

Allens Arthur Robinson



Date 2 January 2009

ABN 47 702 595 758

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From Jonathan Lee

To **Company Announcements Office**

The Australian Securities Exchange, Sydney

Fax 1300 135 638

Level 28
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000
Australia
T +61 2 9230 4000
F +61 2 9230 5333

Correspondence
GPO Box 50
Sydney NSW 2001
Australia
DX 105 Sydney

www.aar.com.au

Dear Sir/Madam

Babcock & Brown Communities Group (BBC) - Notice of change of interests of substantial holder

In accordance with section 671B(1)(b) of the *Corporations Act 2001* (Cth) (the *Act*), we attach on behalf of Lend Lease Corporation Limited (ACN 000 226 228) a copy of a Form 604 setting out the information required under section 671B(3) of the Act. A copy of this form has been provided to Babcock & Brown Communities Group.

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Yours faithfully

Jonathan Lee

Lawyer

Jonathan.Lee@aar.com.au

T +61 2 9230 4594

Stuart McCulloch

Partner

Our Ref SWMS:LYJS:206036535

lyjs A0111725066v1 206036535 30.12.2008

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Form 604

Corporations Act 2001

Section 671B

Notice of change of interests of substantial holder

To Company name/Scheme

BABCOCK & BROWN COMMUNITIES GROUP ("BBC")

ACN/ARSN

1. Details of substantial holder (1)

Name

Lend Lease Corporation Limited ("LLC"), Lend Lease Capital Services Pty Ltd ("LLCS") and each other subsidiary of LCC (together the "LLC Group")

ACN/ARSN (if applicable)

000 226 228

There was a change in the interests of the substantial holder on

**30 December
2008**

The previous notice was given to the company on

2 October 2008

The previous notice was dated

2 October 2008**2. Previous and present voting power**

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
Ordinary Fully Paid Stapled Securities	132,423,551	19.39%	380,551,394	41%%

3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

Date of change	Person whose relevant interest changed	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
30 December 2008	Each member of the LCC Group	Acquisition of a relevant interest under s608(1). On 30/12/08, BBC issued 35,900,000 securities to LLCS and LLCS was registered as the holder of those securities, pursuant to the Implementation Agreement (copy attached).	\$21,540,000 (\$0.60 per ordinary fully paid stapled security)	35,900,000 ordinary fully paid stapled securities	35,900,000

30 December 2008	Each member of the LLC Group	Change from relevant interest under s608(8) (following completion of the acquisition of 42,522,022 securities from Babcock & Brown and its subsidiaries ("B&B Group") pursuant to the Stapled Security Acquisition Agreement (copy attached)), to a relevant interest under s608(1), after LLCS completed that acquisition on 30/12/08.	\$12,331,386.38 (\$0.29 per ordinary fully paid stapled security)	42,522,022 ordinary fully paid stapled securities	42,522,022
30 December 2008	Each member of the LLC Group	Acquisition of a relevant interest under s608(1) Corporations Act. On 30/12/08, BBC issued 69,300,000 securities to LLCS and LLCS was registered as the holder of those securities, pursuant to the Implementation Agreement	\$41,580,000 (\$0.60 per ordinary fully paid stapled security)	69,300,000 ordinary fully paid stapled securities	69,300,000
30 December 2008	Each member of the LLC Group	Acquisition of a relevant interest under s608(1) Corporations Act. On 30/12/08, BBC issued 141,000,000 securities to LLCS and LLCS was registered as the holder of those securities, pursuant to the Implementation Agreement	\$84,600,000 (\$0.60 per ordinary fully paid stapled security)	141,000,000 ordinary fully paid stapled securities	141,000,000

30 December 2008	Each member of the LLC Group	Change from relevant interest under s608(8) to a relevant interest under s608(1). On 30/12/08, securityholders approved LLC's acquisition of 42,522,020 securities from the B&B Group, giving each member of the LLC Group a relevant interest pursuant to s608(8). On 30/12/08, LLCS acquired a relevant interest in those securities under s608(1) by completing the acquisition of those securities from the B&B Group pursuant to the Stapled Security Acquisition Agreement.	\$12,331,386.38 (\$0.29 per ordinary fully paid stapled security)	42,522,020 ordinary fully paid stapled securities	42,522,020
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4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

Holder of relevant interest	Registered holder of securities	Persons entitled to be registered as holder (8)	Nature of relevant interest (6)	Class and number of securities	Person's votes
Each member of the LLC Group	LLC	LLC	Relevant interest under s608(1) of the Corporations Act as the holder of those securities	49,307,352 ordinary fully paid stapled securities	49,307,352
Each member of the LLC Group	LLCS	LLCS	Relevant interest under s608(1) of the Corporations Act as the holder of those securities	331,244,042 ordinary fully paid stapled securities	331,244,042

5. Changes in association

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

Name and ACN/ARSN (If applicable)	Nature of association
N/A	

6. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Lend Lease Corporation Limited	Level 4, 30 The Bond, 30 Hickson Road

Millers Point NSW 2000

Signature

print name

William HARA

capacity

Secretary

sign here



date

~~December 2008~~ 2 JANUARY
2009

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Implementation Agreement

Babcock & Brown Communities Limited
ABN 16 010 622 901

**Babcock & Brown Communities Investor
Services Limited**
ABN 33 080 737 042

Lend Lease Corporation Limited
ABN 32 000 226 228

Blake Dawson

Reference
SJD DMCM 02-1435-3446
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Implementation Agreement

DATE 1 October 2008

PARTIES

Babcock & Brown Communities Limited ABN 16 010 622 901 (**BBCL**)

Babcock & Brown Communities Investor Services Limited ABN 33 080 737 042 (**BBCIS**) as responsible entity of the Babcock & Brown Communities Trust ARSN 124 896 733 (**BBCT**)

Lend Lease Corporation Limited ABN 32 000 226 228 (**Lend Lease**)

RECITALS

- A. Babcock & Brown Communities Group (**BBC**) comprises **BBCL** and **BBCIS** as responsible entity of **BBCT**.
- B. **BBC** is listed on **ASX**.
- C. **BBCL** appointed **BBCM** to carry on the business of providing management services to **BBCL** pursuant to the **BBCL** Management Agreement.
- D. **BBCIS** appointed **BBCM** to carry on the business of providing management services to **BBCIS** pursuant to the **BBCT** Management Agreement.
- E. Subject to obtaining the consent of the Finance Parties, **Lend Lease** wishes to:
 - (a) acquire the management rights under the Management Agreements;
 - (b) replace **BBCIS** as the responsible entity of **BBCT**;
 - (c) acquire the **BNB** Parcel;
 - (d) subscribe for Stapled Securities or **BBC** Notes;
 - (e) subscribe for the First Notes and Second Notes; and
 - (f) sell its Retirement By Design Business to **BBC**.
- F. Subject to obtaining the consent of the Finance Parties, **BBC** has agreed to:
 - (a) consent to the novation of the Management Agreements to **Lend Lease**;
 - (b) issue Stapled Securities or **BBC** Notes to **Lend Lease**;
 - (c) issue the First Notes and Second Notes to **Lend Lease**; and
 - (d) negotiate in respect of the acquisition of the Retirement By Design Business, on the terms and conditions of this agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this agreement.

ASX means ASX Limited (ABN 98 008 624 691) and any successor to the stock exchange operated by it.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, and including any condition attaching to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

BBC means BBCL and BBCT operating as Babcock & Brown Communities Group under the Stapling Deed.

BBC Board means the board of directors of BBCIS and BBCL.

BBC Group Entity means any body corporate or unit trust controlled by BBC or any subsidiary of BBC.

BBC Material Adverse Change means, in relation to the Second Tranche A Completion Date or the Second Tranche B Completion Date (as applicable) (**Test Date**) events which occur in relation to the business of BBC or which are announced by BBC between the date of this agreement and the Test Date which, if they had been taken into account in BBC's financial statements for the year ended 30 June 2008, individually or when aggregated with all such events, would have resulted in:

- (a) the value of consolidated net assets of BBC reported in BBC's financial statements for the year ending 30 June 2008 being reduced by at least 10%; or
- (b) the value of consolidated annual net profit after tax of BBC reported in BBC's financial statements for the year ending 30 June 2008 being reduced by at least 10%.

but does not include:

- (a) any matter fairly disclosed to Lend Lease on or before the date of this agreement (including in the Data Room or as a result of disclosures made to ASX);
- (b) any change in accounting policy required by law;
- (c) any change occurring directly or indirectly as a result of any matter, event or circumstance required by this agreement, or the transactions contemplated by it; or
- (d) any change, circumstance, event or effect to the extent attributable to general market or economic conditions in any such case affecting the industry in which BBC operates, the economy in Australia or New Zealand, or the international economy.

BBC Note means a subordinated note issued on the terms set out in Schedule 5.

BBCL Constitution means the constitution of BBCL.

BBCL Management Agreement means the management agreement dated 26 July 2007 entered into by BBCL and BBCM as amended and supplemented by the letter agreement entitled "Base Manager Fees (Allotment Date to 30 June 2010) and Base Manager Expense Amount (Allotment Date to 30 June 2008)" entered into between BBCL, BBCIS and BBCM dated 25 July 2007.

BBCL Share means a fully paid ordinary share in the capital of BBCL.

BBCM means Babcock & Brown Communities Management Pty Limited
ABN 28 120 387 313.

BBCM Novation Completion has the meaning given to that term in the Transfer and RE Replacement Agreement.

BBCT Constitution means the constitution of BBCT dated 13 April 2007.

BBCT Management Agreement means the management agreement dated 26 July 2007 entered into by BBCIS and BBCM as amended and supplemented by the letter agreement entitled "Base Manager Fees (Allotment Date to 30 June 2010) and Base Manager Expense Amount (Allotment Date to 30 June 2008)" entered into between BBCL, BBCIS and BBCIM dated 25 July 2007.

BBCT Unit means a fully paid unit in BBCT.

BNB means Babcock & Brown International Pty Limited ABN 76 108 617 483.

BNB Parcel means the Initial BNB Parcel and the Second BNB Parcel.

Business Day has the same meaning as in the Listing Rules.

Claim means a claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Common Terms Deed means the document of that title dated 18 December 2007 between, among others, BBCL and the Finance Parties.

Corporations Act means the *Corporations Act 2001* (Cth).

Custody Agreement means the custody agreement dated 8 June 2007 between BBCIS and Babcock & Brown Asset Holdings Pty Limited.

Data Room means the documents made available in electronic format by BBC to Lend Lease and to their advisers, on or from 1 September 2008 for the purpose of Lend Lease and their advisers carrying out a due diligence investigation of BBC including any answers to questions raised by Lend Lease or their advisers in relation to one or more of the documents provided electronically, or the contents of any one or more of those documents.

Due Diligence Period means the period commencing on the date of this agreement and ending on 27 October 2008 (or such other period as the parties agree).

Encumbrance means:

- (a) a mortgage, charge, pledge, lien, hypothecation or title retention arrangement;
- (b) a right of setoff or right to withhold payment of a deposit or other money;

- (c) a notice under section 255 of the *Income Tax Assessment Act 1936*, section 260-5 in schedule 1 to the *Taxation Administration Act 1953* or any similar legislation;
 - (d) any third party interest (for example, a trust or an equity);
 - (e) a right of a person to acquire a share or to restrain someone from acquiring a share (including under an option, a right of pre-emption or a right of first refusal, such as one in a shareholders agreement or in a constitution);
 - (f) a right of any person to purchase, occupy or use an asset (including under an option, agreement to purchase, licence, lease, or hire purchase); or
- an agreement to create any of them or to allow any of them to exist.

End Date means the later of:

- (a) 28 February 2009; and
- (b) the date on which OIO Approval is granted.

Estimated Stamp Duty means the amount estimated by the parties pursuant to clause 7.4 as the stamp duty payable in respect of the Retirement by Design Acquisition.

Event of Default means an event of default under the Finance Documents.

Extraordinary General Meeting has the meaning given to it in clause 8.1(a).

Finance Document means:

- (a) in respect of National Australia Bank Limited and Bank of New Zealand, the facility agreement dated 18 December 2007 between, among others, National Australia Bank Limited, Bank of New Zealand and BBCL and any "Transaction Document" (as that term is defined in the Common Terms Deed);
- (b) in respect of Australia and New Zealand Banking Group Limited and ANZ National Bank Limited, the facility agreement dated 18 December 2007 between, among others, Australia and New Zealand Banking Group Limited, ANZ National Bank Limited and BBCL and any "Transaction Document" (as that term is defined in the Common Terms Deed); and
- (c) in respect of Commonwealth Bank of Australia, the facility agreement dated 18 December 2007 between, among others, Commonwealth Bank of Australia and BBCL and any "Transaction Document" (as that term is defined in the Common Terms Deed).

Finance Parties means National Australia Bank Limited, Bank of New Zealand, Australia and New Zealand Banking Group Limited, ANZ National Bank Limited and Commonwealth Bank of Australia.

Finance Undertaking means each of the undertakings described in section 2 (General Undertakings) of schedule 3 of the Common Terms Deed.

Financial Adviser Mandate Letter Agreement means the letter agreement entitled "Babcock and Brown Communities – Mandate Letter" dated 25 July 2007 between BBCL, BBCIS (as responsible entity to BBCT) and Babcock & Brown Australia Pty Limited appointing Babcock & Brown Australia Pty Limited as the preferred financial adviser to the Babcock & Brown Communities Group.

First Completion means the issue of the First Tranche to Lend Lease on the terms and conditions of this agreement.

First Completion Date means:

- (a) the date which is one Business Day after the date on which the Extraordinary General Meeting is held; or
- (b) if Lend Lease waives the condition precedent in clause 4.3(g), any other date specified by Lend Lease when it waives that condition precedent provided it is a date occurring at least 1 Business Day after it waives the condition and before or on the date in paragraph (a);
- (c) any other date Lend Lease and BBC agree on in writing to be the completion date provided it is a date occurring before the date in paragraph (a).

First Notes means:

- (a) if the First Completion Date is before the date on which the Extraordinary General Meeting is held, 22,333,333 convertible notes issued on terms and conditions which reflect the RBD Convertible Note Terms (except that the First Note Conversion Rights will be subject to the approval of the holders of Stapled Securities) and as are approved by ASX; or
- (b) if the First Completion Date is after the date on which the Extraordinary General Meeting is held and the resolution referred to in clause 4.6(c) has been passed, 22,333,333 convertible notes issued on terms and conditions which reflect the RBD Convertible Note Terms and as are approved by ASX; or
- (c) if the First Completion Date is after the date on which the Extraordinary General Meeting is held and the resolution referred to in clause 4.6(c) has not been passed, 22,333,333 convertible notes issued on terms and conditions which reflect the RBD Convertible Note Terms (other than the First Note Conversion Rights) and as are approved by ASX.

First Note Conversion Rights means the right of the holder of a First Note to convert a First Note into a Stapled Security.

First Tranche means 35,900,000 BBC Notes.

First Tranche Subscription Price means an amount in Australian dollars equivalent to the number of BBC Notes in the First Tranche multiplied by \$0.60.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Initial BNB Parcel means 42,522,022 Stapled Securities in which BNB has a relevant interest.

Insolvency Event means, for an entity, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, the taking of any step that could result in the entity becoming insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

Internalisation Agreement means the agreement of that name dated 28 August 2008 entered into by BNB, BBCM, BBCL and BBCIS.

Legal Liability means a duty, liability or obligation affecting the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Lend Lease Nominees means the two persons nominated by Lend Lease to act as directors of BBC who are considered by the BBC board, acting reasonably, to have the necessary skills, experience and knowledge to perform their duties and responsibilities as directors of BBC.

Listing Rules means the Listing Rules of the ASX and any other rules of the ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

Loss means a damage, loss, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Management Agreements means the BBCL Management Agreement and the BBCT Management Agreement.

Obligor has the meaning given to that term in the Common Terms Deed.

OIO Approval means the consent in writing of the New Zealand Overseas Investment Office to the acquisition by Lend Lease of the Second Tranche and the Second BNB Parcel.

Panel means the Takeovers Panel established under section 171 of the *Australian Securities and Investments Commission Act 2001*.

Panel Satisfaction Date means the Business Day immediately preceding the date on which the Extraordinary General Meeting is held.

Panel Undertaking means the undertaking (as varied or extended, whether voluntarily or at the direction of the Panel) given by BNB, Lend Lease and BBC to the Panel in relation to (among other things) the transactions contemplated by this agreement.

Panel Undertaking Period means the period beginning on the date on which the Panel Undertaking was given and ending on the date on which the Panel Undertaking expires.

Potential Event of Default has the meaning given to that term in the Common Terms Deed.

RBD Completion means completion of the Retirement by Design Acquisition.

RBD Consideration means the consideration for the Retirement by Design Acquisition determined in accordance with clause 7.2.

RBD Convertible Note Terms means the terms set out in Schedule 4.

RBD Convertible Notes means 200,000,000 convertible notes issued by BBC on terms and conditions which reflect the RBD Convertible Note Terms.

RBD Purchase Price means \$133,400,000, as adjusted in accordance with clause 7.4(b).

Retirement by Design Acquisition means the acquisition of the Retirement By Design Business by BBC on such terms as are agreed by the parties under clause 7.1.

Retirement By Design Business means the business so entitled operated by Lend Lease, comprising those assets and liabilities listed in Schedule 3 and the related village and operational employees.

Review Event has the meaning given to that term in the Common Terms Deed.

Second BNB Parcel means 42,522,020 Stapled Securities in which BNB has a relevant interest.

Second Completion means the issue of all of the Second Tranche to Lend Lease on the terms and conditions of this agreement.

Second Completion Date means the later of the Second Tranche A Completion Date and Second Tranche B Completion Date.

Second Note Subscription Price means \$25,000,000.

Second Notes means 100,000,000 convertible notes issued on the terms set out in Schedule 8.

Second Tranche means Second Tranche A and Second Tranche B.

Second Tranche A means 69,300,000 Stapled Securities.

Second Tranche A Completion means the issue of the Second Tranche A and the Second Notes to Lend Lease on the terms and conditions of this agreement.

Second Tranche A Completion Date means:

- (a) the day which is one Business Day after the condition precedent in clause 6.1(b) has been satisfied, provided that the condition precedent in clause 6.1(a) has been satisfied by that date (or is satisfied on that date) and provided that the other conditions in clause 6.1 are and continue to be satisfied as at that date; or
- (b) any other date Lend Lease and BBC agree on in writing to be the completion date.

Second Tranche A Subscription Price means an amount in Australian dollars equivalent to the number of Stapled Securities in the Second Tranche A multiplied by \$0.60.

Second Tranche B means 178,133,333 Stapled Securities.

Second Tranche B Completion means the issue of the Second Tranche B on the terms and conditions of this agreement.

Second Tranche B Completion Date means:

- (a) the day which is 5 Business Days after the last of the conditions precedent in clauses 6.2(a), 6.2(b) and 6.2(f) have been satisfied provided that the other conditions in clause 6.2 are and continue to be satisfied as at that date; or
- (b) any other date Lend Lease and BBC agree on in writing to be the completion date provided it is a date occurring before the above date.

Second Tranche B Subscription Price means an amount in Australian dollars equivalent to the number of Stapled Securities in the Second Tranche B multiplied by \$0.60.

Second Tranche Subscription Price means the aggregate of the Second Tranche A Subscription Price and the Second Tranche B Subscription Price.

Stapled Security means one BBCL Share and one BBCT Unit which are stapled together such that those securities can not be dealt with separately.

Stapled Security Acquisition Agreement means the Stapled Security Acquisition Agreement relating to the BNB Parcel substantially in the form or to the effect of Schedule 2.

Stapling Deed means the deed dated 26 July 2007 between BBCIS and BBCL which sets out the terms and conditions of the relationship between BBCT and BBCL whilst Stapled Securities are on issue.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

Termination Deed (Custody Agreement) means the deed of that name annexed to the Transfer and RE Replacement Agreement.

Termination Deed (Financial Adviser Mandate Letter) means the deed of that name annexed to the Transfer and RE Replacement Agreement.

Transfer and RE Replacement Agreement means an agreement substantially in the form set out in Schedule 1, providing that BNB must procure:

- (a) that BBCIS retires as responsible entity of BBCT; and
- (b) the execution by BBCM of a Novation and Amending Deed to novate the Management Agreements to Lend Lease.

Valuation Principles means the principles applied in calculating the value of the Retirement By Design Business, as set out in Schedule 3.

Warranty means each representation and warranty referred to in clauses 10 and 10.2 and set out in Schedule 6 and Schedule 7.

1.2 Rules for interpreting this agreement

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this agreement) or agreement, or a provision of a document (including this agreement) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this agreement or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.

- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The words **Intellectual property** include all present and future rights conferred by statute, common law or equity (and all moral rights) in or in relation to business names, circuit layouts, computer software, confidential information, copyright, designs, domain names, formulas, inventions, know how, patents, plant varieties, recipes, trade marks, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic field, the benefit of any application to register such a right and the benefit of any renewal or extension of such a right.
- (g) A reference to **information** is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.
- (h) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (i) The expression **this agreement** includes the agreement, arrangement, understanding or transaction recorded in this agreement.
- (j) A reference to **dollars** or **\$** is to an amount in Australian currency.

1.3 Method of payment

All payments required to be made under this agreement must (unless the recipient agrees otherwise) be tendered by way of direct transfer of immediately available funds to the bank account nominated in writing by the party to whom the payment is due by not later than 2.00 pm on the due date for payment.

1.4 Non Business Days

If the day on or by which a person must do something under this agreement is not a Business Day, the person must do it on or by the next Business Day.

1.5 The rule about "contra proferentem"

This agreement is not to be interpreted against the interests of a party merely because that party proposed this agreement or some provision of it or because that party relies on a provision of this agreement to protect itself.

2. CONDITION PRECEDENT

2.1 Finance Party consent

The obligations of the parties under this agreement are subject to and conditional on BBCL and BBCIS having each received on or before 21 November 2008 (or such later date as the parties agree) such consents, which if conditional may only be subject to conditions which are acceptable to Lend Lease acting reasonably, from each Finance Party as may

be required to ensure that the entry into the transactions contemplated by this agreement, the Stapled Security Acquisition Agreement and the Transfer and RE Replacement Agreement do not constitute an Event of Default, Potential Event of Default or Review Event under the Finance Documents or a breach of any Finance Undertaking by an Obligor. Such consents from each Finance Party are subject to the discussions that Lend Lease will have with the Finance Parties in respect of the application of the proceeds of sale of any BBC assets following Second Completion, at Lend Lease's or BBC's (in the case of redemption within the first two years) election, being firstly applied in the redemption of the First Notes and/or the RBD Convertible Notes.

2.2 Finance Party Discussions

For the purposes of clause 2.1, Lend Lease acknowledges that the following matters will form part of the discussions with the Finance Parties and will be reasonably considered by Lend Lease:

- (a) the grant of security over any of BBC's assets in favour of the Finance Parties;
- (b) the repayment by BBC to the Finance Parties of part of its indebtedness; and
- (c) the application of part of the net proceeds received by BBC from the orderly disposal of assets in reducing indebtedness to the Finance Parties.

2.3 Result of non-satisfaction of condition

If the condition referred to in clause 2.1 is not satisfied, then all rights and obligations under this agreement other than:

- (a) Clause 1, 12, 13, 14, 15, 16 (except 16.2) and 17; and
- (b) rights that accrue before that date,

terminate on 21 November 2008 (or such later dates as the parties have agreed under clause 2.1).

3. MANAGEMENT AGREEMENTS

3.1 Management Agreements

Subject to clause 3.2:

- (a) BBCIS agrees, on the terms and subject to the terms of this agreement, to consent to the novation of the BBCT Management Agreement; and
- (b) BBCL agrees, on the terms and subject to the terms of this agreement, to consent to the novation of the BBCL Management Agreement,

in each case, by reason of the acquisition by Lend Lease of the management rights under the Management Agreements pursuant to the Transfer and RE Replacement Agreement.

3.2 Conditions Precedent to transfer of the management rights

The obligations of the parties under clause 3.1 are subject to and conditional on:

- (a) the expiry of the Panel Undertaking Period (or such longer period as the parties agree);
- (b) execution of the Transfer and RE Replacement Agreement by each of Lend Lease and BNB;

- (c) execution of the Stapled Security Acquisition Agreement by each of Lend Lease and BNB;
- (d) termination of the Internalisation Agreement on terms acceptable to BBC; and
- (e) receipt by BBC from Lend Lease of an application to subscribe for 35,900,000 Stapled Securities at \$0.60 per Stapled Security:
 - (i) which may only be accepted by BBC if First Completion occurs; and
 - (ii) pursuant to which Lend Lease agrees that if it has requested redemption of the BBC Notes, the proceeds of redemption may be applied in satisfying the payment of subscription monies under the application.

3.3 Result of non-satisfaction of conditions

If the conditions referred to in clause 3.2 are not satisfied on or before the End Date, then all rights and obligations under this agreement (which have not yet been performed) other than:

- (a) Clause 1, 12, 13, 14, 15, 16 (except 16.2) and 17; and
- (b) rights that accrue before that date,

terminate on the End Date.

3.4 BBCL and BBCIS Obligations

Each of BBCL and BBCIS must, or must ensure its employees and agents, execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation of the transactions contemplated by this agreement and the Transfer and RE Replacement Agreement when required to do so by Lend Lease, including:

- (a) execution of the Novation and Amending Deed substantially in the form annexed to the Transfer and RE Replacement Agreement;
- (b) execution of the Termination Deed (Financial Adviser Mandate Letter) substantially in the form annexed to the Transfer and RE Replacement Agreement; and
- (c) execution of the Termination Deed (Custody Agreement) substantially in the form annexed to the Transfer and RE Replacement Agreement.

3.5 Custody Agreement and Financial Adviser Mandate Letter

The parties agree that:

- (a) on or before the replacement of BBCIS as responsible entity of BBCT in accordance with the Transfer and RE Replacement Agreement, BBCIS and Lend Lease (or a subsidiary of Lend Lease) will (subject to Lend Lease providing BBC with prior written notice that this is required) enter into a custody agreement on the same terms as the Custody Agreement (except with necessary changes to reflect Lend Lease (or its subsidiary) being a party), such agreement to take effect on and from termination of the Custody Agreement; and
- (b) on or before the novation of the Management Agreements in accordance with the Transfer and RE Replacement Agreement (or Lend Lease (or a subsidiary of Lend Lease) becoming manager of BBC pursuant to clause 3.6), BBCIS, BBCL and Lend Lease (or a subsidiary of Lend Lease) will enter into a financial adviser mandate letter agreement on the same terms as the Financial Adviser Mandate Letter (except with necessary changes to reflect Lend Lease (or its subsidiary)

being a party), such agreement to take effect on and from termination of the Financial Adviser Mandate Letter.

3.6 Alternative arrangements in relation to Management Agreements

If, prior to BBCM Novation Completion, BBC terminates the Management Agreements so that those agreements are not capable of being novated to Lend Lease (or a subsidiary of Lend Lease) as envisaged under the Transfer and RE Replacement Agreement, BBC must simultaneously with termination of the Management Agreements give notice to Lend Lease offering Lend Lease (or a subsidiary of Lend Lease) the opportunity to become manager of BBC on the terms of the Management Agreements in the form annexed to the Transfer and RE Replacement Agreement. Lend Lease must accept that offer within three Business Days of its receipt (and in any event before the First Completion Date). The appointment of Lend Lease (or a subsidiary of Lend Lease) as manager will take place on the First Completion Date (or such other date as the parties agree).

4. ISSUE OF FIRST TRANCHE AND ISSUE OF THE FIRST NOTES

4.1 Agreement to subscribe for and issue First Tranche

Subject to clause 4.3, BBC agrees to issue the First Tranche to Lend Lease, and Lend Lease agrees to subscribe for the First Tranche and to pay BBC the First Tranche Subscription Price on the terms and subject to the conditions of this agreement.

4.2 Issue of the First Notes

Subject to clause 4.3, BBC agrees to issue the First Notes to Lend Lease and Lend Lease agrees to subscribe for the First Notes and to pay BBC \$13,400,000 on the terms and subject to the conditions of this agreement.

4.3 Conditions Precedent to completion of First Tranche

The obligations of the parties under clauses 4.1, 4.2 and on First Completion are subject to and conditional on satisfaction (or, in the case of the condition precedent in clause 4.3(g), satisfaction or waiver) of the following conditions:

- (a) execution of the Transfer and RE Replacement Agreement by each of Lend Lease and BNB on or before the First Completion Date;
- (b) neither Lend Lease nor any of its related bodies corporate acquiring or entering into an agreement to acquire (other than pursuant to this agreement or the Stapled Security Acquisition Agreement) any Stapled Securities on or before the First Completion Date;
- (c) as at the First Completion Date, no preliminary or final decision, order or decree having been issued by a Government Agency and no action or investigation having been announced (other than in relation to OIO Approval), commenced or threatened by any Government Agency in consequence of, or in connection with the transactions contemplated by this agreement;
- (d) termination of the Internalisation Agreement on terms acceptable to BBC on or before the First Completion Date;
- (e) receipt by BBC on or before the First Completion Date from Lend Lease of an application to subscribe for 35,900,000 Stapled Securities at \$0.60 per Stapled Security:
 - (i) which may only be accepted by BBC if First Completion occurs; and

- (ii) pursuant to which Lend Lease agrees that if the BBC Notes are redeemed, the proceeds of redemption may be applied in satisfying the payment of subscription monies under the application;
- (f) BBCM Novation Completion occurring prior to or on the First Completion Date and no order having been made at that date by the Panel the effect of which would be to cancel or declare void the novation of the Management Agreements under the Transfer and RE Replacement Agreement; and
- (g) the due passage at a general meeting of all resolutions required to be passed by the holders of the Stapled Securities under the Corporations Act, the Listing Rules, the BBCL Constitution and the BBCT Constitution convened in accordance with clause 8.1 approving of:
 - (i) the issue of the Second Tranche to Lend Lease at the Second Tranche Subscription Price on the terms and conditions of this agreement;
 - (ii) the acquisition by Lend Lease of the Second BNB Parcel at \$0.29 per Stapled Security on the terms and conditions set out in the Stapled Security Acquisition Agreement;
 - (iii) the Retirement By Design Acquisition;
 - (iv) the issue and conversion of the RBD Convertible Notes; and
 - (v) the issue and conversion of the Second Notes.

4.4 Benefit of Conditions

The condition precedent in clause 4.3(g) is solely for the benefit of Lend Lease and may only be waived by Lend Lease.

4.5 Result of non-satisfaction of conditions

If the conditions precedent in clause 4.3 are not satisfied (or, in the case of the condition precedent in clause 4.3(g), satisfied or waived) on or before the date which is one Business Day after the date on which the Extraordinary General Meeting is held then all rights and obligations under this agreement other than:

- (a) Clause 1, 10, 12, 13, 14, 15, 16 (except 16.2) and 17; and
- (b) rights that accrue before that date,

terminate on the First Completion Date.

4.6 General Meeting

BBC must put to the holders of Stapled Securities at the Extraordinary General Meeting:

- (a) a resolution to change the name of BBCL to a name not including 'B&B', 'BNB', 'Babcock' or 'Brown'; and
- (b) if the First Notes have been issued to Lend Lease prior to the date on which the Extraordinary General Meeting is held, a resolution to approve the First Note Conversion Rights in the terms of the First Notes; and
- (c) if the First Notes have not been issued prior to the date on which the Extraordinary General Meeting is held, a resolution to approve the issue and conversion of the First Notes.

4.7 Recommendation

BBC shall ensure that, subject to the independent directors of BBC deciding in the proper exercise of their fiduciary duties not to do so, the independent directors of BBC unanimously recommend the resolutions to be put to holders of Stapled Securities at the Extraordinary General Meeting in accordance with clause 4.6.

5. ISSUE OF SECOND TRANCHE AND SECOND NOTES

5.1 Second Tranche and Second Notes

Subject to clause 6, BBC agrees to:

- (a) issue and allot the Second Tranche (comprising Second Tranche A and Second Tranche B) to Lend Lease and Lend Lease agrees to subscribe for the Second Tranche and to pay to BBC the Second Tranche A Subscription Price and Second Tranche B Subscription Price; and
- (b) issue the Second Notes to Lend Lease and Lend Lease agrees to subscribe for the Second Notes and to pay to BBC the Second Note Subscription Price,

in each case on the terms and subject to the conditions of this agreement.

6. CONDITIONS PRECEDENT TO ISSUE OF SECOND TRANCHE AND SECOND NOTES

6.1 Conditions precedent to completion of Second Tranche A and issue of Second Notes

The obligations of the parties under clause 5 and on Second Tranche A Completion are subject to and conditional on satisfaction or waiver of the following conditions:

- (a) First Completion having occurred;
- (b) the due passage at a general meeting of all resolutions required to be passed by the holders of the Stapled Securities under the Corporations Act, the Listing Rules, the BBCL Constitution and the BBCT Constitution convened in accordance with clause 8.1 approving of:
 - (i) the issue of the Second Tranche to Lend Lease at the Second Tranche Subscription Price on the terms and conditions of this agreement;
 - (ii) the acquisition by Lend Lease of the Second BNB Parcel at \$0.29 per Stapled Security on the terms and conditions set out in the Stapled Security Acquisition Agreement;
 - (iii) the Retirement By Design Acquisition;
 - (iv) the issue and conversion of the RBD Convertible Notes; and
 - (v) the issue and conversion of the Second Notes;
- (c) as at the Second Tranche A Completion Date, no preliminary or final decision, order or decree having been issued by a Government Agency (other than in relation to OIO Approval) and no action or investigation having been announced,

commenced or threatened by any Government Agency in consequence of, or in connection with the transactions contemplated by this agreement;

- (d) BBC having complied with the following unless it obtains the prior written consent of Lend Lease such consent not to be unreasonably withheld:
 - (i) conduct, and procure that each BBC Group Entity must conduct, their business in the usual and ordinary course consistent with past practice or as may be required in order to satisfy a specific requirement of a Government Agency;
 - (ii) use its reasonable endeavours, and procure that each BBC Group Entity must use its reasonable endeavours, to preserve and maintain the value of its business and assets and relationships with suppliers, customers, partners, agents, landlords and employees;
 - (iii) not, and procure that each BBC Group Entity must not, acquire (except to the extent already disclosed to Lend Lease) or agree to acquire, one or more entities, businesses or assets (or any interest in one or more entities, businesses or assets) for an amount greater than \$2,500,000, or make an announcement in relation to such an acquisition, offer or agreement;
 - (iv) not, and procure that each BBC Group Entity must not, dispose of (except to the extent already disclosed to Lend Lease) or agree to dispose of, one or more entities, businesses or assets (or any interest in one or more entities, businesses or assets) for an amount, or in respect of which the book value (as recorded in BBC's consolidated statement of financial position as at 30 June 2008) is, in aggregate, greater than \$2,500,000, or make an announcement in relation to such a disposition, offer or agreement; or
 - (v) not, and procure that each BBC Group Entity must not, enter into or offer to enter into or agree to enter into any agreement, joint venture or partnership which would require expenditure, or the foregoing of revenue, by the BBC Group of an amount which is, in aggregate, more than \$2,500,000, other than in the ordinary course of business, or make an announcement in relation to such an entry, offer or agreement;
- (e) there being no BBC Material Adverse Change as at the Second Tranche A Completion Date; and
- (f) BBCM Novation Completion occurring prior to or on the First Completion Date and no order having been made at the Second Tranche A Completion Date by the Panel the effect of which would be to cancel or declare void the novation of the Management Agreements under the Transfer and RE Replacement Agreement.

6.2 Conditions precedent to completion of Second Tranche B

The obligations of the parties under clause 5 and on Second Tranche B Completion are subject to and conditional on satisfaction or waiver of the following conditions:

- (a) First Completion and Second Tranche A Completion having occurred;
- (b) the due passage at a general meeting of all resolutions required to be passed by the holders of the Stapled Securities under the Corporations Act, the Listing Rules, the BBCL Constitution and the BBCT Constitution convened in accordance with clause 8.1 approving of:

- For personal use only
- (i) the issue of the Second Tranche to Lend Lease at the Second Tranche Subscription Price on the terms and conditions of this agreement;
 - (ii) the acquisition by Lend Lease of the Second BNB Parcel at \$0.29 per Stapled Security on the terms and conditions set out in the Stapled Security Acquisition Agreement;
 - (iii) the Retirement By Design Acquisition;
 - (iv) the issue and conversion of the RBD Convertible Notes; and
 - (v) the issue and conversion of the Second Notes;
 - (c) as at the Second Tranche B Completion Date, no preliminary or final decision, order or decree having been issued by a Government Agency and no action or investigation having been announced (other than in relation to OIO Approval), commenced or threatened by any Government Agency in consequence of, or in connection with the transactions contemplated by this agreement;
 - (d) BBC having complied with the following unless it obtains the prior written consent of Lend Lease such consent not to be unreasonably withheld:
 - (i) conduct, and procure that each BBC Group Entity must conduct, their business in the usual and ordinary course consistent with past practice or as may be required in order to satisfy a specific requirement of a Government Agency;
 - (ii) use its reasonable endeavours, and procure that each BBC Group Entity must use its reasonable endeavours, to preserve and maintain the value of its business and assets and relationships with suppliers, customers, partners, agents, landlords and employees;
 - (iii) not, and procure that each BBC Group Entity must not, acquire (except to the extent already disclosed to Lend Lease) or agree to acquire, one or more entities, businesses or assets (or any interest in one or more entities, businesses or assets) for an amount greater than \$2,500,000, or make an announcement in relation to such an acquisition, offer or agreement;
 - (iv) not, and procure that each BBC Group Entity must not, dispose of (except to the extent already disclosed to Lend Lease) or agree to dispose of, one or more entities, businesses or assets (or any interest in one or more entities, businesses or assets) for an amount, or in respect of which the book value (as recorded in BBC's consolidated statement of financial position as at 30 June 2008) is, in aggregate, greater than \$2,500,000, or make an announcement in relation to such a disposition, offer or agreement; or
 - (v) not, and procure that each BBC Group Entity must not, enter into or offer to enter into or agree to enter into any agreement, joint venture or partnership which would require expenditure, or the foregoing of revenue, by the BBC Group of an amount which is, in aggregate, more than \$2,500,000, other than in the ordinary course of business, or make an announcement in relation to such an entry, offer or agreement;
 - (e) there being no BBC Material Adverse Change as at the Second Tranche B Completion Date;
 - (f) Lend Lease having obtained OIO Approval; and

- (g) BBCM Novation Completion occurring prior to or on the First Completion Date and no order having been made at Second Tranche B Completion Date by the Panel the effect of which would be to cancel or declare void the novation of the Management Agreements under the Transfer and RE Replacement Agreement.

6.3 Benefit of Conditions

The conditions precedent in clauses 6.1(d), 6.1(e), 6.2(d) and 6.2(e) are solely for the benefit of Lend Lease and may only be waived by Lend Lease.

6.4 Result of non-satisfaction of conditions

If the conditions precedent in clauses 6.1 and 6.1(f) are not satisfied or waived on or before the End Date then all rights and obligations under this agreement (which have not yet been performed) other than:

- (a) clause 1, 12, 14, 15, 16 (except 16.2) and 17; and
 - (b) rights that accrue before that date,
- terminate on the day after the End Date.

7. ACQUISITION OF RETIREMENT BY DESIGN BUSINESS

7.1 Agreement in principle

- (a) Subject to:
 - (i) satisfactory due diligence conducted by BBC;
 - (ii) the provision of a report by an independent expert which states that in the expert's opinion the terms of the transaction for the acquisition of the Retirement By Design Business are fair and reasonable to holders of Stapled Securities whose votes are not to be disregarded;
 - (iii) the finalisation of formal documentation:
 - (A) providing that in the case of the acquisition of the Retirement By Design Business, among other things, completion is conditional on Second Tranche A Completion having occurred or occurring on the same date as RBD Completion and the approval of holders of Stapled Securities; and
 - (B) as to the RBD Convertible Note Terms on such terms as are approved by ASX.

BBC and Lend Lease agree in principle to the acquisition by BBC of the Retirement by Design Business on the Second Tranche A Completion Date from Lend Lease for the RBD Purchase Price.

7.2 Consideration for the transfer of the Retirement By Design Business

In consideration for the acquisition of the Retirement By Design Business, BBC will:

- (a) pay \$13,400,000 in cash to Lend Lease; and
- (b) issue the RBD Convertible Notes (as adjusted where necessary under clause 7.4(b)).

7.3 Conduct of due diligence

For the Due Diligence Period:

- (a) BBC may conduct financial, legal, commercial and operational due diligence in relation to Retirement By Design Business; and
- (b) Lend Lease must give BBC, its officers, employees, agents and professional advisers such access at all reasonable times to Lend Lease's records, information, senior personnel and auditors as is reasonably requested by BBC so that BBC can conduct the due diligence.

7.4 Purpose of due diligence

- (a) The due diligence investigations are for the purpose of revealing any matters that BBC may consider material to Lend Lease's valuation (in accordance with the Valuation Principles) of the Retirement By Design Business at the RBD Purchase Price.
- (b) If, on the basis of the Valuation Principles, BBC and Lend Lease are able to agree by the end of the Due Diligence Period (or a Valuer appointed pursuant to clause 7.4(d) determines) a value for the Retirement By Design Business which exceeds 90% of the RBD Purchase Price but is less than 110% of the RBD Purchase Price, then the purchase of the Retirement By Design Business will proceed but:
 - (i) the RBD Purchase Price will be adjusted to reflect the agreed value; and
 - (ii) the number of RBD Convertible Notes will be adjusted accordingly.
- (c) If, on the basis of the Valuation Principles, BBC and Lend Lease are unable to agree a value for the Retirement By Design Business by the end of the Due Diligence Period which exceeds 90% of the RBD Purchase Price but is less than 110% of the RBD Purchase Price, then either BBC or Lend Lease may discontinue negotiations with regard to the purchase of the Retirement By Design Business.
- (d) If on the basis of the Valuation Principles, BBC and Lend Lease are unable to agree a value for the Retirement By Design Business by the end of the Due Diligence Period but agree that the value exceeds 90% of the RBD Purchase Price and is not less than 110% of the RBD Purchase Price, then either BBC or Lend Lease may by notice to the other within five Business Days after the end of the Due Diligence Period (the **Determination Date**) require the value to be determined by an independent expert valuer (**Valuer**) in accordance with the provisions of clause 7.6.

7.5 Stamp Duty

- (a) During the Due Diligence Period the parties will work together in good faith to agree the Estimated Stamp Duty and the optimal transaction structure for the Retirement by Design Acquisition.
- (b) If the parties cannot agree the Estimated Stamp Duty pursuant to clause 7.5(a) prior to the end of the Due Diligence Period, then either BBC or Lend Lease may by notice to the other by the Determination Date require the Estimated Stamp Duty to be determined by an independent indirect tax specialist (**Tax Specialist**) in accordance with clause 7.6.
- (c) If the amount agreed in clause 7.5(a) or determined in accordance with clause 7.5(b) (as the case may be) is greater than 10% of the RBD Purchase Price, then either BBC or Lend Lease may, by giving notice (**Discontinuation Notice**) to the

other, discontinue negotiations with regard to the acquisition of the Retirement by Design Business.

- (d) Upon BBC or Lend Lease giving a Discontinuation Notice, all rights and obligations under this agreement (which have not yet been performed) other than:
 - (i) clause 1, 10, 12, 14, 15, 16 (except 16.3) and 17; and
 - (ii) rights that accrue before that date,
 terminate on the day after the date of the Discontinuation Notice.
- (e) Responsibility for the payment of stamp duty assessed in respect of the Retirement by Design Acquisition will be borne as follows:
 - (i) BBC is solely responsible for stamp duty payable up to a total of \$5,000,000;
 - (ii) Lend Lease is solely responsible for, and must indemnify BBC against any stamp duty payable between \$5,000,000 and \$13,000,000; and
 - (iii) BBC is solely responsible for stamp duty payable in excess of \$13,000,000.

7.6 Independent Expert and Tax Specialist

- (a) If the parties do not within five Business Days of a notice under clause 7.4(d) or clause 7.5, as the case may be, agree upon who is to be the Valuer or Tax Specialist (the **Expert**), Lend Lease or BBC may request the President (or senior office bearer) of the Institute of Chartered Accountants in Australia (or its successor body) (or his or her delegate) to appoint as the Expert a person who is independent of the parties to this agreement and:
 - (i) in the case of the Valuer, who is a registered company auditor under the Corporations Act; or
 - (ii) in the case of the Tax Specialist, who is a partner of an international accounting practice with more than 10 years relevant experience.
- (b) The Expert is to act as an expert and not as an arbitrator.
- (c) The Expert is to make the determination as speedily as possible, and no later than 15 Business Days after the signing of the terms of engagement, or if the Expert does not require terms of engagement, within 15 Business Days after:
 - (i) appointment of the Expert by agreement; or
 - (ii) notification of the parties of the appointment by the President.
- (d) Lend Lease and BBC must each provide any assistance they are able to provide that the Expert reasonably requests.
- (e) The Expert may fix procedures for making the determination that the Expert considers appropriate.
- (f) In the absence of manifest error, the Expert's determination in accordance with this clause is final and binding on Lend Lease and BBC.
- (g) Lend Lease and BBC must each pay their own expenses incurred in connection with the Expert determination and must each pay half the fees and expenses of the Expert.

7.7 Expenses of due diligence

Each party must pay its own expenses incurred in undertaking the due diligence investigations and obtaining any legal, financial or other advice.

7.8 Appointment of directors

Subject to each of the resolutions in clauses 6.1(b) and 6.2(b) being passed and each of the Lend Lease Nominees signing a consent to act as a director of BBCL and BBCIS, BBC must procure that a meeting of the BBC board is duly convened for the purpose of appointing the Lend Lease Nominees to fill casual vacancies on the BBC Board until the next annual general meeting of BBC as soon as reasonably practicable after Second Completion.

8. EXTRAORDINARY GENERAL MEETING

8.1 Convene Extraordinary General Meeting

With a view to satisfying the conditions precedent in clauses 4.3(g), 6.1(b) and 6.2(b):

- (a) BBC must, at its expense, convene a general meeting of the holders of Stapled Securities (the **Extraordinary General Meeting**) to be held on a date no later than 31 December 2008 in a manner that complies with the Corporations Act, the Listing Rules, the BBCT Constitution, the BBCL Constitution and all relevant policy statements or other such guidelines of ASIC; and
- (b) BBC shall ensure that, subject to the independent directors of BBC not receiving a proposal which in the proper exercise of their fiduciary duties they consider to be superior and provided that in the opinion of an independent expert, the transactions referred to in clauses 4.3(g), 6.1(b) and 6.2(b) are fair and reasonable to the holders of Stapled Securities whose votes are not to be disregarded, the independent directors of BBC unanimously recommend all of the resolutions to be put to holders of Stapled Securities at the Extraordinary General Meeting.

8.2 Resolutions at Extraordinary General Meeting

At the Extraordinary General Meeting, BBC will if requested to do so by Lend Lease also put to the holders of Stapled Securities a resolution to approve the appointment of a public company nominated by Lend Lease (the **Proposed Responsible Entity**) to act as the responsible entity of BBCT provided that:

- (a) the Proposed Responsible Entity holds an Australian financial services licence which permits it to act as the responsible entity of BBCT; and
- (b) the Proposed Responsible Entity has consented prior to the date for despatch of the notice of meeting to become the new responsible entity of BBCT.

9. COMPLETION

9.1 Time and place for First Completion

First Completion must take place at 11am on the First Completion Date at the offices of BBC.

9.2 What BBC must do on First Completion

At First Completion BBC must (as well as doing anything else this agreement requires BBC to do on First Completion) hold duly convened meetings of the directors of BBCL and BBCIS at which it is resolved:

- (a) **(Issue of First Tranche)** to issue the First Tranche to Lend Lease (or its nominee);
- (b) **(Issue of First Notes)** to issue the First Notes to Lend Lease (or its nominee); and
- (c) **(register Lend Lease)** to register Lend Lease (or its nominee) as the holder of the First Tranche and the First Notes.

9.3 What Lend Lease must do at First Completion

At First Completion Lend Lease must pay to BBC:

- (a) the First Tranche Subscription Price for the First Tranche; and
- (b) \$13,400,000 for the First Notes.

9.4 Interdependence

The obligations under clause 9.2 are dependent on the obligations under clauses 7.1 and 7.2 of the Stapled Security Acquisition Agreement and the obligations under all those clauses must be carried out contemporaneously such that First Completion will be deemed not to occur unless the obligations under clauses 7.1 and 7.2 of the Stapled Security Acquisition Agreement are complied with and are fully effective.

9.5 Time and place for Second Tranche A Completion

Second Tranche A Completion must take place at 11am on the Second Tranche A Completion Date at the offices of BBC.

9.6 What BBC must do on Second Tranche A Completion

At Second Tranche A Completion:

- (a) BBC must (as well as doing anything else this agreement requires BBC to do on Second Tranche A Completion) hold duly convened meetings of the directors of BBCL and BBCIS at which it is resolved:
 - (i) **(Issue securities)** to issue the Second Tranche A to Lend Lease (or its nominee);
 - (ii) **(issue Second Notes)** to issue the Second Notes to Lend Lease (or its nominee);
 - (iii) **(securities to rank equally)** that the Stapled Securities in the Second Tranche A are to rank from the Second Tranche A Completion Date on an equal footing in all respects with the then existing issued Stapled Securities; and
 - (iv) **(register Lend Lease)** to register Lend Lease (or its nominee) as the holder of the Second Tranche A.

9.7 What BBC must do after Second Tranche A Completion

BBC must promptly after Second Tranche A Completion:

- (a) **(quotation)** use its reasonable endeavours to ensure quotation of the Second Tranche A on ASX;
- (b) **(cleansing statement)** give ASX a notice that complies with section 708A(6) and 1012DA(6) of the Corporations Act for the purposes of section 708A(5) and 1012DA(5) of the Corporations Act;
- (c) **(holding statement)** as soon as reasonably practicable and in any event within 2 Business Days of Second Tranche A Completion (unless otherwise specified), deliver to Lend Lease the holding statement for the Second Tranche A.

9.8 What Lend Lease must do at Second Tranche A Completion

At Second Tranche A Completion Lend Lease must pay the Second Tranche A Subscription Price and the Second Note Subscription Price to BBC.

9.9 Time and place for Second Tranche B Completion

Second Tranche B Completion must take place at 11am on the Second Tranche B Completion Date at the offices of BBC.

9.10 What BBC must do on Second Tranche B Completion

At Second Tranche B Completion BBC must (as well as doing anything else this agreement requires BBC to do on Second Tranche B Completion) hold duly convened meetings of the directors of BBCL and BBCIS at which it is resolved:

- (a) **(issue securities)** to issue the Second Tranche B to Lend Lease (or its nominee);
- (b) **(securities to rank equally)** that the Stapled Securities in the Second Tranche B are to rank from the Second Completion Date on an equal footing in all respects with the then existing issued Stapled Securities; and
- (c) **(register Lend Lease)** to register Lend Lease (or its nominee) as the holder of the Second Tranche B.

9.11 What BBC must do after Second Tranche B Completion

BBC must promptly after Second Tranche B Completion:

- (a) **(quotation)** use its reasonable endeavours to ensure quotation of the Second Tranche B on ASX;
- (b) **(cleansing statement)** give ASX a notice that complies with section 708A(6) and 1012DA(6) of the Corporations Act for the purposes of section 708A(5) and 1012DA(5) of the Corporations Act; and
- (c) **(holding statement)** as soon as reasonably practicable and in any event within 2 Business Days of Second Tranche B Completion (unless otherwise specified), deliver to Lend Lease the holding statement for the Second Tranche B.

9.12 What Lend Lease must do at Second Tranche B Completion

At Second Tranche B Completion Lend Lease must pay the Second Tranche B Subscription Price to BBC.

10. WARRANTIES

10.1 Warranties of each party

Each party to this agreement represents and warrants and it is a condition of this agreement that each statement set out in Schedule 6 to the extent that such warranty relates to it is true, complete and accurate in all respects and is not in any way misleading or deceptive, or likely to mislead or deceive, both at the date of this agreement, First Completion, Second Tranche A Completion and Second Tranche B Completion (except that a Warranty which states it is made as at or on only one of those dates, or as at some other date, is made only as at that date).

10.2 Warranties of BBCL and BBCIS

BBCL and BBCIS represent and warrant and it is a condition of this agreement that the statements set out in Schedule 7 are true, complete and accurate in all respects and are not in any way misleading or deceptive, or likely to mislead or deceive, both at the date of this agreement, First Completion, Second Tranche A Completion and Second Tranche B Completion (except that a Warranty which states it is made as at or on only one of those dates, or as at some other date, is made only as at that date).

10.3 Separate Warranties

Each Warranty is to be treated as a separate representation and warranty. The interpretation of any statement made may not be restricted by reference to or by inference from any other statement.

10.4 Reliance on Warranties

- (a) BBCL and BBCIS acknowledge that Lend Lease has executed this agreement and agreed to take part in the transactions that this agreement contemplates in reliance on the Warranties that are made in clauses 10 and 10.2 by BBCL and BBCIS.
- (b) Lend Lease acknowledges that BBCL and BBCIS have executed this agreement and agreed to take part in the transactions that this agreement contemplates in reliance on the Warranties that are made in clause 10 by Lend Lease.

10.5 Qualifications

Each Warranty given by BBCL and BBCIS is to be read down and qualified by any information:

- (a) fairly disclosed to Lend Lease by BBC in the Data Room;
- (b) which is otherwise within the actual knowledge of Lend Lease;
- (c) disclosed in writing to Lend Lease by BBC, or any of its advisers, during the period beginning 1 September 2008 and ending with the date of execution of this agreement (**Diligence Period**); or
- (d) that would have been disclosed to Lend Lease had Lend Lease conducted searches prior to First Completion of records open to public inspection maintained by ASIC, ASX the High Court, the Federal Court and the Supreme Courts in every State and Territory in Australia,

which is or may be inconsistent with that Warranty and, to the extent that any Warranty is incorrect or misleading having regard to any such information, that Warranty is deemed not to have been given. No amount will be recoverable by Lend Lease in respect of any

breach of Warranty to the extent that the breach arises by reason of or in relation to any such information.

10.6 No warranties about forecast information

BBC does not make any representations or warranties that any estimates, projections, forecasts or other forward looking information provided to Lend Lease in the Data Room, or otherwise during the Diligence Period, is accurate or complete and to the extent that any Warranty is inconsistent with this clause 10.6 it is deemed not to have been given. No amount will be recoverable by Lend Lease in respect of any breach of Warranty to the extent that the breach arises by reason of or in relation to any such estimates, projections, forecast or other forward looking information.

10.7 Limitations of liability

- (a) **(Minimum limitation)** Lend Lease may not make a Claim against BBC for or in connection with any breach of any Warranty unless the amount of the Claim together with the amounts of all other Claims for or in connection with all breaches of the Warranties exceed \$10,000,000. Once the amount of the Claim exceeds \$10,000,000 in aggregate then Lend Lease may claim for all of the Loss suffered.
- (b) **(Maximum limitation)** The maximum liability of BBC to Lend Lease under or in connection with this agreement is the amount actually paid by Lend Lease for Stapled Securities.
- (c) **(Time limitation)** Lend Lease may not make a Claim against BBC under or in connection with this agreement (including for any breach of any Warranty) unless a notice in writing containing reasonable particulars of the Claim (including particulars of the alleged Loss) is given by Lend Lease to BBC on or before the date 12 months after the date of this agreement and a proceeding is initiated in a court of competent jurisdiction in respect of the Claim within 6 months from receipt by BBC of Lend Lease's written notice of the Claim.
- (d) **(Future events)** BBC will not be liable under or in connection with this agreement (including for any breach of any Warranty) for any Loss incurred by Lend Lease to the extent attributable to:
 - (i) a change of law or the interpretation of a law; or
 - (ii) the enactment of any legislation or the announcement by a government of its intention to enact any legislation (including legislation which takes effect retrospectively),
 after the date of this agreement.
- (e) **(Lend Lease's knowledge)** BBC will not be liable under or in connection with this agreement (including for any breach of any Warranty) for any Loss incurred by Lend Lease if Lend Lease was aware on or before the date of this agreement of any fact, matter or circumstance, which gives rise to or forms the basis of the Claim.

11. LEND LEASE'S ACKNOWLEDGEMENTS

Lend Lease acknowledges and agrees that:

- (a) BBC will not make disclosure to investors under Part 6D.2 of the Corporations Act in connection with the issue and allotment of the First Tranche (if the First Tranche consists of Stapled Securities) or Second Tranche to Lend Lease;

- (b) in entering into this agreement and in proceeding to First Completion and Second Completion, it does not rely on any statement, representation, warranty, condition, forecast or other conduct which may have been made by or on behalf of BBC, except the Warranties;
- (c) it has had the opportunity to conduct a due diligence of BBC and has satisfied itself in relation to matters arising from that due diligence;
- (d) irrespective of whether or not the due diligence of BBC was as full or exhaustive as Lend Lease would have wished, it has nevertheless independently and without the benefit of any inducement, representations or warranty (other than the Warranties) from BBC determined to enter into and perform this agreement;
- (e) nothing in this agreement, or in any other document provided to it by BBC in connection with the transactions under this agreement constitutes legal, tax or investment advice;
- (f) the disclosures regarding BBC (including, the information, forecasts and statements of intent contained in material provided to Lend Lease and made in management presentations) are accepted by Lend Lease and that neither BBC nor any of its agents, directors, officers, employees or advisers has made or makes any representation or warranty as to the accuracy or completeness of those disclosures or that information;
- (g) neither BBC nor any of its agents, directors, officers or employees:
 - (i) accepts any duty of care in relation to Lend Lease in respect of any disclosure or the provision of any information referred to in clause 11(f); or
 - (ii) is to be liable to Lend Lease if, for whatever reason, any such information is or becomes inaccurate, incomplete or misleading in any particular way; and
- (h) subject to any law to the contrary and except as provided in the Warranties, all terms, conditions, warranties and statements, whether express, implied, written, oral, collateral, statutory or otherwise, are excluded, and BBC disclaims all liability in relation to them, to the maximum extent permitted by law.

12. ANNOUNCEMENTS

12.1 Announcements consent

Subject to clause 12.2, none of the parties may, before or after First Completion or Second Completion, make or send a public announcement, communication or circular concerning the transactions referred to in this agreement unless it has first obtained the written consent of the other parties, which consent is not to be unreasonably withheld or delayed.

12.2 Public announcements required by law

Clause 12.1 does not apply to a public announcement, communication or circular required by law or a regulation of a stock exchange, if the party required to make or send it has:

- (a) to the extent legally permitted, provided the other parties with sufficient notice to enable them to seek a protective order or other remedy; and
- (b) provided all assistance and co-operation that the other parties consider necessary to prevent or minimise that disclosure.

13. COSTS

13.1 Costs generally

Subject to clause 13.2, each party must pay its own expenses incurred in negotiating, preparing, executing, completing and carrying into effect this agreement.

13.2 Stamp duty generally

Lend Lease is solely responsible for, and must indemnify BBCL and BBCIS against, any duty that is payable on or in relation to:

- (a) this agreement;
- (b) the sale, purchase, assignment or transfer of any property under this agreement; and
- (c) any transaction recorded by this agreement or any instrument signed pursuant to this agreement.

14. NOTICES

14.1 Notices

- (a) A notice, consent or other communication under this agreement is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or fax. If it is delivered, it is taken to have been received when it has been left at the addressee's address. If it is sent by mail, it is taken to have been received three Business Days after it is posted. If it is sent by fax, it is taken to have been received when the addressee actually receives it in full and in legible form.
- (b) A person's address and fax number are those set out below, or as the person notifies the sender:

BBCL

Address: 'The Chifley Tower' Level 23, 2 Chifley Square, Sydney, NSW, 2000
 Fax number: +61 2 9216 1753
 Attention: Company Secretary

BBCIS

Address: 'The Chifley Tower' Level 23, 2 Chifley Square, Sydney, NSW, 2000
 Fax number: +61 2 9216 1753
 Attention: Company Secretary

LEND LEASE

Address: Level 4, 30 The Bond, 30 Hickson Road, Millers Point, Sydney, NSW, 2000
 Fax number: +61 2 9383 8154
 Attention: Company Secretary

15. AMENDMENT AND ASSIGNMENT

15.1 Amendment

This agreement can only be amended or replaced by another agreement executed by the parties.

15.2 Assignment

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this agreement with the written consent of each other party.

16. GENERAL

16.1 Governing law

- (a) This agreement is governed by the laws of the State of New South Wales.
- (b) Each party submits to the jurisdiction of the courts of that State and of any court that may hear appeals from any of those courts, for any proceedings in connection with this agreement.

16.2 Giving effect to documents

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this agreement.

16.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

16.4 Operation of indemnities

- (a) Each indemnity in this agreement survives the expiry or termination of this agreement.
- (b) A party may recover a payment under an indemnity in this agreement before it makes the payment in respect of which the indemnity is given.

16.5 Provisions surviving termination

Clauses 1, 12, 14, 15, 16 (except 16.2) and 17 survive the expiry or termination of this agreement.

16.6 Consents

Where this agreement contemplates that a party may agree or consent to something (however it is described), that party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
 - (b) agree or consent subject to conditions,
- unless this agreement expressly contemplates otherwise.

16.7 Severance

Any provision of this agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this agreement enforceable, unless this would materially change the intended effect of this agreement.

16.8 Counterparts

This agreement may be executed in counterparts.

17. BBCIS' LIMITATION OF LIABILITY

17.1 BBCIS' Capacity

BBCIS enters into this agreement solely in its capacity as responsible entity of BBCT and in no other capacity.

17.2 BBCIS' Limitation of Liability

- (a) A liability arising under or in connection with this agreement where BBCIS is acting in its capacity as responsible entity of BBCT is limited to and can be enforced against BBCIS (in its capacity as responsible entity of BBCT) only to the extent to which it can be satisfied out of the property of BBCT out of which BBCIS (in its capacity as responsible entity of BBCT) is actually indemnified for the liability. This limitation of BBCIS' liability applies despite any other provision of this agreement and extends to all liabilities and obligations of BBCIS (in its capacity as responsible entity of BBCT) in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this agreement.
- (b) No party may sue BBCIS in any capacity other than as responsible entity of BBCT, including seeking the appointment of a receiver (except in relation to the property of BBCT), a liquidator, or an administrator or any similar person to BBCIS or prove in any liquidation, administration or arrangement of or affecting BBCIS (except in relation to property of BBCT).
- (c) The limitations of liability under this clause 17 do not apply to any obligation or liability of BBCIS to the extent that it is not satisfied because under the BBCT Constitution or by operation of law there is a reduction in the extent of BBCIS' indemnification out of the assets of BBCT, as a result of BBCIS' fraud, gross negligence, wilful misconduct or breach of trust or legal obligations.

Schedule 1

TRANSFER AND RE REPLACEMENT AGREEMENT

Schedule 2

STAPLED SECURITY ACQUISITION AGREEMENT

For personal use only

Schedule 3

RETIREMENT BY DESIGN BUSINESS (INCORPORATING VALUATION PRINCIPLES)

Schedule 4

CONVERTIBLE NOTE TERMS

1. Each convertible note will have a face value of \$0.60 and will be issued for \$0.60.
2. Each convertible note will accrue interest at 9.5% per annum which will be payable quarterly.
3. Each convertible note will be a subordinated unsecured debt like instrument and will not be guaranteed.
4. Each convertible note will have a 5 year term.
5. If any assets are sold by BBC, the proceeds of sale will be used to redeem the convertible notes subject to the holder or BBC electing to do so (as referred to in paragraph 6 below) and to the extent those proceeds are not otherwise to be applied in accordance with the conditions of any consent given by the Finance Parties under clause 2 of this agreement.
6. To the extent proceeds from any asset sales are available for redemption, those proceeds may be used to redeem the convertible notes at the election of the holder at any time and at the election of BBC during the first two years only.
7. Subject to the consent of the Finance Parties or the conditions of the consent of the Finance Parties given under clause 2.1 of this agreement, any assets sold by BBC and corresponding proceeds received by BBC will be used to repay the convertible note.
8. On maturity, at Lend Lease's option, each convertible note will be redeemed for cash at face value or, subject to paragraphs 9 and 10, will be convertible into a Stapled Security.
9. If the First Notes are issued prior to the date on which the Extraordinary General Meeting is held, the First Note Conversion Rights will only apply in respect of the First Notes if the holders of Stapled Securities approve the First Note Conversion Rights.
10. If the First Notes are issued after the date on which the Extraordinary General Meeting is held and the resolution referred to in clause 4.6(c) has not been passed, the First Note Conversion Rights will not apply.

Schedule 5

BBC NOTE TERMS

1. Each BBC Note will have a face value of \$0.60 and will be issued for \$0.60.
2. Each BBC Note will accrue interest which will be payable on redemption at a rate of BBSW (on the day of issue) plus 275 basis points per annum.
3. Each BBC Note will be subordinated and will not be guaranteed.
4. Each BBC Note is not convertible into Stapled Securities.
5. Each BBC Note matures on the Business Day following the date on which the resolutions are considered at the meeting.

Schedule 6

WARRANTIES

1. **(status)** It is a company limited by shares under the Corporations Act.
2. **(power)** It has full legal capacity and power (including in the case of BBCIS under the BBCT Constitution) to:
 - (a) own its property and to carry on its business (including in the case of BBCIS, as trustee); and
 - (b) enter into this agreement and to carry out the transactions that this agreement contemplates (including in the case of BBCIS, as trustee, except to the extent that the BBCT Constitution needs to be amended to permit the issue of Stapled Securities at \$0.60 or at \$0.25, or the issue of the Stapled Securities on the conversion of the First Notes or the RBD Convertible Notes).
3. **(corporate authority)** It has taken all corporate action (and in the case of BBCIS all action required under the BBCT Constitution) that is necessary or desirable to authorise its entry into this agreement and its carrying out the transactions that this agreement contemplates.
4. **(Authorisations)** It holds each Authorisation that is necessary or desirable to:
 - (a) enable it to properly execute this agreement and to carry out the transactions that this agreement contemplates; or
 - (b) ensure that this agreement is legal, valid, binding and admissible in evidence,
 - (c) and it is complying with any conditions to which any of these Authorisations is subject.
5. **(agreement effective)** This agreement constitutes legal, valid and binding obligations of it, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration.
6. **(no contravention)** Neither execution of this agreement by it nor the carrying out by it of the transactions that this agreement contemplates, does or will:
 - (a) contravene any applicable law or the Listing Rules;
 - (b) contravene any Authorisation;
 - (c) contravene any undertaking or instrument binding on it or any of its property;
 - (d) infringe any rights of a third party such as an intellectual property right;
 - (e) contravene any fiduciary obligation of it; or
 - (f) contravene its constitution, or in the case of BBCIS, the BBCT Constitution, except to the extent that the BBCT Constitution needs to be amended to permit the issue

of Stapled Securities at \$0.60 or at \$0.25, or the issue of the Stapled Securities on the conversion of the First Notes or the RBD Convertible Notes.

7. **(no Insolvency Event)** It is not affected by an Insolvency Event.
8. **(not voidable in insolvency)** Neither execution of this agreement nor Completion nor any other transaction which this agreement contemplates will be or become a transaction which is voidable under part 5.7B of the Corporations Act.
9. **(not unenforceable)** There is no circumstance which could make this agreement or any transaction contemplated by it void, voidable or unenforceable under any applicable law about insolvency.
10. **(no litigation)** No litigation, arbitration, mediation, conciliation or administrative proceeding is taking place, pending, or threatened, whose outcome could have a material adverse effect on its ability to perform its obligations under this agreement.

Schedule 7

WARRANTIES OF BBCL AND BBCIS

1. **(Securities to rank equally)** The Stapled Securities issued to Lend Lease rank from the date of issue on an equal footing in all respects with the then existing issued Stapled Securities and shall be fully paid.
2. **(No termination of listing)** BBC has taken no action designed to, or likely to have the effect of, terminating its listing from, or the quotation of its Stapled Securities on, ASX, nor has BBC received any notification that ASX is contemplating terminating its listing or the quotation of its Stapled Securities.
3. **(Disclosure obligations)** BBC is not in breach of its continuous disclosure obligations under the Listing Rules, has no information that a reasonable person would expect to have a material effect on the price or value of its Stapled Securities that has not been disclosed to ASX under Listing Rule 3.1 and is not relying on the carve-outs to continuous disclosure in ASX Listing Rule 3.1A to withhold any information from disclosure except as disclosed to Lend Lease prior to the date of this agreement.
4. **(Free from Encumbrances)** The First Tranche and Second Tranche will be issued free from all Encumbrances.
5. **(Purpose)** The First Tranche and Second Tranche are not issued by BBC with the purpose of Lend Lease selling or transferring them, or granting, issuing or transferring interests in, or options over, them.
6. **(No determination)** As at the time of issue of the First Tranche (if the First Tranche consists of Stapled Securities) and Second Tranche no determination by ASIC within the meaning of sections 708A(2) or 1012DA(2) of the Corporations Act was in force in relation to BBC.
7. **(Quotation)** The First Tranche (if the First Tranche consists of Stapled Securities) and Second Tranche are in a class of securities that were quoted securities at all times in the 3 months before the day on which the First Tranche (if the First Tranche consists of Stapled Securities) and Second Tranche are issued under this agreement and trading in that class of securities on ASX was not suspended for more than a total of 5 days in the period of 12 months before the day on which the First Tranche (if the First Tranche consists of Stapled Securities) or Second Tranche are issued.
8. **(No exemption)** No exemption under section 111AS or section 111AT of the Corporations Act covered BBC, or any person as director or auditor of BBC, at any time in the 12 months before the day on which the First Tranche or Second Tranche are issued under this agreement.
9. **(No order)** No order under section 340 or section 341 of the Corporations Act covered BBC, or any person as director or auditor of BBC, at any time in the 12 months before the day on which the First Tranche or Second Tranche are issued under this agreement.
10. **(Data Room)** The information contained in the Data Room was prepared in good faith and with reasonable care for the purposes of informing interested parties about the Stapled Securities and BBC and, in so doing, neither BBCL nor BBCIS have deliberately or recklessly included anything in the Data Room that they, acting reasonably, consider to be materially misleading.

Schedule 8

SECOND NOTE TERMS

1. Each Second Note will have a face value of \$0.25 and will be issued for \$0.25.
2. Each Second Note will accrue interest at 9.5% per annum which will be payable quarterly.
3. Each Second Note will be a subordinated unsecured debt like instrument and will not be guaranteed.
4. Each Second Note will have a 5 year term.
5. Each Second Note is convertible into one Stapled Security at the option of the holder at any time before maturity.
6. If Stapled Securities are issued on conversion of the Second Notes, BBC:
 - (a) will give ASX a notice that complies with section 708A(6) and section 1012DA(6) for the purposes of sections 708A(5) and 1012DA(5) of the Corporations Act;
 - (b) will use its reasonable endeavours to ensure quotation of those Stapled Securities; and
 - (c) as soon as reasonably practicable deliver to the holder a holding statement for those Stapled Securities.
7. On maturity, each Second Note will be redeemed for cash at face value.

Blake Dawson

EXECUTED AS AN AGREEMENT.

Each person who executes this agreement on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**EXECUTED by Babcock & Brown
Communities Limited:**

Signature of director

Signature of director/secretary

Name

Name**EXECUTED by Babcock & Brown
Communities Investor Services Limited,
as responsible entity of the Babcock &
Brown Communities Trust:**

Signature of director

Signature of director/secretary

Name

Name**EXECUTED by Lend Lease Corporation
Limited:**

Signature of director

Signature of director/secretary

Name

Name

Blake Dawson

For personal use only

For personal use only

Stapled Security Acquisition Agreement

Babcock & Brown International Pty Ltd
Lend Lease Corporation Limited

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000
Australia
Tel 61 2 9230 4000
Fax 61 2 9230 5333
www.aar.com.au

Stapled Security Acquisition Agreement

Allens Arthur Robinson



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Stapled Security Acquisition Agreement

Allens Arthur Robinson



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Stapled Security Acquisition Agreement

Allens Arthur Robinson



Date	2008
Parties	
1.	Babcock & Brown International Pty Ltd (ACN 108 617 483) of Level 23, 2 Chifley Square, Sydney, NSW, 2000 (the <i>Vendor</i>).
2.	Lend Lease Corporation Limited (ACN 000 226 228) of 30 The Bond, 30 Hickson Road, Millers Point, NSW, 2000 (the <i>Purchaser</i>).
Recitals	
A	The Vendor and/or wholly owned subsidiaries of the Vendor are the beneficial owner of the Sale Securities.
B	The Vendor has agreed to procure the sale of the Sale Securities to the Purchaser, and the Purchaser has agreed to buy the Sale Securities, on the terms of this Agreement.
C	The sale and purchase of the Sale Securities will be undertaken in two parcels.

It is agreed as follows.

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

ASIC means the Australian Securities and Investments Commission.

ASTC Settlement Rules means the rules of the ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

ASX means ASX Limited (ABN 98 008 624 691).

ASX Market Rules means the Market Rules of the ASX as amended or varied from time to time.

BBC means the dual stapled entities known as 'Babcock & Brown Communities Group' comprising the Company and the Trust.

BBCIS means Babcock & Brown Communities Investor Services Limited (ABN 33 080 737 042) as responsible entity for the Trust.

Business Day means a day on which banks are open for business in New South Wales.

CHES has the meaning given to it in the ASTC Settlement Rules.

CHES Sub-Register has the meaning given to it in the ASTC Settlement Rules.

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Claim means, in relation to a party, a demand, claim, action or proceeding made or brought by or against the party, however arising and whether present, unascertained, immediate, future or contingent.

Common Terms Deed means the document of that title dated 18 December 2007 between, among others, the Company and the Finance Parties.

Company means Babcock & Brown Communities Limited (ACN 010 622 900).

Company Constitution means the constitution of the Company.

Condition means the conditions set out in clause 5.1.

Corporations Act means the *Corporations Act 2001* (Cth).

Deutsche Bank Security Interest means a security interest granted to Deutsche Bank under a prime broking agreement dated 12 May 2006 between Deutsche Bank and AGSO Property Pty Ltd.

Dispose means to sell, transfer, assign, create a Security Interest over, declare oneself a trustee of or part with the benefit of or otherwise dispose of a share or other property (or any interest in it or any part of it) including, without limitation, to enter into a transaction which results in a person other than the registered holder of the share or other property:

- (a) acquiring or having any equitable or beneficial interest in the share or other property; or
- (b) acquiring or having any right to receive directly or indirectly any dividends or other distribution or proceeds of disposal payable in respect of the share or other property, or any right to receive an amount calculated by reference to any of them; or
- (c) acquiring or having any rights of pre-emption, first refusal or other direct or indirect control over the disposal of the share or other property; or
- (d) acquiring or having any rights of direct or indirect control over the exercise of any voting rights attaching to the share or other property; or
- (e) otherwise acquiring or having legal or equitable rights which have the effect of placing the other person in substantially the same position as if the person had acquired a legal or equitable interest in the share or other property itself,

and dispose includes to enter into an agreement to do any of the matters referred to in this definition.

End Date means the later of 28 February 2009 and the date on which OIO Approval is granted.

Event of Default means an event of default under the Finance Documents.

Finance Document means:

- (a) in respect of National Australia Bank Limited and Bank of New Zealand, the facility agreement dated 18 December 2007 between, among others, National Australia Bank Limited, Bank of New Zealand and BBCL and any "Transaction Document" (as that term is defined in the Common Terms Deed);

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- (b) in respect of Australia and New Zealand Banking Group Limited and ANZ National Bank Limited, the facility agreement dated 18 December 2007 (as amended and restated by the Deed of amendment dated 10 June 2008 and further amended from time to time) between, among others, Australia and New Zealand Banking Group Limited, ANZ National Bank Limited and BBCL and any "Transaction Document" (as that term is defined in the Common Terms Deed); and
- (c) in respect of Commonwealth Bank of Australia, the facility agreement dated 18 December 2007 between, among others, Commonwealth Bank of Australia and BBCL and any "Transaction Document" (as that term is defined in the Common Terms Deed).

First Completion Date has the meaning given to that term in the Implementation Agreement.

First Notes has the meaning given to that term in the Implementation Agreement.

First Tranche has the meaning given to that term in the Implementation Agreement.

Finance Parties means National Australia Bank Limited, Bank of New Zealand, Australia and New Zealand Banking Group Limited, ANZ National Bank Limited and Commonwealth Bank of Australia.

Finance Undertaking means each of the undertakings described in section 2 (General Undertakings) of schedule 3 of the Common Terms Deed.

First Settlement means the completion by the parties of the sale and purchase of the Initial BNB Parcel under this Agreement as provided in clause 7.

First Settlement Date means the First Completion Date.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Implementation Agreement means the agreement so titled between the Company, BBCIS and the Purchaser.

Initial BNB Parcel means 42,522,022 Stapled Securities in which the Vendor has a relevant interest.

Internalisation Agreement means the agreement of that name dated 28 August 2008 entered into by Babcock & Brown International Pty Limited, Babcock & Brown Communities Management Pty Limited, BBCIS and the Company.

Liabilities means Claims, losses, liabilities, costs or expenses of any kind and however arising, including penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

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Listing Rules means the listing rules of ASX with any modification or waivers which ASX may grant.

Obligor has the meaning given to that term in the Common Terms Deed.

OIO Approval means the consent in writing of the New Zealand Overseas Investment Office to the acquisition by the Purchaser of the Second BNB Parcel.

Potential Event of Default has the meaning given to that term in the Common Terms Deed.

Purchase Price means, in respect of both the Initial BNB Parcel and the Second BNB Parcel, 29 cents (\$0.29) for each Stapled Security.

RBD Convertible Notes has the meaning given to that term in the Implementation Agreement.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Review Event has the meaning given to that term in the Common Terms Deed.

Sale Securities means the Initial BNB Parcel and the Second BNB Parcel.

Security Interest includes any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind or any other right of, or arrangement with, any creditor to have its claim satisfied in priority to other creditors with, or from the proceeds of, any asset.

Second BNB Parcel means 42,522,020 Stapled Securities in which the Vendor has a relevant interest less any Stapled Securities Disposed of pursuant to clause 6(c).

Second Completion means the issue to the Purchaser of 247,433,333 Stapled Securities on the terms and conditions of the Implementation Agreement.

Second Settlement means the completion by the parties of the sale and purchase of the Second BNB Parcel under this Agreement as provided in clause 8.

Second Settlement Date means the date on which Second Tranche B Completion occurs.

Second Tranche B Completion has the meaning given to that term in the Implementation Agreement.

Sponsoring Participant means the Participant or Issuer (as defined in the ASTC Settlement Rules) that sponsors the Vendor's participation in CHIES.

Stapling Deed means the deed dated 26 July 2007 between BBCIS and the Company which sets out the terms and conditions of the relationship between the Trust and the Company whilst Stapled Securities are on issue.

Stapled Securities means fully paid ordinary shares in the Company stapled to fully paid units in the Trust.

Transfer and RE Replacement Agreement means the agreement so entitled between the Vendor and the Purchaser.

Trust means Babcock & Brown Communities Trust (ARSN 124 896 733).

Trust Constitution means the constitution of the Trust.

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Warranties means the representations, warranties, undertakings and other obligations of the Vendor of whatever kind contained in this Agreement.

1.2 Interpretation

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 also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to a clause or schedule is a reference to a clause of or a schedule of this Agreement.
- (f) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
- (g) A reference to writing includes any method of representing or reproducing words, figures, drawings, or symbols in a visible or tangible form.
- (h) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (i) 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.
- (j) A reference to *dollars* and \$ is to Australian currency.
- (k) A reference to *unenforceable* includes a party not being able to rely on its rights or perform its obligations for any reason whatsoever.
- (l) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (m) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or any part of it.

1.3 Knowledge and awareness as to Warranties

Any statement made by the Vendor on the basis of its knowledge or awareness is made on the basis that the Vendor has, in order to establish that the statement is true and not misleading in any respect:

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- (a) made all reasonable enquiries of the officers, employees and other persons who could reasonably be expected to have information relevant to the matters to which the statement relates; and
- (b) where those enquiries would have prompted a reasonable person to make further enquiries, made those further enquiries,

and that, as a result of those further enquiries, the Vendor has no reason to doubt that the statement is true and not misleading in any respect.

1.4 Consents or Approvals

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion.

1.5 Method of payment

All payments required to be made under this Agreement must be tendered at the recipient's option either by:

- (a) drafts or cheques drawn by a bank as defined in the *Banking Act 1959* (Cth); or
- (b) by way of direct transfer of immediately available funds to the bank account nominated in writing by the party to whom the payment is due.

2. Initial BNB Parcel

2.1 Sale and purchase of Initial BNB Parcel

The Vendor will procure the sale of the Initial BNB Parcel free from all Security Interests and the Purchaser buys the Initial BNB Parcel on the terms set out in this Agreement.

2.2 Title and property of Initial BNB Parcel

- (a) Until First Settlement, full beneficial interest in the Initial BNB Parcel remains solely with the Vendor and/or its wholly owned subsidiaries; and
- (b) Subject to the provisions of this Agreement, title to and property in the Initial BNB Parcel passes to the Purchaser or its nominee with effect from First Settlement.

3. Condition Precedent to Initial BNB Parcel

3.1 Condition Precedent to Sale and Purchase of the Initial BNB Parcel

The obligations of the parties under clauses 2.1 and 2.2 and on First Settlement are subject to and conditional on BBCL and BBCIS having each received within seven Business Days of the date of this Agreement (or such later date as the parties to the Implementation Agreement agree) such consents, which if conditional may only be subject to conditions which are acceptable to the Purchaser acting reasonably, from each Finance Party as may be required to ensure that the entry into of the transactions contemplated by this

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Agreement, the Transfer and RE Replacement Agreement, and the Implementation Agreement do not constitute an Event of Default, Potential Event of Default or Review Event under the Finance Documents or a breach of any Finance Undertaking by an Obligor. Such consents from each Finance Party are subject to the discussions that Lend Lease will have with the Finance Parties in respect of the application of the proceeds of sale of any BBC assets following Second Completion at LLC's or BBC's (in the case of redemption within the first two years) election, being firstly applied in the redemption of the First Notes and/or the RBD Convertible Notes.

3.2 Finance Party Discussions

For the purposes of clause 3.1, the Purchaser acknowledges that the following matters will form part of the discussions with the Finance Parties and will be reasonably considered by the Purchaser:

- (a) the grant of security over any of BBC's assets in favour of the Finance Parties;
- (b) the repayment by BBC to the Finance Parties of part of its indebtedness; and
- (c) the application of a part of the net proceeds received by BBC from the orderly disposal of assets in reducing indebtedness to the Finance Parties.

3.3 Benefit of the Condition

The condition in clause 3.1 is solely for the benefit of the Purchaser and may only be waived by the Purchaser if it simultaneously waives the condition precedent in clause 2.1(c) of the Transfer and RE Replacement Agreement.

3.4 Reasonable Endeavours to Satisfy and Notice

- (a) The Purchaser must use all reasonable endeavours to fulfil the condition in clause 3.1 to the extent it is in its power to do so.
- (b) Each party must promptly notify the other party of the satisfaction or waiver of the condition in clause 3.1 and must keep the other party informed of any material developments of which it becomes aware in relation to the satisfaction of the condition in clause 3.1 (including without limitation that the condition in clause 3.1 cannot be satisfied).

3.5 Result of non-satisfaction of Condition

- (a) If the condition in clause 3.1 is not satisfied or waived, then all rights and obligations under this Agreement (which have not yet been performed) other than:
 - (i) clause 1, 9, 10, 11, 12 and 15; and
 - (ii) rights that accrue before that date,
 terminate on the First Completion Date.
- (b) If the Transfer and RE Replacement Agreement terminates, then all rights and obligations under this Agreement (which have not yet been performed) other than:
 - (i) clause 1, 9, 10, 11, 12 and 15; and
 - (ii) rights that accrue before that date,

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terminate immediately.

4. Second BNB Parcel

4.1 Sale and purchase of Second BNB Parcel

Subject to clause 5, the Vendor will procure the sale of the Second BNB Parcel free from all Security Interests and the Purchaser buys the Second BNB Parcel on the terms set out in this Agreement.

4.2 Title and property of Second BNB Parcel

- (a) Until Second Settlement, full beneficial interest in the Second BNB Parcel remains solely with the Vendor and/or its wholly owned subsidiaries; and
- (b) subject to clause 5 and the provisions of this Agreement, title to and property in the Second BNB Parcel passes to the Purchaser or its nominee with effect from Second Settlement.

5. Conditions Precedent to Second BNB Parcel

5.1 Conditions Precedent to Sale and Purchase of Second BNB Parcel

The obligations of the parties under clauses 4.1 and 4.2 and on Second Settlement are subject to and conditional on the occurrence of:

- (a) Second Tranche B Completion; and
- (b) the due passage at a general meeting of all resolutions required to be passed by the holders of the Stapled Securities under the Corporations Act, the Listing Rules, the Company Constitution and the Trust Constitution approving of the acquisition by the Purchaser of the Second BNB Parcel.

5.2 Benefit of the Conditions

The Conditions are solely for the benefit of the Purchaser and may only be waived by the Purchaser.

5.3 Reasonable Endeavours to Satisfy and Notice

- (a) The parties must use all reasonable endeavours to fulfil the Conditions to the extent it is in their power to do so.
- (b) Each party must promptly notify the other party of the satisfaction or waiver of a Condition and must keep the other party informed of any material developments of which it becomes aware in relation to the satisfaction of a Condition (including without limitation that a Condition cannot be satisfied).

5.4 Result of non-satisfaction of Condition

If the Conditions are not satisfied or waived on or before the End Date then all rights and obligations under this Agreement (which have not yet been performed) other than:

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- (a) clause 1, 9, 10, 11, 12 and 15;
- (b) rights that accrue before that date, terminate on the day after the End Date.

6. No disposal

- (a) Until the earlier of satisfaction of the Condition in clause 5.1(b) or the date that is three months after the date of this agreement, the Vendor must procure that there is no Disposal of any Sale Securities other than in accordance with this Agreement.
- (b) Subject to the satisfaction of the Condition in clause 5.1(b), the Vendor must procure that from that time until the End Date, there is no Disposal of any Sale Securities other than in accordance with this Agreement or pursuant to clause 6(c).
- (c) If the Condition in clause 5.1(b) is not satisfied before the date that is three months after the date of this Agreement, the Vendor and/or its wholly owned subsidiaries shall be free to Dispose of any Sale Securities.

7. Settlement of the Initial BNB Parcel

7.1 Payment – First Settlement

On First Settlement, the Purchaser must pay or procure payment to the Vendor or as the Vendor directs the amount of 29 cents (\$0.29) for each Stapled Security in the Initial BNB Parcel.

7.2 The Vendor's obligations at First Settlement

At First Settlement the Vendor must:

- (a) procure ownership of all the Stapled Securities in the Initial BNB Parcel is given to the Purchaser or its nominee free from any Security Interest; and
- (b) provide to the Purchaser or its nominee, if necessary, all relevant CHES details for the relevant Stapled Securities, including:
 - (i) if the shares are on an Issuer Sponsored Sub-Register, a copy of the Vendor's Issuer Sponsored Statement showing the holding of the Initial BNB Parcel and its SRN and a copy of its written instructions to the Company and the responsible entity of the Trust to permit the delivery of the Initial BNB Parcel Sale Securities to the Purchaser or its nominee; or
 - (ii) if the shares are on a CHES Sub-Register, the Vendor's IIN and a copy of its written instructions to its Sponsoring Participant to permit the delivery of the Initial BNB Parcel to the Purchaser or its nominee;
- (c) procure performance of all that is required by the Vendor under the ASTC Settlement Rules and the ASX Market Rules to enable the Initial BNB Parcel to be acquired by the Purchaser or its nominee on the First Settlement Date; and

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- (d) deliver to the Purchaser or its nominee evidence that all Security Interests over the Initial BNB Parcel have been released including the Deutsche Bank Security Interest.

7.3 Interdependence – First Settlement and First Tranche

- (a) The requirements of clauses 7.1 and 7.2 are interdependent and must be carried out contemporaneously. No delivery or payment will be deemed to have been made until all deliveries and payments have been made.
- (b) The obligations under clauses 7.1 and 7.2 are dependent on the obligations under clause 9.2 of the Implementation Agreement and the obligations under all those clauses must be carried out contemporaneously such that First Settlement will be deemed not to occur unless the obligations under clause 9.2 of the Implementation Agreement are complied with and are fully effective.

7.4 Date for First Settlement

Settlement of the sale and purchase of the Initial BNB Parcel will take place on the First Settlement Date.

8. Settlement of the Second BNB Parcel

8.1 Payment – Second Settlement

On Second Settlement, the Purchaser must pay or procure payment to the Vendor or as the Vendor directs the amount of 29 cents (\$0.29) for each Stapled Security in the Second BNB Parcel.


8.2 The Vendor's obligations at Second Settlement

At Second Settlement the Vendor must:

- (a) procure ownership of all the Stapled Securities in the Second BNB Parcel is given to the Purchaser or its nominee free from any Security Interest; and
- (b) provide to the Purchaser or its nominee, if necessary, all relevant CHESS details for the relevant Stapled Securities, including:
 - (i) if the shares are on an Issuer Sponsored Sub-Register, a copy of the Vendor's Issuer Sponsored Statement showing the holding of the Second BNB Parcel and its SRN and a copy of its written instructions to the Company and the responsible entity of the Trust to permit the delivery of the Second BNB Parcel Sale Securities to the Purchaser or its nominee; or
 - (ii) if the shares are on a CHESS Sub-Register, the Vendor's HIN and a copy of its written instructions to its Sponsoring Participant to permit the delivery of the Second BNB Parcel to the Purchaser or its nominee;
- (c) procure performance of all that is required by the Vendor under the ASTC Settlement Rules and the ASX Market Rules to enable the Second BNB Parcel to be acquired by the Purchaser or its nominee on the Second Settlement Date; and

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- (d) deliver to the Purchaser or its nominee evidence that all Security Interests over the Second BNB Parcel have been released including the Deutsche Bank Security Interest.

8.3 Interdependence – Second Settlement

The requirements of clauses 8.1 and 8.2 are interdependent and must be carried out contemporaneously. No delivery or payment will be deemed to have been made until all deliveries and payments have been made.

8.4 Date for Second Settlement

Settlement of the sale and purchase of the Second BNB Parcel will take place on the Second Settlement Date.

8.5 Market Rules to prevail

To the extent of any inconsistency with the ASX Market Rules and this Agreement, the ASX Market Rules will prevail.

9. Warranties

9.1 Warranties

Each party acknowledges that the other party has executed this Agreement and agreed to take part in the transactions that it contemplates in reliance on the representation and warranties that are made or repeated by it in Schedule 1.

9.2 When Warranties given

Each of the Warranties:

- (a) is given as at the date of this Agreement and as at the time immediately before the First Settlement in respect of the Initial BNB Parcel and Second Settlement in respect of the Second BNB Parcel; and
- (b) will remain in full force and effect after the First Settlement in respect of the Initial BNB Parcel and the Second Settlement in respect of the Second BNB Parcel.

9.3 Purchaser's investigation

The Warranties are not limited in any way by information gathered by the Purchaser, its advisers or representatives.

9.4 Construction

Each Warranty is to be constructed independently of the others and is not limited by reference to any other Warranty.

9.5 Liabilities indemnity

The Vendor must indemnify the Purchaser against all Liabilities which may be incurred by the Purchaser as a result (directly or indirectly) of a breach of any of the Warranties or any provision of this Agreement.

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9.6 Reduction of Purchase Price

Any amount payable by the Vendor to the Purchaser for a breach any Warranty and any payment received by the Purchaser under clause 9.5 will be treated as a reduction of the Purchase Price.

9.7 Limitation of Liability

The Liability of the Vendor arising from a breach of any Warranty or a Claim under the indemnity in clause 9.5 is limited to an amount equal to the aggregate Purchase Price actually paid by the Purchaser to the Vendor as at the time of any Claim made by the Vendor.

10. Enforceability

If any provision of this Agreement is void, illegal or unenforceable in any jurisdiction, the Vendor may re-acquire the Sale Securities using the same settlement methods in clauses 7 and 8 at the same price set out in clause 7.1 and 8.1.

11. Assignment

11.1 No assignment

Subject to clause 11.2, neither party can assign, charge, encumber or otherwise deal with any rights or obligations under this Agreement, or attempt, or purport to do so, without the prior written consent of the other party.

11.2 Assignment permitted

The Purchaser may grant a Security Interest over any or all of its right, title and interest in this Agreement if the enforcement of the Security Interest is subject to compliance with the restrictions set out in clause 11.1.

12. Amendment

This Agreement may be amended only by another agreement executed by the parties.

13. Undertaking in respect of Implementation Agreement

LLC acknowledges that certain terms defined in this Agreement have the meanings given to those terms in the Implementation Agreement and, as such, undertakes not without the prior written consent of the Vendor to amend the Implementation Agreement if the effect of that amendment would in any way be to alter the meaning given to any one of those terms.

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14. Notices

Any notice, demand, consent or other communication (a *Notice*) given or made under this Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be addressed and delivered to the intended recipient at the address or fax number below or the address or fax number last notified by the intended recipient to the sender after the date of this Agreement:

(i) to the Vendor: Babcock & Brown International Pty Ltd
Level 23, The Chifley Tower
2 Chifley Square
Sydney NSW 2000
Attention: Secretary
Fax No: +61 2 9231 6519
And copied to Chang, Pistelli & Simmons
Corporate Lawyers:

Level 13
95 Pitt Street
Sydney NSW 2000
Fax number: +61 2 8922 8088
Attention: Danny Simmons and Lance
Sacks

(ii) to the Purchaser: Lend Lease Corporation Limited
30 The Bond
30 Hickson Road
Millers Point NSW 2000, Australia
Attention: William Hara, Group General
Counsel,
Fax No: +612 9252 2192

- (c) will be taken to be duly given or made when delivered, received or left at the above fax number or address. If delivery or receipt occurs on a day which is not a business day in the place to which the Notice is sent or is later than 4pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

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15. General

15.1 Costs and Stamp Duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All stamp duty (including fines, penalties and interest) which may be payable on or in connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne by the Purchaser.

15.2 No Merger

The rights and obligations of the parties will not merge on the settlement of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

15.3 Entire Agreement

This Agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct and prior agreements and understandings between the parties in connection with its subject matter.

15.4 Further Assurances

Each party must do anything (including executing agreements and documents) necessary to give full effect to this Agreement and the transactions contemplated by it.

15.5 Waiver

No failure to exercise nor any delay in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

15.6 Governing Law and Jurisdiction

This Agreement is governed by the laws of New South Wales. Each party submits to the jurisdiction of courts exercising jurisdiction there, and waives any right to claim that those courts are an inconvenient forum.

15.7 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

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Schedule

Warranties

The Vendor represents and warrants that each statement below is true, complete and accurate:

- (a) the Vendor and/or its wholly owned subsidiaries are the sole beneficial owner of the Sale Securities;
- (b) the Vendor has full right to direct the sale of the Sale Securities free from any Security Interest or third party interest (other than the Deutsche Bank Security Interest);
- (c) neither it nor any of its wholly owned subsidiaries have disposed of, agreed to dispose of, or granted any option to any person to purchase any of the Sale Securities or any interest in any of the Sale Securities.
- (d) it is a company limited by shares under the Corporations Act;
- (e) it has full legal capacity and power to enter into this Agreement and to carry out the transactions that it contemplates;
- (f) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out the transactions that it contemplates;
- (g) it holds all authorisations that are necessary for it to:
 - (i) execute this Agreement and to carry out the transactions that it contemplates; or
 - (ii) ensure that this Agreement is legal, valid, binding on it and admissible in evidence,
 and it is complying with any conditions to which any of these authorisations are subject;
- (h) this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (i) neither its execution of this Agreement nor the carrying out by it of the transactions that it contemplates, does or will:
 - (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) contravene any authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) contravene its constitution;

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- (j) as far as it is aware, no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of any of its officers after due inquiry, threatened which, if adversely decided, could have a material adverse effect on its ability to perform its obligations under this Agreement;
- (k) it has not:
 - (i) gone into liquidation nor passed a winding-up resolution nor received a deregistration notice or applied for deregistration under the Corporations Act;
 - (ii) had a petition or other process for winding-up presented or threatened against it and there are no circumstances justifying such a petition or process;
 - (iii) had a writ of execution issued against it;
 - (iv) had a receiver or receiver and manager appointed to any part of its undertakings or assets; and
 - (v) had any similar event or action to those in paragraph (k)(i) to (k)(iv) above occur or apply under the relevant foreign legislation applicable to the Vendor; and
- (l) it is not entering into this Agreement as trustee of any trust or settlement.

The Purchaser represents and warrants that each statement below is true, complete and accurate:

- (a) it is a company that is duly incorporated under the Corporations Act;
- (b) it has full legal capacity and power to enter into this Agreement and to carry out the transactions that it contemplates;
- (c) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out the transactions that it contemplates;
- (d) it holds all authorisations that are necessary for it to:
 - (A) execute this Agreement and to carry out the transactions that it contemplates; or
 - (B) ensure that this Agreement is legal, valid, binding on it and admissible in evidence,
 and it is complying with any conditions to which any of these authorisations are subject;
- (e) this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (f) neither its execution of this Agreement nor the carrying out by it of the transactions that it contemplates, does or will:

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Stapled Security Acquisition Agreement

Allens Arthur Robinson 

- (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) contravene any authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) contravene its constitution;
- (g) as far as it is aware, no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of any of its officers after due inquiry, threatened which, if adversely decided, could have a material adverse effect on its ability to perform its obligations under this Agreement;
- (h) it has not:
 - (i) gone into liquidation nor passed a winding-up resolution nor received a deregistration notice or applied for deregistration under the Corporations Act;
 - (ii) had a petition or other process for winding-up presented or threatened against it and there are no circumstances justifying such a petition or process;
 - (iii) had a writ of execution issued against it; and
 - (iv) had a receiver or receiver and manager appointed to any part of its undertakings or assets; and
- (i) it is not entering into this Agreement as trustee of any trust or settlement.

Stapled Security Acquisition Agreement

Allens Arthur Robinson



Each attorney executing this Agreement states that he or she has no notice of the revocation or suspension of his or her power of attorney.

Executed in Sydney.

**Executed by Babcock & Brown
International Pty Limited** by its duly
authorised attorney under a power of
attorney dated:

Attorney Signature

Witness

Print Name

Print Name

**Executed by Lend Lease Corporation
Limited:** by its duly authorised attorney
under a power of attorney dated:

Attorney Signature

Witness

Print Name

Print Name

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