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9 September 2020

ASX Market Announcements Office  
ASX Limited  
Level 4, Exchange Centre  
20 Bridge Street  
SYDNEY NSW 2000

By fax: 1300 135 638

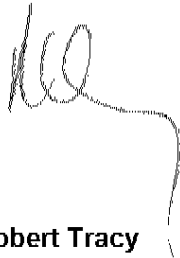
Dear Sir/Madam

**Emeco Holdings Limited - Form 604**

We act for Black Diamond Capital Management LLC and the related bodies thereof referred to in the accompanying Form 604 (together, **Black Diamond**).

We attach a Form 604 – 'Notice of change of interest of substantial holder' issued by Black Diamond in relation to its 26.43% substantial holding in Emeco Holdings Limited ACN 112 188 815.

Yours faithfully



**Robert Tracy**  
Partner

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**Gadens - Notice**

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**Form 604**  
Corporations Act 2001  
Section 671B

**Notice of change of interests of substantial holder**

To, Company Name/Scheme Emeco Holdings Limited (Emeco)  
ACN/ARSN ACN 112 188 815

**1. Details of substantial holder (1)**

Name Black Diamond Capital Management, L.L.C. and its associates referred to in section 4 below (together, "Black Diamond")  
ACN/ARSN (if applicable) Not applicable

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

02 / 09 / 20

The previous notice was given to the company on

06 / 12 / 17

The previous notice was dated

06 / 12 / 17

**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 of scheme, are as follows:

| Class of securities (4)    | Previous notice                 |                  | Present notice |                  |
|----------------------------|---------------------------------|------------------|----------------|------------------|
|                            | Person's votes                  | Voting power (5) | Person's votes | Voting power (5) |
| Fully Paid Ordinary Shares | 66,128,635 (post consolidation) | 23.47%           | 132,055,882    | 26.43%           |

**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 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 |
|------------------------------------|---|--|---|---|-------------------------|
| Between 19 June to 31 October 2018 | Black Diamond Capital Management, L.L.C | On-market trades- (See Annexure A)   | Various (See Annexure A)                      | Net 30,543,754 FPO (pre-consolidation)  | 3,054,376               |
| 1 May 2018                         | As above                                | Acquisition of shares under the accelerated pro-rata non-renounceable entitlement offer launched by EHL on 30 April 2018                                   | A\$0.25 per share (pre-consolidation)         | 84,780,302 FPO (pre-consolidation)      | 8,478,030               |
| 30 January 2020                    | As above                                | Acquisition of shares under the accelerated pro-rata non-renounceable entitlement offer launched by EHL on 29 January 2020 (including as sub-underwriter). | A\$2.07 per share                             | 7,547,235 FPO                           | 7,547,235               |

|                  |          |  |   |                |            |
|------------------|----------|--|---|----------------|------------|
| 14 February 2020 | As above | Acquisition of shares under the accelerated pro-rata non-renounceable entitlement offer launched by EHL on 29 January 2020 (including as sub-underwriter).   | A\$2.07 per share   | 1,160,766 FPO  | 1,160,766  |
| 2 September 2020 | As above | Acquisition of shares under the accelerated pro-rata non-renounceable entitlement offer launched by EHL on 24 August 2020. <b>(August Offer)</b>   | A\$0.85 per share   | 41,128,116 FPO | 41,128,116 |
| 2 September 2020 | As above | Relevant interest under section 608(8) of the Corporations Act, being a relevant interest under total return swaps between Black Diamond Credit Strategies Master Fund, Ltd., BDCM Strategic Capital Fund I, L.P. and Goldman Sachs Financial Markets Pty Ltd each with an option for physical settlement (subject to FIRB approval) true copies of which are set out in Annexure B (that have yet to settle). | In accordance with the total return swap, the settlement price per share is equal to the offer price of the August Offer being A\$0.85 per share. | 4,558,824 FPO  | 4,558,824  |

#### 4. Present relevant interest

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         | Person entitled to be registered as holder (\$)  | Nature of relevant interest (\$)   | Class and number of securities | Person's votes |
|---|---|--|--|--------------------------------|----------------|
| Black Diamond Capital Management, L.L.C | JPMorgan, DTC 902                       | BDCM Opportunity Fund IV L.P                     | Relevant interest under sections 608(1)(a), (b) and (c) of the Corporations Act  | 68,408,356 FPO                 | 68,408,356     |
| As above                                | JPMorgan, DTC 902                       | BDCM Opportunity Fund III L.P.                   | As above   | 11,705,145 FPO                 | 11,705,145     |
| As above                                | JPMorgan, DTC 352                       | Black Diamond Credit Strategies Master Fund Ltd. | As above   | 23,770,377 FPO                 | 23,770,377     |
| As above                                | JPMorgan, DTC 902                       | BDCM Strategic Capital Fund I, L.P.              | As above   | 23,613,280 FPO                 | 23,613,280     |
| As above                                | Goldman Sachs Financial Markets Pty Ltd | Goldman Sachs Financial Markets Pty Ltd          | Relevant interest under section 608(8) of the Corporations Act, being a relevant interest under total return swaps between Black Diamond Credit Strategies Master Fund, Ltd., BDCM Strategic Capital Fund I, L.P. and Goldman Sachs Financial Markets Pty Ltd each with an option for physical settlement (subject to FIRB approval) true copies of which are set out in Annexure B (that have yet to settle). | 4,558,824 FPO                  | 4,558,824      |



**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   |
|-------------------------------------|---|
| BDCM Strategic Capital Fund I, L.P. | BDCM Strategic Capital Fund I, L.P. is an associate of Black Diamond (and of each other) because it and Black Diamond are under common control. |

**6. Addresses**

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

| Name                                   | Address  |
|--|--|
| Black Diamond Capital Management,      | One Sound Shore Drive, Suite 200, Greenwich CT 06830                       |
| Black Diamond Credit Strategies Master | Maples Corporate Services Limited, PO Box 309, Uqland House, Grand Cayman, |
| BDCM Opportunity Fund IV LP            | One Sound Shore Drive, Suite 200, Greenwich CT 06830                       |
| BDCM Opportunity Fund III LP           | One Sound Shore Drive, Suite 200, Greenwich CT 06830                       |
| BDCM Strategic Capital Fund I, L.P.    | One Sound Shore Drive, Suite 200, Greenwich CT 06830                       |

**Signature**

print name Stephen H. Deckoff capacity Managing Principal of Black Diamond

sign here  date 09 / 09 / 20

**DIRECTIONS**

- (1) If there are a number of substantial holders with similar or related relevant issues (eg. A corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 6 of the form.
- (2) See the definition of "associate" in Section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (6) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement, and
  - (b) any qualification of the power of a person to exercise, control the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).
 See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (7) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

(8) If the substantial holder is unable to determine the identity of the person (eg. If the relevant interest arises because of an option) write "unknown".

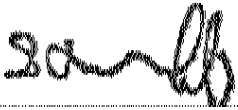
(9) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

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## Annexure A

This is Annexure A of 1 page (including this page) referred to in Form 604 (Notice of change in interests of substantial holder) lodged by Black Diamond Capital Management, L.L.C. and its associates referred to in paragraph 4 of that notice (**Black Diamond**).

Signed as agent on behalf of **Black Diamond**



Stephen H. Deckoff

Managing Principal

Dated: September 9, 2020

| Trade Date | Trade Type | Traded Par/Qty (pre-consol) | Price (pre-consol) | Currency |
|------------|------------|-----------------------------|--------------------|----------|
| 31/10/2018 | Buy        | 4,085,841                   | 0.2825             | AUD      |
| 31/10/2018 | Buy        | 4,426,327                   | 0.2825             | AUD      |
| 30/10/2018 | Buy        | 3,862                       | 0.27               | AUD      |
| 30/10/2018 | Buy        | 4,184                       | 0.27               | AUD      |
| 26/10/2018 | Buy        | 4,800,000                   | 0.2998             | AUD      |
| 25/10/2018 | Buy        | 5,200,000                   | 0.2998             | AUD      |
| 14/09/2018 | Sell       | (83,158)                    | 0.3575             | AUD      |
| 14/09/2018 | Sell       | (63,556)                    | 0.3575             | AUD      |
| 13/09/2018 | Buy        | 853,635                     | 0.35               | AUD      |
| 13/09/2018 | Sell       | (60,020)                    | 0.3575             | AUD      |
| 13/09/2018 | Sell       | (115,038)                   | 0.3575             | AUD      |
| 13/09/2018 | Buy        | 924,771                     | 0.35               | AUD      |
| 12/09/2018 | Sell       | (1,371,428)                 | 0.3502             | AUD      |
| 12/09/2018 | Sell       | (2,628,572)                 | 0.3502             | AUD      |
| 11/09/2018 | Buy        | 2,400,000                   | 0.3374             | AUD      |
| 11/09/2018 | Sell       | (258,705)                   | 0.35               | AUD      |
| 11/09/2018 | Sell       | (495,850)                   | 0.35               | AUD      |
| 11/09/2018 | Buy        | 2,600,000                   | 0.3374             | AUD      |
| 07/09/2018 | Buy        | 2,400,000                   | 0.3566             | AUD      |
| 07/09/2018 | Buy        | 2,600,000                   | 0.3566             | AUD      |
| 06/09/2018 | Buy        | 2,073,100                   | 0.3612             | AUD      |
| 06/09/2018 | Buy        | 2,245,858                   | 0.3612             | AUD      |
| 05/09/2018 | Sell       | (237,448)                   | 0.37               | AUD      |
| 05/09/2018 | Sell       | (455,108)                   | 0.37               | AUD      |
| 05/09/2018 | Buy        | 167,710                     | 0.3617             | AUD      |
| 05/09/2018 | Buy        | 181,685                     | 0.3617             | AUD      |
| 31/08/2018 | Sell       | (1,401,898)                 | 0.365              | AUD      |
| 31/08/2018 | Buy        | 587,974                     | 0.3625             | AUD      |
| 31/08/2018 | Buy        | 547,746                     | 0.3625             | AUD      |
| 31/08/2018 | Sell       | (2,686,012)                 | 0.365              | AUD      |
| 30/08/2018 | Buy        | 22,627                      | 0.36               | AUD      |
| 30/08/2018 | Sell       | (51,429)                    | 0.365              | AUD      |
| 30/08/2018 | Sell       | (98,571)                    | 0.365              | AUD      |
| 30/08/2018 | Buy        | 24,513                      | 0.36               | AUD      |
| 29/08/2018 | Sell       | (3,428,571)                 | 0.3586             | AUD      |
| 29/08/2018 | Sell       | (5,571,429)                 | 0.3586             | AUD      |
| 24/08/2018 | Buy        | 608,969                     | 0.3474             | AUD      |
| 24/08/2018 | Buy        | 699,716                     | 0.3474             | AUD      |
| 23/08/2018 | Sell       | (142,304)                   | 0.3695             | AUD      |
| 23/08/2018 | Sell       | (272,557)                   | 0.3695             | AUD      |
| 20/06/2018 | Buy        | 12,421,967                  | 0.3628             | AUD      |
| 20/06/2018 | Buy        | 967,557                     | 0.3628             | AUD      |
| 19/06/2018 | Buy        | 111,766                     | 0.36               | AUD      |
| Total =    |            | 30,543,754                  |                    |          |

**Annexure B**

This is Annexure B of 27 pages (including this page) referred to in Form 604 (Notice of change in interests of substantial holder) lodged by Black Diamond Capital Management, L.L.C. and its associates referred to in paragraph 4 of that notice (**Black Diamond**).

Signed as agent on behalf of **Black Diamond**

A handwritten signature in black ink, appearing to read "S. Deekoff", written in a cursive style.

Stephen H. Deekoff  
Managing Principal  
Dated: September 9, 2020





**Goldman Sachs Financial Markets Pty. Ltd (ABN 16 107 084 640)**  
Level 47, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000, Australia

Opening Transaction

September 1, 2020

GS Reference No. BDCMSCF  
Customer Account No. \_059833863

BDCM Strategic Capital Fund I, L.P.

Dear Sirs or Madams,

Share Swap on Emeco Holdings Limited (EHL.AX)

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above- referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between Goldman Sachs Financial Markets Pty Ltd ("**GSFM**") and BDCM Strategic Capital Fund I, L.P., a Delaware limited partnership ("**Counterparty**"). This communication constitutes a "Confirmation" as referred to in the Agreement specified below.

GSFM is acting as principal in this Transaction and Goldman, Sachs & Co. ("**GS&Co.**"), its affiliate, is acting as agent for GSFM in this Transaction. GSFM is not a member of the Securities Investor Protection Corporation.

This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern.

This Confirmation evidences a complete and binding agreement between GSFM and Counterparty as to the terms of the Transaction to which this Confirmation relates. If GSFM and Counterparty have entered into a master agreement governing transactions of this type (the "**Agreement**"), then this Transaction shall be governed thereby. If, and so long as, the parties have not entered into such an Agreement, then this Transaction shall constitute a "Transaction" together with all other documents referring to an ISDA Master Agreement (each a "**Confirmation**") confirming transactions (each a "**Transaction**") entered into between us (notwithstanding anything to the contrary in a Confirmation) (together, "**Covered Transactions**") within the scope of, and shall be deemed to be governed by, the terms of the 2002 Master Agreement as published by ISDA ("**ISDA Form**") as if we had executed an agreement (which will survive the termination of this Transaction) in such form effective as of the Trade Date of the first Transaction between us (but without any Schedule, except for the provisions as out in the Appendix and the provisions included in this Confirmation (as so modified, the "**ISDA Terms**"). Upon execution and delivery of an Agreement governing transactions of this type, such Agreement shall supersede the ISDA Terms, and all Covered Transactions then outstanding shall be governed thereby. All provisions contained in, or incorporated by reference to, the ISDA Terms or the Agreement, as applicable, will govern this Confirmation except as expressly modified herein.

The parties hereby agree that until such time as an agreement in the form of the ISDA Form is entered into, (i) the ISDA Terms will govern any Covered Transaction with the intent that each Covered Transaction shall be governed by and constitute a "Transaction" under and within the scope of the ISDA Terms, and (ii) the Covered Transactions and the ISDA Terms shall form a single agreement between the parties. In the event of any inconsistencies

between this Confirmation and the Definitions, the Agreement or the ISDA Form, as applicable, this Confirmation will govern.

This Transaction constitutes a Share Swap Transaction for the purposes of the Equity Definitions. Set forth below are the terms and conditions that, together with the terms and conditions set forth in the latest Trade Notification, shall govern the Transaction.

**General Terms:**

|                   |   |
|-------------------|---|
| Trade Date:       | 25 August 2020  |
| Effective Date:   | 1 September 2020 or such other date on which the Counterparty is required to subscribe for Shortfall Securities under the Sub-Underwriting Letter dated 24 August 2020 between the Counterparty, Goldman Sachs Australia Pty Ltd and Macquarie Capital (Australia) Limited (the “ <b>Sub-Underwriting Letter</b> ”) |
| Termination Date: | The Final Exchange Date   |
| Shares:           | Ordinary shares in Emeco Holdings Limited (EHL.AX)  |
| Exchange(s):      | ASX Limited   |
| Related Exchange: | All Exchanges   |

**Equity Amount Payable:**

|                         |  |
|-------------------------|--|
| Equity Amount Payer:    | GSCM   |
| Number of Shares:       | A number of Shares specified by the Equity Amount Payer on the Effective Date, being a number equal to 2,279,412 of the number of Excess Securities as defined in, and subscribed for by GSCM in accordance with, the Sub-Underwriting Letter. |
| Equity Notional Amount: | Number of Shares multiplied by the Initial Price   |
| Equity Notional Reset:  | Not applicable   |
| Type of Return:         | Total Return   |
| Initial Price:          | \$0.85 per Share   |
| Final Price:            | The price per Share at which GSCM unwinds its Hedge Position(s), net of any additional costs/commissions.  |
| Valuation Time:         | The time at which GSCM completes the unwind of its Hedge Position(s).  |

Valuation Date(s): Subject to 'Additional Provisions with respect to Final Price', the earlier of:

- (a) the date falling 6 months after the Effective Date (or if that day is not a Business Day, the following Business Day); and
- (b) the fourth Scheduled Trading Day after the date on which the Counterparty notifies GFSM that the Physical Settlement Condition has been satisfied.

The Counterparty must promptly notify GFSM of satisfaction of the Physical Settlement Condition.

Additional Provisions with respect to Final Price: Notwithstanding anything herein to the contrary, the occurrence of any final Valuation Date shall be delayed, in whole or in part, to the extent necessary, as determined by GFSM in good faith and a commercially reasonable manner, to allow GFSM or any of its affiliates to unwind its Hedge Positions in a commercially reasonable manner in light of then-prevailing market conditions.

#### Exchange Amounts

Initial Exchange Amount: The Equity Notional Amount, which will be payable by the Counterparty on the Effective Date.

For the avoidance of doubt, no interest will be payable by GFSM in respect of the Initial Exchange Amount.

Initial Exchange Date: The Effective Date

Final Exchange Amount: In respect of GFSM, the Initial Exchange Amount. If Cash Settlement applies and an Equity Amount is payable by Counterparty to GFSM then GFSM will only be required to pay Counterparty the Final Exchange Amount net of the Equity Amount payable by Counterparty. If Physical Settlement applies the Final Exchange Amount will be set off against the Counterparty's obligation to pay the Equity Notional Amount on the Settlement Date.

Final Exchange Date: The Settlement Date or Cash Settlement Payment Date (as the case may be)

#### Settlement Terms:

Settlement Currency: Australian dollars

Settlement Method Election: Applicable; *provided* that Counterparty may only elect Physical Settlement if the Physical Settlement Condition has been satisfied; *provided further* that if Counterparty has notified GFSM, prior to the Settlement Method Election Date, that the Physical Settlement Condition has been satisfied, and

has not stated in such notice that it does not wish to elect for Physical Settlement, Counterparty will be deemed to have given timely notice of its election of Physical Settlement (unless otherwise specified by Counterparty in such notice) and will not be required to give any further notice to select Physical Settlement.

Physical Settlement Condition:

Each of the following conditions has been satisfied:

- (a) the Counterparty has given the Treasurer notice in accordance with the Foreign Acquisitions and Takeovers Act 1975 (Cth) ("FATA") that it proposes to acquire the Excess Securities under the Sub-Underwriting Letter (the Action); and
- (b) the Counterparty has paid any applicable fee; and
- (c) one of the following applies:
  - (1) the day that is 10 days after the end of the decision period mentioned in section 77 of FATA has passed without an order prohibiting the Action having been made under section 67 or 68 of FATA;
  - (2) if an interim order is made under section 68 of FATA, the end of the period specified in the order has passed without an order prohibiting the Action under section 67 of FATA having been made; or
  - (3) the Counterparty has received a no objection notice (within the meaning of FATA) in respect of the Action.

Electing Party:

Counterparty

Settlement Method Election Date:

The third Scheduled Trading Day preceding the Valuation Date. For the avoidance of doubt, Counterparty may make a Settlement Method Election on any Exchange Business Day on or prior to the Settlement Method Election Date so long as the Physical Settlement Condition has been satisfied.

Settlement Price:

Initial Price

Settlement Date:

In the case of Physical Settlement, the Valuation Date.

Cash Settlement Payment Date(s):

2 Currency Business Days after the relevant Valuation Date(s).

Dividend:

Dividend Period:

Second Period

Dividend Amount:

The Ex Amount for the relevant Dividend Period, multiplied by the Number of Shares, provided that such amount is actually paid to and received by GSFM pursuant to its Hedge Position(s). Any such amounts received by GSFM shall be converted into the Settlement Currency by the Calculation Agent in good faith and in a commercially reasonable manner.

|   |  |
|---|--|
| Dividend Payment Date(s):                 | 2 Currency Business Days following the date on which the Issuer pays the Dividend Amount to the holders of record.   |
| Reinvestment of Dividends:                | Not Applicable   |
| Adjustments:                              |  |
| Method of Adjustment:                     | Calculation Agent Adjustment   |
| Extraordinary Events:                     |  |
| Consequence of Merger Events:             |  |
| Share-for-Share:                          | Modified Calculation Agent Adjustment  |
| Share-for-Other:                          | Modified Calculation Agent Adjustment  |
| Share-for-Combined:                       | Modified Calculation Agent Adjustment  |
| Determining Party:                        | GSFM   |
| Tender Offer:                             | Applicable   |
| Consequence of Tender Offers:             |  |
| Share-for-Share:                          | Modified Calculation Agent Adjustment  |
| Share-for-Other:                          | Modified Calculation Agent Adjustment  |
| Share-for-Combined:                       | Modified Calculation Agent Adjustment  |
| Determining Party:                        | GSFM   |
| Composition of Combined Consideration:    | Not Applicable.  |
| Nationalization, Insolvency or Delisting: | Cancellation and Payment; provided that the definition of "Affected Shares" in Section 12.1(n) of the Equity Definitions is hereby amended by inserting the words "or by a Nationalization, Insolvency or Delisting" after the words "Tender Offer" in the first line thereof. |
| Determining Party:                        | GSFM   |
| Additional Disruption Events:             | For the purposes of Section 12.9 of the Equity Definitions, references to the terms 'a party' or a 'Hedging Party' will be deemed to include any of its Affiliates for all purposes other than giving or receiving notice.   |

|                                 |  |
|---------------------------------|--|
| Change in Law:                  | Applicable; provided that (i) the word "Shares" in Section 12.9 (a)(ii) of the Equity Definitions is replaced by the words "Hedge Positions", and (ii) the words "a party to such Transaction" in such Section shall be replaced by the words "GSFM or any of its Affiliates".   |
| Failure to Deliver:             | Not Applicable   |
| Insolvency Filing:              | Applicable   |
| Hedging Disruption:             | Applicable, save that Section 12.9(a)(v) is amended as follows: "Hedging Disruption" means that the Hedging Party is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any Hedge Positions, or (B) realize, recover, remit or transfer the proceeds of any Hedge Positions or this Transaction between accounts within the jurisdiction of the Hedge Positions (the "Affected Jurisdiction") or from accounts within the Affected Jurisdiction to accounts outside of the Affected Jurisdiction." |
| Hedge Position:                 | The definition of "Hedge Positions" in Section 13.2(b) of the Equity Definitions shall be amended by inserting the words ", unwind, termination" after the words "entry into" and before the words "or maintenance" in the first line.   |
| Hedging Party:                  | GSFM   |
| Loss of Stock Borrow:           | Applicable; furthermore 12.9(a)(vii) and 12.9(b)(iv) of the Equity Definitions are amended by deleting the words "at a rate equal to or less than the Maximum Stock Loan Rate" and replacing them with "at a rate of return equal to or greater than zero".  |
| Increased Cost of Stock Borrow: | Applicable; Section 12.9(a)(viii) of the Equity Definitions is amended as follows: "Increased Cost of Stock Borrow" means that the Hedging Party would incur a rate to borrow shares with respect to such Transaction that is materially higher than the rate in effect on the Trade Date, in each case as determined by the Hedging Party in good faith and in a commercially reasonable manner.  |
| Increased Cost of Hedging:      | Applicable, save that Section 12.9(a)(vi) is amended as follows: "Increased Cost of Hedging" means that the Hedging Party would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain unwind or dispose of any Hedge Positions it deems necessary to hedge the equity price risk of entering into and performing its obligations with respect to the relevant Transaction, or (B) realize, recover               |

or remit the proceeds of any such Hedge Positions, provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Hedging Party shall not be deemed an Increased Cost of Hedging."

|   |   |
|---|---|
| Hedging Party:  | GSFM  |
| Determining Party:  | GSFM  |
| Non-Reliance:   | Applicable  |
| Agreements and Acknowledgements Regarding Hedging Activities: | Applicable  |
| Additional Acknowledgements:                                  | Applicable  |
| Optional Early Termination:                                   | Provided that no Event of Default or Termination Event has occurred and is continuing with respect to the Electing Party, each party (in such capacity, the "Electing Party") will have the right on any Exchange Business Day following the date that is 42 days following the Trade Date to terminate this Transaction, in whole or in part, in its sole discretion, by written notice to the other party specifying the number of Shares to be terminated in respect of such Transaction and the Exchange Business Day on which such termination shall be effective (which shall be a commercially reasonable time following the effective date of such notice).. If either party elects to exercise this right to terminate, then the Exchange Business Day immediately following the effective date of such notice shall be a Valuation Date for the purpose of determining amounts payable, by either Counterparty or GSFM, in respect of such early termination. |
| Payment Instructions:   | As provided separately by the parties   |
| Calculation Agent:  | GSFM  |

## NOTICE DETAILS

For the purpose of Section 12(a) of the ISDA

Terms: Address for notices or communications to

GSFM: Address:

Address:

Goldman Sachs Japan  
Co., Ltd. Roppongi Hills

Mori Tower Roppongi 6-  
10-1, Minato-ku,  
Tokyo 106-6147, Japan

Attention: FX Operations  
Telephone No: (813) 6437-  
8070  
Facsimile No: (813) 6437-3126

Address for notices or communications to GSFM for the purpose of Section 5 or 6 of the ISDA Terms:

Address: Level 47, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000,  
Australia Attention: Legal Department  
Facsimile: 813 6437 3294  
Email: Blr.EDTAG@ny.email.gs.com

**With a copy to:** Equity Derivatives Operations: EQ-

HKDOCS02@gs.com Address for notices or communications to

Counterparty:

Address:

### 1. ACCOUNT DETAILS

|  |                                     |
|--|-------------------------------------|
| Account(s) for payments to GSFM:         | To be advised separately in writing |
| Account(s) for payments to Counterparty: | To be advised separately in writing |

### 2. OFFICES

|  |  |
|--|--|
| The Office of GSFM for the Transaction is:         | Level 47, Governor Philip Tower, 1 Farrer Place, Sydney, NSW 2000. |
| The Office of Counterparty for the Transaction is: |  |

### 3. ADDITIONAL REPRESENTATIONS AND ACKNOWLEDGEMENTS BY COUNTERPARTY

Counterparty represents that:

(a) it will not, in connection with the Transaction (including, without limitation, agreeing to unwind any part thereof), breach any applicable securities law (including insider dealing law) in any jurisdiction, including, without limitation, by virtue of the possession (by it or any of its Affiliates or any person acting on its or their behalf) of material non- public



information of the Issuer or the Shares, and has not entered into or agreed to unwind any part of the Transaction on the basis of such information;

(b) without prejudice to paragraph (a) above, which representation will be deemed repeated on each of the Effective Date, Valuation Date and Termination Date and on the effective date of any termination, amendment or modification of the Transaction that it is not prohibited under Part 7.10 of the Corporations Act 2001 (Cth) (the "Act") from dealing in the Shares or from entering into, amending, terminating or modifying the Transaction in such manner (as applicable); and

(c) it is and will be in compliance at all times with the requirements imposed by the Exchange and all applicable provisions of the ASX Listing Rules, ASX Operating Rules and the Corporations Act 2001 of Australia and FATA (including as may be adapted by the Exchange from time to time).

Counterparty acknowledges to, and (as applicable) agrees with, GSFM on a continuing basis at all times that neither GSFM nor any of its Affiliates is obliged to or purports or offers to sell, purchase, hold, deliver or receive any Shares or any rights in relation to Shares or represents or holds out that it does or is entitled to do any of those things; provided that this does not limit the express contractual obligations of GSFM on the Settlement Date if the Physical Settlement Condition is satisfied and Counterparty makes a valid election for Physical Settlement. If any Shares are held by or for or are otherwise controlled by GSFM or any of its Affiliates (whether or not as part of any hedge in relation to the Transaction), Counterparty has no right or interest in or to any of those Shares or any power in relation to them (including, without limitation, any power to control, or right to be consulted in connection with, any disposal or trading of those Shares by GSFM or any of its Affiliates or any decision by GSFM or any of its Affiliates with respect to the exercise by GSFM or any of its Affiliates of any right to vote attaching to those Shares).

#### **4. OTHER**

Counterparty will make or provide any disclosure reasonably required by GSFM in connection with its entry into of the Transaction (including pursuant to the securities laws or regulations in the jurisdiction of the issuer of the securities underlying the Transaction or the rules of the Exchange) and notwithstanding any duty of confidentiality owed by GSFM, it acknowledges and agrees that GSFM may make such disclosure to any legal or regulatory body or authority as GSFM shall consider necessary or appropriate regarding the Transaction or the Hedge Positions.

Unless otherwise indicated we have acted as principal in respect of this Transaction. The time and venue of execution of this Transaction is available on request. GSFM may make or receive payments to/from a third party in connection with this Transaction, the details of which are available upon request.

This Confirmation is in final form and supersedes all previous confirmations and other communications in respect of this Transaction and evidences a complete binding agreement between us as to the terms of the Transaction.

Counterparty hereby agrees (a) to check this Confirmation (Reference No. SDB4037645303.0.1.0-1-4) carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by GSFM) correctly sets forth the terms of the agreement between GSFM and Counterparty with respect to this Transaction, by manually signing this Confirmation or this page thereof as evidence of agreement to such terms and providing any other information requested herein and immediately returning an executed copy to Equity Derivatives Documentation Department, Facsimile +813 6437 3294.

Yours faithfully,  
GOLDMAN SACHS FINANCIAL MARKETS  
PTY LTD

Agreed and Accepted by:  
BDCM STRATEGIC CAPITAL FUND I, L.P.

By:   
Name: \_\_\_\_\_  
Title: **Yen Le**

Vice President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPENDIX**

The parties agree that the following provisions shall amend and supplement the ISDA Form that governs the Transaction to which this Confirmation relates until the execution of the Agreement.

**In respect of the ISDA Form:**

(a) "Specified Entity" means:

(i) in relation to GSFM, Goldman, Sachs & Co., Goldman Sachs Bank USA, Goldman Sachs International, J. Aron & Company, Goldman Sachs Japan Co., Ltd., Goldman Sachs International Bank, Goldman Sachs (Asia) Finance, Goldman Sachs Financial Markets, L.P., Goldman Sachs Paris Inc. et Cie, Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs AG and J. Aron & Company (Singapore) Pte. for the purpose of Section 5(a)(v), and shall not apply for purposes of Sections 3(c), 5(a)(vi), 5(a)(vii) and 5(b)(v); and

(ii) in relation to Counterparty, none;

(b) The "Cross Default" provisions of Section 5(a)(vi) will apply to both GSFM and Counterparty, provided that:

(i) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi);

(ii) the following language shall be added to the end thereof: "Notwithstanding the foregoing, an Event of Default shall not occur under sub-section (2) hereof if (A) the default, or other similar event or condition referred to in (2) was caused solely by error or omission of an administrative or operational nature; (B) funds were available to enable the party to make the payment when due; and (C) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay."; and

(iii) "Threshold Amount" means in relation to Counterparty, USD200,000,000 (or its equivalent in another currency) and means in relation to GSFM, 3% of shareholders' equity of The Goldman Sachs Group, Inc. as reported in its most recent annual audited financial statements;

(iv) "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term will not include obligations in respect of deposits received in the ordinary course of an entity's banking business;

(c) the provisions of Section 5(b)(v) will apply to GSFM and Counterparty;

(d) the "Automatic Early Termination" provision of Section 6(a) will not apply to GSFM and will not apply to Counterparty;

(e) the election of U.S. Dollar as the Termination Currency;

(f) Each party agrees to deliver to the other party a correct, complete and executed (i) in the case of GSFM, United States Internal Revenue Service Form W-8BEN-E (with all parts fully completed), or any successor form and (ii) in the case of Counterparty, United States Internal Revenue Service Form W-8BEN or equivalent, or any successor form, in each case on or before the Trade Date;

(g) Section 2(d)(i)(4)(B) of this Agreement shall be amended by changing the phrase "pursuant to Section 3(f)" to read "pursuant to Section 3(f) or Section 3(g)";

(h) "Multiple Transaction Payment Netting" will apply to all Transactions;

(i) Section 13(a) of the ISDA Form is replaced with the following: "**Governing Law.** This Agreement will be governed by, and construed in accordance with the laws in force in New South Wales and each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them and a reference to Section 13(b)(i) to "such court" is a reference to those courts.";

(j) Process Agent: For the purpose of Section 13(c) of the ISDA Form:

GSFM appoints as its Process Agent: Not applicable.

Counterparty appoints as its Process Agent: Equity Trustees Limited ACN 004 031 298, L19, 56 Pitt Street, Sydney, New South Wales 2000

Further, with respect to Counterparty, Section 13(c) of the Agreement shall be deleted and replaced with the following: "Counterparty irrevocably appoints the Process Agent specified opposite its name in this Confirmation to receive, for it and on its behalf, service of process in any Proceedings commenced in New South Wales pursuant to Section 13(b) (*Jurisdiction*)."

(k) **Incorporation of 2002 Master Agreement Protocol Terms.** The parties agree that the definitions and provisions contained in the Annexes 1 to and including 18 of the 2002 Master Agreement Protocol published by the International Swaps and Derivatives Association, Inc. on 15th July, 2003 are incorporated into and apply to the ISDA Form, with references in those definitions and provisions to any "ISDA Master Agreement" being deemed to be references to these ISDA Terms.



**Goldman Sachs Financial Markets Pty. Ltd (ABN 16 107 084 640)**  
Level 47, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000, Australia

Opening Transaction

September 1, 2020

GS Reference No. BDCSMF  
Customer Account No. 059833871

Black Diamond Credit Strategies Master Fund, Ltd.

Dear Sirs or Madams,

Share Swap on Emeco Holdings Limited (EHL.AX)

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between Goldman Sachs Financial Markets Pty Ltd ("**GSFM**") and Black Diamond Credit Strategies Master Fund, Ltd., a limited company organized under the laws of the Cayman Islands ("**Counterparty**"). This communication constitutes a "Confirmation" as referred to in the Agreement specified below.

GSFM is acting as principal in this Transaction and Goldman, Sachs & Co. ("**GS&Co.**"), its affiliate, is acting as agent for GSFM in this Transaction. GSFM is not a member of the Securities Investor Protection Corporation.

This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern.

This Confirmation evidences a complete and binding agreement between GSFM and Counterparty as to the terms of the Transaction to which this Confirmation relates. If GSFM and Counterparty have entered into a master agreement governing transactions of this type (the "**Agreement**"), then this Transaction shall be governed thereby. If, and so long as, the parties have not entered into such an Agreement, then this Transaction shall constitute a "Transaction" together with all other documents referring to an ISDA Master Agreement (each a "**Confirmation**") confirming transactions (each a "**Transaction**") entered into between us (notwithstanding anything to the contrary in a Confirmation) (together, "**Covered Transactions**") within the scope of, and shall be deemed to be governed by, the terms of the 2002 Master Agreement as published by ISDA ("**ISDA Form**") as if we had executed an agreement (which will survive the termination of this Transaction) in such form effective as of the Trade Date of the first Transaction between us (but without any Schedule, except for the provisions as out in the Appendix and the provisions included in this Confirmation (as so modified, the "**ISDA Terms**"). Upon execution and delivery of an Agreement governing transactions of this type, such Agreement shall supersede the ISDA Terms, and all Covered Transactions then outstanding shall be governed thereby. All provisions contained in, or incorporated by reference to, the ISDA Terms or the Agreement, as applicable, will govern this Confirmation except as expressly modified herein.

The parties hereby agree that until such time as an agreement in the form of the ISDA Form is entered into, (i) the ISDA Terms will govern any Covered Transaction with the intent that each Covered Transaction shall be governed by and constitute a "Transaction" under and within the scope of the ISDA Terms, and (ii) the Covered Transactions and the ISDA Terms shall form a single agreement between the parties. In the event of any inconsistencies

between this Confirmation and the Definitions, the Agreement or the ISDA Form, as applicable, this Confirmation will govern.

This Transaction constitutes a Share Swap Transaction for the purposes of the Equity Definitions. Set forth below are the terms and conditions that, together with the terms and conditions set forth in the latest Trade Notification, shall govern the Transaction.

**General Terms:**

|                   |   |
|-------------------|---|
| Trade Date:       | 25 August 2020  |
| Effective Date:   | 1 September 2020 or such other date on which the Counterparty is required to subscribe for Shortfall Securities under the Sub-Underwriting Letter dated 24 August 2020 between the Counterparty, Goldman Sachs Australia Pty Ltd and Macquarie Capital (Australia) Limited (the “ <b>Sub-Underwriting Letter</b> ”) |
| Termination Date: | The Final Exchange Date   |
| Shares:           | Ordinary shares in Emeco Holdings Limited (EHL.AX)  |
| Exchange(s):      | ASX Limited   |
| Related Exchange: | All Exchanges   |

**Equity Amount Payable:**

|                         |  |
|-------------------------|--|
| Equity Amount Payer:    | GSCM   |
| Number of Shares:       | A number of Shares specified by the Equity Amount Payer on the Effective Date, being a number equal to 2,279,412 of the number of Excess Securities as defined in, and subscribed for by GSCM in accordance with, the Sub-Underwriting Letter. |
| Equity Notional Amount: | Number of Shares multiplied by the Initial Price   |
| Equity Notional Reset:  | Not applicable   |
| Type of Return:         | Total Return   |
| Initial Price:          | \$0.85 per Share   |
| Final Price:            | The price per Share at which GSCM unwinds its Hedge Position(s), net of any additional costs/commissions.  |
| Valuation Time:         | The time at which GSCM completes the unwind of its Hedge Position(s).  |

Valuation Date(s): Subject to 'Additional Provisions with respect to Final Price', the earlier of:

- (a) the date falling 6 months after the Effective Date (or if that day is not a Business Day, the following Business Day); and
- (b) the fourth Scheduled Trading Day after the date on which the Counterparty notifies GFSM that the Physical Settlement Condition has been satisfied.

The Counterparty must promptly notify GFSM of satisfaction of the Physical Settlement Condition.

Additional Provisions with respect to Final Price: Notwithstanding anything herein to the contrary, the occurrence of any final Valuation Date shall be delayed, in whole or in part, to the extent necessary, as determined by GFSM in good faith and a commercially reasonable manner, to allow GFSM or any of its affiliates to unwind its Hedge Positions in a commercially reasonable manner in light of then-prevailing market conditions.

#### Exchange Amounts

Initial Exchange Amount: The Equity Notional Amount, which will be payable by the Counterparty on the Effective Date.

For the avoidance of doubt, no interest will be payable by GFSM in respect of the Initial Exchange Amount.

Initial Exchange Date: The Effective Date

Final Exchange Amount: In respect of GFSM, the Initial Exchange Amount. If Cash Settlement applies and an Equity Amount is payable by Counterparty to GFSM then GFSM will only be required to pay Counterparty the Final Exchange Amount net of the Equity Amount payable by Counterparty. If Physical Settlement applies the Final Exchange Amount will be set off against the Counterparty's obligation to pay the Equity Notional Amount on the Settlement Date.

Final Exchange Date: The Settlement Date or Cash Settlement Payment Date (as the case may be)

#### Settlement Terms:

Settlement Currency: Australian dollars

Settlement Method Election: Applicable; *provided* that Counterparty may only elect Physical Settlement if the Physical Settlement Condition has been satisfied; *provided further* that if Counterparty has notified GFSM, prior to the Settlement Method Election Date, that the Physical Settlement Condition has been satisfied, and



has not stated in such notice that it does not wish to elect for Physical Settlement, Counterparty will be deemed to have given timely notice of its election of Physical Settlement (unless otherwise specified by Counterparty in such notice) and will not be required to give any further notice to select Physical Settlement.

Physical Settlement Condition:

Each of the following conditions has been satisfied:

- (a) the Counterparty has given the Treasurer notice in accordance with the Foreign Acquisitions and Takeovers Act 1975 (Cth) ("FATA") that it proposes to acquire the Excess Securities under the Sub-Underwriting Letter (the Action); and
- (b) the Counterparty has paid any applicable fee; and
- (c) one of the following applies:
  - (1) the day that is 10 days after the end of the decision period mentioned in section 77 of FATA has passed without an order prohibiting the Action having been made under section 67 or 68 of FATA;
  - (2) if an interim order is made under section 68 of FATA, the end of the period specified in the order has passed without an order prohibiting the Action under section 67 of FATA having been made; or
  - (3) the Counterparty has received a no objection notice (within the meaning of FATA) in respect of the Action.

Electing Party:

Counterparty

Settlement Method Election Date:

The third Scheduled Trading Day preceding the Valuation Date. For the avoidance of doubt, Counterparty may make a Settlement Method Election on any Exchange Business Day on or prior to the Settlement Method Election Date so long as the Physical Settlement Condition has been satisfied.

Settlement Price:

Initial Price

Settlement Date:

In the case of Physical Settlement, the Valuation Date.

Cash Settlement Payment Date(s):

2 Currency Business Days after the relevant Valuation Date(s).

Dividend:

Dividend Period:

Second Period

Dividend Amount:

The Ex Amount for the relevant Dividend Period, multiplied by the Number of Shares, provided that such amount is actually paid to and received by GSFM pursuant to its Hedge Position(s). Any such amounts received by GSFM shall be converted into the Settlement Currency by the Calculation Agent in good faith and in a commercially reasonable manner.

|   |  |
|---|--|
| Dividend Payment Date(s):                 | 2 Currency Business Days following the date on which the Issuer pays the Dividend Amount to the holders of record.   |
| Reinvestment of Dividends:                | Not Applicable   |
| Adjustments:                              |  |
| Method of Adjustment:                     | Calculation Agent Adjustment   |
| Extraordinary Events:                     |  |
| Consequence of Merger Events:             |  |
| Share-for-Share:                          | Modified Calculation Agent Adjustment  |
| Share-for-Other:                          | Modified Calculation Agent Adjustment  |
| Share-for-Combined:                       | Modified Calculation Agent Adjustment  |
| Determining Party:                        | GSFM   |
| Tender Offer:                             | Applicable   |
| Consequence of Tender Offers:             |  |
| Share-for-Share:                          | Modified Calculation Agent Adjustment  |
| Share-for-Other:                          | Modified Calculation Agent Adjustment  |
| Share-for-Combined:                       | Modified Calculation Agent Adjustment  |
| Determining Party:                        | GSFM   |
| Composition of Combined Consideration:    | Not Applicable.  |
| Nationalization, Insolvency or Delisting: | Cancellation and Payment; provided that the definition of "Affected Shares" in Section 12.1(n) of the Equity Definitions is hereby amended by inserting the words "or by a Nationalization, Insolvency or Delisting" after the words "Tender Offer" in the first line thereof. |
| Determining Party:                        | GSFM   |
| Additional Disruption Events:             | For the purposes of Section 12.9 of the Equity Definitions, references to the terms 'a party' or a 'Hedging Party' will be deemed to include any of its Affiliates for all purposes other than giving or receiving notice.   |

|                                 |  |
|---------------------------------|--|
| Change in Law:                  | Applicable; provided that (i) the word "Shares" in Section 12.9(a)(ii) of the Equity Definitions is replaced by the words "Hedge Positions", and (ii) the words "a party to such Transaction" in such Section shall be replaced by the words "GSFM or any of its Affiliates".  |
| Failure to Deliver:             | Not Applicable   |
| Insolvency Filing:              | Applicable   |
| Hedging Disruption:             | Applicable, save that Section 12.9(a)(v) is amended as follows: "Hedging Disruption" means that the Hedging Party is unable, after using commercially reasonable efforts, to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any Hedge Positions, or (B) realize, recover, remit or transfer the proceeds of any Hedge Positions or this Transaction between accounts within the jurisdiction of the Hedge Positions (the "Affected Jurisdiction") or from accounts within the Affected Jurisdiction to accounts outside of the Affected Jurisdiction." |
| Hedge Position:                 | The definition of "Hedge Positions" in Section 13.2(b) of the Equity Definitions shall be amended by inserting the words ", unwind, termination" after the words "entry into" and before the words "or maintenance" in the first line.   |
| Hedging Party:                  | GSFM   |
| Loss of Stock Borrow:           | Applicable; furthermore 12.9(a)(vii) and 12.9(b)(iv) of the Equity Definitions are amended by deleting the words "at a rate equal to or less than the Maximum Stock Loan Rate" and replacing them with "at a rate of return equal to or greater than zero".  |
| Increased Cost of Stock Borrow: | Applicable; Section 12.9(a)(viii) of the Equity Definitions is amended as follows: "Increased Cost of Stock Borrow" means that the Hedging Party would incur a rate to borrow shares with respect to such Transaction that is materially higher than the rate in effect on the Trade Date, in each case as determined by the Hedging Party in good faith and in a commercially reasonable manner.  |
| Increased Cost of Hedging:      | Applicable, save that Section 12.9(a)(vi) is amended as follows: "Increased Cost of Hedging" means that the Hedging Party would incur a materially increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions) to (A) acquire, establish, re-establish, substitute, maintain unwind or dispose of any Hedge Positions it deems necessary to hedge the equity price risk of entering into and performing its obligations with respect to the relevant Transaction, or (B) realize, recover               |

or remit the proceeds of any such Hedge Positions, provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Hedging Party shall not be deemed an Increased Cost of Hedging."

|   |   |
|---|---|
| Hedging Party:  | GSFM  |
| Determining Party:  | GSFM  |
| Non-Reliance:   | Applicable  |
| Agreements and Acknowledgements Regarding Hedging Activities: | Applicable  |
| Additional Acknowledgements:                                  | Applicable  |
| Optional Early Termination:                                   | Provided that no Event of Default or Termination Event has occurred and is continuing with respect to the Electing Party, each party (in such capacity, the "Electing Party") will have the right on any Exchange Business Day following the date that is 42 days following the Trade Date to terminate this Transaction, in whole or in part, in its sole discretion, by written notice to the other party specifying the number of Shares to be terminated in respect of such Transaction and the Exchange Business Day on which such termination shall be effective (which shall be a commercially reasonable time following the effective date of such notice).. If either party elects to exercise this right to terminate, then the Exchange Business Day immediately following the effective date of such notice shall be a Valuation Date for the purpose of determining amounts payable, by either Counterparty or GSFM, in respect of such early termination. |
| Payment Instructions:   | As provided separately by the parties   |
| Calculation Agent:  | GSFM  |

## NOTICE DETAILS

For the purpose of Section 12(a) of the ISDA

Terms: Address for notices or communications to

GSFM: Address:

Address:

Goldman Sachs Japan  
Co., Ltd. Roppongi Hills

Mori Tower Roppongi 6-  
10-1, Minato-ku,  
Tokyo 106-6147, Japan

Attention: FX Operations  
Telephone No: (813) 6437-  
8070  
Facsimile No: (813) 6437-3126

Address for notices or communications to GSFM for the purpose of Section 5 or 6 of the ISDA Terms:

Address: Level 47, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000,  
Australia Attention: Legal Department  
Facsimile: 813 6437 3294  
Email: Blr.EDTAG@ny.email.gs.com

**With a copy to:** Equity Derivatives Operations: EQ-

HKDOCS02@gs.com Address for notices or communications to

Counterparty:

Address:

### 1. ACCOUNT DETAILS

|  |                                     |
|--|-------------------------------------|
| Account(s) for payments to GSFM:         | To be advised separately in writing |
| Account(s) for payments to Counterparty: | To be advised separately in writing |

### 2. OFFICES

|  |  |
|--|--|
| The Office of GSFM for the Transaction is:         | Level 47, Governor Philip Tower, 1 Farrer Place, Sydney, NSW 2000. |
| The Office of Counterparty for the Transaction is: |  |

### 3. ADDITIONAL REPRESENTATIONS AND ACKNOWLEDGEMENTS BY COUNTERPARTY

Counterparty represents that:

(a) it will not, in connection with the Transaction (including, without limitation, agreeing to unwind any part thereof), breach any applicable securities law (including insider dealing law) in any jurisdiction, including, without limitation, by virtue of the possession (by it or any of its Affiliates or any person acting on its or their behalf) of material non- public

information of the Issuer or the Shares, and has not entered into or agreed to unwind any part of the Transaction on the basis of such information;

(b) without prejudice to paragraph (a) above, which representation will be deemed repeated on each of the Effective Date, Valuation Date and Termination Date and on the effective date of any termination, amendment or modification of the Transaction that it is not prohibited under Part 7.10 of the Corporations Act 2001 (Cth) (the "Act") from dealing in the Shares or from entering into, amending, terminating or modifying the Transaction in such manner (as applicable); and

(c) it is and will be in compliance at all times with the requirements imposed by the Exchange and all applicable provisions of the ASX Listing Rules, ASX Operating Rules and the Corporations Act 2001 of Australia and FATA (including as may be adapted by the Exchange from time to time).

Counterparty acknowledges to, and (as applicable) agrees with, GSFM on a continuing basis at all times that neither GSFM nor any of its Affiliates is obliged to or purports or offers to sell, purchase, hold, deliver or receive any Shares or any rights in relation to Shares or represents or holds out that it does or is entitled to do any of those things; provided that this does not limit the express contractual obligations of GSFM on the Settlement Date if the Physical Settlement Condition is satisfied and Counterparty makes a valid election for Physical Settlement. If any Shares are held by or for or are otherwise controlled by GSFM or any of its Affiliates (whether or not as part of any hedge in relation to the Transaction), Counterparty has no right or interest in or to any of those Shares or any power in relation to them (including, without limitation, any power to control, or right to be consulted in connection with, any disposal or trading of those Shares by GSFM or any of its Affiliates or any decision by GSFM or any of its Affiliates with respect to the exercise by GSFM or any of its Affiliates of any right to vote attaching to those Shares).

#### **4. OTHER**

Counterparty will make or provide any disclosure reasonably required by GSFM in connection with its entry into of the Transaction (including pursuant to the securities laws or regulations in the jurisdiction of the issuer of the securities underlying the Transaction or the rules of the Exchange) and notwithstanding any duty of confidentiality owed by GSFM, it acknowledges and agrees that GSFM may make such disclosure to any legal or regulatory body or authority as GSFM shall consider necessary or appropriate regarding the Transaction or the Hedge Positions.

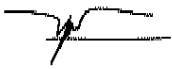
Unless otherwise indicated we have acted as principal in respect of this Transaction. The time and venue of execution of this Transaction is available on request. GSFM may make or receive payments to/from a third party in connection with this Transaction, the details of which are available upon request.

This Confirmation is in final form and supersedes all previous confirmations and other communications in respect of this Transaction and evidences a complete binding agreement between us as to the terms of the Transaction.

Counterparty hereby agrees (a) to check this Confirmation (Reference No. SDB4037645303.0.1.0-1-4) carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by GSFM) correctly sets forth the terms of the agreement between GSFM and Counterparty with respect to this Transaction, by manually signing this Confirmation or this page thereof as evidence of agreement to such terms and providing any other information requested herein and immediately returning an executed copy to Equity Derivatives Documentation Department, Facsimile +813 6437 3294.

Yours faithfully,  
GOLDMAN SACHS FINANCIAL MARKETS  
PTY LTD

Agreed and Accepted by:  
BLACK DIAMOND CREDIT STRATEGIES MASTER  
FUND, LTD.

By:   
Name: Yon Lo  
Title: Vice President

By: \_\_\_\_\_  
Name:  
Title:

**APPENDIX**

The parties agree that the following provisions shall amend and supplement the ISDA Form that governs the Transaction to which this Confirmation relates until the execution of the Agreement.



**In respect of the ISDA Form:**

(a) "Specified Entity" means:

(i) in relation to GSFM, Goldman, Sachs & Co., Goldman Sachs Bank USA, Goldman Sachs International, J. Aron & Company, Goldman Sachs Japan Co., Ltd., Goldman Sachs International Bank, Goldman Sachs (Asia) Finance, Goldman Sachs Financial Markets, L.P., Goldman Sachs Paris Inc. et Cie, Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs AG and J. Aron & Company (Singapore) Pte. for the purpose of Section 5(a)(v), and shall not apply for purposes of Sections 3(c), 5(a)(vi), 5(a)(vii) and 5(b)(v); and

(ii) in relation to Counterparty, none;

(b) The "Cross Default" provisions of Section 5(a)(vi) will apply to both GSFM and Counterparty, provided that:

(i) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi);

(ii) the following language shall be added to the end thereof: "Notwithstanding the foregoing, an Event of Default shall not occur under sub-section (2) hereof if (A) the default, or other similar event or condition referred to in (2) was caused solely by error or omission of an administrative or operational nature; (B) funds were available to enable the party to make the payment when due; and (C) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay."; and

(iii) "Threshold Amount" means in relation to Counterparty, USD200,000,000 (or its equivalent in another currency) and means in relation to GSFM, 3% of shareholders' equity of The Goldman Sachs Group, Inc. as reported in its most recent annual audited financial statements;

(iv) "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term will not include obligations in respect of deposits received in the ordinary course of an entity's banking business;

(c) the provisions of Section 5(b)(v) will apply to GSFM and Counterparty;

(d) the "Automatic Early Termination" provision of Section 6(a) will not apply to GSFM and will not apply to Counterparty;

(e) the election of U.S. Dollar as the Termination Currency;

(f) Each party agrees to deliver to the other party a correct, complete and executed (i) in the case of GSFM, United States Internal Revenue Service Form W-8BEN-E (with all parts fully completed), or any successor form and (ii) in the case of Counterparty, United States Internal Revenue Service Form W-8BEN or equivalent, or any successor form, in each case on or before the Trade Date;

(g) Section 2(d)(i)(4)(B) of this Agreement shall be amended by changing the phrase "pursuant to Section 3(f)" to read "pursuant to Section 3(f) or Section 3(g)";

(h) "Multiple Transaction Payment Netting" will apply to all Transactions;

(i) Section 13(a) of the ISDA Form is replaced with the following: "**Governing Law.** This Agreement will be governed by, and construed in accordance with the laws in force in New South Wales and each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them and a reference to Section 13(b)(i) to "such court" is a reference to those courts.";

(j) Process Agent: For the purpose of Section 13(c) of the ISDA Form:

GSFM appoints as its Process Agent: Not applicable.

Counterparty appoints as its Process Agent: Equity Trustees Limited ACN 004 031 298, L19, 56 Pitt Street, Sydney, New South Wales 2000

Further, with respect to Counterparty, Section 13(c) of the Agreement shall be deleted and replaced with the following: "Counterparty irrevocably appoints the Process Agent specified opposite its name in this Confirmation to receive, for it and on its behalf, service of process in any Proceedings commenced in New South Wales pursuant to Section 13(b) (*Jurisdiction*)."

**(k) Incorporation of 2002 Master Agreement Protocol Terms.** The parties agree that the definitions and provisions contained in the Annexes 1 to and including 18 of the 2002 Master Agreement Protocol published by the International Swaps and Derivatives Association, Inc. on 15th July, 2003 are incorporated into and apply to the ISDA Form, with references in those definitions and provisions to any "ISDA Master Agreement" being deemed to be references to these ISDA Terms.