

The Warehouse Group Limited

Independent Adviser's Report

In Respect of the Acquisition of 1,000,000 Shares by Sir Stephen Tindall

October 2012

Statement of Independence

Simmons Corporate Finance Limited confirms that it:

- has no conflict of interest that could affect its ability to provide an unbiased report
- has no direct or indirect pecuniary or other interest in the proposed transaction considered in this report, including any success or contingency fee or remuneration, other than to receive the cash fee for providing this report.

Simmons Corporate Finance Limited has satisfied the Takeovers Panel, on the basis of the material provided to the Takeovers Panel, that it is independent under the Takeovers Code for the purposes of preparing this Independent Adviser's Report.

Index

| Section | Page |
|--|------|
| 1. Introduction | 1 |
| 2. Evaluation of the Merits of the Share Acquisition | 4 |
| 3. Sources of Information, Reliance on Information, Disclaimer and Indemnity | 10 |
| 4. Qualifications and Expertise, Independence, Declarations and Consents | 12 |

1. Introduction

1.1 Background

The Warehouse Group Limited (**The Warehouse** or the **Company**) was established in 1982 by Sir Stephen Tindall. It has grown to become one of New Zealand's largest general merchandise retailers, with 89 stores throughout New Zealand selling a wide range of products from clothing, entertainment, technology and music to sporting, gardening, grocery and many others.

The Warehouse is listed on the main board equity security market (**NZSX**) operated by NZX Limited with a market capitalisation of \$965 million as at 11 October 2012 and audited total equity of \$317 million as at 29 July 2012.

1.2 Proposed Share Acquisition

Ian Morrice was The Warehouse's chief executive officer and managing director from August 2004 to May 2011.

Sir Stephen and Mr Morrice entered into the *Deed Relating to Shares in The Warehouse Group Limited* dated 25 November 2004 (the **2004 Deed**) whereby:

- Sir Stephen transferred 1,000,000 ordinary shares in The Warehouse to Mr Morrice for a purchase price of \$3,760,000
- Sir Stephen agreed to lend the consideration payable for the shares to Mr Morrice (repayable in November 2009) (the **Debt**)
- interest on the Debt equates to the amount of dividends plus imputation credits received in respect of the 1,000,000 shares
- Mr Morrice granted a mortgage over the shares to Sir Stephen as security for the Debt (the **Mortgage**)
- Sir Stephen granted Mr Morrice a put option to require Sir Stephen to purchase all of the shares at a price equivalent to the amount of the Debt.

Sir Stephen and Mr Morrice entered into 4 variations to the 2004 Deed between 18 November 2009 and 25 November 2011 (the **Variation Deeds**):

- under the First Variation Deed dated 18 November 2009, the put option was deleted and the repayment date of the Debt was extended
- under the Second and Third Variation Deeds dated 25 November 2010 and 5 April 2011 respectively, the repayment date of the Debt was extended
- under the Fourth Variation Deed dated 25 November 2011:
 - the repayment date of the Debt was extended to 30 November 2012
 - Sir Stephen made a further cash advance of \$335,000 to Mr Morrice
 - the amount of the Debt at 25 November 2011 was acknowledged to be \$3,703,642.85
 - it was agreed that should Mr Morrice transfer all of the shares to Sir Stephen, then Sir Stephen will accept such transfer in full satisfaction of Mr Morrice's obligation to repay the Debt.

Sir Stephen and Mr Morrice want Sir Stephen to reacquire the 1,000,000 shares (the **Share Acquisition**), subject to compliance with the Takeovers Code (the **Code**).

Sir Stephen currently holds 83,058,283 shares in the Company, representing 26.69% of the voting rights in The Warehouse.

Sir Stephen is a trustee of The Tindall Foundation, an incorporated charitable trust. The Tindall Foundation currently holds 66,323,220 shares in the Company, representing 21.31% of the voting rights in The Warehouse.

Members of the Tindall family hold a total of 7,165,272 shares in the Company through 3 family trusts, representing 2.30% of the voting rights in The Warehouse.

The combined percentage of the voting rights that are held or controlled by Sir Stephen, The Tindall Foundation and the 3 family trusts (collectively the **Tindall Associates**) is 50.31%.

The 1,000,000 shares represent 0.32% of The Warehouse's ordinary shares currently on issue.

The Share Acquisition will result in the Tindall Associates becoming the holder of 50.63% of the shares in the Company.

| Changes in Shareholding Following the Share Acquisition | | | | | |
|---|--------------------|----------------|-------------------|------------------------|----------------|
| | Current | | Share Acquisition | Post Share Acquisition | |
| | No. of Shares | % | | No. of Shares | % |
| Tindall Associates | 156,546,775 | 50.31% | 1,000,000 | 157,546,775 | 50.63% |
| Mr Morrice | 1,000,000 | 0.32% | (1,000,000) | - | 0.00% |
| Non-associated shareholders | 153,649,093 | 49.37% | | 153,649,093 | 49.37% |
| Total | <u>311,195,868</u> | <u>100.00%</u> | | <u>311,195,868</u> | <u>100.00%</u> |

1.3 Annual Meeting

The Warehouse's shareholders other than the Tindall Associates and Mr Morrice (the **Non-associated Shareholders**) will vote on an ordinary resolution in respect of the Share Acquisition (resolution 5, which we refer to as the **Share Acquisition Resolution**) at the Company's annual meeting on 23 November 2012.

The Tindall Associates and Mr Morrice are not permitted to vote on the Share Acquisition Resolution.

As part of the ordinary business of the annual meeting, shareholders will also vote on ordinary resolutions in respect of:

- the election of Tony Balfour as a director of the Company (resolution 1)
- the re-election of Janine Smith as a director of the Company (resolution 2)
- the re-election of James Ogden as a director of the Company (resolution 3)
- the authorisation of the directors to fix the auditor's fees for the ensuing year (resolution 4).

1.4 Regulatory Requirements

Rule 6 of the Code prohibits:

- a person who holds or controls less than 20% of the voting rights in a code company from increasing its holding or control of voting rights beyond 20%
- a person holding or controlling 20% or more of the voting rights in a code company from increasing its holding or control of voting rights

unless the person and that person's associates comply with exceptions to this fundamental rule.

One of the exceptions, set out in Rule 7(c) of the Code, enables a person and its associates to increase their holding or control of voting rights by an acquisition of shares if the acquisition is approved by an ordinary resolution of the code company.

Sir Stephen, The Tindall Foundation and the 3 family trusts have been treated as associates (as defined by the Code) for the purposes of Share Acquisition Resolution.

The Share Acquisition will result in the Tindall Associates increasing their control of the voting rights in The Warehouse from 50.31% to 50.63%.

Accordingly, the Non-associated Shareholders will vote at the Company's annual meeting on the Share Acquisition Resolution in accordance with the Code.

Rule 18 of the Code requires the directors of a code company to obtain an Independent Adviser's Report on the merits of an acquisition under Rule 7(c).

This Independent Adviser's Report is to be included in the notice of meeting pursuant to Rule 15(h).

1.5 Purpose of the Report

The directors of the Company not associated with the Tindall Associates (the **Independent Directors**) have engaged Simmons Corporate Finance Limited (**Simmons Corporate Finance**) to prepare an Independent Adviser's Report on the merits of the Share Acquisition in accordance with Rule 18 of the Code.

Simmons Corporate Finance was approved by the Takeovers Panel on 7 August 2012 to prepare the Independent Adviser's Report.

Simmons Corporate Finance issues this Independent Adviser's Report to the Independent Directors for the benefit of the Non-associated Shareholders to assist them in forming their own opinion on whether to vote for or against the Share Acquisition Resolution.

We note that each shareholder's circumstances and objectives are unique. Accordingly, it is not possible to report on the merits of the acquisition of shares for each shareholder's circumstances under the Share Acquisition. This report on the merits of the Share Acquisition is therefore necessarily general in nature.

This Independent Adviser's Report is not to be used for any other purpose without our prior written consent.

2. Evaluation of the Merits of the Share Acquisition

2.1 Basis of Evaluation

Rule 18 of the Code requires an evaluation of the merits of the Share Acquisition.

There is no legal definition of the term *merits* in New Zealand in either the Code or in any statute dealing with securities or commercial law.

In the absence of an explicit definition of *merits*, guidance can be taken from:

- the Takeovers Panel guidance note on the role of independent advisers dated August 2007
- definitions designed to address similar issues within New Zealand regulations which are relevant to the proposed transaction
- overseas precedents
- the ordinary meaning of the term *merits*.

We are of the view that an assessment of the merits of the Share Acquisition should focus on:

- the rationale for the Share Acquisition
- the terms and conditions of the Share Acquisition
- the impact of the Share Acquisition on the control of the Company
- the impact of the Share Acquisition on The Warehouse's share price
- other issues associated with the Share Acquisition
- the implications if the Share Acquisition Resolution is not approved.

Our opinion should be considered as a whole. Selecting portions of the evaluation without considering all the factors and analyses together could create a misleading view of the process underlying the opinion.

2.2 Summary of the Evaluation of the Merits of the Share Acquisition

The Share Acquisition is a transaction between 2 shareholders in respect of 0.32% of the Company's shares. In our opinion, if the Share Acquisition was to proceed, it would have no material negative aspects from the perspective of the Non-associated Shareholders.

Our evaluation of the merits of the Share Acquisition is set out in detail in sections 2.3 to 2.8. In summary, the key factors leading to our opinion are:

- the rationale for the Share Acquisition is sound. The Share Acquisition is a transaction between Sir Stephen and Mr Morrice that effectively unwinds a transaction they entered into in 2004 when Mr Morrice was appointed as the Company's chief executive officer
- the terms and conditions of the Share Acquisition are reasonable. The acquisition price for the 1,000,000 shares is equivalent to the amount outstanding on the Debt, thereby effectively returning Sir Stephen and Mr Morrice to their respective economic positions prior to entering into the 2004 Deed

- the Share Acquisition will have negligible impact on the Tindall Associates' ability to influence the outcome of shareholder voting. Their current 50.31% shareholding already provides a significant level of influence over shareholder voting and an increase of 0.32% will not enhance this to any great degree
- the Share Acquisition will have no impact on the Tindall Associates' influence over the Company's board of directors or its operations
- the Share Acquisition will have no impact on The Warehouse's share price
- the Share Acquisition will have no impact on the liquidity of The Warehouse's shares
- the Share Acquisition will have no dilutionary impact on the Non-associated Shareholders' voting rights
- the Share Acquisition will have no impact on the attraction of The Warehouse as a takeover target
- the implications of the Share Acquisition not being approved by the Non-associated Shareholders are that the Share Acquisition cannot proceed. We are advised that Sir Stephen and Mr Morrice will vary the terms of the 2004 Deed to once again extend the repayment date of the Debt until such time as they determine an appropriate course of action. Given the provisions of the Code, this may entail the Company seeking shareholder approval of a transaction at a later date (at additional cost).

2.3 The Rationale for the Share Acquisition

We are advised by Sir Stephen that the original transfer of 1,000,000 shares to Mr Morrice under the 2004 Deed was as an incident of Mr Morrice's employment as the Company's chief executive officer.

As Mr Morrice's association with the Company has ended, Sir Stephen and Mr Morrice wish for the 1,000,000 shares to be returned to Sir Stephen (subject to compliance with the Code). Therefore in accordance with the terms of the 2004 Deed and the Deed Variations, Mr Morrice wishes to exercise his rights to transfer the 1,000,000 shares to Sir Stephen, with the effect that Sir Stephen is obligated to accept the transfer in full satisfaction of the Debt.

In our view, the rationale for the Share Acquisition is sound. Mr Morrice is exercising his contractual rights under the 2004 Deed and the Deed Variations to transfer the 1,000,000 shares to Sir Stephen. Given the Company's share price at present, the value of the 1,000,000 shares is somewhat lower than the quantum of the Debt which Mr Morrice is obligated to repay on 30 November 2012.

2.4 Terms of the Share Acquisition

The terms of the Share Acquisition are that Mr Morrice will transfer the 1,000,000 shares to Sir Stephen and Sir Stephen will accept such transfer in full satisfaction of the Debt and discharge the Mortgage.

In our view, the terms of the Share Acquisition are reasonable. The Share Acquisition is effectively an unwinding of a transaction that Sir Stephen and Mr Morrice entered into in 2004 and the terms of the Share Acquisition result in there being no net transfer of economic benefits between the 2 parties.

2.5 Impact on Control

Share Capital and Shareholders

The Warehouse currently has 311,195,868 ordinary fully paid shares on issue.

The names, number of shares and percentage holding of the 10 largest shareholders as at 30 September 2012 are set out below.

| The Warehouse's 10 Largest Shareholders | | |
|---|--------------------|---------|
| Shareholder | No. of Shares Held | % |
| Sir Stephen Tindall | 83,058,283 | 26.69% |
| The Tindall Foundation | 66,323,220 | 21.31% |
| General Distributors Limited | 30,548,887 | 9.82% |
| New Zealand Central Securities Depository Limited | 15,675,807 | 5.04% |
| Cash Wholesalers Limited | 10,373,363 | 3.33% |
| Foodstuffs Auckland Nominees Limited | 10,373,363 | 3.33% |
| Wardell Bros & Coy Limited | 10,373,363 | 3.33% |
| JBWere (NZ) Nominees Limited | 5,640,282 | 1.81% |
| JBWere (NZ) Nominees Limited | 5,210,241 | 1.67% |
| JBWere (NZ) Nominees Limited | 4,653,150 | 1.50% |
| Subtotal | 242,229,959 | 77.84% |
| Others (11,003 shareholders) | 68,965,909 | 22.16% |
| Total | 311,195,868 | 100.00% |

Source: NZX Data

The Tindall Associates collectively hold 156,546,775 shares, representing 50.31% of the voting rights in the Company.

Shareholding Voting

Assuming that Sir Stephen, The Tindall Foundation and the 3 family trusts were to always act in unison in respect of shareholder voting matters, then the Tindall Associates' 50.31% shareholding currently enables them to exert a significant level of influence over shareholder voting:

- they hold the ability to block the passing of special resolutions (which require the approval of 75% of the votes cast by shareholders)
- they hold the ability to control the outcome of an ordinary resolution (greater than 50% of votes cast).

The Share Acquisition will increase the Tindall Associates' control of voting rights from 50.31% to 50.63%. An additional 0.32% of the voting rights will not enhance the Tindall Associates' ability to control the outcome of shareholder voting to any significant degree.

We note that the ability for any shareholder to influence the outcome of voting on the Company's ordinary resolutions or special resolutions may be reduced by external factors such as the Company's constitution, the Companies Act 1993 and the NZSX Listing Rules.

Board Control

The Company currently has 6 directors. Sir Stephen is a director of the Company and fellow director Keith Smith is a trustee of 2 of the family trusts.

We are advised by the Independent Directors that the Share Acquisition will have no impact on the composition of the Company's board of directors or the Tindall Associates' level of influence at board level.

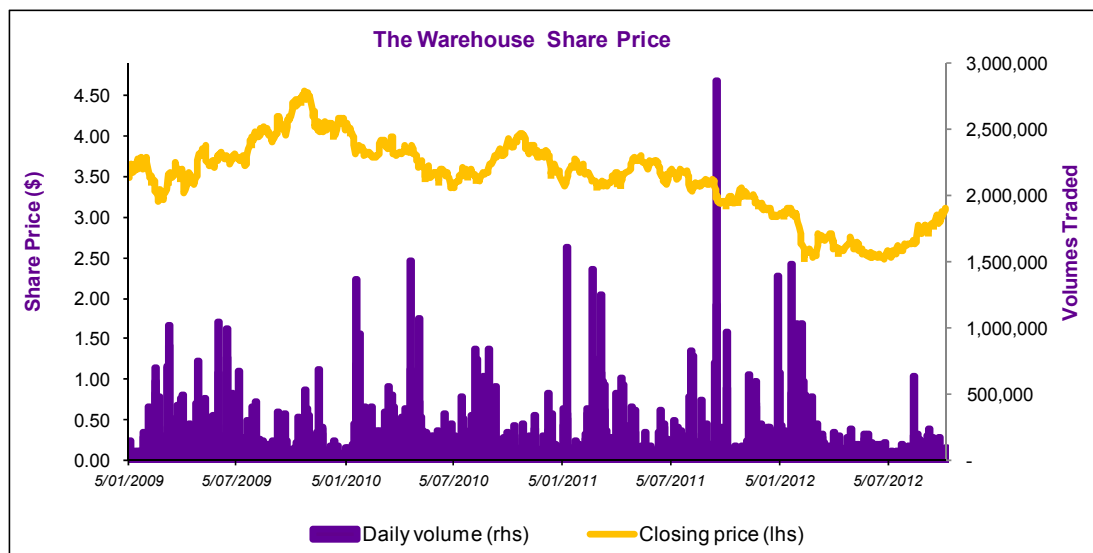
Operations

We are advised by the Independent Directors that the Share Acquisition will have no impact on the Tindall Associates' level of influence over the operations of the Company.

2.6 Impact on Share Price and Liquidity

Share Price

Set out below is a summary of The Warehouse's daily closing share price and daily volumes of shares traded from 5 January 2009 to 10 October 2012.



During the period, The Warehouse's shares have traded between \$2.49 and \$4.55 at a volume weighted average share price of \$3.49.

In our view, the Share Acquisition will have no impact on the Company's share price as the Share Acquisition represents the unwinding of a transaction agreed to in 2004 and is not referenced in any way to the Company's current share price.

Liquidity

The size of the pool of shares held by the Non-associated Shareholders will not change as a result of the Share Acquisition.

In our view, the Share Acquisition will have no impact on the liquidity of The Warehouse's shares.

2.7 Other Issues

No Dilutionary Impact

As the Share Acquisition is a transfer of shares between Mr Morrice and the Tindall Associates, it will have no dilutionary impact on the Non-associated Shareholders' voting rights. No new shares are being issued by the Company.

No Change to the Attraction of The Warehouse as a Takeover Target

To the Tindall Associates

The Share Acquisition will increase the Tindall Associates' control of voting rights in the Company from 50.31% to 50.63% and as such will not change their level of control over the Company to any significant degree nor (presumably) change their desire (if any) to increase their level of control.

As long as Sir Stephen holds more than 20% and not more than 50% of the voting rights in the Company, he cannot increase the level of his shareholding unless he complies with the provisions of the Code. He will only be able to acquire more shares in the Company if:

- he makes a full or partial takeover offer or
- the acquisition is approved by way of an ordinary resolution of the Non-associated Shareholders or
- the Company makes an allotment of shares which is approved by way of an ordinary resolution of the Non-associated Shareholders.

Sir Stephen could also increase his shareholding in the Company if The Warehouse undertook a share buyback that was approved by the Company's shareholders and Sir Stephen did not fully participate in the buyback.

Sir Stephen will not be able to increase his shareholding under the creep provisions of Rule 7(e) of the Code as these provisions are only available to persons that hold between 50% and 90% of the voting securities in a Code company.

To Other Bidders

Any bidder looking to make a takeover offer for the Company would need to ensure that the Tindall Associates would accept its offer, irrespective of whether they held 50.31% or 50.63% of the shares in the Company.

Conclusion

In our view, the increase in the Tindall Associates' shareholdings from 50.31% to 50.63% will have no impact on the attraction of The Warehouse as a takeover target.

Non-associated Shareholder Approval is Required

Pursuant to Rule 7(c) of the Code, the Non-associated Shareholders must approve by ordinary resolution the Share Acquisition.

The Share Acquisition will not proceed unless the Non-associated Shareholders approve the Share Acquisition Resolution.

2.8 Implications of the Share Acquisition Resolution not Being Approved

If the Share Acquisition Resolution is not approved then the Share Acquisition cannot proceed.

If the Share Acquisition Resolution is not approved, we are advised that Sir Stephen and Mr Morrice will vary the terms of the 2004 Deed to once again extend the repayment date of the Debt until such time as they determine an appropriate course of action.

We note that if Mr Morrice were to sell some or all of the 1,000,000 shares, the Tindall Associates would not be permitted to purchase any of the shares without the approval of the Non-associated Shareholders.

Depending on the course of action determined by Sir Stephen and Mr Morrice, it is possible that the Tindall Associates may ask The Warehouse to seek shareholder approval of a transaction similar to the Share Acquisition at a later date, which would incur additional costs.

2.9 Voting For or Against the Share Acquisition Resolution

Voting for or against the Share Acquisition Resolution is a matter for individual shareholders based on their own views as to value and future market conditions, risk profile and other factors. Shareholders will need to consider these consequences and consult their own professional adviser if appropriate.

3. Sources of Information, Reliance on Information, Disclaimer and Indemnity

3.1 Sources of Information

The statements and opinions expressed in this report are based on the following main sources of information:

- the draft notice of annual meeting
- the 2004 Deed
- the Variation Deeds
- The Warehouse annual report for the year ended 31 July 2011 and financial statements for the 52 week period ended 29 July 2012
- data in respect of The Warehouse from NZX Data and Capital IQ.

During the course of preparing this report, we have had discussions with and / or received information from the Independent Directors, the executive management of the Company and The Warehouse's legal advisers.

The Independent Directors have confirmed that we have been provided for the purpose of this Independent Adviser's Report with all information relevant to the Share Acquisition that is known to them and that all the information is true and accurate in all material respects and is not misleading by reason of omission or otherwise.

Including this confirmation, we have obtained all the information that we believe is desirable for the purpose of preparing this Independent Adviser's Report.

In our opinion, the information to be provided by The Warehouse to the Non-associated Shareholders is sufficient to enable the Independent Directors and the Non-associated Shareholders to understand all the relevant factors and to make an informed decision in respect of the Share Acquisition.

3.2 Reliance on Information

In preparing this report we have relied upon and assumed, without independent verification, the accuracy and completeness of all information that was available from public sources and all information that was furnished to us by The Warehouse and its advisers.

We have evaluated that information through analysis, enquiry and examination for the purposes of preparing this report but we have not verified the accuracy or completeness of any such information or conducted an appraisal of any assets. We have not carried out any form of due diligence or audit on the accounting or other records of The Warehouse. We do not warrant that our enquiries would reveal any matter which an audit, due diligence review or extensive examination might disclose.

3.3 Disclaimer

We have prepared this report with care and diligence and the statements in the report are given in good faith and in the belief, on reasonable grounds, that such statements are not false or misleading. However, in no way do we guarantee or otherwise warrant that any forecasts of future profits, cash flows or financial position of The Warehouse will be achieved. Forecasts are inherently uncertain. They are predictions of future events that cannot be assured. They are based upon assumptions, many of which are beyond the control of The Warehouse and its directors and management. Actual results will vary from the forecasts and these variations may be significantly more or less favourable.

We assume no responsibility arising in any way whatsoever for errors or omissions (including responsibility to any person for negligence) for the preparation of the report to the extent that such errors or omissions result from our reasonable reliance on information provided by others or assumptions disclosed in the report or assumptions reasonably taken as implicit.

Our evaluation has been arrived at based on economic, exchange rate, market and other conditions prevailing at the date of this report. Such conditions may change significantly over relatively short periods of time. We have no obligation or undertaking to advise any person of any change in circumstances which comes to our attention after the date of this report or to review, revise or update our report.

We have had no involvement in the preparation of the notice of annual meeting issued by The Warehouse and have not verified or approved the contents of the notice of annual meeting. We do not accept any responsibility for the contents of the notice of annual meeting except for this report.

3.4 Indemnity

The Warehouse has agreed that, to the extent permitted by law, it will indemnify Simmons Corporate Finance and its directors and employees in respect of any liability suffered or incurred as a result of or in connection with the preparation of the report. This indemnity does not apply in respect of any negligence, wilful misconduct or breach of law. The Warehouse has also agreed to indemnify Simmons Corporate Finance and its directors and employees for time incurred and any costs in relation to any inquiry or proceeding initiated by any person. Where Simmons Corporate Finance or its directors and employees are found liable for or guilty of negligence, wilful misconduct or breach of law or term of reference, Simmons Corporate Finance shall reimburse such costs.

4. Qualifications and Expertise, Independence, Declarations and Consents

4.1 Qualifications and Expertise

Simmons Corporate Finance is a New Zealand owned specialist corporate finance advisory practice. It advises on mergers and acquisitions, prepares independent expert's reports and provides valuation advice.

The person in the company responsible for issuing this report is Peter Simmons, B.Com, DipBus (Finance), CFIP.

Simmons Corporate Finance and Mr Simmons have significant experience in the independent investigation of transactions and issuing opinions on the merits and fairness of the terms and financial conditions of the transactions.

4.2 Independence

Simmons Corporate Finance does not have at the date of this report, and has not had, any shareholding in or other relationship with The Warehouse, the Tindall Associates or Mr Morrice or any conflicts of interest that could affect our ability to provide an unbiased opinion in relation to this transaction.

Simmons Corporate Finance has not had any part in the formulation of the Share Acquisition or any aspects thereof. Our sole involvement has been the preparation of this report.

Simmons Corporate Finance will receive a fixed fee for the preparation of this report. This fee is not contingent on the conclusions of this report or the outcome of the voting in respect of the Share Acquisition Resolution. We will receive no other benefit from the preparation of this report.

4.3 Declarations

An advance draft of this report was provided to the Independent Directors for their comments as to the factual accuracy of the contents of the report. Changes made to the report as a result of the circulation of the draft have not changed the methodology or our conclusions.

Our terms of reference for this engagement did not contain any term which materially restricted the scope of the report.

4.4 Consents

We consent to the issuing of this report in the form and context in which it is to be included in the notice of annual meeting to be sent to The Warehouse's shareholders. Neither the whole nor any part of this report, nor any reference thereto may be included in any other document without our prior written consent as to the form and context in which it appears.



Peter Simmons
Director

Simmons Corporate Finance Limited

11 October 2012