lender receives a payment from the Borrower after 10am, it may treat it as having been received on the next Business Day; and
 - (d) a payment must be made in full in immediately available Australian dollars irrespective of any amount the Borrower or Guarantor may be obliged by to deduct or withhold.
- 62.2 The Lender may, subject to any express provision in the Agreement to the contrary, appropriate any payment towards the satisfaction of any moneys due for payment by the Borrower or Guarantor in any way that the Lender thinks fit and notwithstanding any purported appropriation by the Borrower or Guarantor.

63. Reinstatement of Rights

- 63.1 Under law, a trustee in bankruptcy or liquidator may ask the Lender to refund or retransfer a payment or transfer the Lender has received in connection with the Agreement. To the extent the Lender is obliged to, or it agrees to, make a refund or retransfer, it may treat the original payment or transfer as if it had not been made. The Lender is then entitled to its rights against the Borrower and the Guarantor under the Agreement as if the payment or transfer had never been made and, if the Lender asks, the Borrower and the Guarantor must do everything necessary to restore to the Lender any Security Interest the Lender held immediately prior to the payment or transfer.

64. Certificates from the Lender

- 64.1 The Lender may give the Borrower or the Guarantor a certificate signed by the Lender or its solicitors about a matter or about an amount payable in connection with the Agreement. The certificate is sufficient evidence of the matter or amount, unless it is proved to be incorrect.

65. Variation

- 65.1 The Lender may at any time vary any of the terms and conditions of the Agreement by an Australian national newspaper advertisement or by giving another form of Notice (including, but not limited to, by newsletter, statement or via the Online Service).
- 65.2 Any variation made under Clause 65.1 will take effect on and from the date the Lender specifies in the Notice where such date will not be less than 14 calendar days from when the advertisement was published or Notice given.
- 65.3 If the Borrower does not wish to continue the Margin Loan Facility and the Arrangements on the terms as

amended under Clause 65.1, the Borrower or Guarantor must repay the Total Amount Owed or the Guaranteed Money as applicable (or such part thereof as may be required by the Lender) in full prior to the date specified in the Notice.

- 65.4 If the Guarantor does not wish to continue the Guarantee on the terms as amended under Clause 65.1, the Borrower or Guarantor must repay the Total Amount Owed or the Guaranteed Money as applicable (or such part thereof as may be required by the Lender) in full prior to the date specified in the Notice.
- 65.5 The Lender may at any time and at its absolute discretion change:
- (a) the list of Acceptable Investment;
 - (b) any percentage used to calculate the Buffer; or
 - (c) any Lending Ratio;
- by giving a Notice to the Borrower. Any change will take effect on and from the date specified in the Notice and will not be less than 24 hours after the Lender publishes or sends the Notice.
- 65.6 The Lender may at any time and at its absolute discretion change:
- (a) the Fee Schedule; or
 - (b) the method used to calculate Market Values
- by giving a Notice to the Borrower. Any change will take effect on and from the date specified in the Notice and will not be less than 5 Business Day after the Lender publishes or sends the Notice.
- 65.7 Any change under this Clause 65 will take effect regardless of whether the Borrower or the Guarantor (if applicable) receives, reads or listens to the Notice.

66. Interest on Overdue Money

- 66.1 The Borrower must pay to the Lender interest on all amounts that from time to time fall due for payment under the Agreement but are unpaid, both before and (as a separate and independent obligation) after any judgment. Such interest will accrue each day from and including the date such amounts fall due for payment until they are paid or satisfied. The Lender will calculate interest on such overdue amounts on the basis of the Overdue Money Rate. The Borrower and the Guarantor must pay such interest on demand.
- 66.2 The Borrower agrees that, if at any time the Borrower fails to pay interest under this Clause 66 when due the Lender may capitalise the interest to the Loan Account. In so doing the capitalised interest will not constitute an increase in the Credit Limit.
- 66.3 The rights of the Lender to interest under the Agreement do not affect the obligations of the Borrower or the Guarantor to make payments to the Lender on time.

67. Termination

- 67.1 The Lender may at any time give the Borrower a Notice of no less than 5 Business Days to terminate the Agreement.
- 67.2 The Borrower may at any time give the Lender a Notice of no less than 5 Business Days to terminate the Agreement.
- 67.3 Termination under this Clause 67 will be effective upon expiry of the notice period referred to in Clauses 67.1 and 67.2. Termination of the Sponsorship Agreement is

subject to the terms of the Sponsorship Agreement and to the extent of any inconsistency between the Sponsorship Agreement and this Clause 67, the Sponsorship Agreement will prevail.

- 67.4 Notwithstanding Clause 67.3, the Agreement will only terminate when:
- (a) the Total Amount Owning (or Guaranteed Money as applicable) has been fully repaid in accordance with the Agreement; and
 - (b) the Lender has discharged the Mortgage.
- 67.5 Termination of the Agreement does not affect any rights or obligations arising before termination.
- 67.6 Clause 67.5 survives termination of the Agreement.

68. Hedging and Conflicts of Interest

- 68.1 The Borrower and the Guarantor acknowledge that the Lender may hedge (including with a Related Body Corporate of the Lender) or otherwise control any liability or risk the Lender has or might have under the Agreement or in relation to the Secured Portfolio by entering into options, futures, contracts, derivatives or any other transaction or financial product.
- 68.2 If the Lender (or its Related Body Corporate) has any right, interest in or entitlement to any Security or Right as a result of this Clause 68, it:
- (a) holds that right, interest or entitlement and any deposit derived from it on its behalf, and not for the Borrower or on behalf of the Borrower or for the Guarantor or on the Guarantor's behalf;
 - (b) can deal with that right, interest or entitlement and any profits derived from it according to its discretion; and
 - (c) is under no duty to account to the Borrower or the Guarantor in relation to that right, interest or entitlement or any deposits derived from it.
- 68.3 The Borrower and Guarantor acknowledge that the Lender, Nominee, Sponsor and their Related Bodies Corporate, their directors, employees or affiliates may buy and sell (whether as principal or agent) Acceptable Investments or Securities related to the Acceptable Investments or the Secured Portfolio.

69. Set-off

- 69.1 In addition to any rights which the Lender may have at law, the Borrower and the Guarantor irrevocably authorise the Lender to set-off and apply any credit balance in any currency (whether or not matured) in any of the Borrower's or the Guarantor's accounts with the Lender or any Related Body Corporate towards satisfaction of any sum at any time due and payable by the Borrower or the Guarantor to the Lender under or in relation to the Agreement. The Lender may exchange currencies to make that application and does not have to give the Borrower or the Guarantor notice before making that application.

70. Charges, Expenses and Commission

- 70.1 When the Lender asks, the Borrower and the Guarantor must pay and/or reimburse the Lender, the Nominee and the Sponsor for:
- (a) the Costs and any expenses the Lender, the Nominee or the Sponsor may incur or become liable to pay in connection with the preparation and execution of the Agreement, and any taxes, duties,

fees or fines the Lender has to pay in connection with the Agreement, and any amounts the Lender pays to any independent consultant, agent, Receiver or solicitor;

- (b) Costs incurred by the Lender, the Nominee or Sponsor, and any Receiver's Costs and remuneration, in exercising any of the Lender's rights or any Receiver's rights under the Agreement including enforcement and termination costs;
 - (c) the Lender's Costs or the Nominees or Sponsor's Costs in responding to any inquiry about the Borrower or the Guarantor from any Government Agency;
 - (d) any tax, duty or government charge on transactions under the Agreement; and
 - (e) the Borrower's or the Nominee's or Sponsor's administrative charges in relation to the Secured Portfolio or certain applications of the money the Borrower borrows from the Lender.
- 70.2 The Lender may share any money the Borrower or the Guarantor gives it, or pay a commission to, any Person it chooses, including any Authorised Person, Nominated Financial Adviser, Nominated Broker, any entity that operates the financial advising or broking group of the Nominated Financial Adviser or Nominated Broker or Service Provider. If the Borrower has been referred to the Lender by a Person, the Person may receive a benefit in relation to the provision of the Loans to the Borrower. The amount of this benefit will be determined by the Lender and the Person. The benefit will have no impact on the amount the Borrower owes.

71. GST

- 71.1 All payments to be made in connection with the Agreement have been calculated without regard to GST.
- 71.2 If all or part of any such payment is the consideration for a taxable supply for GST purposes then, when the Borrower or the Guarantor make the payment:
- (a) the Borrower or the Guarantor must pay the Lender an additional amount equal to that payment (or part) multiplied by the appropriate rate of GST; and
 - (b) the Lender will promptly provide the Borrower or the Guarantor with a tax invoice complying with the relevant GST legislation.
- 71.3 Where under the Agreement the Borrower or the Guarantor are required to reimburse or indemnify the Lender for an amount, the Borrower or the Guarantor will pay the relevant amount (including any sum in respect of GST) less any GST input tax credit the Lender determines that it is entitled to claim in respect of that amount.

72. Assignment and Novation

- 72.1 The rights and obligations of the Borrower and the Guarantor under the Agreement are personal and may not be assigned, transferred, novated or delegated by the Borrower or the Guarantor without the prior written consent of the Lender.
- 72.2 At any time, the Lender, Sponsor, Nominee, or any Assign may introduce any one or more Persons to the Borrower and Guarantor as a nominated assignee, transferee, novatee or delegate (including, without limitation, any securitisation trust or a purchaser of all or a part of the loan portfolio of the Lender) (each such nominated Person being an Assign) to whom all or a part the Lender's, Sponsor's or Nominee's (as

applicable) respective rights and/or obligations under the Agreement are to be assigned, transferred, novated or delegated.

72.3 If the Lender, Sponsor, Nominee, or Assign introduces the Borrower and Guarantor to an Assign then each of the Borrower and Guarantor irrevocably consents and agrees:

- (a) to any such assignment, transfer, novation or delegation (as applicable) even though the identity of the Assign may not be known, or capable of being known, at the date of this Agreement;
- (b) to enter into an agreement with, among others, any Assign as is necessary or desirable to give effect to such assignment, transfer, novation or delegation; and
- (c) (without limiting the Lender's rights under Clause 67 (Termination)) to such variation to this Agreement, and to entry into any agreement contemplated by Clause 72.3(b) on such varied terms, as the Lender, Nominee, Sponsor or Assign, determine in good faith is necessary or desirable to give workable commercial effect to the Agreement following the assignment, transfer, novation or delegation, in particular, but without limitation, where functions of any of the Lender, Nominee or Sponsor under this Agreement or the Mortgage are split among multiple persons.

72.4 The Borrower and Guarantor acknowledge that rights and obligations may be assigned, transferred, novated or delegated (as applicable) multiple times to successive Assigns, and agree that each such Assign has the benefit of this Clause 72.

72.5 Each of the Borrower and Guarantor agree that each of the Lender, Sponsor, Nominee and any Assign may disclose any information or documents it considers necessary to help it exercise the rights set out in this Clause 72. Subject to any exercise of the right of variation under Clause 72.3(c), if the Lender assigns, transfers or novates all or part of its rights as lender under this Agreement, the Total Amount Owing will include all of the Borrower's and the Guarantor's actual and contingent liability to the Assign, whether or not it was incurred before the assignment, transfer or novation or in contemplation of it.

72.6 The Borrower and the Guarantor each acknowledge that it is of fundamental importance to the Lender, Sponsor, Nominee and any Assign (and essential to their ability to provide funding under this Agreement) that they be able to deal with all or part of their rights and/or obligations under this Agreement without restriction and that accordingly intend that the provisions in this Clause 72 operate so as broadly as possible so as to provide the Lender, Sponsor, Nominee and any Assign with maximum flexibility in dealing with rights and obligations under this Agreement.

73. No Merger

73.1 The Agreement does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any guarantee or indemnity or any Security Interest, right or remedy, to which the Lender is entitled at any time; or

- (b) a judgment or order which the Lender obtains against the Borrower or the Guarantor in respect of an amount payable under the Agreement (the Lender can still exercise its rights under the Agreement as well as under the judgment, order, other guarantee or security).

74. Telephone Recording

74.1 The Lender, the Nominee and the Sponsor may record the telephone conversations of the Borrower, the Guarantor, any Authorised Person or other Person giving instructions on behalf of the Borrower or Guarantor to the Lender, or the Nominee or the Sponsor and may use these recordings as they see fit.

74.2 Without limiting the generality of Clause 74.1 the Lender, the Nominee and the Sponsor may record the telephone conversations for any purpose permitted by law from time to time including for quality assurance, as evidence of information the Lender has provided, of instructions given or as evidence of business transactions with or without an audible tone warning device.

74.3 To the extent permitted by law, the Lender, the Nominee and the Sponsor may keep the recordings for as long as it wishes.

75. Online Service

75.1 The Online Service will be provided via the internet, but can be expanded to include other modes of electronic communication.

75.2 Access to the Online Service is granted by use of a facility access code and a password or by such other security procedure the Lender may have in place from time to time.

75.3 Any Person who receives a facility access code from the Lender is responsible for the confidentiality of all passwords.

75.4 Any action or request made via the Online Service will be taken to have been made by the Borrower or the Security Owner (as the case may be), and the Lender may rely on that action or request.

75.5 The Facility Balance, Secured Portfolio, Market Value, any indicators of the status of the Margin Loan Facility, and any other information set out via the Online Service may not reflect recent transactions, represent the actual status of the Margin Loan Facility or represent a price at which the Secured Portfolio can be bought or sold.

75.6 The Lender is not obliged to update or correct any errors in the information after the date of publication and the Lender will not be responsible for any action which any Person with access to the Online Service takes or refrains from taking based on information in the Online Service which is inaccurate or out of date.

75.7 Specific terms of use are published on the Online Service. In addition to this Clause 75, any Person's use of the Online Service is subject to those terms as amended from time to time.

75.8 The Lender may vary these terms of use at any time after giving a Notice to the Borrower and such Notice may be given through the Online Service.

75.9 The Lender may suspend access to the Online Service or cease to make the Online Service available at any time without notice.

76. Notices

- 76.1 A Notice given by the Borrower, the Guarantor, an Authorised Person or any another Person connected to the Margin Loan Facility, to the Lender, the Sponsor or the Nominee must, unless otherwise provided in the Agreement or agreed by the Lender, the Sponsor or the Nominee (as applicable) in its absolute discretion:
- (a) be in writing and signed by a person duly authorised by the sender; and
 - (b) delivered by prepaid post or by hand or fax to the address or fax number last notified by the intended recipient to the sender.
- 76.2 A Notice given by the Lender, the Sponsor or the Nominee may be given (unless otherwise specified in the Agreement or expressly prohibited by statute):
- (a) by publishing the Notice on the Online Service, the Lender's public website or Australian national newspaper advertisement;
 - (b) in writing and sent by post including a message on or with the Borrower's statement;
 - (c) in writing and sent electronically including by email; short text message to a mobile phone and by facsimile;
 - (d) verbally by telephone; or
 - (e) by hand.
- 76.3 A Notice given in accordance with this Clause 76 or as otherwise specified in the Agreement and a Margin Call given in accordance with Clause 11 (Margining Events and Margin Calls) will be taken to have been made and received (unless otherwise specified in the Notice):
- (a) if it is delivered by hand, when delivered ;
 - (b) if given verbally by telephone, when the sender makes the telephone call and speaks to the recipient or leaves a message on the relevant answering machine or voicemail service;
 - (c) if sent electronically (except by facsimile), when the sender transmits the message;
 - (d) if sent by facsimile, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number or name of recipient and indicating that the transmission has been made without error;
 - (e) if sent by post, on the 3rd day after posting; or
 - (f) if published, 24 hours after it was published.
- 76.4 The Lender, the Nominee and the Sponsor may act on telephone instructions before receipt of any written confirmations and their record of the telephone conversation will be conclusive evidence of such instructions.
- 76.5 A Notice given by the Lender, the Sponsor or the Nominee in accordance with this Clause 76 or as otherwise specified in the Agreement and a Margin Call given in accordance with Clause 11 (Margining Events and Margin Calls):
- (a) is properly given or made if it is sent to the contact details held by the Lender at the time the Notice was given;
 - (b) need not be signed;
 - (c) does not depend on the intended recipient actually receiving, reading or listening to the message; and

- (d) does not depend on the sender obtaining confirmation that the message has been transmitted, received or read and the sender will not be required to take further action even if a subsequent "Out of Office" or similar message is received.

- 76.6 The Borrower must access the Online Service at reasonable intervals to receive information the Lender provides through the Online Service and must monitor and ensure that any Authorised Person or Margin Call Agent monitors the contact details provided to the Lender on a regular basis to ensure that they are aware of all communications from the Lender.
- 76.7 The Lender is not required to give a Margin Call to anyone other than the Borrower or the Margin Call Agent if applicable. The Lender is not required to give any Notice to any other Person except as specified in the Agreement.

77. Accuracy of Information

- 77.1 All the information the Lender provides is provided in good faith and has been derived from sources which the Lender believes to be reliable and accurate but the Lender has not verified all of the information, which may not be complete or accurate for the purposes of the Borrower or the Guarantor. However, subject to the provisions of any law which limits the Lender and cannot be excluded (for example, in certain circumstances, the Trade Practices Act (1974) (Cth)):
- (a) the Lender makes no representation or warranty of any kind for the accuracy or completeness of the information it provides in the statements it issues or which the Lender provides through the Online Service;
 - (b) the Lender is under no obligation to update or correct any errors or omissions in the information it provides after it has been provided;
 - (c) the Lender and its directors, employees and associates do not accept any responsibility arising in any way (including by reason of negligence) for errors in, or omissions from, the information the Lender provides and the Lender does not accept any loss or damage however caused, as a result of any person relying on any information it provides; and
 - (d) the Borrower or the Guarantor must check any information which the Lender provides in respect of the Margin Loan Facility or the Arrangements and advise the Lender promptly if the information is incorrect or inaccurate.

78. Moratorium on Legislation

- 78.1 To the full extent permitted by law, all legislation that at any time directly or indirectly:
- (a) lessens, varies or affects in favour of the Borrower or Guarantor any obligation under the Agreement; or
 - (b) delays, prevents or prejudicially affects the Lender, Nominee or Sponsor or the Attorney exercising any Power,
- is excluded from the Agreement.

79. No Reliance

79.1 The terms of the Agreement supersede any prior representation, promise, or statement (whether contained in any brochure, correspondence or otherwise) made by the Lender or any officer, employee or agent of the Lender or its Related Body Corporate to the Borrower, the Guarantor or their respective representatives or agents. The Borrower and the Guarantor acknowledge and warrant that they have not relied on any representation, statement or conduct of the Lender except as set out in the Agreement in entering into the Agreement or making the Offer of Mortgage.

80. Components of the Agreement

80.1 If required by law or if otherwise necessary or convenient the Lender may (without giving any notice to and without obtaining the consent of the Borrower or the Guarantor), treat one or more components of the Agreement as a separate agreement.

80.2 If a provision of any of the Agreement is capable of being read down and doing so would prevent the Agreement, the Mortgage or that provision being illegal or unenforceable, that provision is to be read down to the extent necessary to prevent the Agreement or that provision being illegal or unenforceable.

80.3 If, despite Clause 80.2, a provision of the Agreement is illegal or unenforceable:

- (a) and it would be legal and enforceable if a word or words were omitted, that word or those words are severed; and
- (b) in any other case,

the whole provision is severed, and the remainder of the Agreement continues in force.

81. Applicable Law

81.1 The Agreement is governed by the law in force in New South Wales. All the parties to the Agreement submit to the non-exclusive jurisdiction of the courts of New South Wales.

81.2 Any document in a court action may be served on any party to the Agreement by delivering it to, or leaving it at, the address given to the party taking the action, or such other address as is agreed by the party being served. This Clause 81 does not prevent any other method of service.

82. No Fiduciary Relationship

82.1 Nothing in the Agreement creates a fiduciary relationship between the Borrower or Guarantor and the Lender.

82.2 The Borrower and the Guarantor agree that the Lender is not obliged to consider the interests of the Borrower or the Guarantor and in particular that the Lender:

- (a) is not obliged to monitor any changes in the markets on which the Secured Portfolio is traded which may effect the value of the Secured Portfolio;
- (b) is not obliged to notify the Borrower or the Guarantor of any changes in the markets on which the Secured Portfolio is traded which may effect the value of the Secured Portfolio;
- (c) has no greater liability in relation to any requirement to notify the Borrower of a Margining Event than that set out in the Corporations Act;

(d) may but is not obliged to take any steps to sell any or all of the Secured Portfolio if a Margining Event occurs or the Margin Loan Facility becomes subject to Gearing Adjustment;

(e) is not liable to the Borrower or the Lender if, after taking steps to sell any or all of the Secured Portfolio under the terms of the Agreement, there is an improvement in the market that would render the sale of the Secured Portfolio unnecessary or undesirable.

83. Entire Agreement

This Agreement states all the express terms of the agreement between the parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

Part 7 Mortgage Terms

84. What is Mortgaged

84.1 The Security Owner mortgages to the Lender all of its right title and interest, both present and in the future, to, under or derived from the Secured Portfolio in accordance with these Mortgage Terms.

84.2 The Mortgage secures:

- (a) in respect of the Security Owner where the Security Owner is the Borrower, the due and punctual payment of the Total Amount Owning; and
- (b) in respect of the Security Owner where the Security Owner is a Guarantor, the due and punctual payment of the Guaranteed Money, the due and punctual payment of all money payable by the Guarantor under the Agreement as a principal obligor and the due and punctual compliance with the Arrangements.

84.3 The Mortgage is a continuing security, despite any settlement of account, intervening payment or anything else, until the Lender has given the Security Owner a final discharge of the Mortgage.

84.4 No Power and nothing in the Mortgage merges in, or in any other way prejudicially affects or is prejudicially affected by, any other Security Interest or any judgment, right or remedy against any Person that the Lender may have at any time.

84.5 Where Secured Portfolio is contributed by more than one person whether under the Mortgage or under another Mortgage taken to secure the Total Amount Owning or the Guaranteed Money, then the Lender may:

- (a) identify the Secured Portfolio as relating to any Person, by any method it determines from time to time; and
- (b) enforce the Mortgage against the Secured Portfolio of any Person in such order as the Lender determines from time to time.

85. Effect of Mortgage

85.1 Where the Security Owner is the Borrower:

- (a) it must duly and punctually pay the Total Amount Owning; and

- (b) if an Event of Default occurs or the Margin Loan Facility becomes subject to Gearing Adjustment, the Lender may demand that the Security Owner pay all or any of the Total Amount Owed at any time the Lender requests it.
- 85.2 Where the Security Owner is a Guarantor:
- (a) it must duly and punctually pay the Guaranteed Money and it must duly and punctually pay all money payable by the Guarantor under the Agreement as principal obligor; and
- (b) if an Event of Default occurs or the Margin Loan Facility becomes subject to Gearing Adjustment, the Lender may demand that the Security Owner pay all or any of the Guaranteed Money and any or all money which is payable by the Guarantor under the Agreement as principal obligor at any time the Lender requests.
- 85.3 While the Mortgage is in effect, the Security Owner must give the Lender or the Nominee possession of all documents of title to interests in (or that evidence) the Secured Portfolio.
- 85.4 The Security Owner must:
- (a) carry out on time all of the obligations in connection with the Secured Portfolio and comply with all directions, requests or requirements of Government Agencies relating to the Secured Portfolio;
- (b) pay all calls, instalments and other amounts payable in respect of the Secured Portfolio;
- (c) immediately after becoming aware of any Rights, provide the Lender or a Person it nominates with particulars of the Rights;
- (d) take up Rights in respect of the Secured Portfolio if the Lender asks the Security Owner to do so (the Lender will only ask the Security Owner to do this if it believes failure to take up Rights would make the Secured Portfolio significantly less valuable);
- (e) if the Lender asks, give the Lender a copy of all documents the Security Owner receives as holder of, or in connection with the Secured Portfolio;
- (f) if the Security Owner becomes aware of any defect in its ownership of the Secured Portfolio, immediately take steps to rectify it;
- (g) not do anything, or fail to do anything, that the Lender thinks would have a material adverse effect on the Secured Portfolio or its interest in it;
- (h) if the Lender asks, ensure that the Person the Lender nominates becomes and remains a signatory to any Deposit Account or any account for monies on deposit or cash management account which forms part of the Secured Portfolio; and
- (i) comply with any conditions the Lender attaches to any approvals or consents it gives to the Security Owner in connection with the Mortgage.
- 85.5 Unless the Lender consents, the Security Owner may not:
- (a) create or allow to exist any Security Interest over any Secured Portfolio; or
- (b) in any other way:
- i dispose of any Secured Portfolio;
- ii create or allow any interest in any Secured Portfolio; or
- iii part with possession of any Secured Portfolio.
- 85.6 Where by law the Lender may not restrict the creation of any Security Interest over an asset ranking after the Mortgage, Clause 85.5 will not restrict that creation. The Security Owner must ensure that before the Security Interest is created the holder of that Security Interest enters into a deed of priority in accordance with Clause 90 (Subsequent Security Interest).
- 85.7 The Security Owner must get the consent of the Lender before it:
- (a) takes steps to change any of the Secured Portfolio that are Certificated Securities to uncertificated securities (or vice versa);
- (b) closes, varies the terms of, or changes the signatories to, any Deposit Account or any account for monies on deposit or any cash management account which forms part of the Secured Portfolio; or
- (c) waives any of the rights of the Security Owner or releases any Person from its obligations in connection with the Secured Portfolio.
- 85.8 In respect of any warrant or option (being a warrant or option over Securities) which forms part of the Secured Portfolio:
- (a) the Security Owner acknowledges that the Lender will not be, and cannot be held to be, aware of the terms of issue nor any requirement upon the Security Owner to act or do anything prior to the expiry of the warrant or option held as Secured Portfolio; and
- (b) the Security Owner acknowledges that the Lender will not assume any obligations of or to the issuer of the warrant, option or other Security, including, but not limited to, seeking any instruction from the Security Owner regarding any action required in dealing with the warrant, option or Security prior to expiry or otherwise.
- 85.9 If at any time the Lending Value exceeds the Total Amount Owed, the Security Owner may request that the Lender release part of the Secured Portfolio.
- 85.10 The Lender is not obliged to release any of the Secured Portfolio, but may do so in its absolute discretion if it is satisfied that after the release, the Lending Value will be, and is likely to remain, greater than the Total Amount Owed.
- 85.11 The Lender, any of the Lender's Representatives, any Receiver or Attorney may complete any document which at any time is executed by the Security Owner or on behalf of the Security Owner and deposited with the Lender or the Nominee. Such documents may be completed in favour of any Person.
- 86. Master Trusts/Wraps and Managed Funds**
- 86.1 If any of the Secured Portfolio is held, managed or sponsored through a Master Trust/Wrap, a Managed Fund or a Third Party Sponsor, the Security Owner acknowledges and agrees that:
- (a) it has read and understood all aspects of the arrangements and documentation entered into with the Master Trust/Wrap, Managed Fund or Third Party Sponsor including but not limited to any share service investor guide, IDPS investor guide, IDPS offer document, application form and all other related material, and the effect thereof;

- (b) if it wishes to purchase, hold or borrow against listed shares held through the Master Trust/Wrap share service, the Sponsoring Participant in CHESS will be a Person specified by the Master Trust/ Wrap or Managed Fund;
- (c) its rights under the arrangements it has entered into with the Master Trust/Wrap, Managed Fund or Third Party Sponsor in relation to the Secured Portfolio and any documentation issued by a Master Trust/Wrap, Managed Fund or Third Party Sponsor are subject in all respects to the rights of the Lender under the Agreement;
- (d) it hereby authorises the Lender to give instructions to the Master Trust/Wrap, Managed Fund, or Third Party Sponsor in relation to the Secured Portfolio to the same extent that the Security Owner is entitled to do so, and the terms of the power of attorney in the Agreement apply fully to any instructions the Lender may give the Master Trust/ Wrap, Managed Fund or Third Party Sponsor; and
- (e) in order to comply with instructions given by the Lender, the Master Trust/Wrap, Managed Fund or Third Party Sponsor may be required to act as agent for the Lender in a manner contrary to the interests of the Security Owner and, as a result of the authorisations given under Clause 86.1, may be relieved of any fiduciary duties it may owe the Security Owner.

86.2 If any of the Secured Portfolio is held or managed through a Master Trust/Wrap, Managed Fund or Third Party Sponsor, the Security Owner irrevocably authorises and directs the Master Trust/Wrap, Managed Fund or Third Party Sponsor to;

- (a) note the interest of the Lender as mortgagee of;
 - i any units held on the unit holder register in the name of the Security Owner or the Nominee; and
 - ii any Securities or other assets in which the Security Owner has an interest under the Master Trust/Wrap or Managed Fund or under a sponsorship agreement with the Third Party Sponsor;
- (b) act upon any request from the Lender (including applications, redemptions and transfers of units, or funds movements, or sales of shares or units, or the transfer of sponsorship of any shares from the Master Trust/Wrap, Managed Fund or Third Party Sponsor to the Lender or any person nominated by the Lender) for any reason, or the reversal or variation of any instructions that the Master Trust/ Wrap, Managed Fund or Third Party Sponsor may receive from the Security Owner, where requests are signed pursuant to the Powers of the Lender as mortgagee or pursuant to the power of attorney in the Agreements, until such time as the Master Trust/Wrap, Managed Fund or Third Party Sponsor receives a release from the Lender with respect to the Security Owner; and
- (c) provide to the Lender such information or copies of information relating to the Secured Portfolio administered by the Master Trust/Wrap, Managed Fund or Third Party Sponsor as is requested by the Lender.

87. Powers of the Lender under the Mortgage

87.1 If an Event of Default occurs or while the Margin Loan Facility is subject to Gearing Adjustment, the Lender may do anything that the absolute beneficial owner of the Secured Portfolio could do including the following:

- (a) sell without notice, appropriate or otherwise deal with part or all of the Secured Portfolio in any manner the Lender considers fit (the Security Owner agrees that any such disposal is not open to challenge for any reason);
- (b) complete, sign, seal, deliver and register any transfers or other documents that are required to enable the transfer of the Secured Portfolio;
- (c) deliver any certificates relating to the Secured Portfolio;
- (d) effect the transfer of any Securities from a Participant Sponsored Holding to a purchaser or other Person;
- (e) employ or discharge any Person as professional Financial Adviser, consultant or Broker for any purpose on such terms as the Lender thinks fit;
- (f) exercise any voting or other rights or powers in respect of any Security in the Secured Portfolio;
- (g) receive any cash dividend in respect of any Security in the Secured Portfolio;
- (h) operate the Deposit Account or any account for monies on deposit or any cash management account which forms part of the Secured Portfolio without signature, and give notice to the issuer of such account that the Lender now has this right and that the Security Owner no longer has such a right;
- (i) apply the balance in the Deposit Account or any account for monies on deposit or cash management account which forms part of the Secured Portfolio towards the Total Amount Owing;
- (j) make any arrangement or compromise which the Lender considers expedient in the interests of the Lender;
- (k) bring or defend any action, suit or legal proceedings in the name of the Security Owner or otherwise, for all or any of the above purposes;
- (l) take any other action that the absolute beneficial owner or Receiver of the Secured Portfolio could; or
- (m) appoint a Receiver to do any of those things.

87.2 The Powers conferred on the Lender by law:

- (a) are in addition to the Powers conferred under the Agreement;
- (b) to the extent permitted by law, may be exercised immediately an Event of Default occurs or the Margin Loan Facility becomes subject to Gearing Adjustment and at any time subsequently; and
- (c) are excluded or varied to the extent that they are inconsistent with the express terms of the Agreement.

87.3 To the extent permitted by law:

- (a) the Security Owner dispenses with any notice or lapse of time required by law before the Lender may enforce the Mortgage or exercise any Power;
- (b) the Lender is not required to give notice to any Person before enforcement or exercise; and

- (c) any law requiring the giving of notice or the compliance with a procedure or the lapse of time before enforcement or exercise is excluded.

87.4 Where a law cannot be excluded and requires a period of notice to be given, if the law allows the period to be specified or changed, that period is one day.

87.5 If the Lender asks the Security Owner to do anything:

- (a) for more satisfactorily mortgaging, assuring or securing the Secured Portfolio to the Lender in a manner consistent with the Agreement; or
- (b) for aiding in the execution of any Power;

the Security Owner must do it immediately at its cost. It may include registering the Lender (or the Nominee) as the registered holder of any part of the Secured Portfolio, appointing any Person nominated by the Lender as the Sponsor in respect of the Secured Portfolio, registering the Mortgage or any transfer of the Secured Portfolio, registering the power of attorney or a similar power, executing and delivering blank transfers, or granting the Lender and the Nominee, Powers that the Agreement intended and appears to grant to the Lender or the Nominee.

87.6 Subject to Clause 87.8 for the purpose of the Corporations Act, the maximum prospective liability (as defined in the Corporations Act) secured by the Mortgage is A\$100,000,000 or its equivalent.

87.7 The nature of that prospective liability is advances, interest, fees, costs, indemnities and other amounts included in the definition of Total Amount Owning.

87.8 From time to time, the Lender may lodge a notice under s268(2) of the Corporations Act on behalf of the Security Owner specifying an increase in the maximum prospective liability secured by the Mortgage. From the date of lodgement the sum specified in Clause 87.6 will be taken to be varied to the sum specified in the notice.

88. Priority of Mortgage

88.1 The Mortgage takes priority over all Security Interests, except those to which the Lender has consented in writing.

89. Other Security Interests

89.1 The holder of another Security Interest affecting the Secured Portfolio may give the Lender a certificate stating the amount and property secured by the Security Interest they hold. The Lender and any Receiver or Attorney may rely on that certificate.

89.2 The Lender or any Receiver may pay or agree to pay the amount the holder of a Security Interest certifies as necessary to discharge the Security Interest or some of the indebtedness secured by it or to acquire it. From the date the Lender pays that amount, it will be part of the Total Amount Owning and the Security Owner must indemnify the Lender and the Receiver against that amount. This applies whether that Security Interest was valid or prior to, equal to or has a subsequent ranking, or the property or moneys stated in the certificate were secured by it.

90. Subsequent Security Interest

90.1 If the Lender consents to a subsequent Security Interest over the Secured Portfolio and if the Lender asks, then the Security Owner must get an agreement acceptable to the Lender regarding the priority between the Mortgage and the other Security Interest.

90.2 If the Security Owner does not get both the consent of the Lender and an agreement acceptable to the Lender, the Lender:

- (a) may not make money available under the Agreement; and
- (b) may exercise any other rights that arise because the Security Owner does not do so, such as the right to sell or otherwise deal with the Secured Portfolio.

90.3 The Security Owner must ensure that the amount secured under any other Security Interest over the Secured Portfolio is not increased without the Lender's written consent.

90.4 The Security Owner must comply on time with any obligation in connection with any other Security Interest over the Secured Portfolio.

91. Money Received on Enforcing the Mortgage

91.1 All money the Lender receives under or by virtue of the Mortgage will be applied in the manner and order the Lender determines. Any surplus will not carry interest. If the Lender pays the surplus to an account in its name with any bank carrying on business in Australia, neither the Lender, the Receiver or Attorney (as the case may be) will be under any further liability in respect of it.

91.2 In applying any money towards the satisfaction of the Total Amount Owning, the Security Owner will be credited only with the money available for that purpose which the Lender actually receives. The credit will date from the time of receipt.

92. Protection of Third Parties

92.1 No third party to any Dealing, and no Person asked to register a Dealing:

- (a) is bound to enquire:
 - i whether an Event of Default has occurred, while the Margin Loan Facility is subject to Gearing Adjustment or whether the Mortgage has become enforceable;
 - ii whether a Person who is, or purports to be, or is purported to be, a Receiver or an Attorney is duly appointed;
 - iii as to the amount of Total Amount Owning and whether Total Amount Owning is due and payable; or
 - iv in any other way as to the propriety or regularity of the Dealing;
- (b) is affected by express notice that the Dealing is unnecessary or improper.

92.2 For the protection of any third party to a Dealing or a Person registering a Dealing, the Dealing will be taken to be authorised by the Mortgage and will be valid, even if there is any irregularity or impropriety in the Dealing.

92.3 The Lender is not required to notify any prospective or actual purchaser of the reason or circumstances of the Dealing with the Secured Portfolio.

92.4 The receipt of any of the Authorised Person, the Lender, or any Receiver or Attorney (or Person who purports, or is purported, to be a Receiver or Attorney) for any moneys or assets payable to or receivable or received by it exonerates the Person paying those moneys or handing over that asset from being concerned as to their application, or from being liable or accountable for their loss or misapplication.

93. Appointment of Receiver

93.1 To the extent permitted by law, at any time after an Event of Default, the Lender or any of the Lender's Representatives may:

- (a) appoint any Person(s) together or separately (or together and separately) to be a Receiver or Receiver and manager of all or any of the Secured Portfolio;
- (b) remove any Receiver;
- (c) appoint another Receiver in addition to or in place of a Receiver; and
- (d) fix or vary the remuneration of a Receiver.

93.2 Subject to Clause 93.4, every Receiver is the agent of the Security Owner not the agent of the Lender. The Security Owner is solely responsible for the acts and omissions of the Receiver and the Security Owner must pay the Receiver's Costs and remuneration.

93.3 Unless specifically excluded by the terms of its appointment, every Receiver has Power to do anything in respect of the Secured Portfolio that the Security Owner could do in addition to any Powers granted by law.

93.4 The power to appoint a Receiver may be exercised even if an order is made or a resolution is passed to wind up the Security Owner or if the Security Owner is bankrupt. A Receiver appointed in those circumstances may not, or may not in some respects, act as the agent of the Security Owner.

93.5 Whether or not a Receiver has been appointed, the Lender may exercise any Power of a Receiver at any time after an Event of Default in addition to any Power the Lender may have, and without giving notice. The Lender may exercise those Powers and the Lender's Powers:

- (a) without taking possession or being liable as mortgagee in possession; and
- (b) directly or through one or more agents. Anything done or incurred by an agent will be taken to be done or incurred by the Lender.

93.6 The Lender may give up possession of any Secured Portfolio and withdraw any receivership at any time.

94. Variation of the Mortgage

94.1 These Mortgage Terms may be varied in accordance with Clause 65 (Variation), in Part 6.

95. Other Provisions

95.1 Clauses 65 (Variation), 73 (No Merger), 76 (Notices), 78 (Moratorium on), 80 (Components of the Agreement) and 81 (Applicable) are incorporated into these Mortgage Terms by reference.

95.2 Other terms and conditions forming part of the Mortgage Terms are set out in Part 1 (Definitions and Interpretation).

95.3 This Mortgage will come into existence if and as soon as the Lender accepts the Offer of Mortgage.

Part 8 Privacy Disclosure and Consent

1. Privacy Disclosure and Consent

1.1 Each of the Borrower and the Guarantor, gives the following acknowledgements, consents and authorities in conjunction with and in relation to any application from time to time being made by the Borrower to the Lender for the Margin Loan Facility or any other credit (Application).

2. Credit Reporting Agency

2.1 The Lender, any Assign, a Service Provider, a Broker or Financial Adviser acting on behalf of the Borrower or the Guarantor may give a credit reporting agency personal information about the Borrower and the Guarantor. The information which may be given to an agency is covered by the Privacy Act and includes, to the extent applicable:

- (a) permitted information about the Borrower or the Guarantor which will allow the Borrower or the Guarantor to be identified;
- (b) details of any cheques drawn by the Borrower or the Guarantor for an amount not less than \$100 which have been dishonoured more than once;
- (c) where in the Lender's opinion, the Borrower or the Guarantor has committed a serious credit infringement;
- (d) the fact that the Borrower:
 - i has applied for credit and the amount of credit applied for; and
 - ii the Lender is a current credit provider to the Borrower;
- (e) payments which are overdue by the Borrower for more than 60 days and for which collection action has commenced;
- (f) advice that payments by the Borrower are no longer overdue;
- (g) whether credit provided to the Borrower by the Lender has been paid or otherwise discharged; and
- (h) the fact that:
 - i the Guarantor has offered to act as guarantor in respect of credit or an Application; and
 - ii the fact that the Guarantor has failed to pay an amount due by it as guarantor where, amongst other things:
 - A it has received notice of default by the Borrower and has not paid for 60 days after that notice; and
 - B the Lender has in addition to that notice, commenced action to recover the amount due from the Guarantor.

2.2 The information in Clause 2 of this Part 8 may be given before, during or after the assessment is made whether to accept an Application.

- 2.3 Each of the Borrower and the Guarantor agrees to the Lender, for the purpose of assessing the Application (and any other application or request the Borrower or the Guarantor may make to the Lender in relation to the Agreement) and assessing whether to provide credit to the Borrower or accept the Guarantor as guarantor in respect of credit applied for, or provided to, the Borrower:
- (a) obtaining from a credit reporting agency a credit report containing information about its personal credit worthiness for the purpose of assessing the application of the Borrower and/or the application by the Guarantor to act as guarantor for the Borrower and for the purpose of assisting in collecting overdue payments in respect of any credit the Lender provides as a result of this application;
 - (b) obtaining a report about its commercial activities or commercial credit worthiness from any business which provides information about the commercial credit worthiness of persons, its accountant or any supplier to the Lender; and
 - (c) giving to and obtaining from any credit provider named in the Application Form or in a credit report on it issued by a credit reporting agency, information about its credit arrangements for the purposes of:
 - i assessing the Application of the Borrower and/or the application by it to act as guarantor for the Borrower;
 - ii notifying a failure by it to observe its obligations (if any) as Borrower or Guarantor (as applicable);
 - iii allowing another credit provider to ascertain the status of its obligations to the Lender where the Borrower or the Guarantor is in default with one or more other credit providers; and
 - iv generally assessing its credit worthiness.
- 2.4 The Borrower and the Guarantor understand that the information exchanged can include any information about its personal and/or commercial credit worthiness, credit standing, credit history or credit capacity which the Privacy Act allows credit providers to give to or receive from each other. The Borrower and the Guarantor agree that if the Lender approves the Borrower's application for the Margin Loan Facility, this agreement remains in force until all facilities the Lender has with the Borrower cease.
- 3. Telephone Recording**
- 3.1 The Lender, the Nominee and the Sponsor may record telephone conversations with any Person and may use these recordings for any purpose permitted by law from time to time with or without an audible tone warning device.
- 3.2 The Lender, the Nominee and the Sponsor may record telephone conversations before, during or after an assessment is made whether to accept an Application.
- 4. Personal Information**
- 4.1 Each of the Borrower and the Guarantor agrees that:
- (a) the Lender and the Nominee and any company which is related to the Lender;
 - (b) ASX Settlement and any Third Party Sponsor;
 - (c) ASX Settlement and Transfer Corporation Pty Ltd and any person appointed by the Lender as the Sponsor;
 - (d) any Borrower, Guarantor or any officer, employee, representative, Financial Adviser or Broker of any of them ;
 - (e) any Authorised Person;
 - (f) the Nominated Financial Adviser (including any nominated employee);
 - (g) any Nominated Broker (including any nominated employee);
 - (h) the holder of an Australian Financial Services License (including any nominated employee) for which the Nominated Financial Adviser or Nominated Broker is an authorised representative;
 - (i) any Attorney;
 - (j) any organisation acquiring an interest in the Margin Loan Facility or involved in managing the Lender's corporate risk and funding functions (for example organisations involved in securitisation);
 - (k) any payment systems operators and participants in the payment system;
 - (l) the Nominated Platform;
 - (m) any provider of a Deposit Account or any other deposit account or cash management account forming part of the Secured Portfolio;
 - (n) any provider of a Nominated Account;
 - (o) any Person with whom the Lender enters into an arrangement in relation to Secured Portfolio in connection with the Margin Loan Facility;
 - (p) any Person referred to in the Application Form (or any other application or request) or any other person whose details the Borrower or the Guarantor gives the Lender;
 - (q) any valuer of Secured Portfolio;
 - (r) CHES and any entity through which the Lender, the Nominee or the Sponsor interfaces with CHES;
 - (s) any Assign; and
 - (t) Australian Clearing House Pty Ltd,
- (each referred to as a Recipient) may exchange with each other any personal information about the Borrower or the Guarantor.
- 4.2 The information that may be exchanged under Clause 4.1 of this Part 8 includes:
- (a) any insurer to which the Lender applies for lenders' mortgage insurance;
 - (b) any personal information the Borrower or the Guarantor provides to any Recipient or which any Recipient otherwise lawfully obtains about the Borrower or the Guarantor;
 - (c) any transaction details or transaction history arising out of arrangements of the Borrower or the Guarantor with any Recipient; and
 - (d) where the Privacy Act allows, or allows provided the Borrower or the Guarantor agrees, any information referred to in Clause 2 of this Part 8.
- 4.3 Each of the Borrower and the Guarantor agrees that if the Lender engages a Service Provider then the Lender and the Service Provider may exchange with each other any personal information referred to above and any other personal information the Service Provider lawfully obtains about the Borrower or the Guarantor in the course of acting on behalf of the Lender.

- 4.4 Each of the Borrower and the Guarantor agrees that any personal information referred to above may be used by any Recipient and Service Provider for any purpose related to the Margin Loan Facility to which the Application Form relates and to carry out any associated payments, transactions, administration and account servicing. In addition, such information can be used to assess any application the Borrower or the Guarantor makes for a different product or service, for planning, product development and research purposes and to seek its feedback on products and services of the Lender. Such information may also be used by the Lender from time to time to contact the Borrower or the Guarantor about various product offers and special promotions.
- 4.5 The Lender may give any personal information about the Borrower or the Guarantor to entities other than the Recipients and the Service Providers referred to above where it is required or allowed by law, where it is required by a Government Agency or where the Borrower or Guarantor has otherwise consented.
- 4.6 Each of the Borrower and the Guarantor understands that:
- (a) if it fails to provide any information requested by the Lender, or does not agree to any of the possible exchanges or uses of such information as set out above, the application for a Margin Loan Facility may not be accepted; and
 - (b) it can access most personal information that the Lender and the related companies of the Lender hold about the Borrower or the Guarantor by contacting the Lender. Sometimes that access will not be possible, in which case the Borrower or the Guarantor will be told why.
- 4.7 The Borrower and the Guarantor can request a copy of the Lender's privacy statement.
- 2.3 You agree that if the Lender accepts an instruction by telephone, facsimile, email or other means the Lender approves from time to time, the risk of an unauthorised transaction or a fraud lies with you and you will not make any claim on the Lender, and will indemnify the Lender against any claim on the Lender made by anyone else, as a result of or in connection with the Lender acting on such an instruction.
- 2.4 Direct debits will not commence until the Lender has processed your direct debit application.
- 2.5 All direct debits made on your behalf in accordance with a DDR are deemed payments by you.
- 2.6 If the date you have nominated for payment falls on a day that is not a Business Day, the Lender may direct the Financial Institution to debit your account on the following Business Day. If you are unsure about which day your account has been or will be debited please check with the Financial Institution.
- 2.7 Nothing in this Direct Debit Service Agreement affects or overrides the terms of the Agreement. If the result of a debit payment being returned is that you do not make a payment due under the Agreement on time then an Event of Default will occur for the purpose of that Agreement and default interest may accrue on the unpaid amount.
- 2.8 If there are insufficient cleared funds available in your Nominated Account to meet any debit payment:
- (a) you or your Nominated Account may be charged a fee and/or interest by the Financial Institution;
 - (b) the Lender may charge a fee to reimburse itself for costs or charges it has incurred as a result of the failed transaction;
 - (c) if there has been a Margining Event or you are in default in your payments, you must arrange for the payment to be made by another method or arrange for sufficient cleared funds to be in your Nominated Account within 3 days or such other period as the Lender specifies so that the Lender can make a further drawing on your Nominated Account; and
 - (d) the Lender may attempt a redraw on your Nominated Account.

Part 9 Direct Debit Service Agreement

1. Interpretation

- 1.1 The words "you" and "your" when referred to in this Part 9 mean the person(s) who signed the DDR.
- 1.2 If you sign a DDR these are the terms of the Direct Debit Service Agreement between the Lender and you.

2. Debit Arrangements

- 2.1 By making a DDR you authorise the Lender to arrange for funds to be transferred from your Nominated Account in accordance with this Direct Debit Service Agreement, and you also authorise the financial institution where your account is held (Financial Institution) to debit your Nominated Account accordingly.
- 2.2 The DDR must be in writing signed by you unless otherwise agreed by the Lender. The Lender may not agree to act on a telephone, facsimile, email or other instruction for any reason, including if the Lender believes or suspects that the instruction is fraudulent, mistaken or unauthorised.

3. Your Rights

- 3.1 You may terminate the direct debit arrangement with the Lender by giving the Lender a written Notice. The termination will be effective when the Lender has completed processing your request.
- 3.2 You may request that the Lender stops or defer a payment by notifying the Lender in writing. The Lender will notify you if your request to stop or defer a payment has been successful.
- 3.3 You may alter the DDR amount and the date on which payment is to be made by completing a new DDR.
- 3.4 Where you consider the debit is incorrect in either the due date or amount or both, you should raise the matter with the Lender.
- 3.5 All Notices to the Lender must be in writing.

4. The Lender's rights

- 4.1 The Lender may terminate the direct debit arrangement as to future deductions at any time by notice in writing to you.

- 4.2 The Lender may in its discretion vary any condition and introduce a charge in relation to the DDR. The Lender will notify you of variations to this Direct Debit Service Agreement in writing, no later than 14 days prior to the day on which the variation takes effect.

5. Your Responsibilities

- 5.1 It is your responsibility:
- (a) before completing the DDR to:
 - i check with the Financial Institution that direct debiting is available on your Nominated Account. You will need to do this because direct debiting is not available on all accounts offered by Financial Institutions; and
 - ii check the account details you have provided to the Lender are correct by checking them against a recent statement of your Nominated Account;
 - (b) to ensure sufficient cleared funds are available in the Nominated Account to meet the debit on the due settlement date of your transactions executed by the Lender;
 - (c) to check the statements issued on your Nominated Account to verify that the amounts debited from the account are correct;
 - (d) to ensure that the authorisation to debit the Nominated Account is in the same name as the account signing the instruction held by the Financial Institution;
 - (e) to advise the Lender if the account you have nominated to debit is transferred or closed; and
 - (f) to ensure that suitable arrangements are made if the DDR is cancelled:
 - i by you
 - ii by the Financial Institution; or
 - iii for any other reason.

6. Dispute

- 6.1 If you believe that there has been an error in debiting your Nominated Account you should contact the Lender and confirm the details by writing to the Lender, as soon as possible so that the Lender can try to resolve your query quickly.
- 6.2 If the Lender's investigations show that your account has been incorrectly debited the Lender will arrange for the Financial Institution to adjust your account (including interest and charges) accordingly. The Lender will also notify you in writing of the amount by which your account has been adjusted.
- 6.3 If the Lender's investigations show that your account has not been incorrectly debited the Lender will respond to your query by providing you with reasons and copies of any evidence for this finding.
- 6.4 Any queries you may have about an error made in debiting your account should be directed to the Lender in the first instance so that the Lender can attempt to resolve the matter between the Lender and you. If the Lender cannot resolve the matter you can then refer it to the Financial Institution which will obtain details from you of the disputed transaction and may lodge a claim on your behalf.

7. Confidentiality and Privacy

- 7.1 When the Lender collects, uses and discloses the personal information in your DDR (such as your account details), the Lender complies with the privacy and related law and the Lender's privacy policy.
- 7.2 The Lender will disclose information about you for the purposes of this Direct Debit Service Agreement which may include providing information to the Financial Institution or others involved in the direct debit system (for example the Lender may need to do so in connection with a claim that there has been an incorrect or wrongful debit).
- 7.3 If you fail to provide any information requested in the DDR then the Lender will not be able to arrange debit payments.

8. Priority

- 8.1 The Financial Institution may in its absolute discretion conclusively determine the priority of payment by it of any moneys, pursuant to this or any other authority or withdrawal request which you give to the Financial Institution in relation to your Nominated Account.

Part 10 Addendum

1. Amendment to the Revised Agreement

- 1.1 This Addendum to the revised margin loan terms and conditions dated 1 January 2011 (the Revised Agreement) takes effect on and from 1 January 2011.
- 1.2 This Addendum varies the terms of the Revised Agreement in the following manner:
- (a) Part 3, Part 4 and Part 7 of the Revised Agreement do not apply;
 - (b) Clause 51 (Power of Attorney) of the Revised Agreement does not apply;
 - (c) The terms of:
 - i the Equitable Mortgage;
 - ii the Nominee and Sponsorship Agreement; and
 - iii the power of attorney,are not varied and apply to Borrowers and Guarantors in the manner in which they did under the Original Terms and Conditions and will be interpreted according to the definitions and principles of interpretation contained in the Original Terms and Conditions; and;
- 1.3 The terms of the Revised Agreement are to be read and applied so as to ensure that each of the Equitable Mortgage and the Nominee and Sponsorship Agreement:
- (a) is not varied;
 - (b) applies to Borrowers and Guarantors in the manner in which it did under the Original Terms and Conditions; and
 - (c) will be interpreted according to the definitions and principles of interpretation contained in the Original Terms and Conditions.

1.4 In this Addendum, the terms set out below have the following meanings:

Term	Meaning
Borrower	A person who has been issued with a margin loan under the Original Terms and Conditions.
Equitable Mortgage	The equitable mortgage of securities entered into between the Borrower and Leveraged Equities Limited or a Guarantor and Leveraged Equities Limited as applicable.
Guarantor	<ul style="list-style-type: none"> A person who has provided a guarantee and indemnity on the terms set out in the Original Terms and Conditions and that was in force immediately prior to the Revised Agreement.
Margin Loan Facility	The line of credit which may be made available under the Revised Agreement.
Original Terms and Conditions	The margin loan terms and conditions entered into between the Borrower and Leveraged Equities Limited or the Guarantor and Leveraged Equities Limited as applicable and that were in force immediately prior to the Revised Agreement.
Nominee and Sponsorship Agreement	<p>The nominee and sponsorship agreement entered into between:</p> <ul style="list-style-type: none"> the Borrower, Leveraged Equities Limited, the Nominee and the Sponsor; or the Guarantor, Leveraged Equities Limited, the Nominee and the Sponsor if applicable.

2. Effect of the Revised Agreement on Equitable Mortgage

2.1 The variation of the Original Terms and Conditions, in the form of the Revised Agreement, is not intended to and is not taken to have the effect of:

- (a) increasing the amount of the debt or increasing the amount of the liabilities (whether present or prospective) secured by the Mortgage Terms; or
- (b) prohibiting or restricting the creation of subsequent mortgages or charges on the Secured Property; or
- (c) discharging, in whole or in part, or releasing any debt or other liability the payment or discharge of which is secured by the Mortgage Terms; or
- (d) releasing the property mortgaged, or any part of the property mortgaged, from the Mortgage Terms.

Issued by Leveraged Equities Limited as Lender

ABN 26 051 629 282

Date of issue: 1 November 2010