



5 August 2015

Mr James Marshall
Partner
Ashurst Australia
5 Martin Place
Sydney NSW 2000

BY EMAIL: james.marshall@ashurst.com
david.greeberg@ashurst.com

Dear Sirs,

BBY Limited (Receivers and Managers Appointed)(In Liquidation) (“BBY”)

We refer to your letter of 5 August 2015.

We can advise as follows:

- We enclose a copy of the application form lodged by BBY at the time of application to become a market participant on the APX market. All other terms of business, agreements and contracts in respect of, or relevant to, the shares traded by BBY are as set out in the APX Business Rules available at http://www.apx.com.au/APX/Public/EN/Market_Participants/Business_Rules.aspx;
- There are no currently open positions entered into by BBY or BBY’s clients in relation to the APX market of which we are aware;
- There are no positions entered into by BBY or BBY’s clients in relation to the APX market since 17 May 2015 of which we are aware;
- APX holds no funds on behalf of BBY or BBY’s clients; and
- There have been no funds paid out by APX to BBY or BBY’s clients since 17 May 2015.



BBY's trading permission on the APX market was suspended on 18 May 2015. All unexecuted orders entered by BBY were removed from the APX market. BBY was removed as an APX Participant on 20 July 2015.

Regards

A handwritten signature in blue ink, appearing to read "David Lawrence".

David Lawrence
Chief Operating Officer

Copy Jason Opperman
K&L Gates
Jason.opperman@klgates.com

Orford, Jack 6389

From: Michael Somes <michael.somes@chi-x.com>
Sent: Friday, 14 August 2015 5:01 PM
To: Greenberg, David 6492
Cc: Marshall, James 6508; McHattan, Corey 6381
Subject: RE: BBY Limited (Receivers & Managers Appointed)(in Liquidation) [BD-CM.10001686.02-3003-3013]
Attachments: General_Terms_Conditions_v1.1.pdf; PAYMENT SCHEDULE_1.6.pdf; Product Manual 1.7.pdf; 2011-10-28 - CXA - BBY Order Form.pdf; BBY Application Form.pdf
Sensitivity: Confidential

PRIVATE AND CONFIDENTIAL

Dear David

Addressing the requested items in the order they appear in your letter:

Q1: Copies of any terms of business, etc

A1: I have **attached** (BBY Application Form.pdf) a copy of the BBY Application to be a Participant of the Chi-X Market, which includes an Applicant Agreement on Page 4 and pursuant to which BBY Limited was bound by the Chi-X Operating Rules as outlined in section 793B of the Corporations Act. The current version of the Chi-X Operating Rules can be accessed here: <http://www.chi-x.com.au/COMPLIANCE.aspx> .

I have also **attached** the BBY Order Form pursuant to which BBY became subject to the Chi-X Customer agreement which consist of the (a) General T&CS (v 1.1 **attached**) (b) Payment Schedule (v 1.6 **attached**) and (c) Product Manual (v 1.7 **attached**).

Q2: A schedule of all positions which have been entered which are currently open.

A2: I am not sure what is mean by “currently open” as all transactions executed on the Chi-X market by BBY Limited have been cleared and settled by ASX Clear and ASX settlement respectively.

Q3: A schedule of all positions entered into by BBY or BBY clients which have been closed by Chi-X since 17 May.

A3: Chi-X is a secondary market trading platform for equity market products that operates on a t to t + 3 settlement cycle. It does not trade in derivatives or any other products that result in position management. The clearing and settlement functions in respect of transactions executed on the Chi-X market are undertaken by ASX Clear and ASX Settlement respectively. Chi-X has not closed any positions since 17 May.

Q4: Confirmation of any funds held by Chi-X on behalf of BBY or BBY clients.

A4: nil

Q5: A schedule of all funds paid out by Chi-X to BBY or BBY’s clients since 17 May.

A5: Nil.

Please don't hesitate to contact me if you have any further queries.

Regards

Michael

Michael Somes

Head of Compliance & Regulatory Counsel

Chi-X Australia

Level 23 Governor Phillip Tower | 1 Farrer Place | Sydney NSW 2000 | Australia
Tel: +61 2 8078 1718 | Mob: +61 401 395950 | Fax: +61 2 9252 0120 | Web: www.chi-x.com.au

From: David.Greenberg@ashurst.com [<mailto:David.Greenberg@ashurst.com>]

Sent: Wednesday, 5 August 2015 12:32 PM

To: Michael Somes

Cc: James.Marshall@ashurst.com; Corey.McHattan@ashurst.com

Subject: BBY Limited (Receivers & Managers Appointed)(in Liquidation) [BD-CM.10001686.02-3003-3013]

Dear Michael

We **attach** a copy of our letter dated today.

Please do not hesitate to contact us should you have any queries regarding this correspondence.

Yours faithfully

David Greenberg

Senior Associate

david.greenberg@ashurst.com

Ashurst

D: +61 2 9258 6492 | M: +61 422 177 755

Ashurst Australia, 5 Martin Place, Sydney, NSW 2000 Australia

T: +61 2 9258 6000 | F: +61 2 9258 6999 | DX 388 Sydney

www.ashurst.com | [Global coverage](#)

This email (including any attachments) is confidential and may be privileged. It may be read, copied and used only by the intended recipient. If you have received it in error, please contact the sender immediately by return email. Please then delete both emails and do not disclose their contents to any person. We believe, but do not warrant, that this email and any attachments are virus free. You should take full responsibility for virus checking. Ashurst reserves the right to monitor all email communications through its networks. If the content of this email is personal or unconnected with our business, we accept no liability or responsibility for it.

Ashurst Australia (ABN 75 304 286 095) is a general partnership constituted under the laws of the Australian Capital Territory and is part of the Ashurst Group. Further details about Ashurst can be found on our website at www.ashurst.com.

Disclaimer:

This message contains confidential information and is intended only for the named individual. If you are not the named addressee, you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this message in error and delete this e-message from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, delayed in transmission, incomplete, or may contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message which arise as a result of e-mail transmission. If verification is required

please request a hard-copy version. This message is provided for informational purposes and should not be construed as a solicitation or offer to buy or sell any securities or related financial instruments.

Orford, Jack 6389

From: Melanie Thornton <melanie.thornton@db.com>
Sent: Thursday, 13 August 2015 4:13 PM
To: Greenberg, David 6492
Cc: Marshall, James 6508; McHattan, Corey 6381; jason.opperman@klgates.com; Lewis.Seelenmeyer@klgates.com; Graziella Zulian; Julia Stanistreet; Andrew Farquhar; Sebastien Bonvalet
Subject: BBY Limited (Receivers & Managers Appointed)(in Liquidation) [BD-CM.10001686.02-3003-3013]
Attachments: BBY - 2nd Creditors meetings - Deutsche Bank AG, Sydney Branch - Proof of debt and Proxy Appointment; Deutsche Bank AG, Sydney Branch - Proof of debt and Proxy Appointment

David,

Further to your email below, please find attached the information requested that was sent previously on 17.06.15 and 26.05.15 in response to the KPMG Circular to Creditors.

Deutsche Bank AG (DBAG) provided BBY with DBAG's Futures and Option trading platform in order to allow BBY to execute trades for its clients. BBY paid an agreed fee to DBAG for each trade executed through this trading platform. DBAG invoiced BBY on a monthly basis in order to settle those fees.

A number of invoices issued by DBAG are still outstanding and owed by BBY. The outstanding invoices are in various currencies and add up to approximately 140,000.00 AUD equivalent.

Many thanks and best regards,

Melanie



Melanie Thornton
Legal Counsel

Deutsche Bank AG Sydney
Legal
126 Phillip Street, NSW 2000 Sydney, Australia
Tel. +61 02 8258 2574

Mob +61 0400 957 803
Email melanie.thornton@db.com

Passion to Perform

From: David.Greenberg@ashurst.com [<mailto:David.Greenberg@ashurst.com>]
Sent: Wednesday, 5 August 2015 1:08 PM
To: Graziella Zulian
Cc: julia.stainstreet@db.com; Andrew Farquhar; James.Marshall@ashurst.com; Corey.McHattan@ashurst.com; jason.opperman@klgates.com; Lewis.Seelenmeyer@klgates.com
Subject: BBY Limited (Receivers & Managers Appointed)(in Liquidation) [BD-CM.10001686.02-3003-3013]

Dear Graziella

We **attach** a copy of our letter dated today.

Please do not hesitate to contact us should you have any queries regarding this correspondence.

Yours faithfully

David Greenberg

Senior Associate

david.greenberg@ashurst.com

Ashurst

D: +61 2 9258 6492 | M: +61 422 177 755

Ashurst Australia, 5 Martin Place, Sydney, NSW 2000 Australia

T: +61 2 9258 6000 | F: +61 2 9258 6999 | DX 388 Sydney

www.ashurst.com | [Global coverage](#)

This email (including any attachments) is confidential and may be privileged. It may be read, copied and used only by the intended recipient. If you have received it in error, please contact the sender immediately by return email. Please then delete both emails and do not disclose their contents to any person. We believe, but do not warrant, that this email and any attachments are virus free. You should take full responsibility for virus checking. Ashurst reserves the right to monitor all email communications through its networks. If the content of this email is personal or unconnected with our business, we accept no liability or responsibility for it.

Ashurst Australia (ABN 75 304 286 095) is a general partnership constituted under the laws of the Australian Capital Territory and is part of the Ashurst Group. Further details about Ashurst can be found on our website at www.ashurst.com.

This e-mail may contain confidential and/or privileged information. If you are not the intended recipient (or have received this e-mail in error) please notify the sender immediately and destroy this e-mail. Any unauthorized copying, disclosure or distribution of the material in this e-mail is strictly forbidden.

Privacy of communications

Please note that, in order to monitor compliance with legal and regulatory obligations and our policies, procedures and corporate compliance programs, we reserve the right to review the content (including any personal data and customer information) of emails and instant messages passing through our IT systems, and to record telephone calls routed via our telephone systems. We will only do so, however, in accordance with and to the extent permitted by local laws and regulations. Kindly bear this in mind when communicating with our staff. In some countries please refer to your local DB website for a copy of our Privacy Policy.



Mr Daniel Greenberg
Ashurst Australia
GPO Box 9938
Sydney NSW 2001
Your Ref: EP/DGE/02 3003 4959

PRIVATE AND CONFIDENTIAL – BBY Limited

11 September 2015

Dear Mr Greenberg,

We refer to your letter dated 26 August 2015, and respond as follows:

- A copy of the ANZ V2 PLUS Referral Agreement between ANZ and BBY Limited ACN 006 707 777 (**BBY**) is enclosed.
- No ANZ V2 PLUS accounts were opened in BBY's name. BBY introduced customers to ANZ and all ANZ V2 PLUS accounts were opened in the relevant customer's name. We enclose a copy of the termination letter sent to BBY dated 28 May 2015, which includes a list of all customers who held ANZ V2 PLUS accounts referred to ANZ by BBY as at that date.
- ANZ terminated its arrangement with BBY on 28 May 2015. BBY's authorities in relation to customer ANZ V2 PLUS accounts were also removed on that date. It follows that ANZ is unable to provide any information in relation to customer ANZ V2 PLUS accounts, including information in relation to account closures.
- No funds are held by ANZ on behalf of BBY as a result of the ANZ V2 PLUS referral arrangement, which has now ended. As stated above, because BBY's authorities in relation to ANZ V2 PLUS accounts have been removed, ANZ is unable to provide any information in relation to customer ANZ V2 PLUS accounts.
- A quarterly commission statement for the period 16 Mar 2015 – 15 Jun 2015 was sent to David Greenberg (david.greenberg@com). Payment was made on 16 Jun 2015 to BBY account number 082-057 169133546.

If you would like me to expand on any of the above or have any additional questions, please don't hesitate to contact me again.

Yours sincerely,

Per Gustafsson

Third Party Deposits

21/242 Pitt St, Sydney NSW 2000
Phone 02 8937 6847 | Mobile 0415 357 414
Email per.gustafsson@anz.com



28 May 2015

BBY LIMITED
Level 17, 60 Margaret Street
Sydney, NSW 2000

Att: Glenn Rosewall

Dear Glenn Rosewall,

ANZ Third Party Deposits

Level 7, 833 Collins St
Docklands VIC 3008
03 8654 2151
Aaron.Lunardello@anz.com

RE: ANZ V2 PLUS Third Party Service Offering Arrangement

This letter refers to the ANZ V2 PLUS Third Party arrangement between Australia and New Zealand Banking Group Limited ABN 11 005 357 522 (**ANZ**) and BBY LIMITED (**Agreement**).

ANZ V2 PLUS Third Party Arrangement

To confirm, under the ANZ V2 PLUS Third Party arrangement, ANZ may have been paying BBY LIMITED a commission for referring clients who opened an ANZ V2 PLUS account with ANZ. ANZ's records show that those clients identified in *Annexure A* to this letter were referred by BBY LIMITED and opened an ANZ V2 PLUS account.

What is changing?

ANZ wishes to advise that, in accordance with clause 23 of the Agreement, with effect on and from 1st June 2015, the ANZ V2 PLUS Third Party arrangement is terminated (**Termination Date**).

What does this mean for BBY LIMITED?

From the Termination Date:

1. If under your ANZ V2 PLUS arrangement, ANZ has been paying to you a commission, ANZ will no longer pay that commission to BBY Limited for clients referred to ANZ. For the avoidance of doubt, this applies to existing or new clients referred to ANZ; and
2. All access rights, including but not limited to, an ability to transact, on the ANZ V2 PLUS account will cease for those clients in Annexure A.

Any commissions (*as applicable*) due and payable by ANZ up to and including the Termination Date will be paid on or about 16 June 2015.

Notification to Clients

ANZ will notify those clients in Annexure A of the termination of the ANZ V2 PLUS Third Party arrangement.

Please do not hesitate to contact me directly on (03) 8654 2151 should you require further information.

Yours sincerely,

Aaron Lunardello
Senior Manager, Third Party Deposits

Annexure A

1. PETER JOHN HANNAN
2. MERIDIAN HOLDINGS P/L
3. HANNAN SUPER FUND
4. IVANHOE SUPER FUND
5. LEIGH GERALDINE PRICE
6. MURRAY DAVID PRICE
7. ARUNA KUMARA ARSAKULASURIYA
8. CHAMPA PRIYADARSHINI ARSAKULASURIYA
9. F NITSCH RETIREMENT FUND
10. TODD HOPKINS LANMAN
11. SOLANO INVESTMENT LLC
12. KNIGHT CAPITAL MARKETS LTD
13. KORAT INVESTMENTS LLC
14. THEODORE ROWLAND WATERMEYER
15. PHILIPPA EUNICE HIGGINS
16. ALON PERLOV
17. JIM MATTHEW GARRETTSON
18. PACIFIC ORIENTO ENTERPRISES P/L
19. PACIFIC ORIENTO ENTERPRISES SUPER FUND
20. YU-NU LEE CHEN
21. CHAO-HO LEE
22. CHING-HSIN HUANG
23. SOONEE SUPERANNUATION FUND
24. GOLDEN LAND TASMANIA P/L
25. CHIN-HUA WANG
26. PO-HAN LIN
27. CHUEN KIT WONG
28. THE CHUEN LI SUPERANNUATION FUND
29. FONG CHENG CARDOSO
30. LAWRENCE TSUN CHANG
31. IK HUI WONG
32. NICHOLAS YEW WONG
33. YUE JING ZHU
34. QI MENG
35. DING ING TING
36. I-FENG LEE
37. MING-TE HUNG
38. CATHY HSIU-TUAN HO
39. LINK FAMILY TRUST
40. CHIU KING-SHAU SIAO
41. KARL LOUIS ELS
42. WJ & HJ LICKISS SUPERANNUATION
43. O I EXCHANGE P/L
44. HOWARD STEPHEN ISKYAN
45. MARTHA LINA ISKYAN



VARIATION DEED

BETWEEN

Australia and New Zealand Banking Group Limited

And

BBY Limited

TABLE OF CONTENTS

- 1. INTERPRETATION..... 1
- 2. TERMS OF THIS VARIATION 1
- 3. VARIATIONS..... 1
- 4. REPRESENTATIONS & WARRANTIES 5
- 5. MISCELLANEOUS 5
 - 5.1 Amendment..... 5
 - 5.2 Assignment 5
 - 5.3 Entire agreement 5
 - 5.4 Further action 5
 - 5.5 Severability 6
 - 5.6 Waiver 6
 - 5.7 Governing law and jurisdiction 6
 - 5.8 Counterparts 6

VARIATION DEED

DATE 25 March 2015

PARTIES

1. **Australia and New Zealand Banking Group Limited**, ABN 11 005 357 522, ANZ Centre Melbourne, Level 7, 833 Collins Street, Docklands, Victoria, 3008 (**ANZ**).
2. **BBY Limited**, ABN 80 006 707 777, of Level 17, 60 Margaret Street, Sydney NSW 2000 (**BBY**).

RECITALS

- A. ANZ and BBY are parties to an ANZ V2 PLUS Operations Agreement dated 25 February 2011, (the **Agreement**).
- B. The parties agree to vary the Agreement on the terms and conditions of this deed (**Variation**).

THE PARTIES AGREE as follows:

1. INTERPRETATION

In this Variation, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of this Variation;
- (b) the singular includes the plural and *vice versa* and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a document or agreement, including this Variation, includes a reference to that document or agreement as novated, altered or replaced from time to time; and
- (e) a reference to a party includes its executors, administrators, successors and permitted assigns.

2. TERMS OF THIS VARIATION

The parties agree that with effect from 1 July 2014, the Agreement will be varied in accordance with the terms of this Variation and that, other than as contemplated by this Variation, the remaining provisions of the Agreement will not be affected and will continue in full force and effect.

3. VARIATIONS

ANZ and BBY agree to:

- (a) Delete Recital D in its entirety and replace it with the following new Recital D:

ANZ utilises the software program known as "Shares" provided by GBST Holdings Limited ("**GBST**"), which provides an electronic communication channel with stockbrokers, their clients, the markets, counterparties, branches and service providers, and which includes the Real-time CMT Interface ("**ANZ Interface**").

- (b) Delete Recital E in its entirety and replace it with the following new Recital E:
BBY wishes to utilise the ANZ Interface for the purpose of setting up ANZ V2 PLUS accounts for BBY Clients.
- (c) Insert a new Recital F in the Agreement as follows:
ANZ agrees to link the ANZ V2 PLUS accounts opened in relation to BBY's business/services to an Intermediary Reference Code via the ANZ Interface.
- (d) Insert the new definition of "APPs" in clause 1 of the Agreement as follows:
"APPs" are the Australian Privacy Principles in the Privacy Act 1988 (Cth), as amended or replaced from time to time.
- (e) Delete the definition of "NPP's" in clause 1 of the Agreement in its entirety;
- (f) Delete all references to "NPP's" in the agreement and replace them with "APP's";
- (g) Delete the definition of "Personal Information" in its entirety and replace it with the following new definition of "Personal Information" in clause 1 of the Agreement as follows:
"Personal Information" means information or an opinion about an identified or reasonably identifiable natural person (whether true or not), including personal information as defined in the Privacy Act 1988 (Cth), collected or generated by, disclosed to, or accessed by BBY in connection with this Agreement.
- (h) Insert new sub-clauses in clause 2.1 of the Agreement as follows:
2.1(e) Notwithstanding any other provision of the Agreement, ANZ will open an ANZ V2 PLUS account for a Client following a referral by BBY in accordance with the instructions provided by BBY.
2.1(f) ANZ will operate an ANZ V2 PLUS account for a Client in accordance with the instructions provided by BBY.
2.1(g) ANZ is entitled to rely on, and act upon, the instructions of the Client, whether the instructions are signed by the Client, BBY or any personnel of BBY, and whether those instructions are received directly from the Client, BBY or any personnel of BBY.
- (i) Insert a new clause 2A titled "ANZ V2 PLUS Account Opening" in the Agreement as follows:
2A. ANZ V2 PLUS Account Opening

2A.1 BBY Obligations

- (a) BBY agrees to refer Clients to ANZ for the purpose of opening an ANZ V2 PLUS accounts.
- (b) BBY will provide instructions to ANZ to open ANZ V2 PLUS accounts on behalf of, and in the name of, a Client, and must ensure that its personnel provide instructions to ANZ to open and operate ANZ V2 PLUS accounts on behalf of, and in the name of, a Client, in accordance with the ANZ V2 PLUS Terms and Conditions, and the policies and procedures notified to BBY by ANZ from time to time.
- (c) BBY must, and must ensure that its personnel:
 - i. ensure the eligibility criteria for opening an ANZ V2 PLUS account are satisfied by each Client;
 - ii. give written instructions to ANZ to open an ANZ V2 PLUS account in the name of the Client; and
 - iii. give written instructions to ANZ on behalf of a Client to operate an ANZ V2 PLUS account, including as to withdrawal of funds and maturity, renewal, withdrawal and closure of the ANZ V2 PLUS account.
- (d) BBY agrees to give, and must ensure that its personnel give, the ANZ V2 PLUS Terms and Conditions to the Client at the time an ANZ V2 PLUS account is opened for a Client.

2A.2 ANZ V2 PLUS Account Opening and Operation

- (a) BBY acknowledges and agrees that in respect of an ANZ V2 PLUS account opened, or to be opened by, a Client:
 - (i) the Client may make deposits, withdrawals and otherwise operate the ANZ V2 PLUS account in accordance with the ANZ V2 PLUS account Terms and Conditions; and
 - (ii) BBY may give instructions to ANZ on behalf of a Client in accordance with the ANZ V2 PLUS account application form.
- (b) BBY must, and must ensure that it's personnel:
 - (i) are properly authorised by a Client to open and operate an ANZ V2 PLUS account on behalf of the Client;
 - (ii) ensure that instructions provided to ANZ by BBY on behalf of a Client (whether signed by the Client, BBY or any personnel of BBY) are genuine and authentic; and
 - (iii) not withdrawal funds from ANZ V2 PLUS account except at the direction of a Client; and

- (c) BBY undertakes to appropriately disclose to Clients, the terms upon which BBY will enter into the ANZ V2 PLUS account, including by sitting in an offer document or similar document, that BBY will not withdraw any part of an ANZ V2 PLUS account except at the Client's direction (including a standing instructions).
- (j) Delete sub-clause 7.1 of the Agreement in its entirety and mark sub-clause 7.1 as "*Intentionally Left Blank*".
- (k) Delete the reference to "*Berndale*" in sub-clause 7.2 of the Agreement and replace it with "*GBST*".
- (l) Delete the words, "*for Berndale*" in sub-clause 7.3 of the Agreement.
- (m) Delete sub-clause 7.4 of the Agreement in its entirety and mark sub-clause 7.4 as "*Intentionally Left Blank*".
- (n) Delete the references to "*Berndale*" in sub-clause 7.5(a) of the Agreement and replace it with "*BBY*".
- (o) Delete the reference to "*Berndale*" in sub-clause 7.5(b) of the Agreement and replace it with "*BBY*".
- (p) Delete the reference to "*Berndale*" in sub-clause 7.6(c) of the Agreement and replace it with "*BBY*".
- (q) Insert the following paragraph at the conclusion of clause 9 of the Agreement:
- BBY agrees and accepts that it will seek ANZ's consent, which will not be unreasonably withheld, prior to any disclosure of its name and role in regard to provision of ANZ V2 PLUS accounts in any public documentation or offer documentation or other material provided by BBY to beneficiaries or prospective beneficiaries, or to any other person.
- (r) delete sub-clause 11(a) of the Agreement in its entirety and replace with the following new clause 11(a):
- 11(a) take all reasonable steps to protect Personal Information in its possession or control against misuse, interference, loss, and unauthorised use, access, modification or disclosure;
- (s) Delete the table in Schedule 3 in its entirety and replace it with the new table below:

Insurance Type	Minimum Coverage Under Policy
Public Liability	AUD10 million per event
Professional Indemnity and Fidelity	AUD10 million in the annual aggregate

4. REPRESENTATIONS & WARRANTIES

Each party represents and warrants that:

- (a) it has the full power and authority to enter into and to perform its obligations under this Variation;
- (b) the execution, delivery and performance by it of this Variation does not and will not violate in any respect any provision of:
 - (a) any law, regulation, authorisation, ruling, consent, judgment, order or decree of any government agency; or
 - (b) its constituent documents,
 and does not and will not result in a breach or default in any material respect under any agreement binding it; and
- (c) any authorisations required in connection with the execution, delivery and performance by it and the validity and enforceability against it of this Variation have been obtained or effected and are in full force, and there has been no material default by it in the performance of any of the terms and conditions of any of those authorisations.

5. MISCELLANEOUS

5.1 Amendment

Any amendment, variation, consent to modification, supplement, replacement, novation or assignment of any provision of this Variation must be in writing, and if by ANZ, is effective only if signed by an authorised representative of ANZ.

5.2 Assignment

No party may assign, novate, dispose of or otherwise create an interest in its rights under this Variation unless it has the prior written consent of the other party.

5.3 Entire agreement

This Variation supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the parties with respect to the matters dealt with in this Variation and there are no oral or written understandings, representations, warranties or commitments of any kind, express or implied, in relation to the matters dealt with this Variation that are not expressly set out in this Variation.

5.4 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Variation and any transaction contemplated by it.

5.5 Severability

All or part of any provision of this Variation that is illegal, invalid or unenforceable will be severed from this Variation and the remaining provisions (and parts of provisions) will continue in force.

5.6 Waiver

A waiver of any right, power, authority, discretion or remedy arising on default under this Variation must be in writing and signed by the party granting the waiver. A failure or delay in exercise, or partial exercise, of a right, power, authority, discretion or remedy created or arising on default under this Variation does not result in a waiver of that right, power, authority, discretion or remedy.

5.7 Governing law and jurisdiction

This Variation is governed by the laws in force in the State of Victoria, Australia. In relation to any legal action or proceedings arising out of or in connection with this Variation each party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia and waives any objection to proceedings in any such court on the grounds of venue or on the grounds that the proceedings have been brought in an inconvenient forum.

5.8 Counterparts

This Variation and any documents to be executed under it may be executed in any number of counterparts. All counterparts of this Variation or any such document together will be taken to constitute one instrument.

EXECUTED as a deed

SIGNED sealed and delivered on behalf of **Australia and New Zealand Banking Group Limited (ABN 11 005 357 522)** under Power of Attorney dated
by

who certifies that she or he has not received notice of revocation of that Power in the presence of:



Attorney's Signature

GLENN MASLAM

Attorney's Name



Signature of witness

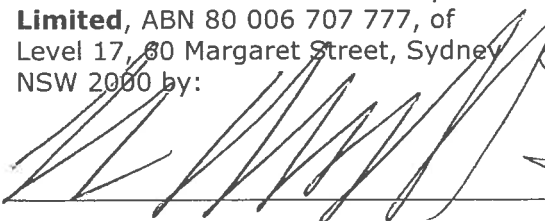
KATE KIRBY

Name of witness

7/11/2015 DOCKLANDS

Date and Place of Execution

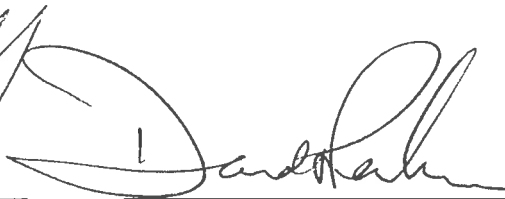
SIGNED sealed and delivered by **BBY Limited**, ABN 80 006 707 777, of Level 17, 60 Margaret Street, Sydney NSW 2000 by:



Director's Signature

GLENN ROSEWALL

Director's Name



[Director's/ Secretary's] Signature

DAVID PERKINS

[Director's/ Secretary's] Name

26/03/2015

Date of Execution

LEVEL 17, 60 MARGARET ST, SYDNEY 2000

Place of Execution

ANZ V2 PLUS OPERATIONS AGREEMENT

Date: 25th FEBRUARY, 2011.

Parties:

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ABN 11 005 357 522) having an office at Level 6, 833 Collins Street, Docklands, Victoria 3008 ("ANZ") and

BBY LIMITED (ABN 80 006 707 777) having its registered office at Level 17, 60 Margaret Street Sydney, NSW 2000 ("BBY").

Recitals:

- A. BBY is the holder of an Australian Financial Services License (AFSL) and intends to open ANZ V2 PLUS accounts for its clients, as part of the operation of its business/services.
- B. ANZ can link the ANZ V2 PLUS accounts opened in relation to BBY'S business/services to an Intermediary reference code, to assist BBY in managing its business/services.
- C. ANZ agrees to pay BBY commission based on the total funds held in all ANZ V2 PLUS accounts linked to BBY'S Intermediary reference code on the terms and conditions of this agreement.
- D. ANZ utilises the software program known as "Shares" provided by GBST Holdings Limited ("GBST"), which provides an electronic communication channel with stockbrokers, their clients, the markets, counterparties, branches and service providers, and which includes the Real-time CMT Interface ("ANZ Interface"). ANZ provides access to Shares to Berndale Securities Limited ABN 63 006 687 467 ("Berndale").
- E. BBY requires Berndale to provide it with information using Shares in order for BBY to perform its obligations under this agreement. BBY will also instruct Berndale to transact on ANZ V2 Plus accounts linked to the BBY Intermediary reference code via the ANZ Interface.

Operative provisions:

1. INTERPRETATION

The following words have these meanings in this agreement unless the contrary intention appears.

ANZ V2 PLUS means the deposit product offered by ANZ.

ANZ V2 PLUS Terms and Conditions means:

- (a) ANZ Saving & Transaction Products – Terms and Conditions;

(b) ANZ Personal Banking Account Fees and Charges; and

"Authorised Representative" has the meaning given by the *Corporations Act 2001* (Cth).

"Business Day" means a day (not being a Saturday or a Sunday) on which banks are open for general banking business in Melbourne.

"Commencement date" means date of this agreement.

"Client" means a client of BBY.

"Confidential Information" of a party is all technical, financial, commercial and other information (in whatever medium) of or relating to it or its business affairs or customers, which is disclosed or available to, or observed or accessible by, the other party in connection with this Agreement which:

- (a) is marked as 'confidential', 'sensitive', 'private' or any other similar description; or
- (b) a reasonable person would (given its nature) consider confidential, but excluding information that:
 - (i) is readily available in the public domain without breach of confidentiality; or
 - (ii) the receiving party can establish by written records is or has been legally known to, developed by, or acquired by, that receiving party, independently of this Agreement.

"Force Majeure Event" means, for a Party, any occurrence or omission:

- (a) as a direct result of which the Party is prevented from or delayed in performing any of its obligations under this Agreement; and
- (b) that is beyond the reasonable control of that Party,

including forces of nature, industrial action and action or inaction by a government agency.

"GST" means the goods and services tax payable pursuant to the GST Act.

"GST Act" means A New Tax System (Goods and Services) Tax Act 1999 and related Acts introduced by the Federal Government and includes any Act by whatever name introduced for the same purpose by any Australian Government and any amendments to the GST Act.

"Insolvent" is an entity being insolvent (under section 95A of the *Corporations Act 2001* (Cth)); having an administrator, controller (per section 9 of the *Corporations Act 2001* (Cth)) or similar officer appointed to all or any of its property; having taken (or had taken against it) any step for its winding up, deregistration or dissolution or for it to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors; or suffering any event or similar event to those set out in this definition which would restrict its business operations or cause those operations

to be placed under the control of a person other than its directors under the laws of its place of incorporation.

"Intermediary Reference Code" is a reference number relating to BBY or an BBY Adviser

"Intellectual Property" is all present and future copyright, rights to inventions including patents and patent applications, modifications or improvements to the same, registered and unregistered trade marks, registered and unregistered designs, rights to trade secrets and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

NPP's means the National Privacy Principles contained in Schedule 3 to the Privacy Act 1988 (Cth).

"BBY Adviser" means an adviser employed by BBY.

"Personal Information" is information or an opinion about a natural person (whether true or not), including personal information as defined in the *Privacy Act 1988* (Cth).

"Promotional Material" means advertising materials, sales literature, catalogues, display stands, signs, films, television, video, radio, Internet advertising, print medium material and material of a similar nature used to promote ANZ V2 PLUS.

Supply, supplies and other terms used in this Agreement that are defined in the GST Act have the same meanings as in the GST Act.

2. OPENING ANZ V2 PLUS ACCOUNTS

- 2.1 ANZ and BBY will agree on a process for the opening of ANZ V2 PLUS accounts. That process will include the following elements, which form part of this Agreement:
- (a) ANZ V2 PLUS accounts opened in relation to BBY'S business/services must be opened in accordance with the ANZ V2 PLUS Terms and Conditions;
 - (b) ANZ V2 PLUS accounts opened for Clients pursuant to this Agreement can be opened either with or without direct banking facilities;
 - (c) BBY and the BBY'S Advisers must quote their Intermediary Reference Code at the time of account opening to ensure the new ANZ V2 PLUS accounts are linked to their Intermediary Reference Number; and
 - (d) Prior to or at the time of opening an ANZ V2 PLUS account, BBY or BBY'S Advisers must provide the ANZ V2 PLUS Terms and Conditions (as amended from time to time) to the Client.

3. ANZ V2 PLUS ACCOUNT OPERATION

- 3.1 Whilst ANZ V2 PLUS accounts can be opened either with or without direct banking facilities:
- (a) BBY acknowledges that a Client will be able to make deposits, withdrawals and transfers in accordance with the ANZ V2 PLUS Terms and Conditions; and

(b) ANZ will be entitled to act at all times on the instructions of the Client in relation to the operation and maintenance of the ANZ V2 PLUS Account in accordance with the ANZ V2 PLUS Terms and Conditions.

3.2 ANZ will calculate and set all fees (whether transaction Fees or otherwise), and interest rates as relevant to ANZ V2 PLUS in its absolute discretion.

4. COMMISSION

4.1 ANZ will pay BBY the rate of commission (exclusive of GST) set out in Schedule 2.

4.2 Commission payable to BBY is calculated on the total average daily deposit balance of the ANZ V2 PLUS accounts linked to the BBY or the BBY'Ss Advisers Intermediary Reference Code and is payable quarterly in arrears by the 15th day of December, March, June and September.

4.4 BBY will nominate an account (in Schedule 1) for commission payments to be paid into.

4.5 For the avoidance of doubt, ANZ is not required to pay BBY or a BBY Adviser's commission in relation to a Client who opens an ANZ V2 PLUS account otherwise than in accordance with the procedure referred to in clause 2 or as otherwise agreed between the parties.

4.6 GST

Terms used in this clause have the same meaning as those defined in the A New Tax System (Goods and Services Tax) Act 1999 ("GST Act") unless provided otherwise. Where any supply made under or in connection with this Agreement is subject to GST, the supplier may increase the consideration otherwise provided for by the amount of that GST and recover such additional amount from the party liable for payment of the consideration. This clause does not apply to the extent that the consideration is expressly agreed to be GST inclusive.

4.7 ANZ may create recipient created tax invoices and adjustment notes in accordance with the requirements of the GST Act in relation to all supplies made under this agreement. BBY and ANZ agree that any recipient created tax invoices issued by ANZ to BBY will contain provisions to the effect that:

- (a) ANZ has issued the tax invoice on behalf of BBY;
- (b) BBY will not issue a tax invoice for the supplies covered by the tax invoice; and
- (c) BBY and ANZ are registered for GST purposes and they will notify each other if they cease to be registered.

5. VARIATION OF COMMISSION

ANZ may vary:

- (a) the rate of commission or balance ranges within which commission rates apply, set out in Schedule 2;

(b) the method by which commission is calculated; or

(c) the frequency with which interest is credited,

by giving BBY at least 30 days notice.

6. IDENTIFICATION OF CLIENTS

6.1 Without prejudice to the generality of clause 21.6, the parties acknowledge that BBY is, or may become, an agent of ANZ for the purposes of identifying Clients on ANZ's behalf.

6.2 BBY will identify Clients on ANZ's behalf in accordance with the Intermediary Identifying Agreement between the parties.

7. ACCESS TO SHARES AND THE ANZ INTERFACE

7.1 BBY will instruct Berndale, which has access to Shares and the ANZ Interface, to obtain information from Shares for BBY or transact on ANZ V2 Plus accounts which are linked to the BBY Intermediary reference code via the ANZ Interface.

7.2 Any service or support issues or problems that BBY experiences directly or indirectly in relation to the use of Shares or the ANZ Interface will be addressed by BBY with Berndale. ANZ will not act as the point of contact for BBY in relation to any questions or issues relating to the use of Shares or the ANZ Interface.

7.3 BBY shall be responsible for obtaining Client consent for Berndale to:

(a) access Client account information via Shares; and

(b) transact on Client accounts via the ANZ Interface.

7.4 BBY will not instruct Berndale in relation to Shares or the ANZ Interface other than in accordance with Shares' and the ANZ Interface's intended use.

7.5 BBY acknowledges and agrees that:

(a) the provision by ANZ of Shares and the ANZ Interface is completely at ANZ's discretion and that ANZ reserves the right at any time, without prior consultation with BBY, to:

(i) remove Berndale's access to Shares and/or the ANZ Interface;

(ii) change any aspect of Shares and/or the ANZ Interface;

(iii) change the terms on which Berndale has access to Shares and/or the ANZ Interface.

(b) Access to Shares and/or the ANZ Interface provided by ANZ will not always be available, due to matters including but not limited to:

(i) service interruptions;

- (ii) maintenance and upgrades; and
- (iii) disaster recovery testing;

and BBY agrees that, it will not make any claim, demand, or take any action against ANZ in relation to any issue relating to Berndale's inability to access Shares and/or the ANZ Interface.

7.6 ANZ is not liable for, and BBY will not make any claim or demand or take any action against ANZ in relation to:

- (a) the failure of Shares and /or the ANZ Interface to operate properly, or at all;
- (b) any misinformation caused by Shares and/or the ANZ Interface;
- (c) any other loss or damage suffered by BBY or Clients relating to Berndale's use of or inability to use Shares and/or the ANZ Interface.

8. ANTI-MONEY LAUNDERING AND SANCTIONS

8.1 BBY agrees that ANZ may, in its sole and absolute discretion:

- (a) delay, block or refuse to process any transaction; or
- (b) refuse to perform any one or more of its obligations under this Agreement, without incurring any liability, if ANZ suspects, for any reason, that:
 - (c) an action it is required or requested to take under this Agreement;
 - (d) its involvement in any transaction that is any way connected with this Agreement; or
 - (e) its performance of any service for any person in connection with this Agreement; might in any way cause ANZ:
- (f) to breach any law, regulation or other legal prohibition of any place or jurisdiction (including a foreign place or jurisdiction);
- (g) to deal in any way with any person (natural, corporate or governmental) that is sanctioned, or is connected in any way to any person that is sanctioned, under economic and trade sanctions imposed by the United Nations, the European Union or any country;
- (h) to breach any sanction of any kind imposed by any country (including any sanction that supports a decision or resolution of the United Nations Security Council);
- (i) to deal in any way with any person (natural, corporate or governmental) that has been listed or named by any government, or independent authority (such as the United Nations or the European Union), as a person who is in any way suspected of being involved (or potentially involved) in terrorism or in any activities connected with terrorism; or

- (j) to be involved (whether directly or indirectly) in any transaction which involves the proceeds of unlawful conduct or which involves proceeds which might be applied for the purposes of unlawful conduct.

For the purposes of this clause, the circumstances listed in paragraphs (f) to (j) above are collectively described as unlawful acts.

8.2 BBY must provide all information to ANZ which ANZ reasonably requires in order:

- (a) to manage anti-money laundering, counter-terrorism financing and economic and trade sanctions risk;
- (b) to comply with any laws, regulations, or other prohibitions that may be applicable to ANZ with respect any transaction, requested action or obligation applicable to ANZ; or
- (c) to avoid involvement in any unlawful act.

8.3 BBY warrants and undertakes that it will not request ANZ to take any action, or to perform any obligation, in connection with this Agreement that might cause ANZ to be involved in any unlawful act on the part of ANZ. Should BBY become aware that ANZ might become involved in an unlawful act in connection with this Agreement, BBY must immediately tell ANZ of the fact or circumstance that might cause ANZ to be at risk or involvement in an unlawful act. Should BBY become aware that ANZ has become involved in an unlawful act, as a result of its performance of any action or obligation in connection with this Agreement, BBY must immediately tell ANZ of the facts or circumstances that has caused this to occur.

8.4 Both parties agree that the other may disclose any information concerning the other party to any law enforcement agency or court where required to do so under any law or regulation (including a law or regulation of a foreign place or jurisdiction).

9. PROMOTION OF ANZ V2 PLUS

BBY must not create, produce, issue or commission any Promotional Material relating to ANZ V2 PLUS without the prior written consent of ANZ.

10. PUBLICITY

No news releases, public announcements or publicity shall be released by any Party concerning this Agreement or any contract resulting from it without the prior written approval of the other Party, except where an announcement is required by law or under the rules of any securities exchange. The Parties must use their reasonable endeavours to agree in good faith the form or forms of press announcements or public statements that they will make.

11. PRIVACY

No use or disclosure of personal information

BBY will not use or (unless required by law) disclose any Personal Information without ANZ's prior approval, and must:

- (a) take all reasonable steps to protect Personal Information in its possession or control against misuse, loss and unauthorised access, modification or disclosure;
- (b) only allow its employees to access Personal Information if it is necessary to perform obligations under this Agreement (and ensure its employees handling such information are aware of BBY'S obligations regarding such activities or practices);
- (c) immediately notify ANZ of any breach or possible breach of BBY obligations regarding Personal Information; and
- (d) on termination of this Agreement or if requested by ANZ, at ANZ's option, either:
 - (i) return all Personal Information in BBY'S possession or control to ANZ;
 - (ii) destroy all Personal Information in BBY'S possession or control; or
 - (iii) de-identify all Personal Information in BBY'S possession or control.

BBY to comply with NPPs, Privacy Codes etc

- (e) BBY must comply with NPPs, any applicable Privacy Code and other applicable laws governing Personal Information (together **Privacy Laws**) in doing any act or engaging in any practice under this Agreement, in the same way and to the same extent as ANZ would have been bound by the Privacy Laws if it had done the act or engaged in the practice.

Protection and Use of Personal Information

- (f) BBY acknowledges that the Personal Information is part of ANZ's Confidential Information and accordingly all of the restrictions within clause 12 apply to Personal Information.
- (g) BBY must notify each of its employees and Authorised Disclosees that has, or is likely to have, access to any Personal Information that failure to comply with the NPPs and any applicable State legislation affecting privacy may be a criminal offence and may also require BBY to take disciplinary action against that person.

BBY to Correct Inaccurate Personal Information and to Implement Directives

- (h) BBY must correct any Personal Information, when notified by ANZ that it is not accurate, complete or up-to-date. In handling Personal Information, BBY must comply with any reasonable request by ANZ for the purpose of ANZ implementing:
 - (i) ANZ's privacy obligations under the Privacy Laws or any privacy policy ANZ adopts; and
 - (ii) any guideline, direction or determination of the Federal Privacy Commissioner.

12. CONFIDENTIALITY

12.1 Ownership of Confidential Information

Each Party (a “**Recipient**”) acknowledges that the Confidential Information of the other Party (the “**Discloser**”) is, and remains at all times, the property of the Discloser. This Agreement does not convey any proprietary or other interest in the Confidential Information of one Party to the other.

12.2 Protection of Confidential Information

The Recipient must keep the Confidential Information of the Discloser strictly confidential and not disclose it or allow it to become available directly or indirectly to any third Party, except as provided for in this Agreement. This obligation continues after the termination of this Agreement and will continue until the information no longer constitutes Confidential Information of the Discloser.

12.3 Authorised Use of Confidential Information

The Recipient must not access or use the Discloser's Confidential Information for any reason except as strictly necessary for performing its obligations or exercising its rights under this Agreement, or otherwise with the Discloser's prior written consent (which shall not be unreasonably withheld).

12.4 Authorised disclosure of Confidential Information

The Recipient may only disclose the Confidential Information of the Discloser:

- (a) to its Personnel, provided that it strictly complies with clause 12.5 and each applicable Law, Regulatory Requirement and Code of Conduct relating to such disclosure;
- (b) to a specific third Party (other than its Personnel), provided that it has obtained the prior written consent of the Discloser to disclose the specific Confidential Information to that specific third Party (an “**Authorised Disclosee**”); and
- (c) to the extent strictly required to comply with any Law, Regulatory Requirement, Code of Conduct or any stock exchange rules (if applicable). However, the Recipient must (to the extent that this is possible) minimise the extent of the disclosure and give the Discloser reasonable advance notice containing reasonable details of the circumstances of the proposed disclosure and the relevant Confidential Information of the Discloser which is to be disclosed.

12.5 Reasonable precautions to maintain confidentiality

Without limiting clause 12.2, the Recipient must take, and must ensure that any third Party to whom it discloses the Discloser's Confidential Information takes, all reasonable precautions to maintain the confidentiality of that Confidential Information and to protect it from unauthorised access, use and disclosure, including:

- (a) restricting access to, and use of, that Confidential Information to a strictly and genuine need to know basis for the specific purpose for which that Confidential Information was disclosed by the Discloser or, in the absence of an express or implied specific purpose, in accordance with clause 12.5;
- (b) notifying each of its Personnel and Authorised Disclosees that has access to the Confidential Information of the Recipient's obligations under this Agreement;
- (c) copying, modifying, summarising, producing derivations of, or incorporating within other material or otherwise reproducing the Confidential Information only in accordance with clause 12.3;
- (d) complying with any reasonable security and safety procedures notified in writing to the Recipient by the Discloser;
- (e) immediately notifying the Discloser of any circumstance that comes to its attention regarding any actual or potential breach of confidentiality or any unauthorised access, disclosure or use of that Confidential Information; and
- (f) making every effort to cooperate with the Discloser in any investigation, prosecution or remedial action taken by the Discloser in relation to the protection of that Confidential Information.

12.6 Unauthorised Use or Disclosure of Confidential Information

Each Party acknowledges that damages alone are unlikely to be an adequate remedy in respect of any breach of that Party's obligations under this clause. Accordingly, in addition to other remedies that may be available, a Discloser may seek the immediate granting of injunctive or other equitable and/or interlocutory relief to protect its rights and interest in its Confidential Information against any actual or potential breach of this clause by the Recipient, without proof of actual damages, in addition to any other remedy to which the Discloser would be entitled.

12.7 Return of Confidential Information

Upon the termination of this Agreement, the Recipient must, subject to clause 12.8:

- (a) deliver to the Discloser any of the Discloser's Confidential Information in the Recipient's possession or control that is reasonably capable of being delivered; and
- (b) irretrievably delete, erase or otherwise destroy all Confidential Information of the Discloser in the Recipient's possession or control that is not capable of delivery to the Discloser,

and confirm in writing to the Discloser that it has done so.

12.8 Information Retention of certain Confidential Information

Provided that the Recipient continues to comply with its obligations under this clause 12.8, the Recipient may retain any Confidential Information that:

- (a) is included in any board papers of the Recipient;
- (b) the Recipient is required by Law, any Regulatory Requirement or Code of Conduct to retain; or
- (c) the Recipient is required to retain to comply with any legitimate audit policies.

13. INTELLECTUAL PROPERTY

- 13.1 Each Party represents and warrants that it is the absolute and unencumbered legal and beneficial owner of, or that it holds a valid licence to use, its Intellectual Property and all other intellectual property rights necessary for it to be able to fulfil its obligations under this Agreement.
- 13.2 Each Party acknowledges and agrees that the Intellectual Property of the other Party remains the property of, and vests in, that other Party.
- 13.3 BBY must not use ANZ's Intellectual Property for any reason without the prior written consent of ANZ.
- 13.4 BBY must notify ANZ as soon as practicable of any infringement or suspected infringement ANZ's Intellectual Property by a third party.

14. INSURANCE AND WORKERS COMPENSATION

14.1 Types of insurance

BBY must effect before the Commencement Date and continuously maintain:

- (a) for the Term of this Agreement public liability insurance with a minimum indemnity limit of at least that stated in Schedule 3, covering liability to the public for loss or damage to real or personal property and any person who is injured or killed during the performance of this Agreement; and
- (b) for a period of seven (7) years after the termination or expiry of this Agreement professional indemnity and fidelity insurance with a minimum indemnity limit of at least that stated in Schedule 3, covering liability to ANZ from breach of professional duty (in contract or otherwise), caused by an act or omission of BBY or its Personnel.

If the Law does not provide indemnity against claims for common law damages by workers, the Service Provider must effect and maintain insurance against all common law liability in relation to all persons employed by it who are directly or indirectly involved in performing this Agreement.

14.2 Evidence of Insurance

On request by ANZ, BBY must produce to ANZ satisfactory evidence that BBY has complied, and continues to comply, with its obligations under this clause, including all receipts for the premiums paid.

15. AUDIT

15.1 Performance of Audit

- (a) During the Term and for a period of 2 years after the termination of this Agreement, BBY must on reasonable notice (not required to exceed 5 Business Days) provide ANZ (and, subject to clause 15.1(e), its designated representatives) with facilities and records sufficient to allow ANZ to confirm the Service Provider's compliance with this Agreement.
- (b) These audit rights do not extend to information about BBY'S cost base, profits or margins.
- (c) While on BBY'S premises, ANZ will, and will ensure its designated representatives, abide by all reasonable internal security regulations notified to ANZ.
- (d) BBY must provide ANZ and its designated representatives with such assistance as ANZ reasonably requires to conduct such audit, including access to such of BBY'S Personnel as ANZ may reasonably require for the purposes of the audit.
- (e) ANZ will ensure that its designated representatives conducting any audit execute a reasonable confidentiality agreement (the terms of which may not be more onerous than the confidentiality terms of this Agreement) in favour of BBY, at BBY'Ss reasonable request.

15.2 Consequences

If an audit demonstrates any material non-compliance with this Agreement, BBY must:

- (a) bear the cost of remedying promptly, any deficiencies in the performance of its obligations (or in any operations, procedures, processes or systems underlying such performance); and
- (b) if required by ANZ, bear the cost of the original auditor and a new auditor reassessing the areas of non-compliance and preparing a new audit report, such auditor to be appointed or approved by ANZ in its sole discretion.

15.3 Costs

If clause 15.2 does not apply, each party must bear its own costs of the audit.

16. AUTHORITY

- 16.1 ANZ represents and warrants that it has authority to enter into and be bound by this Agreement and the capacity to carry out the rights, and to perform the obligations, imposed under the same and has obtained any necessary permits and licences.
- 16.2 BBY represents and warrants it has the authority to enter into and be bound by this Agreement and the capacity to carry out the rights, and to perform the obligations, imposed under the same and has obtained any necessary permits and licences.

17. DISPUTES

17.1 When this clause applies

- (a) Any Disputes between the Parties will be resolved in accordance with this clause.
- (b) A Party may not institute legal proceedings (apart from injunctive relief where required) without attempting to resolve the Dispute in accordance with this clause.

17.2 Managers to Consult

- (a) The Parties will first refer their Dispute to their Senior Manager (or similar person) ("**Manager**"). Upon the referral of a Dispute, either Party may provide written notice to the other Party requiring the other Party to meet to settle the Dispute. The Parties must meet and attempt to settle the Dispute within 14 days of the date of such notice.
- (b) If the Parties are unable to resolve the Dispute within 28 days of the date of the notice given under clause 17.2(a), then a Party may serve a Dispute Notice on the other parties, requiring the other parties to attempt to settle the Dispute in accordance with clause 17.3.

17.3 Dispute Resolution

If a Party serves a Dispute Notice on the other Party, then the Party may require the other Party to attend mediation to attempt to settle the Dispute, with a mediator chosen by them. If they cannot agree on the identity of the mediator or the location and date and time of the mediation then the mediator, and the location and date and time of the mediation, will be as nominated by, the President for the time being of the Law Institute of Victoria. The mediation will be conducted in accordance with the mediation principles determined by the mediator. The mediation will be conducted as a mediation, not an arbitration, such that any resolution to the Dispute must be reached with the agreement of the Parties to the Dispute.

- 17.4 The cost of the mediator and the mediation (apart from each Party's legal costs) will be borne equally between the Parties.

17.5 Other rights not affected

A Party may exercise any of their rights and remedies afforded under this Agreement in addition to exercising their rights under this clause 17.

18. INDEMNITY

- 18.1 BBY agrees and undertakes to indemnify ANZ (and its employees, officers, agents, contractors and associates) against any loss, claim, damage, costs or expense ("**Losses**") which will not exceed in aggregate the cap contained in Schedule 4 that ANZ may incur (including all legal costs incurred on a solicitor and own client basis) either directly or indirectly and arising out of:

- (a) any negligent act or omission, breach of law, duty, statutory warranty or indemnity, committed by BBY in connection with this Agreement; or

- (b) any material breach of this Agreement.

18.2 The limits on BBY'S liability in clause 18.1 will not apply in relation to:

- (a) liability in relation to:
 - (i) a breach of confidence or a breach of clause 12;
 - (ii) a breach of clause 9, 10, 11 or 13.
- (b) BBY, its employees, agents or representatives committing any act of fraud in relation to any matter the subject of or related to this Agreement or any document forming part of this Agreement.

19. FORCE MAJEURE

19.1 Notice and suspension of obligations

- (a) If ANZ or BBY is affected, or likely to be affected, by a Force Majeure Event:
that Party must immediately give the other prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken to rectify it; and
 - (v) the obligations under this Agreement of the Party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

19.2 Effort to overcome Force Majeure Event

A Party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a Party to settle any industrial dispute in any way it does not want to.

20. NOTICES

- 20.1 A notice or other communication in connection with this Agreement must be:
 - (a) in writing; and
 - (b) delivered to the registered office of the addressee of this Agreement, or if the addressee notifies another address, to that address.
- 20.2 A notice or other communication takes effect from the time it is received unless a later time is specified in it.
- 20.3 A notice or communication is taken to be received:
 - (a) in the case of a posted letter, on the third day after posting;

- (b) in the case of facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was successfully sent to the relevant facsimile number, but if the facsimile is received on a day which is not a Business Day or after 5.00pm, it will be taken as being received at 9.00am on the next Business Day; and
- (c) in the case of an email, on the expiration of one Business Day after the date of sending.

21. MISCELLANEOUS

21.1 Waiver and variation

Any provision of or a right created under this Agreement may not be waived or varied except in writing, signed by the party or parties to be bound.

21.2 Compliance with Laws

In performing its obligations under this Agreement, each party will comply with all statutes, orders, by-laws, regulations or other laws of any governmental authority, including but not limited to the Privacy Act 1988 and the National Privacy Principles contained therein.

21.3 Approvals and consent

Each party will ensure that it has obtained the appropriate approvals and consents from the Client in respect to the transactions anticipated by this agreement.

21.4 Assignment

This Agreement may not be assigned by either party unless the non-assigning party consents in writing to that assignment.

21.5 Undertakings

- (a) BBY must not and must use its best endeavours to procure that its representatives do not:
 - (i) make any representations or give any financial product advice or opinion whatsoever to any Client concerning any of ANZ's products and services or policies, unless BBY and/or its representatives are licensed to do so in accordance with the *Corporations Act 2001 (Cth)*; or
 - (ii) engage in conduct, which is misleading or deceptive, or likely to mislead or deceive concerning any matter outlined in this agreement;
 - (iii) make any public statement or publish any advertisement in relation to the business of ANZ without obtaining the prior written consent of ANZ; or

- (iv) act in any manner which has or has the potential to adversely affect or harm the character, goodwill or reputation of ANZ, ANZ's business, directors, officers, employees or associated companies.

21.6 Relationship between the parties

- (a) Nothing in this Agreement creates a relationship of agency, partnership or joint venture between the parties and BBY must not imply or say to any person that any such relationship exists.
- (b) BBY is not appointed as an Authorised Representative of ANZ.

22. GOVERNING LAW

This agreement is governed by the law in force in Victoria.

23. TERMINATION

- 23.1 This agreement will continue in force until terminated by 14 days' prior written notice by one party to the other.
- 23.2 This Agreement may be terminated immediately on written notice by a party if the other party:
 - (a) commits a material breach of this Agreement and does not remedy that breach (if capable of remedy) within 7 days of being requested to do so; or
 - (b) ceases to carry on business or is insolvent; or
 - (c) the other party's Australian Financial Services License (AFSL) is suspended or revoked or there is any other change in circumstances which affects the ability of either party to fulfil its obligations under this agreement.
- 23.3 Clause 7, 8, 10, 11, 12, 13, 14, 15, 17, 18 and this clause 23 will survive termination of this agreement.
- 23.4 Termination of this agreement does not affect any obligations and liabilities that arise prior to the termination.
- 23.5 In addition to any other consequences of the termination of this Agreement set out herein, insofar as any Promotional Material being circulated at the time of termination was created, the Party responsible for the creation of the Promotional Material will be responsible for, and will bear the cost of, withdrawal or amendment of the Promotional Material as necessary.

24. COUNTERPARTS

This agreement may be executed in counterparts.

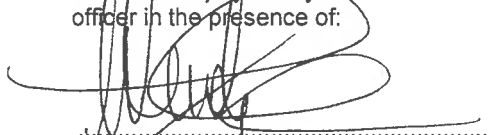
EXECUTED as an agreement

Signed for AUSTRALIA AND NEW
ZEALAND BANKING GROUP
LIMITED (ABN 11 005 357 522) by a
duly authorised officer in the presence
of:

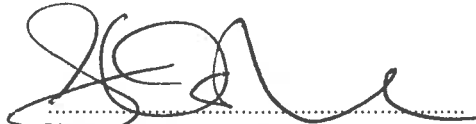

Signature of witness

AARON LUNARDELLI
Name of witness (block letters)

Signed for BBY LIMITED (ABN 80
006 707 777) by a duly authorised
officer in the presence of:



Signature of witness

WENDY LANSDOWN
Name of witness (block letters)


Signature

Sam Osborne
Name

SM, Adviser Services
ANZ


Signature

Arun Mahajan
Name

Schedule 1

Intermediary Details

Intermediary Name: ...**BBY Limited**

Receiving Commission

Intermediary Reference Code: **BBY 1502**

ABN Number: **80 006 707 777**

Address:

Suburb: _____ State: _____ Post Code: _____

Telephone Number: Facsimile Number:

Email address:

Intermediary's 1st Contact Name: _____ Title: _____

Intermediary's 2nd Contact Name: Title: _____

Principal's Name:..... Title: _____

Business Type of Intermediary

Stock Broker

Commission Distribution

Direct credit into following nominated account:

BSB **082-057** A/c Number **169 133 546** **BBY Limited**

Direct credit into each ANZ V2 PLUS account linked to BBY'S Intermediary Reference Numbers.

Schedule 2

**Rates of Commission
(Exclusive of GST)**

Calculation of commission by reference to ANZ V2 PLUS account balances linked to BBY or BBY Adviser's Intermediary Reference Code	Commission Rate (paid to BBY)
All amounts	0.25% p.a

Schedule 3

Insurance

Insurance type	Minimum coverage under policy
Public liability	\$1 million per event
Professional indemnity and fidelity	\$10 million in the annual aggregate

Schedule 4

Cap on liability

AUD\$5,000,000.

