

Dated 9 September 2004

**THE CONSUMERS ASSOCIATION OF SINGAPORE**

and

**DBS BANK LTD**  
**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**  
**as Initial Escrow Banks**

**MASTER ESCROW AGREEMENT**

(Correct as at 9 September 2004)

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**This Agreement** is dated 9 September 2004 and made between:

- (1) **The Consumers Association of Singapore (“CASE”)**; and
- (2) **DBS Bank Ltd and The Hongkong and Shanghai Banking Corporation Limited** (the “**Initial Escrow Banks**”).

**Whereas:**

(A) In order for a private educational organisation to gain CaseTrust for Education, such organisation has to participate in a Student Protection Scheme, which can be in a form of an escrow arrangement, or otherwise.

(B) Each PEO has elected to meet the requirements of such Student Protection Scheme by means of an escrow arrangement, upon the terms and subject to the conditions set out in this Agreement.

**It is agreed** as follows:

## **1. Interpretation**

**1.1** In this Agreement, unless the context otherwise requires:

“**Accession Letter**” means an Escrow Bank Accession Letter and/or a PEO Accession Letter.

“**Account**” means an Escrow Account and/or a Suspense Account and shall be subject to the standard terms and conditions of the Escrow Bank for the opening and operation of accounts.

“**Acknowledgement of Student Escrow Confirmation**” means an acknowledgement of receipt of the Student Escrow Confirmation substantially in the form of Schedule 7A.

“**Additional Escrow Bank**” means a bank or financial institution which becomes an Additional Escrow Bank in accordance with Clause 12.2.

“**Authorised Representatives**” means, in respect of a PEO, the persons set out in Clause 4 of its PEO Accession Letter and, in respect of CASE, the persons notified by CASE to each Initial Escrow Bank on or before the date of this Agreement and/or from time to time thereafter to each Additional Escrow Bank on or before the date it becomes an Escrow Bank in accordance with the terms of this Agreement and/or from time to time thereafter.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in Singapore;

“**CASE Payment Instruction**” means a notice substantially in the form of Schedule 1.

“**Certificate of PEO Escrow Establishment**” means a notice substantially in the form of Schedule 3.

“**CASE Stop Order**” means a notice substantially in the form of Schedule 2.

“**Commencement Date**” means the date that instruction and/or structured supervision associated with a course commences as notified in a Payment Voucher.

“**EDB**” means the Economic Development Board.

“**Enrolled**” means that a Student has applied for, and been accepted into, the relevant course offered by the PEO.

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“**Escrow Account**” means, in respect of each PEO, the non interest bearing bank account established by it with an Escrow Bank (which may be held in the name of the Escrow Bank’s nominee) for the purposes of this Agreement.

“**Escrow Bank Accession Letter**” means a document substantially in the form set out in Schedule 4.

“**Escrow Bank**” means an Additional Escrow Bank or an Initial Escrow Bank.

“**Funds**” means, in respect of any Student, the aggregate amount of Student Fees that is at any time held in an Escrow Account for that Student and subject to this Agreement.

“**ICA**” means the Immigration & Checkpoints Authority of Singapore.

“**Minister**” means the Minister of Trade and Industry of Singapore.

“**Minister for Education**” means the Minister for Education of Singapore.

“**Payment Voucher**” means a confirmation to be signed by a PEO (containing running serial numbers) in a form of Schedule 6.

“**PEO**” means a person which becomes a PEO in accordance with Clause 12.1.

“**PEO Accession Letter**” means a document substantially in the form set out in Schedule 5.

“**Rejection Refund Letter**” means a letter substantially in the form of Schedule 8.

“**Singapore dollar**” and “**S\$**” mean the lawful currency of Singapore.

“**Spring**” means SPRING Singapore (Standards, Productivity and Innovation Board).

“**Student**” means any person who Enrolls for any course of studies with any PEO on or after 1 December 2004 and in respect of which a duly executed Student Escrow Confirmation has been delivered to the Escrow Bank with whom that PEO maintains its Escrow Account.

“**Student Contract**” means a contract made between a Student and a PEO relating to his/her course of studies with that PEO which shall be in the form of either the standard student contract under the Student Protection Scheme or a student contract approved by CASE between a Student and a PEO.

“**Student Escrow Confirmation**” means a confirmation by a Student substantially in the form of Schedule 7.

“**Student Fees**” means gross tuition fees of a course before any commission is to be deducted, paid by or on behalf of a Student to a PEO and which are to be subject to this Agreement.

“**Student ID**” means, in relation to any Student, the FIN number of the student pass issued by ICA to that Student and where the Student has not been issued with a student pass, the passport number of that Student or any other unique student identification number provided by the PEO to that Student, either of which shall remain the same throughout the duration of the course(s) undertaken by that Student.

“**Suspense Account**” means, in respect of each PEO, the non interest bearing suspense bank account established by it or on its behalf with an Escrow Bank (which may be held in the name of the Escrow Bank’s nominee) for the purposes of this Agreement.

## 1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Agreement to:

- (i) "**CASE**", any "**PEO**" or any "**Escrow Bank**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) this "**Agreement**" or any other agreement or instrument is a reference to this Agreement or other agreement or instrument as amended or novated from time to time;
- (iii) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (iv) a provision of law is a reference to that provision as amended or re-enacted; and
- (v) a time of day is a reference to Singapore time unless otherwise stated.

1.2.2 Section, Clause and Schedule headings are for ease of reference only.

1.2.3 All references to an account include all replacement accounts for such account.

## 2. Escrow Account

Each PEO designates and appoints the Escrow Bank with whom it has established an Escrow Account as its escrow agent and such Escrow Bank accepts such designation and appointment in accordance with and subject to the terms and conditions of this Agreement. For the avoidance of doubt, no Escrow Bank shall be under any obligation to open any Escrow Account and any Escrow Account so opened may be subject to any applicable standard terms and conditions of that Escrow Bank for the opening and operation of accounts.

## 3. Obligations of PEO and Escrow Bank

3.1 Each PEO shall ensure that each Student Enrolled with it shall execute a Student Escrow Confirmation and shall within three (3) Business Days thereof deliver a copy of that Student Escrow Confirmation to the Escrow Bank with whom it maintains its Escrow Account. Each Escrow Bank shall deliver an Acknowledgement of Student Escrow Confirmation to the relevant PEO within three (3) Business Days of its receipt of a Student Escrow Confirmation from a Student.

3.2 Each PEO shall procure that all Student Fees of a Student are paid directly into its Escrow Account by that Student by way of cheque, demand drafts, telegraphic transfer, electronic transfer or internet banking and shall deposit into its Escrow Account any Student Fees paid to that PEO by or on behalf of a Student, in each case if so required by the relevant Escrow Bank, accompanied by a Payment Voucher duly executed by the Authorised Representative of that PEO and delivered to the Escrow Bank with whom such Escrow Account is maintained to such place and for the attention of such person as that Escrow Bank and that PEO may from time to time agree. For the avoidance of doubt, the Escrow Bank shall not be under any obligation to verify the authenticity, correctness or validity of any signature and fact stated in the Payment Voucher.

3.3 Each PEO agrees to do all such things as are reasonably necessary to give full effect to the intentions of this Agreement, including providing to the Escrow Bank with whom it maintains its

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Escrow Account information about that PEO and Student Fees, as reasonably requested by that Escrow Bank from time to time.

- 3.4** Each PEO irrevocably authorises the Escrow Bank with whom it maintains its Escrow Account to apply the Student Fees held in such Escrow Account in accordance with the provisions and terms of this Agreement.
- 3.5** Each PEO acknowledges and agrees that payment of Student Fees to the Escrow Bank with whom it maintains its Escrow Account pursuant to this Agreement shall, to the extent of the amount paid, discharge the relevant Student from its obligations to pay such Student Fees to that PEO.
- 3.6** Each PEO undertakes and confirms to CASE and the Escrow Bank with whom it maintains its Escrow Account that:
- 3.6.1** it has notified its Students of the terms of this Agreement (by delivering a copy of the same to each Student or by annexing a copy of this Agreement to the Student Contract signed by such Student); and
- 3.6.2** in any event of any dispute between itself and any of its Students, it will, and will procure that such Student will, resolve the dispute in accordance with the terms and conditions of the Student Contract signed by such Student and will not look to the Escrow Bank with whom it maintains its Escrow Account for resolution of such dispute.
- 3.7** Each Escrow Bank shall furnish to CASE, in respect of each PEO maintaining an Escrow Account with it, a monthly report of the amounts expected to be received but not received from each Student as stipulated in such Student's Student Escrow Confirmation provided that no such report shall be required if the relevant Escrow Bank has not received such Student's Student Escrow Confirmation.
- 3.8** Each Escrow Bank may furnish to each PEO maintaining an Escrow Account with it such report regarding the monies in the Escrow Account of that PEO in such form and at such time as may be agreed between that Escrow Bank and PEO.
- 3.9** In the event of an Escrow Bank receiving Funds which it is not able to identify as having been paid by any Student, it shall either return the Funds to the source net of all applicable bank charges or notify the PEO concerned who shall promptly attempt to identify the source of such Funds to a particular Student and notify the Escrow Bank in writing accordingly. The Escrow Bank shall have no obligation to make any payment to any person with respect to such Funds until the PEO identifies the source of such Funds to a particular Student. An Escrow Bank is entitled to rely and act upon any such identification by a PEO and the Escrow Bank shall not be liable to any party in the event of any loss, claim or damage suffered or incurred by any of them as a result of such reliance.

#### **4. Application of Funds**

- 4.1** Subject to the provisions of Clause 5, each Escrow Bank shall, in respect of any course for which Student Fees are held in an Escrow Account maintained by any PEO with that Escrow Bank:
- 4.1.1** in the event that such Escrow Bank receives such Student Fees and if required, the Payment Voucher relating thereto prior to the Commencement Date of that course (or, at the sole discretion of such Escrow Bank, after the Commencement Date of that course but prior to the fifth Business Day after the Commencement Date of that course):

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- (i) apply (but only to the extent that such Student Fees are available, as soon as practicable, to that Escrow Bank in the Escrow Account) an amount up to 30 per cent. of such Student Fees so received relating to a Student to that PEO within five (5) clear Business Days after the Commencement Date of that course; and
- (ii) thereafter, pay (but only to the extent that such Student Fees are available, as soon as practicable, to that Escrow Bank in the Escrow Account) the remaining balance of such Student Fees so received in equal instalments on each Payment Date (for the purposes hereof, “**Payment Date**” means each date falling on the first Business Day of any calendar month, which date falls during the Applicable Period as specified in the Payment Voucher to which such Student Fees relates); and

**4.1.2** in the event that an Escrow Bank receives such Student Fees and if required, the Payment Voucher relating thereto on or after the Commencement Date of that course, that Escrow Bank shall pay (but only to the extent that such Student Fees are available, as soon as practicable, to that Escrow Bank in the Escrow Account) such Student Fees so received in equal instalments on each Payment Date falling after the date of that Escrow Bank’s receipt of such Student Fees.

**4.2** Any payment by an Escrow Bank under this Agreement will be made without any deduction or withholding for or on account of any tax unless such deduction or withholding is required by applicable law.

**4.3** If an Escrow Bank is required by law to make a deduction or withholding, it will not pay an additional amount in respect of that deduction or withholding to the relevant party.

**4.4** Any amount of Student Fees received by any Escrow Bank in a currency other than Singapore dollar may be converted by such Escrow Bank at the applicable rate at which such Escrow Bank is able to purchase Singapore dollars with the amount received and any obligation of any Escrow Bank to make any payment in accordance with the terms of this Agreement from the Funds relating to any Student shall be limited to the amount of such Funds available or remaining following any such conversion.

## **5. Payment Orders**

**5.1** If the application by a Student for a Student’s Pass is rejected by the ICA, the PEO with whom that Student is Enrolled shall as soon as practicable after becoming aware thereof deliver a duly executed Rejection Refund Letter signed by an Authorised Representative of that PEO to the Escrow Bank with whom it maintains its Escrow Account. That Escrow Bank shall as soon as practicable after its receipt thereof refund the Funds relating to that Student back to that Student in accordance with the instructions contained in the Student Escrow Confirmation of that Student.

**5.2** Each Escrow Bank shall pay the Funds relating to a Student or any portion thereof in accordance with the terms of an irrevocable CASE Stop Order signed by an Authorised Representative of CASE into the Suspense Account maintained by the relevant PEO with that Escrow Bank (but only to the extent of the amount of Funds available in the Escrow Account relating to that Student). Such CASE Stop Order shall be given to the relevant Escrow Bank at least two (2) clear Business Days before the date on which the payment is to be made.

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- 5.3** Each Escrow Bank shall release any amount of Student Fees relating to a Student or any portion thereof paid into the Suspense Account maintained by the relevant PEO with it in accordance with the terms of a CASE Payment Instruction signed by an Authorised Representative of CASE directing that Escrow Bank to release the Funds or any portion thereof as set forth therein (but only to the extent of the amount of Funds available in the Suspense Account relating to that Student). Such CASE Payment Instruction shall be given to the relevant Escrow Bank at least two (2) clear Business Days before the date on which the payment is to be made.
- 5.4** Each PEO and CASE undertakes to give each Escrow Bank with whom it maintains an Account seven (7) clear Business Days' notice in writing of any amendment to its Authorised Representatives. Any amendment of the Authorised Representatives of any PEO and/or CASE shall take effect upon the expiry of such seven (7) clear Business Days' notice.
- 5.5** Solely as between CASE and the PEOs, CASE shall be entitled (but not obliged), without reference to the PEO and/or the Student, to issue a CASE Stop Order in respect of a PEO, if and only if, in its sole and absolute opinion, any one or more of the following criteria are met:
- 5.5.1** the relevant PEO is declared to be insolvent and/or a winding-up order made or a bankruptcy issued by the Singapore court against the PEO (or, any partner of the PEO if the PEO is a partnership);
  - 5.5.2** the relevant authority(ies) issues an order to cease and/or terminate the operations of the PEO, or the happening of anything of a similar nature under the laws of Singapore; and/or
  - 5.5.3** a court, arbitrator, tribunal or any adjudicator of competent jurisdiction of first instance in Singapore has made an order, award, declaration or decision, as a result of a dispute between any PEO and any of its Students or otherwise (the "**Judgment**", which expression includes a copy thereof duly certified as a true copy by an advocate and solicitor of Singapore and any such order, award, declaration or decision being obtained in default), in favour of that Student and that Student has notified CASE in writing with supporting evidence that the relevant PEO has failed, refused and/or neglected to pay the whole or part of the Judgment within 14 days after the time in which that PEO is obliged to make the payment thereof. For the avoidance of doubt, CASE shall be entitled to issue a CASE Stop Order in reliance on the Judgment whether or not the PEO intends to or has lodged an appeal against the Judgment.
- 5.6** None of the PEOs shall have, and each PEO shall ensure that none of its Students shall make, any claim against any Escrow Bank, in relation to, in respect of or in connection with any payment made by any Escrow Bank, pursuant to any CASE Stop Order and/or CASE Payment Instruction, whether on the basis that any condition or criteria for the giving of such CASE Stop Order and/or CASE Payment Instruction has not been met or otherwise.
- 6. Fees and Charges**
- 6.1** Bank charges arising out of or in connection with the opening or operation of any Account in respect of any particular Fund or any conversion or receiving charges relating to that Fund shall be debited from that Fund or any instalment of Student Fees payable to the PEO from the Escrow Account.

- 6.2** Each PEO indemnifies on demand the Escrow Bank with whom it maintains its Escrow Account against any liability incurred by that Escrow Bank with respect to those charges which is not paid or satisfied out of the relevant Funds in that Escrow Account.
- 6.3** Each PEO shall pay to the Escrow Bank with whom it maintains its Escrow Account such fees as may be agreed from time to time between that PEO and that Escrow Bank, and such disbursements, expenses and charges as may be reasonably incurred by the Escrow Bank in operation of the Escrow Account and the Suspense Account and the performance of its obligations under this Agreement.
- 6.4** If, at any time, any PEO fails to pay any amount referred to in this Clause 6 to the relevant Escrow Bank, that PEO irrevocably and unconditionally authorises such Escrow Bank to deduct from any instalment of Student Fees payable to it by that Escrow Bank under Clause 4 above the amount so unpaid.
- 6.5** Any refund of any Funds to a Student in accordance with Clause 5.1 or any payment or transfer of funds in accordance with Clause 5.2 or 5.3 shall be net of any applicable bank charges.

**7. Declaration of Trust**

- 7.1** Each PEO declares that any Student Fees paid by any Student Enrolled at that PEO in respect of the relevant course offered by that PEO and maintained in its Account with any Escrow Bank pursuant to this Agreement will be held on trust by that PEO for the Student for whose benefit the Student Fees have been paid, upon and subject to the terms and conditions contained in this Agreement.
- 7.2** The respective rights and interests of a Student to Student Fees held on trust by a PEO pursuant to Clause 7.1 shall be subject to the provisions of this Agreement, any Payment Voucher, any CASE Stop Order and any CASE Payment Instruction.
- 7.3** The trust declared under this Clause 7 with respect to any Funds for any Student commences on the date of this Agreement and expires on the earlier of:
- 7.3.1** the distribution of all the Funds relating to that Student in accordance with the provisions of this Agreement; or
  - 7.3.2** on the day prior to the date falling 21 years from the date of this Agreement.
- 7.4** None of the PEOs nor any Student shall have any entitlement (whether contractual or otherwise) to receive any Funds relating to that Student except in accordance with the express terms of this Agreement.

**8. The Escrow Banks**

- 8.1** The acceptance by an Escrow Bank of its appointment under this Agreement is subject to the terms and conditions of this Agreement, which the parties hereby agree shall govern and control the rights and obligations of each Escrow Bank.
- 8.2** Each Escrow Bank shall have only those duties, obligations and responsibilities expressly specified in this Agreement and shall have no implied (whether by law or otherwise) duties, obligations or responsibilities. In particular, none of the Escrow Banks is a party to, nor bound by, any agreement, arrangement or understanding between any or all of the other parties to this Agreement, nor shall

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any Escrow Bank be treated as having actual, constructive or implied knowledge of any of the terms of any such agreement, arrangement or understanding.

**8.3** It is further agreed that:

- 8.3.1** none of the Escrow Banks shall be under any duty to give the Funds held by it hereunder any greater degree of care than it gives to its own similar property;
- 8.3.2** none of the Escrow Banks is under a duty to ensure that funds withdrawn from any Escrow Account are actually applied for the purpose for which they were withdrawn or that any CASE Payment Instruction, any CASE Stop Order or other instruction or direction by CASE is accurate, correct or in accordance with this Agreement;
- 8.3.3** none of the Escrow Banks shall be required to make any distribution with respect to any Funds to the extent that such Funds are insufficient;
- 8.3.4** (i) none of the Escrow Banks shall be liable to any person or entity for any loss, liability, claim, action, damages or expenses arising out of or in connection with its performance of or its failure to perform any of its obligations under this Agreement save as are caused by its own gross negligence or wilful default;
- (ii) the liability of each Escrow Bank hereunder shall be limited to an amount equal to the sum of the Funds deposited with it;
- (iii) notwithstanding the foregoing, under no circumstance will any of the Escrow Banks be liable to any party for any consequential loss (*inter alia*, being loss of business, goodwill, opportunity or profit) even if advised of the possibility of such loss or damage;
- 8.3.5** without prejudice to Clause 8.3.6, none of the Escrow Banks shall be obliged to make any payment or otherwise to act on any request or instruction notified to it under this Agreement if it is unable to verify any signature on the notice of request or instruction against the specimen signature provided for the relevant Authorised Representative hereunder;
- 8.3.6** each Escrow Bank shall be entitled to rely upon any order, judgment, decree, certification, demand, notice, or other written instrument delivered to it hereunder without being required to determine the authenticity or the correctness of any fact (including signatures) stated therein or validity of the service thereof. Each Escrow Bank may act in reliance upon any instrument or signature believed by it to be genuine and may assume that any person purporting to give receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorised to do so;
- 8.3.7** each Escrow Bank is authorised to rely conclusively upon any instructions received by any means, provided that the parties have agreed upon the means of transmission and the method of identification for the instructions. In furtherance of the foregoing:
- (i) each PEO and the Escrow Bank with whom it maintains its Escrow Account will comply with certain agreed security procedures (the “**Procedures**”) designed to verify the origination of the instructions;
- (ii) none of the Escrow Banks is obligated to do anything other than what is contained in the Procedures to establish the authority or identity of the person

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sending the instruction. No Escrow Bank is responsible for errors or omissions made by CASE or resulting from fraud or the duplication of any instruction by CASE; and

- (iii) each Escrow Bank may in its reasonable discretion and without liability on its part, act upon what it reasonably believes in good faith such instructions to be; notwithstanding any other provision hereof, each Escrow Bank shall have the right in its reasonable discretion to refuse to act on any instruction where it reasonably doubts its contents, authorisation, origination or compliance with the Procedures;
- 8.3.8** each Escrow Bank may consult reputable external lawyers or professional advisers over any question as to the provisions of this Agreement or its duties. Each Escrow Bank may act pursuant to the advice of lawyers or other professional advisers with respect to any matter relating to this Agreement and shall not be liable for any action taken or omitted in accordance with such advice which is reasonable for it to take or omit;
- 8.3.9** this Clause 8.3.9, and Clauses 8.3.4, 8.3.5, 8.3.6 and 8.3.7 above, shall survive notwithstanding any termination of this Agreement or the resignation or replacement of an Escrow Bank;
- 8.3.10** each Escrow Bank shall have no responsibility for the contents of any ruling of the arbitrators or any third party contemplated in any other document between CASE, any PEO and/or any Student as a means to resolve disputes and may rely without any liability upon the contents of any such ruling;
- 8.3.11** in the event of any disagreement between CASE, any PEO and/or any Student resulting in adverse claims or demands being made in connection with the Funds, or in the event that an Escrow Bank in good faith is in doubt as to what action it should take hereunder, that Escrow Bank shall be entitled to retain the Funds until required to release it in accordance with this Agreement, any Payment Voucher, any CASE Stop Order and/or any CASE Payment Instruction. Each Escrow Bank may, in addition, elect in its sole discretion, to commence an interpleader action or seek other judicial relief or orders as it may deem necessary. The costs and expenses (including lawyers' fees and disbursements) incurred in connection with any such proceeding shall be a payment obligation of the relevant PEO;
- 8.3.12** if at any time an Escrow Bank is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Funds relating to any Student (including, but not limited, to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of such Funds), that Escrow Bank is authorised to comply therewith in any manner it or its lawyers deem appropriate; and if that Escrow Bank complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, that Escrow Bank shall not be liable to any of the other parties or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect;
- 8.3.13** in the event that any law, regulation, decree, order, government act, custom, procedure or practice to which an Escrow Bank is subject, or to which the Funds is subject, prevents or

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limits the performance of the duties and obligations of that Escrow Bank, then until such time as that Escrow Bank is again able to perform such duties and obligations hereunder, such duties and obligations of that Escrow Bank shall be suspended;

- 8.3.14 no Escrow Bank shall be responsible for any loss or damage, or failure to comply or delay in complying with any duty or obligation, under or pursuant to this Agreement arising as a direct or indirect result of any reason, cause or contingency beyond its reasonable control, including, but not limited to, natural disasters, nationalisation, currency restrictions, act of war, act of terrorism, act of God, postal or other strikes or industrial actions, or the failure, suspension or disruption of any relevant stock exchange, clearance system or market;
  - 8.3.15 in the event that CASE ceases to exist or is dissolved and no other entity is created or exists to succeed to the rights and obligations of CASE, any Escrow Bank may seek directions from the Minister and shall be entitled to act in accordance with such direction given to it by that Minister; and
  - 8.3.16 each Escrow Bank may at all times immediately make a payment in accordance with the terms of any CASE Stop Order and/or CASE Payment Instruction without any reference or further authority from any PEO, without further investigation or inquiry and without inquiring and without requiring proof or the relevant PEO's agreement that the CASE Stop Order and/or CASE Payment Instruction has been properly or validly issued (whether or not such dispute is disclosed to the relevant Escrow Bank). Each Escrow Bank need not concern itself with the propriety of any CASE Stop Order and/or CASE Payment Instruction made or purported to be made under or in connection with this Agreement and no PEO shall have any claim against any Escrow Bank on the basis that the relevant Escrow Bank was or might have been justified in refusing to obey in whole or in part any of terms of any CASE Stop Order and/or CASE Payment Instruction.
- 8.4 Each PEO agrees to indemnify the Escrow Bank with whom it maintains its Escrow Account, on demand by that Escrow Bank, against all actions, proceedings, claims, demands, losses, costs, expenses and charges which it may suffer or incur arising out of or in connection with its properly acting as Escrow Bank under this Agreement, except to the extent directly resulting from the gross negligence, fraud or wilful default of that Escrow Bank.
- 9. CASE**
- 9.1 CASE shall not be required to issue any CASE Payment Instruction, any CASE Stop Order or other instruction or direction to an extent other than the amount of the Funds.
  - 9.2 CASE shall not be liable to any person or entity for any loss, liability, claim, action, damages or expenses arising out of or in connection with its performance of or its failure to perform any of its obligations under this Agreement save as are caused by its own gross negligence or wilful default.
  - 9.3 The liability (if any) of CASE hereunder shall be limited to an amount equal to the sum of the Funds deposited with each of the Escrow Banks by the relevant PEO.
  - 9.4 Notwithstanding the foregoing, under no circumstance will CASE be liable to any party for any consequential loss (*inter alia*, being loss of business, goodwill, opportunity or profit) even if advised of the possibility of such loss or damage.

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- 9.5** CASE shall be entitled to rely upon any order, judgment, decree, certification, demand, notice, or other written instrument delivered to it hereunder without being required to determine the authenticity or the correctness of any fact (including signatures) stated therein or validity of the service thereof. CASE may act in reliance upon any instrument or signature believed by it to be genuine and may assume that any person purporting to give receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorised to do so. This Clause shall survive notwithstanding any termination of this Agreement or the resignation or replacement of an Escrow Bank.
- 9.6** CASE shall have no responsibility for the contents of the Judgment referred to in Clause 5.5.3, any ruling of the arbitrators or any third party contemplated in any other document between any PEO and any Student as a means to resolve disputes and may rely without any liability upon the contents of any such ruling.
- 9.7** In the event of any disagreement between any PEO and any Student resulting in adverse claims or demands being made in connection with the Funds, or in the event that CASE in good faith is in doubt as to what action it should take hereunder, CASE may, elect in its sole discretion, to commence an interpleader action or seek other judicial relief or orders as it may deem necessary. The costs and expenses (including lawyers' fees and disbursements) incurred in connection with any such proceeding shall be a payment obligation of the relevant PEO.
- 9.8** If at any time CASE is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Funds relating to any Student (including, but not limited, to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of such Funds), CASE is authorised to comply therewith in any manner it or its lawyers deem appropriate; and if CASE complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, CASE shall not be liable to any of the other parties or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.
- 9.9** CASE shall not be responsible for any loss or damage, or failure to comply or delay in complying with any duty or obligation, under or pursuant to this Agreement arising as a direct or indirect result of any reason, cause or contingency beyond its reasonable control, including, but not limited to, natural disasters, nationalisation, currency restrictions, act of war, act of terrorism, act of God, postal or other strikes or industrial actions, or the failure, suspension or disruption of any relevant stock exchange, clearance system or market.
- 9.10** Without prejudice to the power and rights of CASE under this Agreement, in the event that the PEO ceases to exist or is dissolved and no other entity is created or exists to succeed to the rights and obligations of the PEO and/or in the event that the Student dies, cannot be contacted after reasonable enquiries, or whose whereabouts is unknown to CASE, CASE may seek directions from the Minister and shall be entitled to act in accordance with such direction given to it by that Minister.
- 9.11** Each PEO agrees to indemnify CASE, on demand, against all actions, proceedings, claims, demands, losses, costs, expenses and charges which it may suffer or incur arising out of or in connection with its properly acting under this Agreement, except to the extent directly resulting from the gross negligence, fraud or wilful default of CASE.

(Correct as at 9 September 2004)

**10. Amendments, Waivers, Termination and Remedies**

- 10.1** Any provision of this Agreement may be amended or supplemented only if CASE, the Escrow Banks and a simple majority in number of the PEOs so agree in writing.
- 10.2** None of the terms of this Agreement shall be deemed to have been waived by any party, unless such waiver is in writing and signed by that party. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement or of any further breach of the provision so waived. No extension of time for the performance of any obligation or act hereunder shall be deemed to be an extension of time for the performance of any other obligation or act.
- 10.3** The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 10.4** This Agreement may be terminated at any time by agreement in writing and signed by each party.
- 10.5** An Escrow Bank may at any time resign for any reason by giving notice in writing (a "**Resignation Notice**") to such effect to CASE and each PEO maintaining an Escrow Account with it.
- 10.6** On receipt of a Resignation Notice from an Escrow Bank, each PEO maintaining an Escrow Account with it shall appoint a successor Escrow Bank as soon as reasonably possible and in any event within 30 days of the Resignation Notice.
- 10.7** If 30 days after delivery of the Resignation Notice of an Escrow Bank, a successor Escrow Bank has not been appointed in accordance with Clause 10.6 above, the Escrow Bank may:
- 10.7.1** appoint a successor Escrow Bank itself and pay all of the Funds held with it to that successor Escrow Bank; or
  - 10.7.2** petition a court of competent jurisdiction to appoint a successor Escrow Bank or otherwise direct the Escrow Bank in any way in relation to the Funds.
- 10.8** The resignation of an Escrow Bank will take effect on the earlier of:
- 10.8.1** the date of the appointment of a successor Escrow Agent under Clause 10.6 or 10.7 above; or
  - 10.8.2** the date of an order of a court of competent jurisdiction under Clause 10.7.2 above; or
  - 10.8.3** the day which is 30 days after the date of delivery of its Resignation Notice to CASE and each PEO maintaining an Escrow Account with it,
- (such date being the "**Resignation Date**").
- 10.9** Upon resignation, that Escrow Bank shall transfer such Funds to the successor Escrow Bank at such time and in such manner as may be agreed in writing between the successor Escrow Bank and the Escrow Bank or to the court of competent jurisdiction or otherwise in accordance with the order of a court of competent jurisdiction.
- 10.10** On transfer of the Funds in accordance with Clause 10.7 or Clause 10.9 above, an Escrow Bank shall be discharged from all further obligations arising in connection with this Agreement.
- 10.11** The rights of any Escrow Bank under this Agreement shall survive any termination or its resignation.

(Correct as at 9 September 2004)

## **11. General**

### **11.1** Each party represents, warrants and undertakes to each other:

**11.1.1** it has the power, has taken all necessary action to allow it, and has all governmental, exchange control or other authorisations required by it, to enter into and perform this Agreement and to permit the payments contemplated by this Agreement;

**11.1.2** neither the entry into or performance by it of, nor any payment contemplated by, this Agreement does or will conflict with any applicable law, regulation, court order or agreement or its constitutional documents; and

**11.1.3** this Agreement has been duly signed by it or on its behalf.

### **11.2** Each PEO represents, warrants and undertakes to CASE and the Escrow Bank with whom it maintains an Escrow Account that:

**11.2.1** it has not created, and will not create, nor is it aware of, any type of security interest or (except under this Agreement) third party interest, right or claim over all or any part of the Funds; and

**11.2.2** it will promptly notify CASE and that Escrow Bank that if at any time of its representations, warranties or undertakings is or (if repeated by reference to the then existing circumstances) would be incorrect or breached.

### **11.3** None of the PEOs shall assign, transfer, or create security over, all or any of its rights or obligations under this Agreement without the prior written consent of the other parties. Any purported assignment, transfer or security without that consent shall be null and void and of no force or effect.

### **11.4** An Escrow Bank and CASE may at any time assign and transfer all of their respective rights and obligations under this Agreement to any of their respective successors (and references to that Escrow Bank and CASE shall be read accordingly).

### **11.5** Any notice, instruction or other document under or in connection with this Agreement must be in the English language and (to the extent applicable) shall state the name and Student ID of the Student concerned:

**11.5.1** if to a PEO, shall be sent to it by fax to such fax number or by letter addressed to it at such address as stated in the PEO Accession Letter executed by it;

**11.5.2** if to an Escrow Bank, shall be sent to it by fax to such fax number or by letter addressed to it at such address notified by it to the sender in accordance with this Agreement or as stated in the Escrow Bank Accession Letter executed by it; and

**11.5.3** if to CASE, shall be sent to it by fax 6467 9055 or by letter addressed to it at 170 Ghim Moh Road, #05-03, Ulu Pandan Community Building, Singapore 279621 or such fax number or address notified by CASE to the sender from time to time in accordance with this Agreement.

If any notice, instruction or other documents is sent by fax, the recipient shall be entitled to accept, rely and act solely on such fax and shall be under no obligation to verify the authenticity, correctness or validity of the same. In this regard, where the recipient is the Escrow Bank, the sender shall indemnify the Escrow Bank from and against all liabilities, actions, proceedings, claims, demands, losses, costs, expenses and charges which the Escrow Bank may suffer or incur

(Correct as at 9 September 2004)

arising out of or in connection with its acting solely on such fax, except to the extent directly resulting from the gross negligence, fraud or wilful default of the Escrow Bank. Without prejudice to any other provisions in this Agreement, all parties agree that the Escrow Bank shall not be liable or in any way responsible for any losses, damages, costs, expenses, claims, demands or proceedings whatsoever and howsoever incurred, suffered or sustained by them arising as a result of the Escrow Bank's inability to detect the inadequate authenticity of the signature(s) on any instructions or directions, fraud, forgery or otherwise, and hereby waive all claims, actions or proceedings whatsoever which they may have against the Escrow Bank in this respect.

- 11.6** Any party may change its fax number, address or attention details by giving not less than seven (7) Business Days' notice to the other parties in accordance with this Clause 11.
- 11.7** A notice, instruction or other document received on a non-Business Day or after 5:00 p.m. (Singapore time) on a Business Day shall be deemed to be received on the next Business Day.
- 11.8** Any person who is not a party to this Agreement shall have no right (whether under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore or otherwise) to enforce or enjoy the benefit of any term of this Agreement (except, in the case of a Student, for the trust constituted for its benefit in Clause 7). The consent of any person who is not a party to this Agreement is not required to amend, rescind or terminate this Agreement.
- 11.9** Each PEO hereby authorises and permits the Escrow Bank with whom it maintains its Escrow Account and any of its officers (as defined in the Banking Act, Chapter 19 of Singapore (the "Banking Act") to disclose to CASE, EDB, ICA, the Minister, the Minister for Education, Spring or any other person:
- (a) to (or through) whom that Escrow Bank assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement;
  - (b) to whom such disclosure is reasonably considered by that Escrow Bank to be necessary;
  - (c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation; or
  - (d) to whom that Escrow Bank is under a duty to disclose;

any customer information (as defined in the Banking Act) about a PEO and this Agreement as that Escrow Bank shall consider appropriate;

This Clause 11.9 is not and shall not be deemed to constitute, an express or implied agreement by any Escrow Bank with a PEO for a higher degree of confidentiality than that prescribed in Section 47 of, and the Third Schedule to, the Banking Act.

## **12. PEO and Escrow Bank**

- 12.1** A person shall become a PEO if it delivers to CASE and each Escrow Bank with whom it maintains its Escrow Account a duly completed and executed original PEO Accession Letter together with an original Certificate of PEO Escrow Establishment duly executed by an Escrow Bank.
- 12.2** A bank or financial institution shall become an Additional Escrow Bank if it delivers to CASE a duly completed and executed Escrow Bank Accession Letter provided that no bank or financial institution shall become an Additional Escrow Bank during the period commencing on and from the

date of this Agreement and ending 180 days from the date of this Agreement or 30 June 2005, whichever is the later.

- 12.3** Delivery of an Accession Letter constitutes confirmation by the relevant person that each of the representations set out in Clause 11 are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

**13. Governing Law and Jurisdiction**

- 13.1** This Agreement shall be governed by and construed in accordance with Singapore law.

- 13.2** All the parties irrevocably agree that the courts of Singapore are to have non-exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement. All the parties irrevocably submit to the jurisdiction of those courts and waive any objection to proceedings in any such court on the ground of venue or on the ground that the proceedings have been brought in an inconvenient forum.

**14. Counterparts**

This Agreement may be signed in any number of copies or counterparts (and by the different parties hereto on separate copies or counterparts), each of which when so signed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

**Schedule 1**

**- Form of CASE Payment Instruction**

[To be on CASE letterhead]

To: [insert name of relevant Escrow Bank]

From: The Consumers Association of Singapore

Dated:

Dear Sirs

**Master Escrow Agreement  
dated 9 September 2004 (the "Agreement")**

1. We refer to the Agreement. This is a CASE Payment Instruction. Terms defined in the Agreement have the same meaning in this CASE Payment Instruction.

2. This CASE Payment Instruction is given pursuant to the CASE Stop Order dated [ ] given to you, in relation to [Name(s) of Student(s)] Enrolled at [Name of PEO].

3. You are hereby directed to pay an amount of S\$[ ] from the Suspense Account of the PEO named below with you at account number [ ] with you to:

- a. [Name of Student].\*
- b. [Student ID]
- c. [Name of PEO]\*
- d. Escrow Account number [ ] of [name of PEO] in relation of [name(s) of Student(s)] to be paid to [name of PEO] in accordance with the following schedule.\*  
[ ]\*\*
- e. [Any other instruction]\*

By: \_\_\_\_\_

Authorised Signatory of CASE

[\*Delete where inapplicable]

[\*\* To attach new payment schedule duly signed off by Student and PEO to provide for equal instalments over remaining duration of course]

(Correct as at 9 September 2004)



**Schedule 3**

**- Form of Certificate of PEO Escrow Establishment**

[To be on the Escrow Bank's letterhead]

From: [insert name of relevant Escrow Bank]

To: [insert name of relevant PEO]

Dated:

Dear Sirs

**Master Escrow Agreement  
dated 9 September 2004 (the "Agreement")**

1. We refer to the Agreement. This is a Certificate of PEO Escrow Establishment. Terms defined in the Agreement have the same meaning in this Certificate of PEO Escrow Establishment.
2. We hereby confirm that we have established an Escrow Account for you as follows:  
Escrow Account name:  
Escrow Account number:

Yours faithfully

---

Authorised Representative of [Escrow Bank]

**Schedule 4**

**- Form of Escrow Bank Accession Letter**

To: The Consumers Association of Singapore

From: *[insert name of Additional Escrow Bank]*

Dated:

Dear Sirs

**Master Escrow Agreement  
dated 9 September 2004 (the "Agreement")**

1. We refer to the Agreement. This is an Escrow Bank Accession Letter. Terms defined in the Agreement have the same meaning in this Escrow Bank Accession Letter.
2. *[Additional Escrow Bank]* agrees to become an Additional Escrow Bank and to be bound by the terms of the Agreement as an Additional Escrow Bank pursuant to Clause 12.2 of the Agreement. *[Additional Escrow Bank]* is a company duly incorporated under the laws of *[name of relevant jurisdiction]*.
3. *[Additional Escrow Bank's]* administrative details are as follows:

**For CASE Stop Orders, CASE Payment Instruction and Rejection Refund Letters**

Address:

Fax No:

Attention:

**For General Enquiries on Account and Payments**

Address:

Fax No:

Attention:

**For Other Matters**

Address:

Fax No.:

Attention:

4. This Escrow Bank Accession Letter is governed by Singapore law.

(Correct as at 9 September 2004)

Yours faithfully

---

Authorised Signatory of [*Additional Escrow Bank*]

**Schedule 5**

**- Form of PEO Accession Letter**

To: The Consumers Association of Singapore

CC: *[insert name of relevant Escrow Banks]*

From: *[insert name of relevant PEO]*

Dated:

Dear Sirs

**Master Escrow Agreement  
dated 9 September 2004 (the "Agreement")**

1. We refer to the Agreement. This is a PEO Accession Letter. Terms defined in the Agreement have the same meaning in this PEO Accession Letter.
2. *[PEO]* agrees to become a PEO and to be bound by the terms of the Agreement as a PEO pursuant to Clause 12.1 of the Agreement. *[PEO]* is a company duly incorporated under the laws of *[name of relevant jurisdiction]*.
3. *[PEO's]* administrative details are as follows:  
Address:  
  
Fax No:  
  
Attention:
4. The Authorised Representatives of this PEO are as follows:  
  
*[name of Authorised Representative]*                      *[Specimen Signature]*  
  
*[name of Authorised Representative]*                      *[Specimen Signature]*
5. This PEO Accession Letter is governed by Singapore law.

Yours faithfully

---

Authorised Signatory of *[PEO]*

(Correct as at 9 September 2004)

**Schedule 6**

**- Form of Payment Voucher**

[To be on PEO's letterhead]

To: [insert name of relevant Escrow Bank]

From: [insert name of relevant PEO]

Dated:

Dear Sirs

**Master Escrow Agreement  
dated 9 September 2004 (the "Agreement")**

1. We refer to the Agreement and the Student Escrow Confirmation executed in relation to the Student specified below. This is a Payment Voucher. Terms defined in the Agreement have the same meaning in this Payment Voucher.

2. The details for the Student Fees relating to the Student below are as follows.

Name of Student:

Name of PEO:

PEO Escrow Account Number:

Date of Payment:

Mode of Payment:

Cheque / Cashier's Order / Bank Draft / Telegraphic Transfer (please circle)

\*Details:

Student ID:

Course Name:

Course ID/Instalment ID:

Instalment No:

Applicable Period: (Insert start date) to (insert end date)

Student Fees Paid: S\$[            ]

\* For payment by way of cheque, cashier's order or bank draft, please state on the reverse of the payment instrument, the Student ID / Course name / Course ID / Instalment No. For payments by way of telegraphic transfer, please state in the remitting advice the Student ID / Course Name / Course ID / Instalment No.

(Correct as at 9 September 2004)

SIGNED by the PEO

---

Authorised Signatory of the PEO

Name:

Date:

**Schedule 7**  
**- Form of Student Escrow Confirmation**

[To be on PEO's letterhead]

To: [insert names of relevant Escrow Bank and relevant PEO]

From: [insert name of relevant Student]

Dated:

Dear Sirs

1. I/We refer to the contract signed between myself/ourselves and [name of PEO] relating to the course of studies at [name of PEO]. I/We confirm that the terms of the fees payable for such course of studies are as follows:

Name of Student:

Date of Birth:

Sex:

Name of PEO:

Escrow Account No.:

Escrow Account Name:

Student ID:

Course ID:

Instalment	Course ID/Instalment ID	Expected Payment Date	Payment Amount	Duration of Course/Semester/Instalment Period	
				From	To
1.					
2.					
3.					
4.					
Total Course Fees					

\* Note: If fee for entire course is to be paid upfront, only one row need to be filled.

\* PEO to insert payment schedule in table above

By signing hereunder, I/we acknowledge and confirm that I/we are aware of the terms of the Master Escrow Agreement (the "**Agreement**") dated 9 September 2004 and I/we further agree to the terms thereof. I/we acknowledge and confirm that I/we are aware that all Student Fees are to be paid into the Escrow Account (details as above) during the entire course duration and not into any other account. I/We undertake and agree to resolve any dispute relating to, or arising from, any matter or transaction contemplated hereunder in (Correct as at 9 September 2004)

accordance with the terms and conditions of the Student Contract signed by me/us (and not refer any such disputes to [name of Escrow Bank]). I/We undertake and agree to refer to the PEO (and not the [name of Escrow Bank]) for any information or statements regarding the Student Fees paid into the Escrow Account or any refunds therefrom. In the event that my/our application for a Student's Pass is rejected by the Immigration & Checkpoints Authority of Singapore for any reason whatsoever, I/we confirm that [name of Escrow Bank] will, at the instruction of [name of PEO], refund to me/us any fees paid by me/us to [name of Escrow Bank] net of any applicable bank charges to my/our account as follows:

Name of Account:

Number of Account:

Name of Bank/Branch/City/Country:

Student ID:

Course ID:

By signing below, the Student's Parent or Guardian hereby appoints the Student to be the true and lawful attorney for the Student's Parent or Guardian to execute and sign any Payment Voucher (if required) and any other deeds, documents or instruments supplemental to or varying any Payment Voucher. The powers and authorities given hereby shall remain in full force and effect for a period of two years after the end of the course of studies of the Student at [name of PEO]. The Student's Parent or Guardian will, from time to time and at all times, ratify and confirm whatever the Student lawfully does, or causes to be done, pursuant hereto.

SIGNED by the PEO

\_\_\_\_\_  
Authorised Signatory of the PEO

Name:

Date:

SIGNED by the Student

\_\_\_\_\_  
Name of Student

SIGNED by the Student's Parent or Guardian (if the Student is under 21)

\_\_\_\_\_  
Name of Parent or Guardian

.....

Occupation

.....

Address

Witness.....

Occupation

.....

Address

(Correct as at 9 September 2004)

**Schedule 7A**

**- Form of Acknowledgement of Student Escrow Confirmation**

[To be on the Escrow Bank's letterhead]

To: [insert names of relevant PEO and ICA]

From: [insert name of relevant Escrow Bank]

Dated:

Dear Sirs

1. [Insert name of relevant Escrow Bank] acknowledge and confirm that we have received [an original copy of] the Student Escrow Confirmation from the following Student pursuant to the terms of the Master Escrow Agreement (the "**Agreement**") dated 9 September 2004.

Student's Particulars:

Name of Student:

Student ID:

Date of Birth:

Sex:

2. Should you have any queries, please call [ ] for assistance. Thank you.

SIGNED by the [relevant Escrow Bank]

\_\_\_\_\_  
Authorised signatory of the [relevant Escrow Bank]

Name:

Date:

**Schedule 8**

**- Form of Rejection Refund Letter**

[To be on PEO's letterhead]

To: [insert name of relevant Escrow Bank]

From: [insert name of relevant PEO]

Dated:

Dear Sirs

**Master Escrow Agreement  
dated 9 September 2004 (the "Agreement")**

1. We refer to the Agreement. This is a Rejection Refund Letter. Terms defined in the Agreement have the same meaning in this Rejection Refund Letter.
2. We notify you that the ICA has rejected the Student's Pass application by the following Student:  
Name of Student:  
Student ID:  
Course Name:  
Course ID:
3. A copy of the rejection letter from ICA is enclosed.
4. The Funds in respect of the above Student should be refunded to that Student (net of applicable bank charges) in accordance with the Student Escrow Confirmation of that Student.

Yours faithfully

SIGNED by the PEO

---

Authorised Signatory of the PEO

Name:

Date:

(Correct as at 9 September 2004)

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

THE CONSUMERS ASSOCIATION OF SINGAPORE

By: \_\_\_\_\_  
Name: PENNY LOW  
Title: CASE VICE PRESIDENT & CHAIRPERSON  
OF CASETRUST ADVISORY COUNCIL

**The Initial Escrow Banks**

DBS BANK LTD

By: \_\_\_\_\_  
Name: M N J VILCASSIM  
Title: MANAGING DIRECTOR,  
INVESTOR & TRUSTS SERVICES

THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED

By: \_\_\_\_\_  
Name: MS JANET YOUNG  
Title: HEAD OF COMMERCIAL BANKING

(Correct as at 9 September 2004)