



4 August 2016

Announcements Officer
Company Announcements Platform
ASX Limited
20 Bridge Street
Sydney NSW 2000

Vitaco Holdings Limited enters into Scheme Implementation Deed with Shanghai Pharma and Primavera

Summary

- *SIIC Medical Science and Technology (Group) Limited (“SIIC”) (a subsidiary of Shanghai Pharmaceuticals Holding Co., Ltd (“Shanghai Pharma”) and PV Zeus Limited (“PV Zeus”) (a subsidiary of Primavera Capital Fund II L.P (“Primavera”)) (together, the “Consortium”) propose to acquire 100% of Vitaco Holdings Limited (“Vitaco”) shares by way of a scheme of arrangement (“Scheme”)*
- *A\$2.25 per share¹ cash price represents an attractive premium of 37% on the one month VWAP of A\$1.64, and a multiple of 14.7x Enterprise Value/FY16 Pro Forma EBITDA²*
- *Vitaco Directors unanimously recommend shareholders vote in favour of the Scheme, subject to no superior proposal emerging and an independent expert determining that the Scheme is in the best interests of Vitaco shareholders*
- *Vitaco Chairman, Greg Richards, said “the Scheme represents attractive upfront and certain value for shareholders, particularly given ongoing volatile macroeconomic conditions and regulatory uncertainty in China”*
- *Next Capital, Vitaco’s 15.3%³ shareholder, supports the Scheme*
- *Senior Management of Vitaco support the Scheme*
- *Preliminary Pro Forma results for FY16 meet its prospectus forecasts*
- *Modest earnings growth expected in FY17 due to additional business investment required to support longer-term growth, the impact from the loss of the Trilogy contract and continued regulatory uncertainty in China*

¹ Less the amount of any Final Dividend declared and paid by Vitaco before implementation of the Scheme

² Enterprise Value calculated using fully diluted Vitaco shares on issue and net debt of A\$36.4 million as at 30 June 2016. Fully diluted Vitaco shares outstanding of approximately 139.4 million calculated as total shares outstanding if all performance rights and options were exercised (using the treasury stock method). Assumes FY16 Pro Forma EBITDA of A\$23.9 million. The Pro Forma adjustments included in FY16 Pro Forma EBITDA are the exclusion of one-off transaction expenses associated with the 2015 IPO and the exclusion of one-off transaction and integration costs attributable to the Musashi acquisition

³ Based on current total ordinary shares outstanding of approximately 139.1 million

Vitaco announces that it has entered into a Scheme Implementation Deed ("SID") under which it is proposed that the Consortium will acquire 100% of the share capital of Vitaco (or an entity or entities owned by them will take the transfer of the shares) by way of the Scheme.

Under the Scheme, Vitaco shareholders will receive total consideration of A\$2.25 in cash per Vitaco share⁴.

The price of A\$2.25 per Vitaco share values Vitaco's fully diluted⁵ equity at approximately A\$313.7 million and represents:

- 28% premium to the closing share price of Vitaco's shares of A\$1.76, the last price prior to the announcement of the Scheme on 4 August 2016;
- 30% premium to the volume weighted average price (VWAP⁶) of A\$1.74 for the five trading days prior to announcement of the Scheme;
- 37% premium to the VWAP of A\$1.64 for the month prior to announcement of the Scheme;
- 32% premium to the VWAP of A\$1.71 for the three months prior to announcement of the Scheme;
- 27% premium to the VWAP of A\$1.78 for the six months prior to announcement of the Scheme; and
- 14.7x Enterprise Value/FY16 Pro Forma EBITDA⁷.

If the Scheme is implemented after the final dividend is declared and paid by Vitaco for the period ending 30 June 2016 ("Final Dividend"), eligible Vitaco shareholders will receive⁸:

- The cash price of A\$2.25 per share reduced by the amount of the Final Dividend; plus
- The Final Dividend.

Vitaco's Board has not yet determined the amount of any Final Dividend, but it intends to declare a Final Dividend in accordance with its stated dividend policy. Any Final Dividend is expected to be declared at the time of Vitaco's FY16 results announcement on 30 August 2016.

⁴ Less the amount of any Final Dividend declared and paid by Vitaco before implementation of the Scheme. Certain Vitaco shareholders who are also members of Senior Management (defined in footnote 12 below) will instead receive total value equivalent to A\$2.25 per Vitaco share (less the amount of any Final Dividend declared and paid by Vitaco before implementation of the Scheme) in a combination of cash and management shares in a newly established Hong Kong subsidiary of Shanghai Pharma and Primavera (in accordance with the formula prescribed in the SID)

⁵ Fully diluted Vitaco shares outstanding calculated as total shares outstanding if all performance rights and options were exercised (using the treasury stock method). Assumes fully diluted Vitaco shares on issue as at the date of this announcement of approximately 139.4 million

⁶ Volume weighted average price based on cumulative trading volume

⁷ Refer to footnote 2 for details of calculation

⁸ Only Vitaco shareholders on the register on the record date for any Final Dividend will receive that dividend

Vitaco's Board of Directors Unanimously Recommends the Scheme

Vitaco has formed an independent board committee which excludes Ryan d'Almeida (Chief Executive Officer and Executive Director), in respect of the transaction.

The Vitaco Directors (including Mr. d'Almeida⁹) unanimously recommend that shareholders vote in favour of the Scheme, subject to no superior proposal emerging and an independent expert determining that the Scheme is in the best interests of Vitaco shareholders. Subject to those same qualifications, each Director of Vitaco intends to vote all Vitaco shares held or controlled by that Director in favour of the Scheme⁹.

The reasons for the Directors' unanimous recommendation include:

- **Significant premium:** A\$2.25 per Vitaco share is a significant premium to recent trading prices of Vitaco's shares, and exceeds the highest price that Vitaco's shares have traded at since Vitaco's 1H16 results announcement in February 2016;
- **Attractive acquisition multiple:** A\$2.25 per Vitaco share represents a multiple of 14.7x Enterprise Value/Pro Forma FY16 EBITDA¹⁰, which is attractive compared to implied multiples paid in recent comparable control transactions;
- **Certainty of value:** A\$2.25 per Vitaco share provides a certain return for Vitaco shareholders, and is compelling compared to the inherent price uncertainty of a listed company that is investing in longer-term growth while facing ongoing regulatory uncertainty in China; and
- **Certainty of execution / limited conditionality:** the Scheme is not subject to finance or due diligence.

Vitaco Chairman, Greg Richards, said that "the Scheme represents attractive upfront and certain value for shareholders, particularly given ongoing volatile macroeconomic conditions and regulatory uncertainty in China".

Next Capital Voting Intentions

Next Capital, Vitaco's 15.3%¹¹ shareholder, has advised Vitaco of its intention to vote in favour of the Scheme at the Scheme meeting on the terms set out in the letter annexed to this announcement. The annexed letter also contains provisions regarding Next Capital's present intention not to sell its shares in Vitaco and restrictions that apply to Next Capital in relation to its shares in Vitaco.

⁹ Mr. d'Almeida makes this statement noting his potential interest in the Scheme by way of his proposed participation in the Scheme (including the proposed receipt of management shares in a newly established Hong Kong subsidiary of Shanghai Pharma and Primavera as consideration, and, following implementation of the Scheme, in equity incentive schemes)

¹⁰ Refer to footnote 2 for details of calculation

¹¹ Based on current total ordinary shares outstanding of approximately 139.1 million

Senior Management Voting Intentions

Each member of Vitaco's Senior Management ¹², who in aggregate hold approximately 1.1% ¹³ of Vitaco's shares at the date of this announcement, has confirmed that they intend to vote all Vitaco shares held or controlled by him in favour of the Scheme, subject to no superior proposal emerging, Vitaco Directors recommending in favour of the Scheme, and an independent expert determining that the Scheme is in the best interests of shareholders.

Transaction Structure

The transaction will be implemented by a scheme of arrangement under Australian law.

The Scheme is subject to a number of customary conditions including shareholder and court approval, no material adverse change or prescribed occurrences, as well as the approval of Australia's Foreign Investment Review Board ("FIRB"), New Zealand's Overseas Investment Office ("OIO") and Chinese regulators.

The Consortium has advised Vitaco that it has submitted its applications for approval by FIRB and OIO, and that it will commence the relevant filing process with Chinese regulators immediately.

Shanghai Pharma has advised that the amount of SIIC's relevant proportion of the Scheme consideration is fully funded by Shanghai Pharma¹⁴. Primavera has also advised that the amount of PV Zeus's relevant proportion of the Scheme consideration is fully funded by Primavera¹⁴. There is no finance condition to the Scheme.

The Consortium members have agreed to pay their relevant proportions of the cash consideration under the Scheme into a settlement trust account prior to the deadline for receipt of proxies for the Scheme meeting.

The SID contains customary exclusivity provisions including no shop and no talk restrictions, a notification obligation and a matching right, subject to Vitaco Directors' fiduciary obligations. The SID also details circumstances under which a break fee may be payable by Vitaco to the Consortium, or a reverse break fee payable to Vitaco.

A copy of the executed SID with its attachments accompanies this announcement.

¹² Comprising Ryan d'Almeida (Chief Executive Officer), Phillip Wiltshire (Chief Financial Officer), Roger Scott (Chief Operating Officer), John Stanton (GM Vitamins & Supplements), Brent Hall (GM Supply Chain), Martin Drinkrow (GM Sports & Active Nutrition and Health Foods) and Jay Drezner (GM International & Business Development)

¹³ Based on current total ordinary shares outstanding of approximately 139.1 million

¹⁴ Shanghai Pharma's relevant proportion of the Scheme consideration is 60%, and Primavera's relevant proportion of the Scheme consideration is 40%

Financial results for the 12 months ended 30 June 2016¹⁵

The Board of Vitaco is also pleased to announce its preliminary Pro Forma financial results for the 12 months ended 30 June 2016:

- Net revenue was A\$212.9 million, up 23.5% on the prior corresponding period;
- Pro Forma EBITDA was A\$23.9 million, up 15.6% on the prior corresponding period; and
- Pro Forma NPAT and EPS were A\$13.1 million and 9.4 cents per Vitaco share respectively.

Commenting on the result, Mr. Richards said, “overall the Board is pleased with Vitaco’s first full year result as a listed entity and that Vitaco has been able to meet its prospectus forecasts, despite a competitive Australian market, volatile macroeconomic conditions and ongoing regulatory uncertainty in China. The management team should also be congratulated for successfully integrating the Musashi acquisition ahead of plan and laying the foundations for Vitaco’s sustainable long-term future in China.”

In the 2017 financial year, Vitaco expects modest earnings growth as it increases business investment to better position itself for sustainable longer-term growth. The business will also contend with the impact of continued regulatory uncertainty in China in the near-term and the loss of the Trilogy contract. During the financial year, Vitaco is forecasting an increase in operating costs as it increases investment in the business including (i) increased consumer marketing costs to support growth in China, (ii) greater marketing support for key brands across the portfolio, and (iii) further investment in Vitaco talent, including increased headcount in China. Shareholders should also note that Vitaco is also in the preliminary stages of assessing opportunities to expand its manufacturing and warehousing footprint in Auckland which, if actioned, will require capital investment.

Further details on Vitaco’s full year results for the period ended 30 June 2016 will be provided on 30 August 2016.

Indicative Timetable and Next Steps

Vitaco shareholders do not need to take any action at the present time.

¹⁵ The Pro Forma adjustments included in FY16 Pro Forma EBITDA are the exclusion of one-off transaction expenses associated with the 2015 IPO and the exclusion of one-off transaction and integration costs attributable to the Musashi acquisition. The Pro Forma adjustments included in FY16 Pro Forma NPAT are the exclusion of one-off transaction expenses associated with the 2015 IPO, the exclusion of one-off transaction and integration costs attributable to the Musashi acquisition, a restatement of interest expense for the period 1 July 2015 to 14 September 2015 based on the post IPO debt structure and Pro Forma tax calculation at 29% of Pro Forma NPBT. Pro Forma EPS based on fully diluted Vitaco shares outstanding. Fully diluted Vitaco shares outstanding calculated as total shares outstanding if all performance rights and options were exercised (using the treasury stock method). Statutory net revenue for the 15 months ended 30 June 2016 was A\$258.1 million and statutory NPAT for the same period was (A\$9.1 million)

An Explanatory Booklet containing, among other things, further information relating to the Scheme and an independent expert's report, is expected to be sent to shareholders in late September 2016.

Shareholders will vote on the Scheme at a meeting which is expected to be held in November 2016, with implementation scheduled to occur in December 2016 (subject to satisfaction of all conditions).

Vitaco is being advised by J.P. Morgan and MinterEllison.

ENDS

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About Vitaco Holdings Limited

Vitaco is an Australian and New Zealand nutritional products business that aims to empower healthier lives by developing, manufacturing and distributing a range of branded products within the broader nutrition, health and wellness industry.

Vitaco's product categories include the vitamins and dietary supplements category, the sports nutrition category and the health and wellness, packaged food category.

In addition to its operations in Australia and New Zealand, Vitaco has a growing presence in offshore markets, particularly across Asia.

About Shanghai Pharma

Shanghai Pharma is a national pharmaceutical group headquartered in Shanghai, People's Republic of China. It was incorporated in the People's Republic of China as a joint stock company with limited liability on 18 January 1994 and is listed on the Shanghai Stock Exchange (SSE stock code 601607) and the Hong Kong Exchange (HKEx stock code 02607). Shanghai Pharma's principal business covers pharmaceutical research and development, manufacturing, distribution and retailing.



In 2015, Shanghai Pharma reported business revenues of RMB 105.5 billion (A\$21.0 billion). With a market capitalisation of RMB 50.9 billion (A\$10.1 billion) as of 2nd August 2016, it is included as a reference stock in both the Shanghai Stock Exchange 180 Index and China Securities 300 Index, with its "H shares" selected into the Hang Seng Index Compositional Stocks and Morgan Stanley Capital International Index.

About Primavera

Primavera Capital ("Primavera") is a leading Asia-based investment firm. The firm employs a flexible strategy of growth capital and control-oriented investments and seeks to create long-term value by working closely with portfolio companies to improve operational efficiency, competitiveness, and earnings growth. Founded by Dr. Fred Hu, a renowned economist and successful investor, and a former partner and Chairman of Greater China at Goldman Sachs Group, the Primavera team combines global capital market experience, deep industry knowledge, and a strong network of relationships with policy-makers as well as leading business leaders and entrepreneurs in Asia and globally.

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EXECUTION VERSION

Scheme Implementation Deed

Vitaco Holdings Limited (**Target**)

PV Zeus Limited (**Primavera**)

SIIC Medical Science and Technology (Group)
Limited (**SIIC Medical Science**)

Primavera Capital Fund II L.P., acting through its
general partner Primavera Capital GP II Ltd.
(**Primavera Capital Fund II**)

Shanghai Pharmaceuticals Holding Co., Ltd.
(**Shanghai Pharma**)

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Details

Date

3 AUGUST 2016

Parties

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ABN 42 606 826 493
Short form name **Target**
Notice details Level 1
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North Ryde NSW 2113
Australia
Email: grichard@bigpond.net.au
Copy to: phil.wiltshire@vitaco.com.au
Attention: Greg Richards, Chairman, copy to Phillip Wiltshire, Company secretary

Name **PV Zeus Limited**
Short form name **Primavera**
Notice details 28th Floor, 28 Hennessy Road,
Wanchai, Hong Kong
Email: Max.Chen@primavera-capital.com
Attention: Max Chen, Managing Director

Name **SIIC Medical Science and Technology (Group) Limited**
Short form name **SIIC Medical Science**
Notice details Flat 402, 4/F, Fairmont House,
No.8 Cotton Tree Drive,
Admiralty, Hong Kong
Email: shenb@sphchina.com
Attention: Shen Bo

Name **Shanghai Pharmaceuticals Holding Co., Ltd.**
Short form name **Shanghai Pharma**
Notice details No. 92 Zhangjiang Road,
Pudong New District,
Shanghai, People's Republic of China
Email: menglj@sphchina.com
Attention: Meng Lingjun

Name **Primavera Capital Fund II L.P., acting through its general partner Primavera Capital GP II Ltd.**
Short form name **Primavera Capital Fund II**
Notice details c/o Intertrust Corporate Services (Cayman) Limited
190 Elgin Avenue, George Town
Grand Cayman KY1-9005, Cayman Islands

Background

- A Target and BidCo have agreed to implement the Proposed Transaction on the terms and subject to the conditions of this deed.
- B Target and BidCo have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.
- C The Guarantors (acting severally, each in its Relevant Proportion, and Primavera Capital Fund II in respect of the obligations of Primavera only and Shanghai Pharma in respect of the obligations of SIIC Medical Science only) have each agreed to guarantee certain of the obligations of, and to provide funding to, BidCo in connection with the Proposed Transaction.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this deed, unless the context otherwise requires, the following words and expressions have meanings as follows:

AcquireCo means a proprietary company to be incorporated under the laws of Victoria, Australia, which will be a wholly-owned subsidiary of HK HoldCo (which will be an entity directly held by Primavera and SIIC Medical Science in their Relevant Proportions).

Adviser means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to Target, BidCo or the Guarantors in connection with the Proposed Transaction.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and Target was the designated body.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

Authorised Person means, in respect of a person, including the Guarantors:

- (a) a director, officer, partner, member or employee of the person;
- (b) an Adviser of the person;
- (c) a director, officer or employee of an Adviser of the person; and
- (d) where the person is a Guarantor, a Guarantor Related Person.

BidCo means Primavera and SIIC Medical Science, acting severally, in their Relevant Proportions and subject at all times to the provisions of clause 20.

BidCo Group means BidCo and each of its Subsidiaries (excluding, at any time, Target and its Subsidiaries to the extent that Target and its Subsidiaries are subsidiaries of BidCo at that time). A reference to a member of the **BidCo Group** or a **BidCo Group Member** is a reference to BidCo or any such Subsidiary.

BidCo Indemnified Parties means each Authorised Person of a member of the BidCo Group respectively.

BidCo Warranties means the representations and warranties of BidCo set out in clause 11.1.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, New South Wales, Australia, Hong Kong Special Administrative Region of the People's Republic of China and Shanghai, People's Republic of China.

Claim means a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgement, award, damage, loss, costs, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute.

Competing Transaction means any offer, expression of interest, proposal, transaction or arrangement by a third party (other than BidCo, the Guarantors or their Related Bodies Corporate) that, if completed, would mean a person or two or more persons who are Associates:

- (a) would acquire a Relevant Interest or voting power in 10% or more of Target's Shares or of securities of any member of the Target Group;
- (b) would enter into, buy, dispose of, terminate or otherwise deal with any cash settled equity swap or other synthetic, economic or derivative transaction connected with or relating to 10% or more of the Target Shares or of the securities of any member of the Target Group;

- (c) would directly or indirectly acquire or obtain an interest (including an economic interest) in all or a substantial part or material part of the business conducted by, or assets or property of, Target or any member of the Target Group;
- (d) would acquire Control of Target or any member of the Target Group; or
- (e) may otherwise acquire, or merge with, Target or any member of the Target Group,

whether by way of takeover bid, scheme of arrangement, capital reduction, buy-back, sale of assets, sale of securities, strategic alliance, dual listed company structure (or other synthetic merger), joint venture, partnership or any proposal by Target to implement any reorganisation of capital. Each successive material modification or variation of any proposal, offer or transaction in relation to a Competing Transaction will constitute a new Competing Transaction.

Conditions means the conditions set out in clause 3.1 and **Condition** means any one of them.

Confidentiality Agreement means the confidentiality agreement between Target and the Guarantors dated 23 May 2016.

Control has the meaning given under section 50AA of the Corporations Act. **Controlled** has the equivalent meaning.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Deed Poll means the deed poll to be executed in favour of the Scheme Shareholders prior to the First Court Date, in the form to be agreed by the parties acting in good faith.

Deferred Exercise Price Amount has the meaning given to that term in clause 5.1.

Delivery Time means 8.00am on the Second Court Date.

Due Diligence Material means:

- (a) all documents and written information disclosed by, or on behalf of, Target and its Subsidiaries (including management presentations and all written responses provided in response to written questions or requests for information) to BidCo, the Guarantors or any of their respective Authorised Persons prior to the date of this deed for the purposes of the Proposed Transaction; and
- (b) all documents and information disclosed by, or on behalf of, Target and its Subsidiaries (including management presentations and all written responses provided in response to written questions or requests for information) contained in the Project Anderson online data room, the index for which materials have been initialled for identification by Target's solicitors on behalf of Target and by BidCo's solicitors on behalf of BidCo.

Effective means, when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

Effective Date, with respect to the Scheme, means the date on which the Scheme becomes Effective.

End Date means the later of:

- (a) 31 March 2017; or
- (b) such other date and time agreed in writing between BidCo and Target.

Equity Commitment Letters means the binding, executed commitment letters dated on or about the date of this deed addressed to:

- (a) Primavera and Target from Primavera Capital Fund II and agreed to, and accepted by, Target and Primavera; and
- (b) SIIC Medical Science and Target from Shanghai Pharma and agreed to, and accepted by, Target and SIIC Medical Science.

Escrow Agreement means the escrow agreement to be executed by Stakeholder, Primavera, SIIC Medical Science and Target in which, amongst other things, those parties will agree their

respective rights and obligations relating to the cash component of the Scheme Consideration to be held by the Stakeholder in the Escrow Account and the Letters of Credit to be delivered to, and held by, the Stakeholder.

Escrow Account means a settlement escrow account operated by the Stakeholder and subject to the Escrow Agreement.

Excluded Shareholder means any Target Shareholder who is a member of the BidCo Group, Primavera Capital Fund II, Shanghai Pharma or a wholly-owned subsidiary of Primavera Capital Fund II or Shanghai Pharma.

Exclusivity Period means the period commencing on the date of this deed and ending on the earliest of:

- (a) the End Date;
- (b) the Effective Date of the Scheme; and
- (c) the date this deed is terminated in accordance with its terms.

FATA means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act.

Governmental Agency means any foreign or Australian government or representative of a government or any foreign or Australian governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX and any regulatory organisation established under statute or any stock exchange and includes any PRC Governmental Agency.

Guaranteed Obligations has the meaning given to that term in clause 6.1(c).

Guarantor means each of Primavera Capital Fund II and Shanghai Pharma, acting severally, in their Relevant Proportions and subject at all times to the provisions of clause 20.

Guarantor Indemnified Parties means each of:

- (a) Primavera Capital Fund II and its Related Bodies Corporate and Authorised Persons; and
 - (b) Shanghai Pharma and its Related Bodies Corporate and Authorised Persons,
- respectively.

Guarantor Prescribed Occurrence means the occurrence of an Insolvency Event in relation to BidCo or a Guarantor.

Guarantor Related Person means, in respect of a Guarantor:

- (a) a Related Body Corporate of that Guarantor; and
- (b) any director, officer, member or employee of that Guarantor or of a Related Body Corporate of that Guarantor.

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Target Shareholders present and voting, either in person or by proxy.

HK HoldCo means a private company to be incorporated under the laws of Hong Kong Special Administrative Region of the People's Republic of China and to be held by each of Primavera and SIIIC Medical Science in their Relevant Proportions, and all references in this document to HK HoldCo are to HK HoldCo following its incorporation.

HK HoldCo Share means a management share in HK HoldCo which:

- (a) is a separate class of share;
- (b) has the right to vote only at class meetings of holders of HK HoldCo Shares or otherwise as the directors of HK HoldCo determine;
- (c) has other rights and transfer restrictions; and

- (d) on specified events acquires rights equivalent to ordinary shares, in accordance with a termsheet, the terms of which are to be agreed between BidCo and Management Shareholders (acting reasonably) or failing agreement between BidCo and Management Shareholders, determined by BidCo acting reasonably and in good faith.

Illegitimate Circumstances means circumstances where the benefit was not legitimately due to that person or the person was not legally permitted to be influenced by the benefit.

Implementation Date means, with respect to the Scheme, the fifth Business Day, or such other Business Day as the parties agree, following the Record Date for the Scheme.

Impugned Amount has the meaning given to that term in clause 15.4.

Independent Expert means an expert, independent of the parties, engaged by Target in good faith, to opine on whether the Scheme is in the best interest of Target Shareholders.

Independent Expert's Report means the report from the Independent Expert commissioned by Target for inclusion in the Scheme Booklet, which includes a statement by the Independent Expert on whether, in its opinion, the Scheme is in the best interests of Target Shareholders (and sets out the reasons for that opinion), and includes any update of that report by the Independent Expert.

Insolvency Event means in relation to a person:

- (a) **insolvency official:** the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements:** the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **winding up:** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments:** the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business:** the person ceases or threatens to cease to carry on business;
- (f) **insolvency:** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration:** the person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement:** the person executing a deed of company arrangement;
- (i) **person as trustee or partner:** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
- (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events:** anything analogous to those set out in any of paragraphs (a) to (g) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

and a person shall be **Insolvent** if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

Interest Rate means the 30 day Bank Bill Swap Reference Rate as published as at the relevant due date for payment in the 'Money & Bond Markets' section of The Australian Financial Review.

Letter of Credit is defined in clause 4.2(a)(i)(B).

Listing Rules means the official listing rules of ASX as amended or waived from time to time.

Long Term Incentive Plan means the Target Long Term Incentive Plan dated 21 August 2015.

Management Shareholder means each of the following persons:

- (a) Ryan d'Almeida;
- (b) Phillip Wiltshire;
- (c) Roger Scott;
- (d) John Stanton;
- (e) Brent Hall;
- (f) Martin Drinkrow; and
- (g) Jay Drezner.

Material Contract is defined in clause 9.2(m).

Permitted Dividend means an ordinary dividend in accordance with the current dividend policy of Target that is declared and paid before the Implementation Date, up to a maximum of \$0.033 per Target Share.

PRC means the People's Republic of China.

Proposed Transaction means:

- (a) the proposed acquisition by BidCo in accordance with the terms and conditions of this deed, of all of the Target Shares (other than the Target Shares held by an Excluded Shareholder) through the implementation of the Scheme; and
- (b) all associated transactions and steps contemplated by this deed.

Primavera Capital Fund II Claim Amount is defined in clause 11.10(b)(i)(A).

Primavera Capital Fund II Information means such information regarding:

- (a) AcquireCo known to Primavera Capital Fund II or Primavera,
- (b) Primavera;
- (c) Primavera Capital Fund II; and
- (d) Primavera's and Primavera Capital Fund II's indirect interests in HK HoldCo and AcquireCo,

that is provided by, or on behalf of, Primavera Capital Fund II or Primavera or any of their Advisers to Target or the Independent Expert:

- (e) to enable the Scheme Booklet to be prepared and completed in compliance with all applicable laws;
- (f) to enable applications for Regulatory Approvals to be made; and
- (g) otherwise in compliance with Primavera's obligations under clause 7.2(a).

Primavera Guaranteed Obligations has the meaning given to that term in clause 6.1(a)(i).

Record Date means, in respect of the Scheme, 7.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Regulatory Approvals means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, license, direction, declaration, authority, waiver, modification, or exemption from, by or with a Governmental Agency; or

- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Governmental Agency intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Related Body Corporate of a person, means:

- (a) a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted; and
- (b) in respect of a Guarantor, includes any fund, limited partnership or other collective investment vehicle which is managed or controlled by that Guarantor (or its general partner) or a related body corporate (as referred to paragraph (a) above) of that Guarantor.

Relevant Interest has the meaning given in the Corporations Act.

Relevant Notice has the meaning given to that term in clause 12.6(a)(vi).

Relevant Proportion means the following proportions:

- (a) Primavera or Primavera Capital Fund II (as the case may be): 40%; and
- (b) SIIC Medical Science or Shanghai Pharma (as the case may be): 60%.

Rival Acquirer has the meaning given to that term in clause 12.6(a)(vii).

RG 60 means ASIC Regulatory Guide 60 issued by ASIC.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Target and Scheme Shareholders in respect of all Scheme Shares, substantially in the form to be agreed by the parties acting in good faith, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by each party.

Scheme Booklet means the explanatory booklet to be prepared by Target in respect of the Proposed Transaction in accordance with the terms of this deed and to be despatched to Target Shareholders and which must:

- (a) include the information in clause 7.3(b); and
- (b) comply with the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules.

Scheme Consideration means, in respect of each Scheme Share held by:

- (a) a Scheme Shareholder (other than a Management Shareholder), \$2.25 in cash less the amount of any Permitted Dividend; and
- (b) a Scheme Shareholder which is a Management Shareholder, both:
 - (i) that number of HK HoldCo Shares for each Target Management Share held by that Management Shareholder calculated using the following formula:

$$\frac{(2.25 - P)}{V}, \text{ where:}$$

P = the amount of any Permitted Dividend paid or to be paid; and

V = the A\$ equivalent (on the date of funding and by no later than 1 Business Day before the Implementation Date) of the aggregate amount of equity or other forms of funding provided by Primavera and SIIC Medical Science or their affiliates to HK HoldCo divided by the number of ordinary shares in HK HoldCo on issue on the Implementation Date;

and

- (ii) \$2.25 in cash, less the amount of any Permitted Dividend in respect of each Scheme Share for which that Management Shareholder (or its nominee) did not receive HK HoldCo Shares.

Scheme Consideration Escrow Time means on or before 10:00am on the day on which the deadline falls for delivery by Target Shareholders to Target of proxies in respect of the Scheme Meeting, which deadline must be no more than 48 hours before the Scheme Meeting.

Scheme Hearings means the legal proceedings occurring on the First Court Date or the Second Court Date.

Scheme Meeting means the meeting of Target Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Share means a Target Share on issue as at the Record Date other than:

- (a) any Target Share then held by an Excluded Shareholder (but including any such Target Share held on behalf of one or more third parties who are not Excluded Shareholders or otherwise in a fiduciary capacity on behalf of persons who are not Excluded Shareholders); or
- (b) where the context requires, Target Management Shares.

Scheme Shareholder means a person who holds one or more Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

Share Splitting means the splitting by a holder of Target Shares into two or more parcels of Target Shares whether or not it results in any change in beneficial ownership of the Target Shares.

Shanghai Pharma Claim Amount is defined in clause 11.10(b)(i)(B).

Shanghai Pharma Information means such information regarding:

- (a) AcquireCo known to Shanghai Pharma or SIIC Medical Science;
- (b) SIIC Medical Science;
- (c) Shanghai Pharma; and
- (d) SIIC Medical Science's and Shanghai Pharma's indirect interests in HK HoldCo and AcquireCo,

that is provided by or on behalf of SIIC Medical Science or Shanghai Pharma or any of their Advisers to Target or the Independent Expert:

- (e) to enable the Scheme Booklet to be prepared and completed in compliance with all applicable laws;
- (f) to enable applications for Regulatory Approvals to be made; and
- (g) otherwise in compliance with SIIC Medical Science's obligations under clause 7.2(a).

SIIC Medical Science Guaranteed Obligations has the meaning given to that term in clause 6.1(b)(i).

Stakeholder means a reputable Australian bank or other institution agreed in writing between BidCo and Target, acting as escrow agent in accordance with the Escrow Agreement.

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Superior Proposal means a bona fide Competing Transaction which the Target Board acting reasonably and in good faith and in order to satisfy what the Target Board reasonably considers to be its fiduciary or statutory duties, and after receiving written advice from its legal and financial advisers, if completed substantially in accordance with its terms, determines is reasonably likely to result in a transaction more favourable to Target Shareholders as a whole than the Proposed

Transaction, having regard to matters including consideration, conditionality, funding, certainty and timing.

Target Board means the board of directors of Target as constituted from time to time (or any committee of the board of directors of Target constituted from time to time to consider the Proposed Transaction on behalf of Target).

Target Break Fee has the meaning given to that term in clause 13.3(a).

Target Director means a director of Target.

Target Group means Target and its Subsidiaries.

Target Indemnified Parties means each Authorised Person of a member of the Target Group.

Target Information means all information to be included by Target in the Scheme Booklet, including information that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by Target Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of Target's Directors and has not been previously disclosed to Target Shareholders, but does not include the Primavera Capital Fund II Information, the Shanghai Pharma Information and the Independent Expert's Report.

Target Management Share means, in respect of each Target Management Shareholder, each Scheme Share determined using the formula in clause 5.2, being Scheme Shares for which the consideration under the Scheme will be an amount of HK HoldCo Shares determined in accordance with the formula in the definition of Scheme Consideration.

Target Material Adverse Change means an event or circumstance that occurs or fails to occur, is announced or becomes known to BidCo (whether or not it becomes public) after the date of this deed which individually, or when aggregated with other event or circumstance of a similar kind or category, has resulted in, or is reasonably likely to result in:

- (a) a material and adverse effect on the business, assets, financial condition, results, operations, reputation or prospects of the Target Group (as a whole); or
- (b) without limiting the generality of paragraph (a):
 - (i) an adverse impact of at least \$31.6 million on the Target Group's consolidated revenue;
 - (ii) the Target Group's consolidated forecast revenue for FY2017 being less than \$179 million; or
 - (iii) an adverse impact of at least \$3.7 million on the Target Group's consolidated EBITDA;

each to be determined:

- (i) in accordance with the principles of Australian International Financial Reporting Standards and consistent with Target's historical basis of preparation of financial statements; and
- (ii) after taking into account all relevant matters which offset the impact on Target Group's consolidated revenue, consolidated forecast revenue for FY2017 or the Target Group's consolidated EBITDA (as the case may be),

but does not include any matter, event, circumstance or change to the extent:

- (c) Fairly Disclosed in the Due Diligence Materials, or that is reasonably foreseeable to arise from the disclosures in the Due Diligence Materials prior to the date of this deed;
- (d) Fairly Disclosed in documents that were publicly available prior to the date of this deed from public filings of Target with ASX; ASIC or in records open to public inspection maintained:
 - (i) by IP Australia;
 - (ii) by the Land Titles Office (or its equivalent) in each State and Territory in Australia;

- (iii) by the High Court, the Federal Court and the Supreme Courts in every State and Territory in Australia; or
- (iv) on the Australian Personal Property Securities Register;
- (e) occurring as a result of any matter, event or circumstance required by this deed, the Scheme or the transactions contemplated by them (including any reasonable costs incurred as a result of implementing the Scheme);
- (f) occurring as a result of fluctuations to the working capital of the Target Group in the ordinary course of business;
- (g) resulting from changes in the general economic conditions of the Target's industry;
- (h) it relates to any material adverse change or general disruption to the existing financial markets, political or economic conditions of Australia, Japan, the United Kingdom, the United States of America, Singapore, Hong Kong, China or the international financial markets or any change in national or international political, financial or economic conditions;
- (i) it relates to the payment by the Target of the Permitted Dividend;
- (j) occurring with the written consent of BidCo; or
- (k) resulting from changes in any applicable law, generally accepted accounting principles or the interpretation of them by any Government Agency.

Target Options means an option granted under Target's Long Term Incentive Plan to acquire, on exercise, a Target Share subject to the terms and conditions of such plan.

Target Parties means each member of the Target Group and their Related Bodies Corporate and Authorised Persons.

Target Performance Rights means a right granted under Target's Long Term Incentive Plan to acquire by way of issue a Target Share subject to the terms and conditions of such plan.

Target Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed and before the Delivery Time:

- (a) Target converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) any member of the Target Group resolves to reduce its share capital in any way;
- (c) any member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the Target Group issues shares, or grants a performance right or an option over its shares, or agrees to make such an issue or grant such a performance right or option other than pursuant to an exercise of an option or performance right before the Record Date where that option or performance right was on issue immediately before the date of this deed;
- (e) any member of the Target Group issues, or agrees to issue, convertible notes;
- (f) any member of the Target Group disposes, or agrees to dispose, of the whole, or a material or substantial part, of its business or property;
- (g) any member of the Target Group creates or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or a substantial part, of its business or property;
- (h) any member of the Target Group becomes Insolvent;
- (i) any member of the Target Group takes or omits to take an action which would result in a material breach of law; or
- (j) any member of the Target Group changes any accounting policy applied by them to report their financial position,

provided that a Target Prescribed Occurrence will not include any matter to the extent:

- (k) required to be done or procured by Target pursuant to this deed or the Scheme;
- (l) Fairly Disclosed in filings of Target on ASX prior to the date of this deed;
- (m) required by law or by an order of a court or Government Agency;
- (n) it is Fairly Disclosed in the Due Diligence Materials;
- (o) expressly permitted pursuant to this deed; or
- (p) it has been previously approved in writing by BidCo or a Guarantor.

Target Register means the register of members of Target maintained by, or on behalf of, Target in accordance with section 168(1) of the Corporations Act.

Target Share means an issued fully paid ordinary share in the capital of Target.

Target Shareholder means each person who is registered in the Target Register as a holder of Target Shares.

Target Warranties means the representations and warranties of Target set out in clause 11.5.

Timetable means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

Transaction means the acquisition by BidCo of the Scheme Shares for the Scheme Consideration pursuant to the Scheme.

Transaction Costs means the costs, fees, or other form of compensation or remuneration incurred, expensed, provisioned or that will be incurred upon implementation of the Scheme by Target in relation to the Transaction, including the expenses incurred with MinterEllison, the Independent Expert and JP Morgan as well as with barristers and printers, up to a maximum of \$5.5 million, other than costs:

- (a) in relation to compliance with clauses 3.6 and 3.7 of this deed; or
- (b) relating to any tax ruling, any objection by or negotiations with any Government Agency:
 - (i) convene the Scheme meeting on the First Court Date; or
 - (ii) approve the Scheme on the Second Court Date; or
- (c) costs attributable to the default, failure, delay or lack of reasonable cooperation by BidCo, the Guarantors or their advisers; or
- (d) incurred by Target with the prior written consent of BidCo and the Guarantors that those costs should fall outside the definition of Transaction Costs, such consent not to be unreasonably withheld or delayed.

Treasurer means the Treasurer of the Commonwealth of Australia.

1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) a reference to time is to Sydney, Australia time;

- (h) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by **including**, **for example** or similar expressions;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (p) a reference to **Fairly Disclosed** means disclosed to any of BidCo or the Guarantors (as applicable) or any of their respective Authorised Persons in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction, to identify the nature and scope of the relevant matter, event or circumstance; and
- (q) a reference to **best endeavours** does not include an obligation on a party to:
 - (i) institute legal proceedings (for clarity, other than attending the Scheme Hearings and seeking leave to be heard), or appeal or review the decision of any Government Agency or orders of the Court at the Scheme Hearings; or
 - (ii) amend the terms of the Transaction agreed to by the parties to address the requirements of a Government Agency.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Listing requirements included as law

A listing rule or operating rule of a financial market or of a clearing and settlement facility will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

2. Agreement to propose Scheme

- (a) Target agrees to propose and implement the Scheme on, and subject to, the terms and conditions of this deed and substantially in accordance with the Timetable.
- (b) Save where it would be unlawful for them to do so and provided that nothing in this clause 2(b) requires either of BidCo or either of the Guarantors to:
 - (i) institute any legal proceedings (for clarity, other than attending the Scheme Hearings and seeking leave to be heard); or
 - (ii) appeal or review the decision of any Government Agency or orders of the Court at the Scheme Hearings,

BidCo and each of the Guarantors (all acting severally) agree to assist Target in proposing and implementing the Scheme on, and subject to, the terms and conditions of this deed, and substantially in accordance with the Timetable.

3. Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(Restraints)** no temporary restraining order, preliminary or permanent injunction or other order issued by any Court of competent jurisdiction or Governmental Agency or other legal restraint or prohibition preventing the Scheme is in effect at the Delivery Time;
- (b) **(Regulatory Approvals):**
 - (i) **(ASIC and ASX)** before the Delivery Time, ASIC and ASX issue or provide such consents, waivers, modifications, or approvals as are necessary or which Target and BidCo agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before 8.00am (AEST) on the Second Court Date;
 - (ii) **(FIRB)** before the Delivery Time, either:
 - (A) the Treasurer (or his delegate) has provided a notice in writing stating or to the effect that, in terms of Australia's foreign investment policy, the Australian Government does not object to BidCo or AcquireCo (as the case may be) acquiring the Scheme Shares pursuant to the Scheme; or
 - (B) by reason of lapse of time, the Treasurer is no longer empowered under the FATA to make an order prohibiting the acquisition of the Scheme Shares by BidCo or AcquireCo (as the case may be) under the Scheme;
 - (iii) **(OIO)** before the Delivery Time, BidCo has received all consents, approvals or clearances which are required under the Overseas Investment Act 2005 (NZ) and the Overseas Investment Regulations 2005 (NZ) to implement the Proposed Transaction;
 - (iv) **(PRC Regulatory Approvals)** before the Delivery Time, SIIC Medical Science and Shanghai Pharma, respectively have:
 - (A) received all Regulatory Approvals and consents; and
 - (B) made all necessary filings,
(other than those in clauses 3.1(b)(i), 3.1(b)(ii) and 3.1(b)(iii), provided for above) which are required by each of them respectively, in connection with the implementation of the Proposed Transaction including, but not limited to, those Regulatory Approvals, consents and filings which are required to be obtained from, or made with, the following PRC governmental agencies:
 - (C) State-owned Assets Supervision and Administration Commission of Shanghai Municipal Government;
 - (D) Shanghai Municipal Commission of Commerce;
 - (E) National Development and Reform Commission of China; and
 - (F) the State Administration of Foreign Exchange of China;
- (c) **(No Target Prescribed Occurrence)** no Target Prescribed Occurrence occurs between the date of this deed and the Delivery Time;
- (d) **(No Target Material Adverse Change)** no Target Material Adverse Change occurs between the date of this deed and the Delivery Time;

- (e) **(No Guarantor Prescribed Occurrence)** no Guarantor Prescribed Occurrence occurs between the date of this deed and the Delivery Time;
- (f) **(Target Warranties)** the Target Warranties being true and correct in all material respects on the date of this deed and the Delivery Time, except where expressed to be operative at another date;
- (g) **(BidCo Warranties)** the BidCo Warranties being true and correct in all material respects on the date of this deed and the Delivery Time, except where expressed to be operative at another date;
- (h) **(Shareholder approval)** the Scheme is approved by Target Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (i) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act; and
- (j) **(Independent Expert)** the Independent Expert provides the Independent Expert's Report to Target, stating that in its opinion the Scheme is in the best interests of Target Shareholders, on or before the date on which the Scheme Booklet is registered with ASIC under the Corporations Act, and the Independent Expert does not change or publicly withdraw this conclusion prior to the Second Court Date.

3.2 Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a) (Restraints), 3.1(b)(ii)(FIRB), 3.1(b)(iii) (OIO), 3.1(h) (Shareholder approval) and 3.1(i) (Court approval) are for the benefit of each party and any breach or non-satisfaction of them cannot be waived.
- (b) The Condition in 3.1(b)(i) (ASIC and ASX) is for the benefit of each party and any breach or non-satisfaction of it may only be waived (if capable of waiver) with the written consent of all parties.
- (c) The Conditions in clauses 3.1(c) (No Target Prescribed Occurrence), 3.1(d) (Target Material Adverse Change) and 3.1(f) (Target Warranties) are for the sole benefit of BidCo and the Guarantors and any breach or non-fulfilment of them may only be waived by BidCo and the Guarantors giving their written consent, provided that prior to any such waiver BidCo and the Guarantors have consulted with Target in respect of the relevant breach or non-fulfilment of the Condition and have provided Target with such information deemed relevant by BidCo and the Guarantors to the decision of BidCo and the Guarantors to waive the relevant Condition.
- (d) The Condition in clause 3.1(b)(iv) (PRC Regulatory Approvals) is for the sole benefit of Shanghai Pharma and SIIC Medical Science and any breach or non-fulfilment of it may only be waived by Shanghai Pharma and SIIC Medical Science giving their written consent, provided that prior to any such waiver Shanghai Pharma and SIIC Medical Science have consulted with Target in respect of the relevant breach or non-fulfilment of the Condition and have provided Target with such information deemed relevant by Shanghai Pharma and SIIC Medical Science to the decision of Shanghai Pharma and SIIC Medical Science to waive the relevant Condition.
- (e) The Conditions in clauses 3.1(e) (No Guarantor Prescribed Occurrence), 3.1(g) (BidCo Warranties) and 3.1(j) (Independent Expert) are for the sole benefit of Target and any breach or non-fulfilment of them may only be waived by Target giving its written consent.
- (f) A party entitled to waive a Condition pursuant to this clause 3.2 (either individually or jointly) may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to the Delivery Time.
- (g) If a party waives the breach or non-fulfilment of any Condition, that waiver will not preclude it from suing the other party for any other breach of this deed including without limitation a breach that resulted in the non-fulfilment of the Condition that was waived.

3.3 Procuring satisfaction of the Conditions

- (a) Target, each of the Guarantors (acting severally) and BidCo (severally) will use their respective best endeavours to procure that each of the Conditions is satisfied as soon as

reasonably practicable after the date of this deed or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).

- (b) Without limiting clauses 3.3(a), 3.4 and 3.5, each of Target, the Guarantors and BidCo must:
- (i) consult and co-operate fully with each other party in relation to the satisfaction of the Conditions, including in relation to obtaining all necessary Regulatory Approvals;
 - (ii) use their respective best endeavours to ensure that there is no occurrence within the control of Target, BidCo or the Guarantors (as the context requires) that would prevent a Condition being satisfied;
 - (iii) promptly apply for all relevant Regulatory Approvals and provide each other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals, and allow the other party a reasonable opportunity to make comments on them, and require changes to them prior to them being made;
 - (iv) to the extent permitted by applicable law, promptly provide each other party with copies of any written communications received from a Governmental Agency, and keep the other parties fully informed of any verbal communications with a Governmental Agency;
 - (v) take all the steps for which it is responsible as part of the Regulatory Approvals process;
 - (vi) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time;
 - (vii) provide each other party with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals; and
 - (viii) to the extent permitted by applicable law, allow each other party and its Authorised Persons the opportunity to be present, represented and make submissions at any meetings with any Governmental Agency relating to the Regulatory Approvals in respect of the Scheme.
- (c) Insofar as they relate to the Condition in clause 3.1(b)(iv) (PRC Regulatory Approvals):
- (i) the obligations under clauses 3.3(a) and 3.3(b) apply only to Target, Shanghai Pharma and SIIC Medical Science; and
 - (ii) breach by Shanghai Pharma and SIIC Medical Science of their obligations under clauses 3.3(a) and 3.3(b) will, in no circumstances, constitute a breach by Primavera Capital Fund II and Primavera of those clauses and Primavera Capital Fund II and Primavera will have no liability for a breach by Shanghai Pharma and SIIC Medical Science of their obligations under clauses 3.3(a) and 3.3(b).

3.4 Notifications

Each of BidCo, the Guarantors and Target must:

- (a) keep each other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify each other party in writing if it becomes aware that any Condition has been satisfied; and
- (c) promptly notify each other party in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

On the Second Court Date, BidCo and Target will provide a joint certificate to the Court confirming, as at the Delivery Time, whether or not the Conditions (other than the Condition in clause 3.1(i)) have been satisfied or waived in accordance with this deed.

3.6 Scheme voted down

If the Scheme is not approved by Target Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and Target or BidCo considers, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then Target must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by Target to represent it in Court proceedings related to the Scheme considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

3.7 Conditions not capable of being fulfilled

- (a) If a Condition is not satisfied, or becomes incapable of being satisfied, before the End Date, then unless the relevant Condition (where capable of waiver) is waived, the parties must consult in good faith with a view to determining whether they can reach agreement with respect to:
 - (i) the terms (if any) on which the party or parties with the benefit of the relevant Condition will waive that Condition;
 - (ii) an extension of the time for satisfaction of the relevant Condition or an extension of the End Date (as the case may be);
 - (iii) the Proposed Transaction proceeding by way of alternative means or methods; andif the parties are unable to reach such agreement within 5 Business Days or a shorter period ending at 8am on the Business Day before the Second Court Date then, subject to clause 3.7(b), before the Delivery Time any party may terminate the deed by notice to the others without any liability to any party by reason of that termination alone.
- (b) A party will not be entitled to terminate this deed pursuant to clause 3.7(a) if the relevant Condition has not been satisfied as a result of:
 - (i) a breach of this deed by that party; or
 - (ii) a deliberate act or omission of that party which directly or materially contributed to that Condition not being satisfied.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being satisfied if:

- (a) in the case of a Condition relating a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

4. Scheme structure

4.1 Scheme

The parties acknowledge and agree that, subject to the Scheme becoming Effective, on the Implementation Date the general effect of the Scheme will be that all of the Scheme Shares will be transferred to BidCo or AcquireCo (as the case may be) and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration.

4.2 Scheme Consideration

(a) BidCo covenants in favour of Target (in its own right and separately as trustee for each Scheme Shareholder) that, if the Scheme becomes Effective, in consideration of the transfer of the Scheme Shares to BidCo or AcquireCo (as the case may be), BidCo will pay the relevant Scheme Consideration to each of the Scheme Shareholders (including procuring the issue of HK HoldCo Shares to Management Shareholders in respect of their Target Management Shares) and for that purpose, each of Primavera and SIIC Medical Science will:

(i) **(cash component of the Scheme Consideration)**

by no later than the Scheme Consideration Escrow Time:

(A) **(deposit into Escrow Account)** deposit into the Escrow Account an amount in cleared funds equal to the aggregate amounts of each of their Relevant Proportions of the cash component of the Scheme Consideration for all Scheme Shares held by Scheme Shareholders; or

(B) **(delivery of standby irrevocable letters of credit)** deliver to Stakeholder standby irrevocable letters of credit issued by a globally recognised bank, in respect of an amount equal to the aggregate amounts of each of their Relevant Proportions of the cash component of the Scheme Consideration for all Scheme Shares held by Scheme Shareholders, which letters of credit must either be governed by Australian law or the globally recognised bank which issues the letters of credit must agree to submit to the jurisdiction of the Australian courts (each a **Letter of Credit**).

(ii) **(HK HoldCo Shares)**

procure:

(A) on or as soon as practicable after the Effective Date and, in any event no later than one Business Day before the Implementation Date, that BidCo provides Target with a certificate (duly executed by BidCo) which sets out BidCo's good faith and bona fide calculation of the Scheme Consideration due to be paid to a Management Shareholder in accordance with paragraph (b) of the definition of Scheme Consideration (**Certificate**). The Certificate must be accompanied by evidence of the aggregate amount of funding provided by Primavera and SIIC Medical Science (or their respective affiliates) to HK HoldCo, being:

(I) an unaudited statement of financial position of HK HoldCo; and

(II) a copy of HK HoldCo's share register.

The Certificate delivered by BidCo to Target, absent any manifest error, will be prima facie evidence of the aggregate amount due to be paid to Management Shareholders in accordance with the definition of Scheme Consideration;

(B) on the Implementation Date and otherwise in accordance with the Scheme, the issue by HK HoldCo to each Management Shareholder (or its nominee) of that number of HK HoldCo Shares for each Target Management Share held by that Target Shareholder determined in accordance with the formula in the definition of Scheme Consideration, rounded up to the nearest whole number of HK HoldCo Shares;

- (C) on the Implementation Date and otherwise in accordance with the Scheme, the entry of the name and address of each Management Shareholder in the register of shares of HK HoldCo in respect of the HK HoldCo Shares issued to each Management Shareholder;
- (D) on the Implementation Date, the issue by HK HoldCo to each Management Shareholder (or its nominee) of a copy of the terms of issue of the HK HoldCo Shares accompanied by wording to the effect that they have been issued HK HoldCo Shares and their acceptance of the HK HoldCo Shares constitutes agreement by them to the articles of association of HK HoldCo; and
- (E) that on or before the date that is two Business Days after the Implementation Date and otherwise in accordance with the Scheme, a share certificate is sent to the address of each Management Shareholder to whom HK HoldCo Shares are issued in accordance with clause 4.2(a)(ii)(A) representing the number of HK HoldCo Shares issued to that Management Shareholder.

(b) **Escrow Account**

- (i) Prior to the Effective Date, all interest accruing on the funds in the Escrow Account accrue in favour of Primavera or SIIC Medical Science in proportion to the funds which they have respectively paid into the Escrow Account.
- (ii) With effect from the Effective Date, the Stakeholder will hold all funds in the Escrow Account for the benefit of the Scheme Shareholders and all interest which accrues on those funds accrues for the benefit of the Scheme Shareholders.
- (iii) On the Implementation Date, following receipt of written notice from BidCo to the Stakeholder, the funds in the Escrow Account will be immediately disbursed by the Stakeholder to Target (which will hold the Scheme Consideration on behalf of each Scheme Shareholder) in accordance with BidCo's obligations under this deed and the Scheme.
- (iv) If:
 - (A) the Scheme Meeting is not held;
 - (B) the Conditions in clauses 3.1(h) or 3.1(i) are not fulfilled; or
 - (C) the Scheme does not become Effective,
 in each case by the End Date (or such earlier date as it is clear that these will not be fulfilled), the funds in the Escrow Account will be immediately returned to the parties which deposited those funds into the Escrow Account (plus the accrued interest thereon).

(c) **Letters of Credit**

- (i) The parties each agree that the Letters of Credit will be held by the Stakeholder in accordance with the Escrow Agreement.
- (ii) Target acknowledges and agrees that it is only entitled to draw down funds under a Letter of Credit on the Implementation Date and advance those funds to Scheme Shareholders in accordance with the Scheme, if the Scheme becomes Effective.
- (iii) On the Implementation Date, following receipt of written notice by BidCo to the Stakeholder, the Stakeholder will immediately release the Letters of Credit to Target which may draw down funds under the Letters of Credit and advance those funds to Scheme Shareholders in accordance with the Scheme.
- (iv) If:
 - (A) the Scheme Meeting is not held;
 - (B) the Conditions in clauses 3.1(h) or 3.1(i) are not fulfilled; or
 - (C) the Scheme does not become Effective,

in each case by the End Date (or such earlier date as it is clear that these will not be fulfilled), BidCo will give notice to the Stakeholder to immediately return any Letters of Credit to the parties which delivered them to Target.

(d) **Compliance with obligation to pay cash component of Scheme Consideration**

- (i) The parties acknowledge and agree that:
 - (A) Primavera will have complied with its obligations to pay its Relevant Proportion of the cash component of the Scheme Consideration, and will not be liable for any Claim under this deed, if it has:
 - (I) deposited funds in the aggregate amount of its Relevant Proportion of the cash component of the Scheme Consideration into the Escrow Account in accordance with clause 4.2(a)(i)(A); or
 - (II) delivered a Letter of Credit in the aggregate amount of its Relevant Proportion of the cash component of the Scheme Consideration in accordance with clause 4.2(a)(i)(B); and
 - (B) SIIC Medical Science will have complied with its obligations to pay its Relevant Proportion of the cash component of the Scheme Consideration, and will not be liable for any Claim under this deed, if it has:
 - (I) deposited funds in the aggregate amount of its Relevant Proportion of the cash component of the Scheme Consideration into the Escrow Account in accordance with clause 4.2(a)(i)(A); or
 - (II) delivered a Letter of Credit in the aggregate amount of its Relevant Proportion of the cash component of the Scheme Consideration in accordance with clause 4.2(a)(i)(B); and
 - (C) neither of Primavera or SIIC Medical Science are liable for failure by the other of them to comply with clauses 4.2(a)(i)(A) and 4.2(a)(i)(B) and a failure by either of Primavera or SIIC Medical Science to comply with clauses 4.2(a)(i)(A) and 4.2(a)(i)(B) will not constitute a breach by the other of them of their obligations under those clauses.
 - (ii) In the event that either of Primavera or SIIC Medical Science fails to comply with its obligation to pay its Relevant Proportion of the cash component of the Scheme Consideration by the Scheme Consideration Escrow Time in accordance with clause 4.2(a)(i), Target must, either:
 - (A) on written notice to BidCo and the Guarantors, postpone the Scheme Meeting to such other date or time (prior to the End Date) it determines; or
 - (B) on at least 2 hours written notice to BidCo, terminate this deed.
 - (iii) If, following postponement of the Scheme Meeting by Target under clause 4.2(d)(ii)(A), either of Primavera or SIIC Medical Science (as the case may be) still fails to comply with its obligation under clause 4.2(a)(i) to pay its Relevant Proportion of the cash component of the Scheme Consideration by the Business Day prior to the date of the Scheme Meeting so postponed, Target must, on at least 2 hours written notice to BidCo, terminate this deed.
- (e) Subject to the Scheme becoming Effective and BidCo complying with its obligations under clause 4.2(a), at 10.00am on the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:
- (i) all existing Scheme Shares will be transferred to BidCo or AcquireCo (as the case may be); and
 - (ii) in exchange, each Scheme Shareholder or, if Target permits and subject to any regulatory requirements, a nominee for a Scheme Shareholder (in accordance with a Scheme Shareholder's directions) will receive the Scheme Consideration.

4.3 Deed Poll

BidCo and Guarantors severally covenant in favour of Target (in its own right and separately as trustee for each of the Scheme Shareholders) to:

- (a) negotiate, in good faith and acting reasonable, the terms of the Deed Poll;
- (b) procure that the relevant parties to the Deed Poll execute and deliver the Deed Poll prior to the despatch of the Scheme Booklet; and
- (c) perform the Deed Poll in their Relevant Proportions.

4.4 HK HoldCo

Primavera and SIIC Medical Science severally covenant in favour of Target to procure the incorporation of HK HoldCo prior to the First Court Date.

5. Management Shareholders

5.1 Treatment of Target Options and Target Performance Rights

Target must take such action as is necessary after the Effective Date and prior to the Record Date to ensure that all Target Options and Target Performance Rights which have not already been exercised or have not already vested do vest or are exercised (as the case may be) in accordance with the existing terms of those Target Options and Target Performance Rights and all exercise price amounts are either paid to Target prior to the Record Date or deferred until the Implementation Date (**Deferred Exercise Price Amount**), and Target must, prior to the Record Date, issue the number of Target Shares required by the terms of those Target Options and Target Performance Rights on such exercise or vesting (as the case may be), so that the relevant former holders of the Target Options and the Target Performance Rights (as the case may be) can participate in the Scheme.

5.2 Target Management Shares

The number of Target Shares held by a Management Shareholder which are "Target Management Shares" for the purposes of receiving the HK HoldCo Shares as Scheme Consideration will be calculated using the following formula:

$$\frac{\left(\frac{A+B}{2.25-P} \right)}{2}$$

rounded up to the nearest whole number, where:

A = (the number of Scheme Shares held by the Management Shareholder (excluding those in B)*) X (2.25 minus the amount of any Permitted Dividend);

B = (the number of Scheme Shares issued to and held by the Management Shareholder pursuant to the early vesting and exercise of Target Options held by the Management Shareholder) X ((2.25 minus the amount of any Permitted Dividend) minus the exercise price for a Target Option**);

P = the amount of any Permitted Dividend paid or to be paid.

*but which includes, for avoidance of doubt all Scheme Shares issued to the Management Shareholder pursuant to the early vesting and exercise of all Target Performance Rights held by the Management Shareholder

**being \$2.10, unless otherwise ascertained from the Due Diligence Material

5.3 Payment direction - Deferred Exercise Price Amount

Before the Delivery Time, Target will procure that each Management Shareholder delivers to Target and BidCo a written irrevocable direction to pay to Target, on the Implementation Date and from the cash component of the Scheme Consideration payable to that Management Shareholder, an amount equal to the aggregate Deferred Exercise Price Amount, which payment

will be in satisfaction of that Management Shareholder's obligation to pay to Target the Deferred Exercise Price Amount.

6. Guarantee

6.1 Guarantee and indemnity

In consideration of Target executing this deed at the request of:

- (a) Primavera Capital Fund II - Primavera Capital Fund II unconditionally and irrevocably:
 - (i) guarantees to Target the due and punctual performance and observance by Primavera of all of the obligations contained in, or implied under, this deed that must be performed and observed by Primavera (**Primavera Guaranteed Obligations**); and
 - (ii) subject to clause 11.10(b) indemnifies Target against all losses, damages, costs and expenses which Target may now or in the future suffer or incur consequent on or arising directly out of any breach or non-observance by Primavera of a Primavera Guaranteed Obligation.
- (b) Shanghai Pharma - Shanghai Pharma unconditionally and irrevocably:
 - (i) guarantees to Target the due and punctual performance and observance by SIIC Medical Science of all of the obligations contained in, or implied under, this deed that must be performed and observed by SIIC Medical Science (**SIIC Medical Science Guaranteed Obligations**); and
 - (ii) subject to clause 11.10(b) indemnifies Target against all losses, damages, costs and expenses which Target may now or in the future suffer or incur consequent on or arising directly out of any breach or non-observance by SIIC Medical Science of a SIIC Medical Science Guaranteed Obligation.
- (c) For the purposes of this clause 6, **Guaranteed Obligations** are:
 - (i) in respect of Primavera Capital Fund II, the Primavera Guaranteed Obligations; and
 - (ii) in respect of Shanghai Pharma, the SIIC Medical Science Guaranteed Obligations.

6.2 Extent of guarantee and indemnity

This clause 6 applies and the obligations of the Guarantors remain unaffected despite:

- (a) an amendment of this deed (other than to the terms of the guarantee or indemnity in this deed); or
- (b) a rule of law or equity to the contrary; or
- (c) an insolvency event affecting a person or the death of a person; or
- (d) a change in the constitution, membership, or partnership of a person; or
- (e) the partial performance of the Guaranteed Obligations; or
- (f) the Guaranteed Obligations not being enforceable at any time; or
- (g) Target granting any time or other indulgence or concession to, compounding or compromising with, or wholly or partially releasing BidCo or the Guarantors of an obligation (other than an obligation under this clause 6); or
- (h) any other matter occurring that might otherwise release, discharge or affect the obligations of the Guarantors under this deed other than performance by the Guarantors of an obligation or an express written release by the Target of the Guarantors from an obligation.

6.3 No deductions or withholdings

The Guarantors must make all payments required of them under this clause 6 in full, without set off and free and clear of any withholding or deduction. If the Guarantors are required to withhold or deduct any tax, duty, impost, charge, withholding, rate, levies or other governmental imposition of any nature together with associated costs, charges, interest, penalties, fines or expenses (**Taxes**) so that Target would not actually receive on the due date the full amount, the Guarantors must ensure that the amount payable is increased so that, after making that deduction and deductions applicable to additional amounts payable under this clause 6, Target is entitled to receive, and does receive, the amount it would have received if no deductions had been required. The Guarantors must ensure any deductions required are made and pay the full amount deducted to the relevant governmental body in accordance with applicable law. The obligations under this clause 6.3 are conditional upon the warranty in clause 11.5(b)(xvi) being true and correct.

6.4 Continuing guarantee

Each Guarantor's obligations under this clause 6 are absolute, unconditional and irrevocable. The liability of each Guarantor under this clause 6 extends to, and is not affected by, any circumstance, act or omission which, but for this clause 6, might otherwise affect it at law or in equity. The guarantee in this clause 6 is a continuing security, and remains in full force until all of the Guaranteed Obligations have been fully paid and satisfied. This clause 6 survives any termination or full or partial discharge of this deed.

6.5 Principal and independent obligation

This clause 6 is:

- (a) a principal obligation and is not to be treated as ancillary or collateral to another right or obligation; and
- (b) independent of, and not in substitution for or affected by, another security interest or guarantee or other document or agreement which Target or another person may hold concerning the Guaranteed Obligations.

6.6 Enforcement against the Guarantors

Target may enforce this clause 6 against the Guarantors without first having to resort to another guarantee or security interest or other agreement relating to the Guaranteed Obligations.

7. Scheme – parties' respective implementation obligations

7.1 Target's obligations

Target must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable after the date of this deed in the most efficient manner and substantially in accordance with the Timetable and in any event prior to the End Date, including without limitation taking each of the following steps:

- (a) (**Scheme Booklet**) prepare the Scheme Booklet in compliance with all applicable laws and in accordance with clause 7.3;
- (b) (**drafts of Scheme Booklet**) make available to BidCo drafts of the Scheme Booklet (excluding any draft of the Independent Expert's Report), consult with BidCo in relation to the content of those drafts (other than the Primavera Capital Fund II Information and the Shanghai Pharma Information), and consider in good faith, for the purposes of amending those drafts, comments from BidCo on those drafts;
- (c) (**Independent Expert**) promptly appoint the Independent Expert to provide the Independent Expert's Report, provide any assistance and information to enable it to prepare the Independent Expert's Report; and on receipt of the final draft of the Independent Expert's Report, provide a copy to BidCo and the Guarantors for review of the information for factual accuracy only;

- (d) **(approval of Primavera Capital Fund II Information and Shanghai Pharma Information)**
- (i) seek approval from Primavera for the form and context in which the Primavera Capital Fund II Information appears in the Scheme Booklet, which approval Primavera must not unreasonably withhold or delay, and Target must not lodge the Scheme Booklet with ASIC until such approval is obtained from Primavera; and
 - (ii) seek approval from SIIC Medical Science for the form and context in which the Shanghai Pharma Information appears in the Scheme Booklet, which approval SIIC Medical Science must not unreasonably withhold or delay, and Target must not lodge the Scheme Booklet with ASIC until such approval is obtained from SIIC Medical Science;
- (e) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
- (f) **(liaison with ASIC)** as soon as reasonably practicable after the date of this deed:
- (i) provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet, keep BidCo and the Guarantors informed of any matters raised by ASIC in relation to the Scheme Booklet and use reasonable endeavours, in consultation with BidCo and the Guarantors, to resolve any such matters and, to the extent permitted by law, allow BidCo and the Guarantors and their Authorised Persons the opportunity to be present at all meetings between Target and ASIC;
- (g) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving the Scheme Booklet for despatch to Target Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (h) **(section 411(17)(b) statements)** apply to ASIC for the production of statements in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (i) **(counsel)** engage counsel reasonably experienced in schemes of arrangement to represent Target in all Court proceedings related to the Scheme and provide drafts of, and consult with, BidCo, AcquireCo and the Guarantors in relation to the content of any court document required for the purpose of implementing the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and take into account all reasonable comments provided for, and on behalf of, BidCo, AcquireCo and the Guarantors in relation to such documents;
- (j) **(first Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approval in clause 7.1(g) has been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting;
- (k) **(registration of Scheme Booklet)** if the Court directs Target to convene the Scheme Meeting, as soon as possible after such orders are made, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (l) **(registry information)** provide:
- (i) all necessary information about the Scheme Shareholders to BidCo or AcquireCo (as the case may be) and the Guarantors which BidCo or AcquireCo (as the case

- may be) and the Guarantors reasonably require in order to assist BidCo to solicit votes at the Scheme Meeting; and
- (ii) all necessary directions to its share registry to promptly provide any information that BidCo, AcquireCo or the Guarantors reasonably request in relation to the Target Register, including any sub-register and, where reasonably requested by BidCo, AcquireCo or the Guarantors, the Target must procure such information to be provided to BidCo, AcquireCo or the Guarantors in such electronic form as is reasonably requested by BidCo, AcquireCo or the Guarantors;
- (m) **(convening Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Scheme Booklet to Target Shareholders as soon as reasonably practicable after the Court orders Target to convene the Scheme Meeting and otherwise substantially in accordance with the Timetable and convening and holding the Scheme Meeting, provided that if this deed is terminated under clause 17 Target will take all steps reasonably required to ensure the Scheme Meeting is not held;
 - (n) **(Court approval application if parties agree that conditions are capable of being satisfied)** if the resolution submitted to the Scheme Meeting is passed by the majorities required under the Corporations Act and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the Delivery Time, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
 - (o) **(Certificate)** provide the Court on the Second Court Date with a certificate confirming (in respect of matters within its knowledge):
 - (i) whether all the conditions precedent as set out in clause 3 (other than the condition relating to Court approval of the Scheme) have been satisfied or waived in accordance with the terms of this deed; and
 - (ii) that it is not in breach of this deed, including, in particular, the provisions of clauses 9.1 and 9.2 of this deed;
 - (p) **(appeal process)** if the Court refuses to make any orders directing Target to convene the Scheme Meeting or approving the Scheme, Target and BidCo must consult with each other in good faith as to whether to appeal the Court's decision, provided that the requirement to consult with one another in good faith pursuant to this clause does not place an obligation on the parties to appeal the Court's decision;
 - (q) **(implementation of Scheme)** if the Scheme is approved by the Court:
 - (i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
 - (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to BidCo or AcquireCo (as the case may be) on the Implementation Date; and
 - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
 - (r) **(Documents)** consult with BidCo and AcquireCo (as required) in relation to the content of the documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders);
 - (s) **(Compliance with laws)** do everything reasonably within its power to ensure that all acts contemplated by this deed are effected in accordance with all applicable laws and regulations; and
 - (t) **(no denigration)** from the date of this deed until the date the Independent Expert's Report is received, ensure that Target and its Authorised Persons do not publicly (or otherwise to third parties) denigrate the Proposed Transaction, BidCo, HK HoldCo, AcquireCo or the Guarantors in any way (whether expressly or implied), however it is agreed that this

clause is not intended to cover fair commercial comment made by the Target Board in relation to the merits of a Competing Proposal.

7.2 BidCo's obligations

BidCo must take all steps reasonably necessary to assist Target to implement the Scheme as soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable including, without limitation, taking each of the following steps:

- (a) **(Primavera Capital Fund II Information and Shanghai Pharma information)**
 - (i) Primavera must provide to Target, in a form appropriate for inclusion in the Scheme Booklet, all information regarding Primavera and Primavera Capital Fund II, the arrangements Primavera and Primavera Capital Fund II have in place to fund the cash component of the Scheme Consideration and Primavera's intentions with respect to the assets, business and employees of Target if the Scheme is approved and implemented, that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Scheme Booklet, which information must (without limiting the foregoing):
 - (A) contain all information necessary to enable Target to ensure that the Scheme Booklet complies with the requirements of RG 60;
 - (B) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Scheme Booklet; and
 - (C) be updated by all such further or new material information which may arise after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
 - (ii) SIIC Medical Science must provide to Target, in a form appropriate for inclusion in the Scheme Booklet, all information regarding SIIC Medical Science and Shanghai Pharma, the arrangements SIIC Medical Science and Shanghai Pharma have in place to fund the cash component of the Scheme Consideration and SIIC Medical Science's intentions with respect to the assets, business and employees of Target if the Scheme is approved and implemented, that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Scheme Booklet, which information must (without limiting the foregoing):
 - (A) contain all information necessary to enable Target to ensure that the Scheme Booklet complies with the requirements of RG 60;
 - (B) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Scheme Booklet; and
 - (C) be updated by all such further or new material information which may arise after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(confirmation of Primavera Capital Fund II Information and Shanghai Pharma Information)** subject to clause 7.3(c), promptly after Target requests that it does so:
 - (i) Primavera must confirm in writing to Target that it consents to the inclusion of the Primavera Capital Fund II Information in the Scheme Booklet, in the form and context in which the Primavera Capital Fund II Information appears; and
 - (ii) SIIC Medical Science must confirm in writing to Target that it consents to the inclusion of the Shanghai Pharma Information in the Scheme Booklet, in the form and context in which the Shanghai Pharma Information appears
- (c) **(regulatory notifications)** in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by BidCo in relation to the Proposed Transaction, save that for the

purposes of the Regulatory Approvals in the Condition in clause 3.1(b)(iv) (PRC Regulatory Approvals), the obligation in this clause 7.2(c) applies to SIIC Medical Science alone;

- (d) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report for inclusion in the Scheme Booklet;
- (e) **(assistance with Scheme Booklet and Court documents)** promptly provide any assistance or information requested by Target or its Advisers in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Target Shareholders) and any documents required to be filed with the Court in respect of the Scheme;
- (f) **(review of Scheme Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Scheme Booklet prepared by Target and provide comments on those drafts in good faith;
- (g) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the appropriate decision-making organ of BidCo is held to consider approving those sections of that draft that relate to BidCo or the Guarantors as being in a form appropriate for provision to ASIC for review;
- (h) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the appropriate decision-making organ of BidCo is held to consider approving those sections of the Scheme Booklet that relate to BidCo or the Guarantors as being in a form appropriate for despatch to Target Shareholders, subject to approval of the Court;
- (i) **(representation)** procure that BidCo and, if necessary, AcquireCo are represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (j) **(certificate)** provide to the Court on the Second Court Date with a certificate confirming (in respect of matters within its knowledge) whether all the conditions precedent as set out in clause 3 (other than the condition relating to Court approval of the Scheme) have been satisfied or waived in accordance with the terms of this deed;
- (k) **(Target Information)** without the prior written consent of Target, not use Target Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (l) **(compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations; and
- (m) **(no denigration)** from the date of this deed until the date the Independent Expert's Report is received, BidCo will ensure that BidCo and its Authorised Persons do not publicly (or otherwise to third parties) denigrate the Proposed Transaction or Target in any way (whether expressly or implied).

7.3 Scheme Booklet - preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, Target must prepare the Scheme Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules; and
 - (ii) this clause 7.3.
- (b) The Scheme Booklet will include:
 - (i) the terms of the Scheme;

- (ii) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting;
 - (iii) the Target Information;
 - (iv) the Primavera Capital Fund II Information and the Shanghai Pharma Information;
 - (v) a copy of this deed (without the schedules);
 - (vi) a copy of the executed Deed Poll; and
 - (vii) a copy of the Independent's Expert Report.
- (c) If Target, and BidCo disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after reasonable consultation, then:
- (i) if the disagreement relates to the form or content of any information appearing in the Scheme Booklet other than the Primavera Capital Fund II Information and the Shanghai Pharma Information, the Target Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet; and
 - (ii) if the disagreement relates to the form or content of the Primavera Capital Fund II Information and the Shanghai Pharma Information, Target will make such amendments to the form or content of the disputed part of the Primavera Capital Fund II Information and the Shanghai Pharma Information as Primavera (in the case of the Primavera Capital Fund II Information) or SIIC Medical Science (in the case of the Shanghai Pharma Information) reasonably requires.
- (d) Target must take all reasonable steps to ensure that the Scheme Booklet (other than the Primavera Capital Fund II Information and the Shanghai Pharma Information):
- (i) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to Target Shareholders; and
 - (ii) is updated by all such further or new material information which may arise after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (e) Primavera must take all reasonable steps to ensure that the Primavera Capital Fund II Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Scheme Booklet is despatched to Target Shareholders.
- (f) SIIC Medical Science must take all reasonable steps to ensure that the Shanghai Pharma Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Scheme Booklet is despatched to Target Shareholders.
- (g) Target and BidCo each agree that the efficient preparation of the Scheme Booklet and the implementation of the Scheme are in the interests of Target Shareholders and BidCo and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 7.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

7.4 New information

- (a) Target must provide to BidCo all such further or new information of which Target becomes aware that arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting where this is necessary to ensure that the Scheme Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (b) BidCo must provide to Target all such further or new information of which BidCo becomes aware that arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting where this is or may be necessary to ensure that the

Scheme Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.

7.5 Verification

- (a) Target must undertake reasonable verification processes in relation to the information included in the Scheme Booklet (other than the Primavera Capital Fund II Information and the Shanghai Pharma Information) so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (b) Primavera must undertake reasonable verification processes in relation to the Primavera Capital Fund II Information included in the Scheme Booklet so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise) and, once those processes have been completed, provide written confirmation to Target of the completion of such processes and provide to the Court any such evidence as Target's counsel considers necessary or desirable concerning those verification processes.
- (c) SIIC Medical Science must undertake reasonable verification processes in relation to the Shanghai Pharma Information included in the Scheme Booklet so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise) and, once those processes have been completed, provide written confirmation to Target of the completion of such processes and provide to the Court any such evidence as Target's counsel considers necessary or desirable concerning those verification processes.

7.6 Responsibility statements

The Scheme Booklet will include a responsibility statement, in a form, as follows or otherwise agreed:

- (a) Target has prepared, and is responsible for, the Target Information in the Scheme Booklet and that BidCo and the Guarantors and their respective Authorised Persons do not assume any responsibility for the accuracy or completeness of the Target Information and, to the maximum extent permitted by law, BidCo and the Guarantors will not be responsible for any Target Information and will disclaim any liability for Target Information appearing in the Scheme Booklet except to the extent that BidCo or the Guarantors have provided Target with information for the purpose of Target preparing that information; and
- (b) Primavera has prepared, and is responsible for, the Primavera Capital Fund II Information in the Scheme Booklet and that Target and its Authorised Persons do not assume any responsibility for the accuracy or completeness of the Primavera Capital Fund II Information and, to the maximum extent permitted by law, Primavera will not be responsible for any information appearing in the Scheme Booklet other than the Primavera Capital Fund II Information and will disclaim any liability for any information appearing in the Scheme Booklet other than the Primavera Capital Fund II Information, and Target will not be responsible for any Primavera Capital Fund II Information except to the extent that Target has provided Primavera with information for the purpose of Target preparing that information.
- (c) SIIC Medical Science has prepared, and is responsible for, the Shanghai Pharma Information in the Scheme Booklet and that Target and its Authorised Persons do not assume any responsibility for the accuracy or completeness of the Shanghai Pharma Information and, to the maximum extent permitted by law, Shanghai Pharma will not be responsible for any information appearing in the Scheme Booklet other than the Shanghai Pharma Information and will disclaim any liability for any information appearing in the Scheme Booklet other than the Shanghai Pharma Information, and Target will not be responsible for any Shanghai Pharma Information except to the extent that Target has provided SIIC Medical Science with information for the purpose of Target preparing that information.

7.7 Good faith cooperation

Each party must procure that its Authorised Persons work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other

parties to implement the Scheme, to prepare all documents required relating to the Scheme, and to agree and execute the strategy described in clause 9.6.

8. Board recommendation

8.1 Recommendation

Subject to clause 8.3, Target represents and warrants to BidCo that it has been advised by each Target Director that he or she will, and Target must procure that each Target Director will:

- (a) recommend that Target Shareholders vote in favour of the Scheme, qualified only by the words to the effect of 'in the absence of a superior proposal and subject to the independent expert concluding that the scheme is in the best interests of Target shareholders'; and
- (b) confirm that he or she will vote in favour of the Scheme in respect of all Target Shares controlled or held by, or on behalf of, that Target Director, qualified only by the words to the effect of 'in the absence of a superior proposal and subject to the independent expert concluding that the scheme is in the best interests of Target shareholders'.

8.2 Target's Statement to contain recommendation

Subject to clause 8.3, Target must ensure that the Scheme Booklet includes:

- (a) a unanimous recommendation by all of the members of the board of directors of the Target that Target Shareholders vote in favour of the Scheme, qualified only by the words to the effect of 'in the absence of a superior proposal and subject to the independent expert concluding that the scheme is in the best interests of Target shareholders'; and
- (b) a statement by each Target Director that he or she will vote in favour of the Scheme in respect of all Target Shares controlled or held by, or on behalf of, that Target Director, qualified only by the words to the effect of 'in the absence of a superior proposal and subject to the independent expert concluding that the scheme is in the best interests of Target shareholders'.

8.3 Withdrawal of modification or recommendation

Target represents and warrants to BidCo that it has been advised by each Target Director that he or she will not, and Target must procure that each Target Director does not change, withdraw or modify his or her recommendation of the Scheme except where:

- (a) Target receives a Competing Transaction and the Target Board, in good faith and acting reasonably, determines, after all of BidCo's rights under clause 12.6 have been exhausted, that the Competing Transaction constitutes a Superior Proposal; or
- (b) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of Target Shareholders, or the Independent Expert concludes in the Independent Expert's Report that the Scheme is in the best interests of Target Shareholders but then changes or publicly withdraws this conclusion prior to the Delivery Time; or
- (c) the Target Board, after having obtained written financial advice from its financial advisors and written legal advice from its legal advisers that the Target Board, by virtue of the directors' duties of any member of the Target Board, is required to change, withdraw or modify its recommendation, determines in good faith and acting reasonably that it must do so because of its fiduciary or statutory duties.

9. Conduct of business before the Implementation Date

9.1 Conduct of Target business

Subject to clause 9.3, from the date of this deed up to and including the Implementation Date, other than to the extent that, before the date of this deed, the relevant matter has been Fairly

Disclosed to the ASX or in the Due Diligence Material, Target must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:

- (a) operate those businesses consistent with past practice, in substantially the same manner as previously conducted;
- (b) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;
- (c) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
- (d) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the Target Group is a party, and with laws, authorisations and licenses applicable to each member of the Target Group;
- (e) not take or fail to take any action that constitutes a Target Prescribed Occurrence or that could reasonably be expected to result in a Target Prescribed Occurrence;
- (f) not take or fail to take any action that would, or would be likely to, prevent a Condition being satisfied or result in a Condition not being satisfied;
- (g) use the Target Group's cash only for the following:
 - (i) for ordinary course of business expenditure consistent with the expenditure provided for in Target's forecast information disclosed in the Due Diligence Material (being the Target's FY2017 budget);
 - (ii) Transaction Costs and other reasonable costs in relation to the Transaction (without prejudice to BidCo's rights under this deed in relation to a Target Material Adverse Change);
 - (iii) Permitted Dividends; and
 - (iv) capital expenditure in accordance with clause 9.2(k);
- (h) promptly notify BidCo of any Claims (including, without limitation, before a court or Government Agency) which may be threatened, brought, asserted or commenced against any member of the Target Group or their directors and officers and consult with BidCo in relation to such matter to the extent they reasonably require; and
- (i) have in place, and maintain until the Implementation Date, insurance over its assets and business to at least the same extent as that in place at the date of this deed.

9.2 Prohibited actions

Subject to clause 9.3, from the date of this deed up to and including the Implementation Date, other than to the extent that the relevant matter has been Fairly Disclosed to ASX before the date of this deed, Target must not, and must procure that the Target Group does not:

- (a) take any action or agree to do anything that constitutes a Target Prescribed Occurrence or that could reasonably be expected to result in a Target Prescribed Occurrence;
- (b) except as strictly required by law, take any action or agree to do anything that would produce a Target Material Adverse Change, or that could reasonably be expected to result in a Target Material Adverse Change;
- (c) declare, pay or distribute any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise, other than the Permitted Dividend;
- (d) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, assets (other than as permitted by clause 9.2(k) or other than business inventory, office equipment or replacement or repair of machinery in the ordinary course and on normal commercial terms), real property, entity or undertaking, or in any brand owned by a Target Group member;
- (e) pay or enter into any agreements to pay Transaction Costs where all such amounts paid would exceed, in aggregate, \$5.5 million;

- (f) except as required by law or as provided in an existing contract in place at the date of this deed, make any material change to the terms of employment of (including increasing the remuneration or compensation of or accelerating the rights to benefits of any kind), or grant or pay any bonus, incentive, retention, severance or termination payment to, any employee, director, officer, executive or senior manager of the Target Group;
- (g) employ any person on terms and conditions not approved in writing by BidCo and the Guarantors;
- (h) terminate the employment of any employee of a member of the Target Group who has an annual salary exceeding \$150,000 other than for cause;
- (i) other than as Fairly Disclosed in the Due Diligence Material before the execution of this deed, incur any additional financial indebtedness (except for draw-downs on existing banking facilities consistent with Target's current budget), or guarantee or indemnify the obligations of any person other than a member of the Target Group, other than in the usual and ordinary course of business and consistent with past practice;
- (j) other than as Fairly Disclosed in the Due Diligence Material before the execution of this deed, enter into any new financing arrangement, agreement or otherwise provide financial accommodation (irrespective of what form that accommodation takes), or amend the term of any existing financing arrangement, agreement or instrument;
- (k) incur or enter into commitments involving capital expenditure of more than \$4 million whether in one transaction or a series of related transactions;
- (l) give or agree to give a financial benefit to a related party of Target;
- (m) enter into a contract which is material to the conduct of the Target Group's business, involves annual expenditure greater than \$4 million or involves annual revenues of greater than \$4 million (**Material Contract**), or terminate or amend the terms of a Material Contract;
- (n) other than as required to give effect to the transactions contemplated by this deed, modify the rules of any share based incentive plan or scheme, including Target's Long Term Incentive Plan;
- (o) amend its constitution;
- (p) alter in any material respect any accounting policy of any member of the Target Group; or
- (q) agree to do any of the matters set out above.

9.3 Permitted activities

The obligations of Target under clauses 9.1 and 9.2 do not apply in respect of any matter:

- (a) undertaken by a member of the Target Group in conducting its business in the usual and ordinary course and as provided for in Target's forecast information disclosed in the Due Diligence Material (being the Target's FY2017 budget) and consistent with past practice since the date of quotation of the Shares on ASX;
- (b) required to be done or procured by Target pursuant to, or which is otherwise contemplated by, this deed or the Scheme;
- (c) required by law or by an order of a court or Governmental Agency;
- (d) Fairly Disclosed in any announcement by Target to ASX prior to the date of this deed;
- (e) comprising any single transaction or series of related transactions for the acquisition of any interest in a business, assets, real property, entity or undertaking (an **Acquisition**) provided that, in the reasonable and good faith opinion of the Target Board (other than with respect to subclause (iv) below):
 - (i) the Acquisition is on terms which are not uncommercial;
 - (ii) the Acquisition is related to the business of the Target and is beneficial to the business;
 - (iii) the purchase price of the Acquisition does not exceed market value; and

- (iv) the value of the Acquisition on an enterprise value basis is less than \$1 million in aggregate; or
- (f) the undertaking of which BidCo has approved in writing (which approval must not be unreasonably withheld or delayed).

9.4 Access

- (a) In the period from the date of this deed up to the Implementation Date, Target must provide BidCo with all reasonable access during normal business hours and on reasonable notice to the management, offices, books, records (including financial records and information) and business operations of Target that BidCo reasonably require in order to implement the Proposed Transaction, for BidCo to obtain or pursue debt finance for the Proposed Transaction or for post-completion finance for the Target Group, or for BidCo to prepare for the transition of ownership of the Target Group.
- (b) Nothing in this clause 9.4 obliges Target to provide to BidCo or its Authorised Persons any information:
 - (i) concerning the Target Directors' consideration of the Scheme; or
 - (ii) which would breach an obligation of confidentiality to any person or any applicable privacy laws.
- (c) For the avoidance of doubt, the parties agree and acknowledge that nothing in this clause 9.4 requires Target to provide any information that is different or in addition to the information Target provides to the Target Board and its senior managers in the usual and ordinary course consistent with past practice.

9.5 Access to the Primavera Capital Fund II Information and the Shanghai Pharma Information

- (a) From the date of this deed up to and including the Implementation Date, BidCo must ensure that BidCo, the BidCo Group and the Guarantors:
 - (i) respond to any reasonable request from Target and its Authorised Persons (including in response to requests for information from financial markets and a Governmental Agency) for information concerning the BidCo Group and the Guarantors and their respective business and operations; and
 - (ii) provide reasonable co-operation to Target and its Representatives, for the purpose of doing all things necessary or desirable under this deed or in connection with the Proposed Transaction (including compliance with any regulatory or financial market reporting requirements), and any plans for the integration of the Target Group into the BidCo Group following the Implementation Date.
- (b) Nothing in this clause 9.5 requires BidCo or the Guarantors to provide Target with any information:
 - (i) in breach of an obligation of confidentiality to any person or any applicable privacy laws; or
 - (ii) concerning the consideration of the Proposed Transaction by the BidCo board, BidCo management or the Guarantors.
- (c) BidCo and the Guarantors will provide reasonable assistance to Target for the purpose of satisfying the obligations which are imposed on them under this clause 9.5 but nothing in this clause 9.5 requires BidCo or the Guarantors to provide access to its people or documentation or to take any other action that would disrupt the usual and ordinary course of its businesses and operations.

9.6 Change of control

- (a) As soon as practicable after the date of this deed, Target and BidCo must seek to identify any change of control or similar provisions in leases and material contracts to which a member of the Target Group is a party which may be triggered by the implementation of the Proposed Transaction. In respect of those leases and contracts, the parties agree as follows:

- (i) Target and BidCo will agree a proposed course of action and then jointly initiate contact with the relevant landlords and other counter-parties and request that they provide any consents required. However, none of BidCo, the Guarantors or any of their Authorised Persons may contact any landlords or other counter-parties without Target's prior written consent.
- (ii) Target must cooperate with, and provide reasonable assistance to, BidCo to obtain such consents as expeditiously as possible, including by:
 - (A) promptly providing any information reasonably required by landlords or counterparties; and
 - (B) making representatives available, where necessary, to meet with landlords or counterparties to deal with issues arising in relation to the change of control of Target.
- (b) A failure by a member of the Target Group to obtain any third party consent will not constitute a breach of this deed by Target and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.
- (c) Target will provide reasonable assistance to, and work together with, BidCo and the Guarantors to facilitate a consultation process between Target, BidCo and the Guarantors, and the Target Group's material customers and suppliers to, amongst other things discuss the Transaction and its potential impact on the Target Group's material customers' and suppliers' relationships with members of the Target Group.

10. Actions on and following Implementation Date

10.1 Reconstitution of the board of each member of the Target Group

- (a) On the Implementation Date, but subject to, and no later than immediately after the cash component of the Scheme Consideration having been paid in full by BidCo to Target and the scrip component of the Scheme Consideration having been issued to Management Shareholders and receipt by Target of signed consents to act, Target must take all actions necessary (and in accordance with the constitution of the relevant Target Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by BidCo as new Target Directors and new directors of each Subsidiary.
- (b) Without limiting clause 10.1(a), on the Implementation Date, Target must procure that:
 - (i) all outgoing Target Directors:
 - (A) deliver to the Target written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Target Group; and
 - (B) resign from the Target Board (and not only the members of the committee of the board of directors of Target constituted from time to time to consider the Proposed Transaction on behalf of Target); and
 - (ii) all outgoing directors of each Subsidiary of Target:
 - (A) deliver to the relevant Subsidiary of Target written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Target Group; and
 - (B) resign from their office.

10.2 Sequence of actions on the Implementation Date

- (a) On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:
 - (i) **(HK HoldCo Shares)** BidCo will procure the issue to each Scheme Shareholder that is a Management Shareholder (or its nominee) of the relevant number of HK HoldCo Shares comprising the scrip component of the Scheme Consideration;

- (ii) **(cash component of the Scheme Consideration)**
 - (A) BidCo will give written notice to the Stakeholder to immediately disburse the cash component of the Scheme Consideration in the Escrow Account to Target (which will hold the Scheme Consideration on behalf of each Scheme Shareholder) in accordance with the Scheme;
 - (B) Target will disburse the Scheme Consideration received from the Stakeholder to Scheme Shareholders (or, if Target permits and subject to any regulatory requirements, a nominee of a Scheme Shareholder (in accordance with a Scheme Shareholder's directions)) in accordance with the Scheme; and
 - (C) where BidCo has delivered Letters of Credit to the Stakeholder:
 - (I) BidCo will give written notice to the Stakeholder to immediately release the Letters of Credit to Target (which will hold the amount of the Scheme Consideration represented by the Letters of Credit on behalf of each Scheme Shareholder) in accordance with the Scheme; and
 - (II) Target will draw down on the Letters of Credit and disburse that portion of the cash component of the Scheme Consideration represented by the Letters of Credit to Scheme Shareholders (or, if Target permits and subject to any regulatory requirements, a nominee of a Scheme Shareholder (in accordance with a Scheme Shareholder's directions)) in accordance with the Scheme;
 - (iii) the entire Target Board (and not only the members of the committee of the board of directors of Target constituted from time to time to consider the Proposed Transaction on behalf of Target) and the board of each Subsidiary of Target will be reconstituted in accordance with clause 10.1; and
 - (iv) BidCo will, or will procure that AcquireCo (as its nominee), acquire/s all of the Scheme Shares and sign/s the share transfer form with respect to the transfer of those Scheme Shares to it in accordance with the Scheme.
- (b) For avoidance of doubt, if all of the Conditions are satisfied or waived and the Scheme is Effective, the provisions of clause 11.10(b)(i) do not limit the liability of:
- (i) Primavera (or Primavera Capital Fund II) to effect the release of its Relevant Proportion of the cash component of the Scheme Consideration at the Implementation Date in accordance with this deed, the Scheme and the Escrow Agreement, being its obligation under:
 - (A) clause 10.2(a)(ii)(A) to deliver a notice to the Stakeholder to immediately disburse the cash component of the Scheme Consideration in the Escrow Account to Target; or
 - (B) clause 10.2(a)(ii)(C)(I) to deliver a notice to the Stakeholder to immediately release the Letters of Credit to Target.
 - (ii) SIIC Medical Science (or Shanghai Pharma) to effect the release of its Relevant Proportion of the cash component of the Scheme Consideration at the Implementation Date in accordance with this deed, the Scheme and the Escrow Agreement, being its obligation under:
 - (A) clause 10.2(a)(ii)(A) to deliver a notice to the Stakeholder to immediately disburse the cash component of the Scheme Consideration in the Escrow Account to Target; or
 - (B) clause 10.2(a)(ii)(C)(I) to deliver a notice to the Stakeholder to immediately release the Letters of Credit to Target.

11. Representations and warranties

11.1 BidCo representations and warranties

- (a) Subject to the provisions of clause 20.4, BidCo represents and warrants to Target (on Target's own behalf and separately as trustee for each of the other Target Parties) each of the matters set out in clause 11.1(b) as at the date of this deed and on each subsequent day until the Delivery Time (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Subject to the provisions of clause 20.4, BidCo represents and warrants that:
 - (i) BidCo is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed has been properly authorised by all necessary corporate action and BidCo has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
 - (iii) this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any agreement, deed or any writ, order or injunction, rule or regulation to which BidCo is a party or is bound;
 - (iv) the Primavera Capital Fund II Information and the Shanghai Pharma Information, respectively, provided to Target in accordance with clause 7.2(a) for inclusion in the Scheme Booklet will:
 - (A) be provided in good faith;
 - (B) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
 - (C) be provided on the understanding that each of the Target Indemnified Parties will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;
 - (v) all information provided by, or on behalf of, BidCo to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be prepared and completed will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
 - (vi) as at the date the Scheme Booklet is despatched to Target Shareholders, the Primavera Capital Fund II Information and the Shanghai Pharma Information, respectively, in the form and context in which that information appears in the version of the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
 - (vii) BidCo will, as a continuing obligation, provide to Target all such further or new information which may arise after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the Primavera Capital Fund II Information and the Shanghai Pharma Information, respectively, in the form and context in which that information appears in the version of the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);
 - (viii) the issued capital of AcquireCo will be indirectly held by Primavera as to 40% and SIIC Medical Science as to 60%;

- (ix) other than the regulatory approvals referred to in the Condition in clause 3.1(b), BidCo does not require the approval of its shareholders or the approval or consent of any other person to enter into or perform any of its obligations under this deed;
- (x) all factual information BidCo has provided to Target prior to the date of this deed is, to the best of BidCo's knowledge, accurate in all material respects and not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information;
- (xi) no Guarantor Prescribed Occurrence has occurred;
- (xii) as at the date of this deed BidCo has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources, external funding arrangements or available for drawdown under Letters of Credit) to satisfy BidCo's obligation to pay the cash component of the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (xiii) by the Delivery Time, BidCo will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of BidCo) sufficient cash amounts (whether from internal cash resources, external funding arrangements or available for drawdown under Letters of Credit) to satisfy BidCo's obligation to pay the cash component of the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (xiv) BidCo will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources, external funding or available for drawdown under Letters of Credit) to satisfy BidCo's obligation to pay the cash component of the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll; and
- (xv) between the date of this deed and the Record Date, BidCo will not, and will procure that each other member of the BidCo Group does not, enter into any arrangement under which it obtains the beneficial interest in any Target Shares, unless the Target Shares are registered in the name of BidCo.

11.2 BidCo's indemnity

Subject to clause 11.10(b), BidCo agrees with Target (on Target's own behalf and separately as trustee or nominee for each of the other Target Parties) to indemnify and keep indemnified the Target Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Target Parties may directly suffer or incur by reason of any breach of any of the representations and warranties in clauses 11.1(a) or 11.1(b).

11.3 Guarantors representations and warranties

- (a) Each Guarantor severally represents and warrants to Target in respect of itself only (on Target's own behalf and separately as trustee for each of the other Target Parties) each of the matters set out in clause 11.3(b) as at the date of this deed and on each subsequent day until the Delivery Time (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Each Guarantor severally represents and warrants in respect of itself only that:
 - (i) it is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed has been properly authorised by all necessary corporate action and it has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;

- (iii) this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any agreement, deed or any writ, order or injunction, rule or regulation to which it is a party or is bound;
- (iv) it does not require the approval of its shareholders or the approval or consent of any other person to enter into or perform any of its obligations under this deed; and
- (v) between the date of this deed and the Record Date, it will not, and will procure that each of its Subsidiaries and Related Bodies Corporate does not, enter into any arrangement under which it obtains the beneficial interest in any Target Shares (other than in the course of establishing any investment structure in AcquireCo).

11.4 Guarantors' indemnity

Subject to clause 11.10(b), each Guarantor agrees with Target (on Target's own behalf and separately as trustee or nominee for each of the other Target Parties) to severally and in its Relevant Proportion indemnify and keep indemnified the Target Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Target Parties may directly suffer or incur by reason of any breach by that Guarantor of any of the representations and warranties in clauses 11.3(a) or 11.3(b).

11.5 Target representations and warranties

- (a) Target represents and warrants to BidCo (on its own behalf and separately as trustee for each of the Guarantor Indemnified Parties) each of the matters set out in clause 11.5(b) as at the date of this deed and at all subsequent times until the Delivery Time (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Target represents and warrants that:
 - (i) Target is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed by Target has been properly authorised by all necessary corporate action and Target has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
 - (iii) this deed constitutes legal, valid and binding obligations on Target and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which Target or any of its Subsidiaries is a party or to which they are bound;
 - (iv) the Target Information contained in the Scheme Booklet will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60;
 - (v) as at the date the Scheme Booklet is despatched to Target Shareholders, the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the Primavera Capital Fund II Information and the Shanghai Pharma Information, respectively and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
 - (vi) as at the date of this deed, the total issued capital of Target is:
 - (A) 139,143,525 Target Shares;
 - (B) 1,000,918 Target Options; and
 - (C) 195,499 Target Performance Rights,
 and there are no other Target options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);

- (vii) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), all Due Diligence Material was prepared in good faith, and was, as at the date it was disclosed to BidCo, true and correct in all material respects and was, as at the date it was disclosed to BidCo, not misleading in any material respect, whether by way of omission or otherwise;
- (viii) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), Target is as at the date of this deed not in breach of its continuous disclosure obligations under the Corporations Act and the Listing Rules in any material respect and, other than with respect to the Proposed Transaction, and with respect to any item which BidCo has approved in accordance with clause 9.3(f) is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from disclosure;
- (ix) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), Target's financial statements as disclosed to ASX in Target's annual financial report and half-yearly financial report were prepared in accordance with the requirements of the Corporations Act on a basis consistent with past practice financial statements;
- (x) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), it and its Subsidiaries have, as at the date of this deed, complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign Governmental Agencies having jurisdiction over them and have, as at the date of this deed, all material licenses, permits and franchises necessary for them to conduct their respective businesses as presently being conducted;
- (xi) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries):
 - (A) neither it nor any of its Subsidiaries is, as at the date of this deed, in material default under any document, agreement or instrument binding on it or its assets;
 - (B) nothing has occurred as at the date of this deed which is or would with the giving of notice or lapse of time constitute an event of default, prepayment event or similar event, or give another party thereto a termination right or right to accelerate any right or obligation, under any such document or agreement with such an effect; and
 - (C) as at the date of this deed, no other party to any document, agreement or instrument binding on Target or any of its Subsidiaries or their respective assets is in material breach thereof or material default thereunder,

in each case where such matter will, or would reasonably be likely to have a material adverse effect on the business, assets or financial condition of the Target Group when taken as a whole;
- (xii) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), there is, as at the date of this deed, no mortgage, charge, lien or encumbrance over all or any material part of its or its Subsidiaries' assets or revenues, other than as Fairly Disclosed and as Fairly Disclosed at 11 July 2016 in records open to public inspection and maintained by the Australian Personal Property Securities Register;
- (xiii) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), neither the Target nor any of its Subsidiaries is:
 - (A) as at the date of this deed, a party to or the subject of any Claim; or
 - (B) as at the date of this deed, the subject of any product recall, ruling, judgement, order or decree by any Government Agency or any other person,

in each case where such matter will, or would reasonably be likely to have a material adverse effect on the business, assets or financial condition of the Target

Group when taken as a whole other than as Fairly Disclosed in the period commencing on 6 July 2016 and concluding on 13 July 2016 in records open to public inspection and maintained by the High Court, the Federal Court and the Supreme Courts in every State and Territory in Australia;

- (xiv) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), there is not as at the date of this deed any product recall, Claim, judgment, order or decree pending, threatened or anticipated, against the Target or any of its Subsidiaries, other than any Claim which the Target believes, acting reasonably, would not have a material adverse effect on the business, assets or financial condition of the Target Group when taken as a whole other than as Fairly Disclosed in the period commencing on 6 July 2016 and concluding on 13 July 2016 in records open to public inspection and maintained by the High Court, the Federal Court and the Supreme Courts in every State and Territory in Australia;
- (xv) to the best of Target's knowledge as at the date of this deed (having made all reasonable enquiries), no member of the Target Group or any Target Authorised Person has, as at the date of this deed, provided, offered or promised to provide, or will provide, offer or promise to provide, a financial or other benefit to another person in Illegitimate Circumstances with the intention to obtain or retain business or an advantage in the conduct of business for the Target Group other than as Fairly Disclosed in the period commencing on 6 July 2016 and concluding on 13 July 2016 in records open to public inspection and maintained by the High Court, the Federal Court and the Supreme Courts in every State and Territory in Australia; and
- (xvi) the Scheme Shares held by each Scheme Shareholder are not, and until (and including) the Implementation Date will not be, indirect Australian real property interests within the meaning of Division 855 of the *Income Tax Assessment Act 1997* (Cth) for each Scheme Shareholder.

11.6 Target's indemnity

Target agrees with BidCo (on BidCo's own behalf and separately as trustee for each of the Guarantor Indemnified Parties) to indemnify and keep indemnified the Guarantor Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Guarantor Indemnified Parties may directly suffer or incur by reason of any breach of any of the representations and warranties in clauses 11.5(a) or 11.5(b).

11.7 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 11.

11.8 Survival of representations

Each representation and warranty in clauses 11.1, 11.3 and 11.5:

- (a) is severable;
- (b) will survive the termination of this deed; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

11.9 Survival of indemnities

Each indemnity in this deed (including those in clauses 11.2, 11.4 and 11.6) will:

- (a) be severable;
- (b) be a continuing obligation;

- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survive the termination of this deed.

11.10 Limitation on Claims

(a) Limitation on Claims against Target

- (i) Target's representations and warranties in clause 11.5 and the indemnity in clause 11.6 are each subject to, and no Claim can be made against Target in respect of, matters to the extent they have been Fairly Disclosed in Target's announcements to the ASX and/or the Due Diligence Material prior to the date of this deed.
- (ii) Notwithstanding any other provision of this deed:
 - (A) the maximum aggregate amount which Target is required to pay in relation to a breach of this deed (including in respect of a breach of representation and warranty) is an amount equal to \$15,653,647 (**Claim Amount**) and in no event will the aggregate liability of Target under or in connection with a breach of this deed exceed the Claim Amount (including any Target Break Fee); and
 - (B) where the Claim Amount becomes payable to BidCo under this deed (or would be payable if a demand was made), BidCo cannot make any additional claim under the indemnity in clause 11.6 or further Claim against Target in relation to any event or occurrence referred to in clause 13.2 or for any material breach referred to in clause 17.1 (but, for the avoidance of doubt, may exercise any right available to it to terminate this deed under clause 17.1).

(b) Limitation on Claims against BidCo and the Guarantors

Notwithstanding any other provision of this deed:

- (i) subject to paragraph (ii) the maximum amount which:
 - (A) Primavera Capital Fund II and Primavera are required to pay in aggregate by them in relation to a breach of this deed (including in respect of a breach of representation and warranty, where applicable) by them is an amount equal to \$6,261,459 and in no event will the liability of Primavera Capital Fund II and Primavera, in aggregate, under or in connection with a breach of this deed exceed that amount (including Primavera's Relevant Proportion of any BidCo Break Fee) (**Primavera Capital Fund II Claim Amount**);
 - (B) Shanghai Pharma and SIIC Medical Science are required to pay in aggregate by them in relation to a breach of this deed (including in respect of a breach of representation and warranty, where applicable) by them is an amount equal to \$9,392,188 and in no event will the liability of Shanghai Pharma and SIIC Medical Science, in aggregate, under or in connection with a breach of this deed exceed that amount (including SIIC Medical Science's Relevant Proportion of any BidCo Break Fee) (**Shanghai Pharma Claim Amount**); and
- (ii) where:
 - (A) the Primavera Capital Fund II Claim Amount becomes payable by Primavera Capital Fund II and Primavera to Target, or
 - (B) the Shanghai Pharma Claim Amount becomes payable by Shanghai Pharma and SIIC Medical Science to Target,

Target cannot make any additional claim under the indemnity in clause 11.2 (in the case of BidCo) or under the indemnity in clause 11.4 (in the case of the Guarantors) or further Claim against BidCo under clause 14.1 or for any material breach referred to in clause 17.1 (but, for the avoidance of doubt, may exercise

any right available to it to terminate this deed under clause 17.1 or, where applicable, clauses 4.2(d)(ii)(B) or 4.2(d)(iii)).

12. Exclusivity

12.1 No existing discussions

Other than in relation to the discussions with BidCo in connection with the Proposed Transaction and this deed, Target represents and warrants to BidCo that, as at the date of this deed:

- (a) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is a party to any agreement with a third party entered into for the purpose of facilitating a Competing Transaction; and
- (b) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons has invited, or is participating in, any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a Competing Transaction.

12.2 No-shop

During the Exclusivity Period, Target must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly solicit, invite, initiate or encourage any Competing Transaction or any enquiries, proposals, discussions or negotiations with any third party in relation to (or that could reasonably be expected to lead to) a Competing Transaction, or communicate any intention to do any of these things.

12.3 No-talk

Subject to clause 12.7, during the Exclusivity Period, Target must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of these things,

in relation to (or which may reasonably be expected to lead to) a Competing Transaction, even if that Competing Transaction was not directly or indirectly solicited, encouraged or initiated by Target or any of its Related Bodies Corporate, or a person has publicly announced the Competing Transaction.

12.4 No due diligence

During the Exclusivity Period, except with the prior written consent of BidCo, Target must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

- (a) solicit, invite, initiate, or encourage, or facilitate or permit, any person (other than BidCo) to undertake due diligence investigations in respect of Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with any person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction; or
- (b) make available to any person (other than BidCo) or permit any such person to receive any non-public information relating to Target, its Related Bodies Corporate, or any of their businesses and operations, or access to Target management, in connection with any person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction,

unless strictly required as a result of the operation of clause 12.7, provided always that:

- (a) no due diligence opportunity, information or access to management is provided which has not also been provided to BidCo in sufficient time for BidCo to consider it for the purposes of clause 12.6;
- (b) prior to any such due diligence opportunity, information or access to management being provided Target has first complied in full with its obligations under clause 12.5.

12.5 Notification of approaches

- (a) During the Exclusivity Period, Target must promptly notify BidCo in writing of:
- (i) any direct or indirect approach, inquiry or proposal made by any person to Target, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Competing Transaction (which, for the avoidance of doubt, must include:
 - (A) the fact that such an approach has been made;
 - (B) the nature of the approach, including the price or consideration proposed and any other material terms;
 - (C) the name of the person, and such of their authorised representatives as are known to the Target, and details of any relationship or connection with the Target or its Authorised Representatives); and
 - (ii) any request made by any person to Target, any of its Related Bodies Corporate, or any of their respective Authorised Persons, for any information relating to Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction.
- A variation to a previous approach or proposal is taken to be a new approach or proposal for the purposes of this clause.
- (b) The obligations in this clause 12.5, do not apply to the extent that they require Target to provide information if the Target Board has determined in good faith, and after having considered written advice from the Target Board's external legal advisers, that the consequences of providing the relevant information would be likely to constitute a breach of the fiduciary and statutory duties owed by any Target director.

12.6 Target's response to Rival Acquirer and BidCo's right to respond

- (a) If Target receives a Competing Transaction and as a result, any Target Director proposes to either:
- (i) change, withdraw or modify his or her recommendation of the Scheme; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Transaction),
- Target:
- (iii) - must ensure that no Target Director takes any action referred to in paragraphs (i) and (ii); and
 - (iv) must ensure that Target, Target Directors or any Authorised Person does not enter into any legally binding agreement, arrangement or understanding (whether legally binding or otherwise) with respect to a Competing Transaction;
- until each of the following has occurred:
- (v) the Competing Transaction is, or may reasonably be expected to lead to, a Superior Proposal;
 - (vi) Target has given BidCo written notice (**Relevant Notice**) of the Target Director's proposal to take the action referred to in clauses 12.6(a)(i) or 12.6(a)(ii) (subject to BidCo's rights under clause 12.6(c)), including details of the grounds on which the Target Directors propose to take such action;
 - (vii) subject to clause 12.6(b), Target has provided BidCo with the identity of the relevant third party (**Rival Acquirer**) and the material terms of the Competing Transaction and any information given to the Rival Acquirer (to the extent not already provided under clause 12.5);

- (viii) BidCo's rights under clause 12.6(c) have been exhausted; and
 - (ix) the Target Directors have determined that the Competing Transaction is, or may reasonably be expected to lead to, a Superior Proposal after BidCo's rights under clause 12.6(c) have been exhausted and after evaluation of any Counter Proposal (defined below).
- (b) Prior to giving BidCo the information under clause 12.6(a)(vii), Target must advise the Rival Acquirer that the Rival Acquirer's name and other details which may identify the Rival Acquirer will be provided by Target to BidCo on a confidential basis.
 - (c) If Target gives a Relevant Notice to BidCo under clause 12.6(a)(vi), BidCo will have the right, but not the obligation, at any time during the period of at least (but not limited to) five full Business Days following the receipt of the Relevant Notice, to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing any other form of transaction (each a **Counter Proposal**), and if it does so then the Target Directors must review and make a determination in respect of the Counter Proposal in good faith.
 - (d) If the Target Directors determine that the Counter Proposal would be more favourable, or at least no less favourable, to Target and the Target Shareholders than the Competing Transaction (having regard to the matters noted in clause 12.7), then Target and BidCo must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Counter Proposal and to enter into an amended agreement to give effect to those amendments and to implement the Counter Proposal, and Target must use its best endeavours to procure that the Target Directors recommend the Counter Proposal to the Target Shareholders and not recommend the applicable Competing Transaction.
 - (e) For the purposes of this clause 12.6, each successive modification of a material term of any third party expression of interest, offer or proposal in relation to a Competing Transaction will constitute a new Competing Transaction.

12.7 Fiduciary out

The restrictions in clauses 12.3, 12.4(a) and 12.4(b) do not apply to the extent they restrict Target or any Target Director from taking or refusing to take any action with respect to a Competing Transaction (in relation to which there has been no contravention of this clause 12) provided that the Target Board has determined in good faith and acting reasonably after:

- (a) consultation with Target's financial advisers, that the Competing Transaction is or may reasonably be expected to lead to a Superior Proposal; and
- (b) receiving written advice from Target's external Australian legal adviser practising in the area of corporate law,

that failing to take the action or refuse to take the action (as the case may be) with respect to the Competing Transaction would be likely to constitute a breach of the fiduciary or statutory obligations of the Target Board.

12.8 Target's Authorised Persons

Target undertakes and warrants that, on or about the date of this deed, it will obtain written undertakings and assurances from each of Target's Authorised Persons to the effect that:

- (a) they are not aware of, have not invited and are not involved in any discussions of the kind referred to in clause 12.1; and
- (b) without limiting the foregoing, they will comply with this clause 12 for the period of this deed.

13. Target Break Fee

13.1 Background

- (a) Target and BidCo acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented:
 - (i) BidCo will incur significant costs which are expected to exceed those described in clause 13.2; and
 - (ii) those costs are substantially increased by the cross-border nature of the Transaction, and the multi-jurisdiction operations of the Target.
- (b) In light of the circumstances referred to in clause 13.1(a), BidCo has requested that provision be made for the payments outlined in clause 13.3 as well as the obligations under clause 12, without which BidCo would not have entered into this deed.
- (c) The Target Board believes that the Scheme will provide benefit to Target and Target Shareholders and that it is appropriate for Target to agree to the payments referred to in this clause 13 in order to secure BidCo's participation in the Proposed Transaction.

13.2 Costs incurred by BidCo

- (a) The fee payable under clause 13.3 has been calculated to reimburse BidCo for the following:
 - (i) fees for reasonable legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction; and
 - (v) any damage to the Guarantors' reputation associated with a failed transaction and the implications of those damages if the Guarantors seek to execute alternative acquisitions in the future,in each case, incurred by BidCo directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.
- (b) The parties acknowledge that the amount of fees, costs and losses referred to in this clause 13.2 is inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained.

13.3 Payment by Target to BidCo

- (a) Target agrees to pay to BidCo \$3,130,729 (exclusive of GST) (**Target Break Fee**) if any of the following occur:
 - (i) **(withdrawal or modification of recommendation):**
 - (A) any Target Director fails to recommend the Scheme as contemplated by clauses 8.1 or 8.2; or
 - (B) each of that number of Target Directors as constitutes a majority of the Target Board withdraws or adversely modifies their recommendation of the Scheme and do not, within three Business Days, reinstate their recommendation,except:
 - (C) in the circumstances contemplated in clause 8.3(b); or
 - (D) as a result of any matter or thing giving Target the right to terminate under clause 17.1;

- (ii) **(Competing Proposal)** either:
 - (A) Target enters into an agreement, arrangement or understanding (whether legally binding or otherwise) to undertake a Competing Transaction, or publicly announces an intention to do so; or
 - (B) a Competing Transaction is made or announced and at any time before 6 months after the End Date the proponent of the Competing Proposal (together with its Associates) has a Relevant Interest in more than 50% of the Target Shares, or acquires or obtains an economic interest in all or a substantial part of the assets of the Target Group;
 - (iii) **(action causing a failure of Condition)** a Condition (other than the Conditions in clauses 3.1(b)(ii), 3.1(b)(iii), 3.1(b)(iv), 3.1(e) and 3.1(g)) is not satisfied due to an action (or failure to act) of Target or any of its Related Bodies Corporate in breach of Target's obligations under this deed, and BidCo and the Guarantors do not waive that Condition before the End Date; or
 - (iv) **(termination due to material breach)** BidCo terminates this deed in accordance with clause 17.1(a).
- (b) Target must pay BidCo the Target Break Fee within five Business Days of receipt by Target of a demand for payment from BidCo made after the occurrence of the event referred to in clause 13.3(a), and in any event prior to entry into any agreement, arrangement or understanding (whether binding or otherwise) in respect of a Competing Proposal.
 - (c) For the avoidance of doubt, the Target Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
 - (d) The Target Break Fee is only payable once and the maximum amount payable by Target under this clause 13.3 is \$3,130,729 (exclusive of GST).
 - (e) Where the Target Break Fee becomes payable to BidCo under this clause 13.3 and is actually paid to BidCo, BidCo (for itself and as agent of every member of the BidCo Group):
 - (i) releases all rights against and agrees with Target that BidCo will not make a Claim against any Target Party (other than a claim under this clause 13.3) in connection with:
 - (A) the event that gave rise to the right to demand the payment of the Target Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the Target Break Fee or that constitutes or may constitute a breach of this deed; and
 - (ii) indemnifies any Target Party against a Claim that is made contrary to the release under clause 13.3(e)(i),

with the effect that the payment of the Target Break Fee represents the sole and exclusive remedy of any BidCo Group Member and the Guarantors.
 - (f) For the avoidance of doubt, the Target Break Fee is not payable where Target has become entitled to the BidCo Break Fee - if applicable.

14. BidCo Break Fee

14.1 BidCo Break Fee

- (a) BidCo agrees to pay to Target \$3,130,729 (exclusive of GST) (**BidCo Break Fee**) if:
 - (i) **(action causing a failure of Condition)** a Condition (other than the Conditions in clauses 3.1(c), 3.1(d) and 3.1(f)) is not satisfied due to an action (or failure to act) of BidCo, the Guarantors or any of their Related Bodies Corporate in breach of

BidCo's and the Guarantors obligations under this deed, and that Condition is not waived in accordance with this deed before the End Date;

- (ii) **(termination due to material breach)** Target terminates this deed in accordance with clause 17.1(a); or
 - (iii) **(failure to perform scheme)** BidCo or the Guarantors on behalf of BidCo do not pay the cash component of, or procure the issue of the scrip component, of the Scheme Consideration (as the case may be) in accordance with the terms and conditions of this deed and the Deed Poll and fail to do so within five Business Days of the date on which the Scheme Consideration is required to be paid or issued (as the case may be).
- (b) BidCo must pay Target the BidCo Break Fee within five Business Days of receipt by BidCo of a demand for payment from Target made after the occurrence of the event referred to in clause 14.1(a).
 - (c) The BidCo Break Fee is only payable once and the maximum amount payable by BidCo under clause 14.1(a) is \$3,130,729 (exclusive of GST).
 - (d) Where the event referred to in clause 14.1(a) is caused by an act or omission of:
 - (i) Primavera or Primavera Capital Fund II alone, then Primavera is solely liable for payment of the aggregate amount of the BidCo Break Fee, limited to the maximum of \$3,130,729 (exclusive of GST); or
 - (ii) SIIC Medical Science or Shanghai Pharma alone, then SIIC Medical Science is solely liable for payment of the aggregate amount of the BidCo Break Fee, limited to the maximum of \$3,130,729 (exclusive of GST).

15. Modification of Target Break Fee or exclusivity arrangements

15.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Governmental Agency finds that all or any part of the payment required to be made under clause 13 or an exclusivity arrangement under clause 12 is unacceptable or unenforceable; or
- (b) as a result of an application to the Takeovers Panel, the Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the amount of the Target Break Fee, the BidCo Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 12, it will make a declaration of unacceptable circumstances,

then, subject to clause 15.2:

- (c) the parties must amend clause 13 and/or 12 to the minimum extent required to give effect to the requirements of the Governmental Agency or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 15.1(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clauses 15.1(a) or 15.1(b) nor the amendment of clauses 13 and/or 12 will be taken to be a breach of, or permit any party to terminate, this deed.

15.2 No requirement to act unless decision final

The parties are only required to take steps under 15.1(c) in relation to any requirement of a Governmental Agency or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or

- (b) BidCo and Target agree in writing not to appeal or seek review of the decision to impose that requirement.

15.3 Appeals and review of regulatory decisions

Nothing in this deed requires either party to appeal or seek review of any decision of a Court, a Governmental Agency or the Takeovers Panel referred to in clauses 15.1(a) or 15.1(b). If either BidCo or Target wishes to appeal or seek review of any such decision then the other must make submissions in the course of those proceedings supporting the review made by the first party.

15.4 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the Target Break Fee or the BidCo Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the Target Board (**Impugned Amount**) and either no appeal from that determination is available or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of Target to pay the Target Break Fee and the obligation of BidCo to pay the BidCo Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if BidCo has received any part of the Impugned Amount, it must refund it within five Business Days after that determination is made or the period for lodging has expired, whichever is later.

16. Confidentiality and Public Announcement

16.1 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Agreement save that the terms of this deed will prevail over the Confidentiality Agreement to the extent of any inconsistency.

16.2 Public Announcements on execution

Immediately after the execution of this deed, the parties must issue public announcements in a form previously agreed to in writing between them which announcement will include a statement:

- (a) by Primavera Capital Fund II that the amount of Primavera Capital Fund II's Relevant Proportion of the Scheme Consideration is "fully funded" by Primavera Capital Fund II;
- (b) by Shanghai Pharma that the amount of Shanghai Pharma's Relevant Proportion of the Scheme Consideration is "fully funded" by Shanghai Pharma; and
- (c) that all Management Shareholders (in respect of all Target Shares held by them at the relevant time) intend supporting and voting in favour of the Scheme, qualified only by the words to the effect of 'unless the Target Directors withdraw their recommendation of the Scheme and subject to the independent expert concluding that the scheme is in the best interests of Target shareholders'.

16.3 Further public announcements

Subject to clause 16.4, any further public announcements by Target, the Guarantors or BidCo in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably) subject to where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme.

16.4 Required announcement

Where Target is required by applicable law, the ASX Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Proposed Transaction or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult

with BidCo and the Guarantors to the fullest extent possible before making the relevant disclosure and must give those parties as much notice as reasonably practical.

16.5 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clauses 16.3 and 16.4 apply to any such statements or disclosures.

17. Termination

17.1 Termination by notice

BidCo or Target may, by notice in writing to the other, terminate this deed at any time prior to the Delivery Time:

- (a) if the other (or, in the case of Target, if a Guarantor) is in material breach of any of its obligations under this deed (including a material breach of a representation or warranty) and in the case of BidCo includes any failure by it to pay an amount when due (including an amount of damages or amounts due under an indemnity), and the relevant party has failed to remedy that breach within five Business Days (or prior to the Delivery Time if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach;
- (b) in accordance with clause 3.7;
- (c) in accordance with clause 4.2(d)(ii)(B) or clause 4.2(d)(iii);
- (d) if the Court refuses to make any order directing Target to convene the Scheme Meeting, provided that Target, BidCo and the Guarantors have met and consulted in good faith and agreed that they do not wish to proceed with the Scheme;
- (e) if the Effective Date for the Scheme has not occurred on or before the End Date; or
- (f) each of that number of Target Directors as constitutes a majority of the board of directors of Target change their recommendation or cease to recommend to Target Shareholders that they vote in favour of the Scheme as contemplated by clause 8.1, including any adverse modification to their recommendation as contemplated by clause 8.1 and do not, within three Business Days, reinstate their recommendation of the Proposed Transaction.

17.2 Automatic termination

Without limiting any other term of this deed, this deed will terminate automatically if the Scheme is not approved by the necessary majorities at the Scheme Meeting.

17.3 Effect of termination

- (a) In the event of termination of this deed under clause 3.6, 17.1 or 17.2, this deed will become void and have no effect, except that the provisions of clauses 11.8, 11.9, 13, 14, 16, 17 and 21.3 to 21.17 (inclusive) survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

18. Releases

18.1 Release of Target Indemnified Parties

- (a) Subject to any restrictions imposed by law, BidCo releases any and all rights that it may have as at the date of this deed and from time to time, and agrees with Target that it will not make any Claim, against any Target Indemnified Party in connection with:
 - (i) Target's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of Target in this deed;

- (iii) the implementation of the Scheme; or
- (iv) any disclosure made by any Target Indemnified Party which is false or misleading (whether by omission or otherwise),

except to the extent the relevant Target Indemnified Party has not acted in good faith or has engaged in fraud, wilful misconduct or wilful concealment. To avoid doubt, nothing in this clause 18.1(a) limits the rights of BidCo to terminate this deed under clause 17.

- (b) Target receives and holds the benefit of clause 18.1(a) as trustee for the Target Indemnified Parties.

18.2 Release of BidCo Indemnified Parties

- (a) Subject to any restrictions imposed by law, Target releases any and all rights that it may have as at the date of this deed and from time to time, and agrees with BidCo that it will not make any Claim, against any BidCo Indemnified Party in connection with:

- (i) any breach of any representation, covenant and warranty given by BidCo in this deed;
- (ii) any disclosure containing any statement which is false or misleading (whether by omission or otherwise); or
- (iii) any failure to provide information,

except to the extent the relevant BidCo Indemnified Party has not acted in good faith or has engaged in fraud, wilful misconduct or wilful concealment. To avoid doubt, nothing in this clause 18.2(a) limits the rights of Target to terminate this deed under clause 17.

- (b) BidCo receives and holds the benefit of clause 18.2(a) as trustee for the BidCo Indemnified Parties.

18.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, BidCo undertakes in favour of Target and each other person who is a Target Party that it will:

- (i) subject to clause 18.3(d), for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Target Group; and
- (ii) procure that Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.

- (b) The undertakings contained in clause 18.3(a) are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.

- (c) Target receives and holds for the benefit of clause 18.3(a), to the extent it relates to the other Target Parties, as trustee for them.

- (d) The undertakings contained in clause 18.3(a) are given:

- (i) in the case of clause 18.3(a)(i), until the earlier of 7 years from the Implementation Date or the relevant member of the Target Group ceasing to be part of the BidCo Group; or
- (ii) in the case of clause 18.3(a)(ii), until the earlier of 7 years from the retirement of each director and officer or the relevant member of the Target Group ceasing to be part of the BidCo Group.

18.4 Directors' and officers' insurance

- (a) BidCo acknowledges that Target will in respect of Target and all other members of the Target Group:
- (i) prior to the Effective Date, arrange for the cover currently provided under the directors' and officers' insurance policy for Target and all other members of the Target Group (**Policy**) to be extended for a further period of 12 months; and
 - (ii) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a 7 year period from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date,
- and that any actions to facilitate that insurance or in connection therewith will not be a Target Prescribed Occurrence or breach any provision of this deed.
- (b) Target receives and holds the benefit of paragraph (a) as trustee for each director and office of a member of the Target Group.

19. Notices

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be addressed as shown on the Details page (or as otherwise notified by that party to the other party from time to time);
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered or posted by prepaid post to the address of the addressee in accordance with clause 19(b); and
- (e) will be deemed to be received by the addressee:
 - (i) **(in the case of prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in clause 19(b), unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and
 - (iii) **(in the case of email)** 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

20. Primavera and SIIC Medical Science

20.1 References to BidCo

All references to "BidCo" in this deed are references to each of Primavera and SIIC Medical Science:

- (a) individually and severally; and
- (b) in each of Primavera's and SIIC Medical Science's respective Relevant Proportions.

20.2 Rights, obligations and liability

- (a) **(Primavera and SIIC Medical Science)** Notwithstanding any other provision in this deed, the Scheme and the Deed Poll:
- (i) subject to 20.2(a)(iii), each of Primavera and SIIC Medical Science is severally responsible and liable in its Relevant Proportion for all obligations of BidCo under this deed, the Scheme and the Deed Poll;
 - (ii) all of the rights of BidCo under this deed, the Scheme and the Deed Poll are exercisable severally by Primavera and SIIC Medical Science and any failure by either of them to exercise its rights under this deed, the Scheme and the Deed Poll does not constitute a waiver by the other of its rights; and
 - (iii) **(exceptions to clause 20.2(a)(i))**
 - (A) neither of Primavera or Primavera Capital Fund II is responsible for, or incurs any liability arising from any:
 - (I) act;
 - (II) omission; or
 - (III) breach of any of this deed, the Scheme or the Deed Pollby Shanghai Pharma, SIIC Medical Science or either of their Subsidiaries, Authorised Persons or Related Bodies Corporate.
 - (B) neither of SIIC Medical Science or Shanghai Pharma is responsible for, or incurs any liability arising from any:
 - (I) act;
 - (II) omission; or
 - (III) breach of any of this deed, the Scheme or the Deed Pollby Primavera Capital Fund II, Primavera or either of their Subsidiaries, Authorised Persons or Related Bodies Corporate.
- (b) **(Primavera Capital Fund II and Shanghai Pharma)** Notwithstanding any other provision in this deed, the Scheme and the Deed Poll, save as provided in clause 6.1, the obligations of the Guarantors is several and in each Guarantor's Relevant Proportion.

20.3 AcquireCo

- (a) If BidCo procures the incorporation of AcquireCo to act as nominee for BidCo to acquire all of the Scheme Shares under the Scheme, BidCo (being Primavera and SIIC Medical Science severally liable and in their Relevant Proportions) will as soon as practicable and in any event no less than 5 Business Days prior to the Implementation Date, provide a notice to Target which confirms the incorporation of AcquireCo and sets out the incorporation details of AcquireCo.
- (b) All references in this deed to AcquireCo are to AcquireCo as BidCo's nominee, with effect from its incorporation.
- (c) BidCo holds all rights of AcquireCo under this deed as trustee and may enforce them on AcquireCo's behalf and for its benefit.

20.4 Representations and warranties

Each of BidCo's warranties and representations in clause 11.1 are given:

- (a) by Primavera:
- (i) in respect of itself and Primavera Capital Fund II only;
 - (ii) in respect of AcquireCo, but limited to the knowledge which Primavera possesses relating to AcquireCo; and
 - (iii) in respect of the Primavera Capital Fund II Information only; and

- (b) by SIIC Medical Science:
 - (i) in respect of itself and Shanghai Pharma only;
 - (ii) in respect of AcquireCo, but limited to the knowledge which SIIC Medical Science possesses relating to AcquireCo; and
 - (iii) in respect of in respect of the Shanghai Pharma Information only.

21. General

21.1 Further acts

Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this deed.

21.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties. The parties agree to consult regularly with each other in relation to:

- (a) performing their respective obligations within the framework established by the Timetable; and
- (b) any need to modify the Timetable.

21.3 Payments

Unless otherwise expressly provided in this deed, where an amount is required to be paid to a party (**Receiving Party**) by another party under this deed, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off.

21.4 Interest

- (a) If a party fails to pay any amount payable under this deed on the due date for payment or within any period for remedying the failure to do so, that party must pay interest on the amount unpaid at the higher of the Interest Rate plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.
- (b) The interest payable under clause 21.4(a):
 - (i) accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
 - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

21.5 Consents or approvals

A party may:

- (a) give conditionally or unconditionally; or
- (b) withhold,

its approval or consent in its absolute discretion unless this deed expressly provides otherwise.

21.6 GST

- (a) Any reference in this clause 21.6 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 21.6(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. This clause 21.6(c) does not apply to any taxable supply under or in connection with this deed that is expressly stated to include GST.
- (d) The amount on account of GST payable in accordance with this clause 21.6 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- (e) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.
- (f) Unless expressly included, any monetary thresholds specified in this deed are exclusive of GST.

21.7 Stamp duty

BidCo must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including without limitation the acquisition or transfer of Scheme Shares pursuant to the Scheme).

21.8 Expenses

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this deed and the Scheme Booklet and the proposed, attempted or actual implementation of this deed and the Scheme.

21.9 Amendments

This deed may only be varied by a document signed by or on behalf of each of the parties.

21.10 Assignment

Except as specifically provided for in this deed, a party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.

21.11 Business Day

Except where otherwise expressly provided, where under this deed the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

21.12 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any

party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.

- (b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

21.13 Counterparts

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same deed.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by facsimile machine to the facsimile number of the other party specified in clause 18, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

21.14 Entire agreement

- (a) This deed and the Equity Commitment Letters:
 - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite clause 21.14(a), the Confidentiality Agreement continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

21.15 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and the Equity Commitment Letters.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed and the Equity Commitment Letters.

21.16 No merger

The rights and obligations of the parties will not merge on completion of any transaction under this deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

21.17 Governing law

- (a) This deed is governed by and will be construed according to the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and of the courts competent to determine appeals from those courts.

21.18 Appointment of agent for service

Each of Primavera Capital Fund II and Shanghai Pharma appoints King & Wood Mallesons as its agent to accept on its behalf service of initiating process in any proceedings relating to or arising out of the transactions contemplated by this deed.

Schedule 1 – Indicative timetable

Event	Date*
Enter into Scheme Implementation Deed	August 2016
Lodge Scheme Booklet with ASIC for review and comment	October 2016
First Court Date	October 2016
Scheme Booklet registered with ASIC	October 2016
Despatch Scheme Booklet to Target Shareholders	October 2016
Satisfaction or waiver of all conditions (other than the conditions relating to the Scheme Meeting and Court approval of the Scheme)	November 2016
Scheme Consideration Escrow Date	10.00am on the Proxy Deadline Date
Proxy Deadline	7:00pm on the date which is no more than 48 hours before the Scheme Meeting
Scheme Meeting	November 2016 or at least one week after the Conditions have been satisfied or waived
Second Court Date	November/December 2016
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	December 2016
Record Date	December 2016
Implementation Date: Pay and issue the Scheme Consideration to Scheme Shareholders. Reconstitute boards of each Target Group company	December 2016
End Date	31 March 2017

* Precise dates to be settled once the timing for receipt of Regulatory Approvals and the Court dates are known.

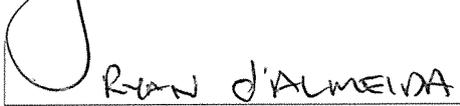
Signing page

EXECUTED as a deed.

Executed by **VITACO HOLDINGS LIMITED** in accordance with section 127 of the *Corporations Act 2001* (Cth)



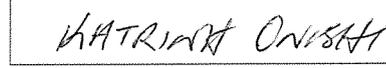
Signature of director



Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

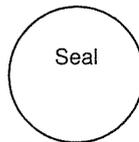


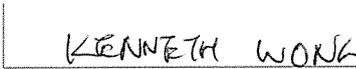
Name of director/company secretary (print)

Executed by **PV ZEUS LIMITED** acting by the following authorised officer



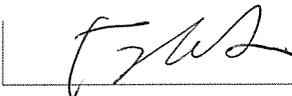
Signature of authorised officer



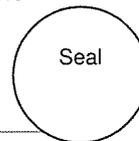


Name of authorised officer (print)

Executed by **SIIC MEDICAL SCIENCE AND TECHNOLOGY (GROUP) LIMITED** acting by the following authorised officer



Signature of authorised officer



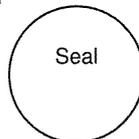


Name of authorised officer (print)

Executed by **PRIMAVERA CAPITAL FUND II L.P.**, by its general partner **PRIMAVERA CAPITAL GP II LTD.**, acting by the following authorised officer



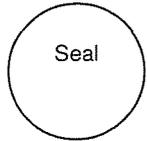
Signature of authorised officer





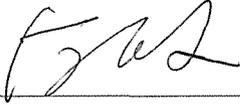
Name of authorised officer (print)

Executed by CHO Man as attorney for
**SHANGHAI PHARMACEUTICALS HOLDING
CO., LTD.** under power of attorney in the presence
of:





Signature of witness



By executing this document the attorney states that the
attorney has received no notice of revocation of the power of
attorney



Name of witness (print)

3 August 2016

Board of Directors

Vitaco Holdings Limited
Level 1, 82 Waterloo Road
North Ryde NSW 2113

Dear Vitaco Board,

Statement of intentions by Next Capital regarding the proposed acquisition of Vitaco Holdings Limited by scheme of arrangement (Scheme)

Next Capital (Services A) Pty Limited ACN 115 384 300 (as trustee for Next Capital Fund IA), Next Capital (Services B) Pty Limited ACN 117 027 853 (as trustee for Next Capital Fund IB) and Next Capital Pty Limited ACN 111 963 583 (as trustee for the Next Capital Health Group Co-investment Trust) (**Next Capital**) refers to the Scheme Implementation Deed (**SID**) between Vitaco Holdings Limited (**Vitaco**), Primavera Capital Fund II L.P. (**Primavera**) and Shanghai Pharmaceuticals Holding Co., Ltd (**Shanghai Pharma**), amongst others, and the announcement by Vitaco that it has entered into the SID, in each case dated 3 August 2016.

Next Capital holds 21,288,933 shares in Vitaco representing 15.3% of the issued shares in Vitaco.

In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

Statement of intention regarding Scheme

Next Capital confirms that, based solely on the information provided by Vitaco as at the date of this letter in relation to this Scheme (including the terms of the SID and the announcement), it intends to vote in favour of the Scheme at the proposed Scheme meeting (when held) subject to:

1. there not being any Competing Transaction involving the sale of all shares in Vitaco which Next Capital determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Next Capital than the Proposed Transaction;
2. the board of Vitaco recommending that shareholders of Vitaco vote in favour of the Scheme; and
3. any independent expert to be appointed by Vitaco concluding that the Scheme is in the best interests of shareholders of Vitaco.

No present intention to sell shares in Vitaco

Next Capital confirms that it does not presently intend to sell its shares in Vitaco prior to the proposed Scheme meeting. If Next Capital receives a genuine offer from a third party to acquire its shares in Vitaco prior to the proposed Scheme Meeting (**Third Party Offer**) which it intends to accept in compliance with the terms of this letter, it will notify Vitaco of the nature and terms of the offer (and require that information to be shared with Shanghai Pharma and Primavera in order to give them a reasonable opportunity to make an offer to acquire those shares on no less favourable terms (including as to price) as the Third Party Offer).

Restrictions during the Exclusivity Period

During the Exclusivity Period, Next Capital undertakes to Vitaco that it will not directly or indirectly solicit, invite, initiate or encourage any Competing Transaction or the acquisition of some or all of the Vitaco shares held by Next Capital or any enquiries, proposals, discussions or negotiations with any third party in relation to (or that could reasonably be expected to lead to) a Competing Transaction, or communicate any intention to do any of these things.

During the Exclusivity Period, Next Capital undertakes to Vitaco that it will not directly or indirectly negotiate or enter into or participate in negotiations or discussions with any person or communicate any intention to do any of these things, in relation to (or which may reasonably be expected to lead to) a Competing Transaction, even if that Competing Transaction was not directly or indirectly solicited, encouraged or initiated by Next Capital, or a person has publicly announced the Competing Transaction. The restriction in this paragraph does not apply to the extent it restricts Next Capital from taking or refusing to take any action with respect to a Competing Transaction provided that Next Capital has determined in its sole discretion that the Competing Transaction would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Next Capital than the Proposed Transaction.

Announcement

This letter is provided to Vitaco. Next Capital acknowledges and agrees that Vitaco will make an announcement to the ASX stating the contents of this letter and consents to Vitaco doing so. This letter is provided to Vitaco on the condition that, until such announcement is made, Next Capital and Vitaco will keep the contents of this letter confidential, except to the extent required by law.

Governing Law

This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.

Yours faithfully,



John White
Partner
Next Capital