

APPENDIX E PART 2

Part V

AGREED ELECTRONIC DISCOVERY PLAN

1. Scope of electronic discovery

- (a) General discovery of the following class or classes of electronically stored documents shall be given:

[eg for each custodian, the repositories to be identified as well as the classes of electronically stored documents – electronic mail, correspondence, letters, etc.]

- (b) The party giving discovery shall take reasonable steps to decrypt encrypted files or encrypted storage locations, media or devices in order to identify discoverable electronically stored documents. This may include taking reasonable steps to obtain the decryption code and/or using reasonable technical means to perform decryption of the encrypted files or encrypted storage locations, media or devices.

- (c) For the avoidance of doubt, electronically stored documents residing in folders or directories in storage locations, media or devices, including folders or directories where temporarily deleted files are located (for example the Recycle Bin folder or Trash folder) are within the scope of general discovery. Electronically stored documents that are (i) not reasonably accessible, for example deleted files or file fragments containing information which are recoverable through the use of computer forensic tools or techniques during a forensic inspection of the unallocated file space or file slack, (ii) files and folders which are not known to the party giving discovery to be hidden in the file system, and (iii) documents archived using backup software and stored off-line on backup tapes or other storage media are **not** within the scope of general discovery.

- (d) **Reasonable search.** The search terms or phrases specified in the first column will be used in the conduct of a reasonable search for relevant electronically stored documents. The reasonable search will be limited by the scope described in the second column.

<i>Search term or phrase</i>	<i>Scope</i>
[Specify the keyword(s).]	[Describe the scope of the search by reference to custodian and repository, eg physical or logical storage locations, media or devices, the period during which the requested electronically stored document was created, modified or received, etc.]

- (e) **Preliminary search.** A preliminary search of the repositories identified in subparagraph (d) above is to be conducted forthwith. Such preliminary search is limited to providing information relating to the number of hits and/or the number of documents containing the keywords. Parties shall review the search results within two (2) days of being provided with the same; and within a further five (5) days, parties shall meet to discuss whether the keywords and/or the repositories identified in subparagraph (d) above need to be revised. Parties agree to abandon any keywords with

no hits and to review any keywords with hits exceeding [*insert a figure, eg 10,000*] for the purpose of constraining the keywords. Unless mutually agreed, no new keywords may be introduced following the performance of the preliminary search.

- (f) **Data sampling.** Parties agree to perform a reasonable search of the following repositories in sub-paragraph (d) above: [*insert a sample of the custodians and repositories by referencing the table in sub-paragraph (d)*]. Parties shall review the search results within seven (7) days of being provided with the same; and within a further seven (7) days, parties shall meet to discuss whether the keywords and/or the repositories identified in sub-paragraph (d) above need to be revised. Data sampling in accordance with the terms of this sub-paragraph shall be performed no more than twice.
- (g) **No review for relevance.** Subject to paragraph 3 (Review for privileged material) below, each party's obligation to conduct a reasonable search is fulfilled upon that party carrying out the search to the extent agreed in this plan; the party giving discovery shall not be required to review the search results for relevance.

2. Format of list

The list of documents shall categorise and list electronically stored documents separately from documents in printed or other form. The list of documents enumerating electronically stored documents shall include the following columns: [*contents of table for illustration*]

Description of electronically stored document	File name & location	File format
Contract for sale and purchase of 123 Blackacre Heights Singapore 234123	//Contract Documents/Contract_Sale_Purchase_123_Blackacre_Heights.doc	Adobe Acrobat
Excel spreadsheet showing rental income and outgoings on 123 Blackacre Heights Singapore 234123	//Income Documents/Rental_Outgoings_Tabulation.xls	Microsoft Office Excel 2007
E-mails from Christopher Tan's e-mail account "chris.tan@realter.com.sg" in relation to 123 Blackacre Heights Singapore 234123 for the period 1 January 2010 to 31 December 2010.	//Correspondence/Thomas Liew.pst	Microsoft Outlook PST

An index of documents enumerated in the list of documents shall be provided in an electronic spreadsheet in the [eg Excel 2007 Binary (.xls), Comma Separated Value (.csv), etc] file format.

3. Review for privileged material

Nothing in this plan shall prevent the party giving discovery from reviewing the documents in any list provided hereunder for the purpose of claiming privilege. If the party giving discovery claims privilege over any document or record, he shall list the electronic documents or class of electronic documents over which privilege is claimed in the list of documents.

4. Inspection and copies

- (a) **Arrangements for inspection.** The place for inspection of discoverable electronic documents should be stated separately if it is different from the place for inspection

of other discoverable documents. If the party entitled to inspect intends to inspect through or with the assistance of its appointed computer expert, such computer expert shall provide an undertaking of confidentiality to the party giving inspection before he commences his inspection.

- (b) **Supply of copies.** During inspection, copies shall not be taken. If copies are required, a request should be made. Electronic copies of discoverable documents will be supplied in their native format and in read-only optical discs upon request. Electronic copies of discoverable documents where privilege is claimed only with respect to their internally stored metadata information will be supplied in the Tagged Image File Format (or TIFF) with privileged metadata information removed. For each of the read-only optical discs supplied, a further list stating the storage format version of the optical disc and enumerating the list of electronic documents stored therein shall be provided.

5. Forensic inspection of electronic media or recording devices

Parties agree that the protocol for forensic inspection of electronic media or recording devices (Appendix E Part 3) shall apply for the inspection of the following:

[List the electronic media or recording devices]

6. Inadvertent disclosure of privileged documents

Notwithstanding compliance with the procedures in this plan, nothing in this plan is intended to be or shall be taken to amount to a waiver of privilege.

7. Discovery and production only if necessary

For the avoidance of doubt, nothing in this plan shall compel any party to give discovery of any document or produce any document for inspection which is not otherwise discoverable under Order 24, Rules 7 or 13 of the Rules of Court (Cap 322, R5) [(where the party giving discovery is a bank) or disclose customer information in a manner contrary to its banking secrecy obligations].