

ASX Announcement
26 June 2017**SEYMOUR WHYTE ANNOUNCES RECOMMENDED SCHEME WITH VINCI
AT A\$1.285 CASH PER SHARE**

Summary

- Proposed acquisition by VINCI Construction International Network ('VINCI') of all the issued ordinary shares in Seymour Whyte Limited ('Seymour Whyte' or 'the Company') for a total consideration of A\$1.285 cash per share to be implemented by a scheme of arrangement ('Scheme').
- Seymour Whyte may decide to pay one or more fully franked dividends up to a maximum total of A\$0.445 per share (collectively referred to as the 'Scheme Dividend'). If so, the cash consideration as part of the Scheme will be reduced by the cash amount of any Scheme Dividend. Shareholders who are able to capture the full benefit of the franking credits associated with any Scheme Dividend may realise an additional value of A\$0.19 per share if the maximum Scheme Dividend is paid.
- The scheme consideration represents a premium of 40% to Seymour Whyte's volume weighted average share price of A\$0.92 in the three months up to and including 14 March 2017 (the last day of trading before Seymour Whyte announced it had received an indicative proposal from VINCI).
- The Board of Seymour Whyte considers that the Scheme is in the best interests of the Company's shareholders, and unanimously recommends that shareholders vote in favour of the Scheme in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of the shareholders. Each Director intends to vote all their shares in favour of the proposed Scheme, in absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Seymour Whyte shareholders.
- Major shareholders controlling approximately 48% of the ordinary shares in Seymour Whyte have stated that they intend to vote in favour of the Scheme, in absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Seymour Whyte shareholders.

Seymour Whyte Limited (ASX:SWL) ('Seymour Whyte' or 'the Company') announces that it has entered into a Scheme Implementation Agreement ('SIA') with VINCI Construction International Network ('VINCI') under which it is proposed that VINCI (or its nominee) will acquire 100% of the issued ordinary shares in Seymour Whyte to be implemented by a scheme of arrangement ('Scheme').

If the Scheme is approved by the requisite majorities of Seymour Whyte shareholders and becomes effective, Seymour Whyte shareholders will receive a total consideration of A\$1.285 in cash per share ('Scheme Consideration').

Seymour Whyte has retained the discretion to pay one or more special dividends of up to a total of A\$0.445 per share (which will be deducted from the Scheme Consideration) on or before the implementation date of the Scheme. Further details of the potential dividends are set out below.

The Scheme Consideration implies an equity value for Seymour Whyte of approximately A\$113 million.¹

The Board of Seymour Whyte considers that the Scheme is in the best interests of the Company's shareholders and unanimously recommends that shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Seymour Whyte shareholders.

Each Director intends to vote all their shares in favour of the proposed Scheme, in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Seymour Whyte shareholders.

Seymour Whyte Chairman Mr Mac Drysdale said, "The Scheme provides the certainty of a cash return to Seymour Whyte shareholders and represents clear and attractive value for the Company. The support of VINCI and its Australian operations is expected to significantly enhance Seymour Whyte's competitive positioning and create greater opportunities for our staff and customers. The Board of Seymour Whyte believes that in the context of the current operating environment and competitive landscape, this agreement with VINCI will provide the scale and financial capacity to successfully pursue larger, significant opportunities in the market.

"VINCI has a strong appreciation for the Seymour Whyte brand and legacy, and as a reflection of this, has committed to retaining and preserving the identity and operations of the Company.

"In addition, upon completion of the proposed Scheme, VINCI has indicated their intention that the existing senior management team, led by John Kirkwood, will remain in place to continue to drive the performance and growth of the Company."

Seymour Whyte shareholders Racelid Pty Ltd (Estate of Garry Whyte), Rabtuvu Pty Ltd (John Seymour) and Robert Carr (collectively the 'Major Shareholders') have each separately advised Seymour Whyte that they intend to vote all Seymour Whyte shares held or controlled by them respectively (in total representing approximately 48% of the Seymour Whyte shares on issue), in favour of the Scheme in absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Seymour Whyte shareholders.² The Major Shareholders have authorised Seymour Whyte to announce their intentions.

Potential Scheme Dividend

The SIA permits Seymour Whyte to pay one or more fully franked dividends up to a maximum total of A\$0.445 per share (collectively referred to as the 'Scheme Dividend'). The cash consideration as part of the Scheme will be reduced by the cash amount of any Scheme Dividends.

The payment of any Scheme Dividend is subject to the discretion of the Board and the franking credit position of Seymour Whyte. The Company will update the market after a final decision is made as to whether a Scheme Dividend will be paid and, if so, the details of the Scheme Dividend.

¹ At the date of this announcement, Seymour Whyte had 87,976,230 ordinary shares on issue.

² Garry Whyte and John Seymour founded Seymour Whyte Constructions in 1987. Racelid Pty Ltd and Rabtuvu Pty Ltd hold 22.6% and 19.5% of issued ordinary shares in Seymour Whyte respectively. Robert Carr is a Director of Seymour Whyte and holds 5.6%.

If a Scheme Dividend is paid, shareholders may be entitled to receive the benefit of any franking credits attached to the Scheme Dividend. Those shareholders who can capture the full benefit of the franking credits associated with the maximum Scheme Dividend may receive an additional benefit valued at up to A\$0.19 per share. If the Scheme Dividend is less, or is not paid, any additional benefit arising from the receipt of the franking credits will be less.

As part of payment of the Scheme Dividend, Seymour Whyte will seek a Class Ruling from the Australian Taxation Office to confirm the tax outcomes for shareholders who receive a Scheme Dividend and dispose of their shares under the Scheme, including eligibility to imputation benefits on the Scheme Dividend and the tax treatment of capital proceeds received under the Scheme.

The tax implications of the Scheme for each shareholder will depend on their respective circumstances. Accordingly, all shareholders are encouraged to seek professional advice in relation to their tax position.

Neither Seymour Whyte nor any of its officers, employees or advisors assumes any liability or responsibility for advising shareholders about the tax consequences of the Scheme.

Scheme Implementation Agreement

The Scheme is intended to be effected by way of a scheme of arrangement under Part 5.1 of the *Corporations Act 2001 (Cth)* and is conditional on, among other things:

- relevant ASIC and ASX approvals
- the approval of Seymour Whyte shareholders and the Federal Court
- no Material Adverse Change or Prescribed Occurrence (each as defined in the SIA) occurring in relation to Seymour Whyte
- the holders of all outstanding Long Term Incentive Plans (LTIP) Options (as defined in the SIA) entering into cancellation deeds in relation to those LTIP Options (or the LTIP Options otherwise being cancelled or acquired by VINCI on terms satisfactory to it)
- the counterparties to certain key third party contracts have given consent, not terminated, or given any notice terminating or advising an intention to terminate, those contracts; and
- the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of shareholders.

The SIA also contains customary exclusivity provisions, including a “no shop” provision, an obligation to notify the fact of approaches and matching rights. It also contains “no talk” restrictions, a “no due diligence” restriction and an obligation to notify details of approaches, each of which are subject to the Directors’ fiduciary obligations. The SIA also contains a break fee that is payable by Seymour Whyte in certain circumstances.

If Seymour Whyte decides to pay one or more Scheme Dividends, the SIA requires Seymour Whyte and VINCI to each use reasonable endeavours to obtain third party debt financing of up to A\$32,551,205.10 to assist dividend funding. VINCI will use reasonable endeavours to agree the terms of and to provide a guarantee in respect of such financing. If such financing cannot be obtained, VINCI will provide a loan on normal commercial terms to Seymour Whyte up to that amount.

A copy of the SIA is attached to this announcement.

Independent Expert's Report

Seymour Whyte has appointed BDO Corporate Finance (QLD) Ltd to prepare an independent expert's report on whether the Scheme is in the best interests of shareholders.

Next steps

Seymour Whyte shareholders do not need to take any action at the present time. Shareholders will be given the opportunity to vote on the Scheme at a general meeting expected to be held in September 2017. Subject to shareholder approval and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented in October 2017.

Seymour Whyte expects to send a scheme booklet to shareholders in August 2017 containing information relating to the Scheme. The scheme booklet will include, among other things, the reasons for the Board's unanimous recommendation and a copy of the independent expert's report.

An indicative timetable for the Scheme is set out in Schedule 1 of the attached SIA. These dates are indicative and subject to change.

Other matters

Seymour Whyte shareholders should consult their stockbroker, accountant, tax, financial or other professional adviser about the impact of the Scheme and any Scheme Dividend on their particular investment objectives.

Investec Australia Limited and Corrs Chambers Westgarth are acting as Seymour Whyte's financial and legal advisers, respectively.

About VINCI Construction International Network

VINCI Construction International Network represents a leading international construction contracting organisation within the broader VINCI Group, which is a global player in concessions and construction, with more than 200,000 employees across more than 100 countries. VINCI Construction International Network is a wholly owned subsidiary of Vinci Construction and is responsible for developing construction activities internationally by building a network of local companies through acquisitions.

ENDS

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Note to editors: Seymour Whyte Limited is an ASX-listed company providing civil and utilities infrastructure services across Australia. Seymour Whyte Limited is the holding company of Seymour Whyte Constructions Pty Ltd and Rob Carr Pty Ltd.

Execution version

VINCI Construction International Network

Seymour Whyte Limited

Scheme Implementation Agreement

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Date

Parties

VINCI Construction International Network of 9 place de l'Europe, 92500 Rueil-Malmaison, France, registered in the Nanterre Company and Business Registry under number 331 631 408 (**Bidder**)

Seymour Whyte Limited ACN 105 493 203 of 12 Electronics Street, Eight Mile Plains, Qld 4113 (**Target**)

Background

- A Bidder has agreed with Target for Bidder (or its nominee) to acquire all of the issued ordinary shares of Target by means of a scheme of arrangement.
 - B Target has agreed to propose the Scheme to Target Shareholders.
 - C The parties have agreed to implement the Scheme on and subject to the terms set out in this document.
-

Agreed terms

1 Definitions

In this document these terms have the following meanings:

Accounting Standards

The following:

- (a) accounting standards as that term is defined in the Corporations Act;
- (b) the requirements of the Corporations Act in relation to the preparation and content of financial reports; and
- (c) if and to the extent that any matter is not covered by the accounting standards or requirements referred to in paragraphs (a) or (b), other relevant accounting standards and generally accepted accounting principles applied from time to time in Australia for a business similar to Target.

Action	A prosecution, legal proceeding, suit or arbitration.
Advisers	In relation to an entity, its legal, financial and other expert advisers in relation to the Transaction.
Announcement	The announcement relating to the Transaction in the form contained in annexure C .
ASIC	The Australian Securities and Investments Commission.
Associate	has the meaning given in section 12 of the Corporations Act as if section 12(1) of that Act included a reference to this document and Target was the designated body.
ASX	ASX Limited ACN 008 624 691 or, as the context requires, the market operated by it.
ASX Listing Rules	The official listing rules of ASX.
Bidder Group	Bidder and each of its Related Entities.
Bidder Indemnified Parties	Each member of the Bidder Group and the Officers, employees and contractors of each of those entities.
Bidder Information	<p>All information regarding Bidder or the Bidder Group as is required to be included in the Scheme Booklet by:</p> <ul style="list-style-type: none"> (a) the Corporations Act and the <i>Corporations Regulations 2001</i> (Cth); (b) ASIC policy (including <i>Regulatory Guide 60</i>); (c) the ASX Listing Rules; or (d) other applicable laws; <p>to the extent such information is within Bidder's knowledge, including information regarding Bidder's intentions on the matters referred to in paragraph 8310 of Schedule 8 of the Corporations Regulations but excluding the Independent Expert's Report, the Tax Opinion and the Target Information.</p>
Bidder's Nominee	The meaning given in clause 4.3 .
Bidder Warranties	Each of the representations and warranties given by Bidder to Target as set out in schedule 3 .
Business Day	The meaning given in the ASX Listing Rules.
Cancellation Deed	Each deed (in the form agreed by Target and Bidder on or before the date of this document) to be entered into between an LTIP Optionholder and Target in respect of

	the proposed cancellation or transfer of each LTIP Option held by them with effect from the Effective Date in exchange for such rights as may be granted under the terms of the New Bidder Incentives.
Condition	A condition set out in clause 3.1 .
Confidentiality Deed	The deed dated 23 January 2017 between Target and Bidder.
Competing Proposal	<p>Any inquiry, offer, proposal or expression of interest, transaction or arrangement under which, if entered into or completed substantially in accordance with its terms, a person (alone or together with its Associates) would directly or indirectly:</p> <ul style="list-style-type: none"> (a) acquire or increase a Relevant Interest in or have a right to acquire or increase a legal, beneficial or economic interest in 20% or more of Target's voting shares or of the share capital of any material Related Body Corporate of Target; or (b) enter into, or increase, any cash settled equity swap or other derivative contract arrangement in respect of 20% or more of the share capital of Target; or (c) acquire, obtain a right to acquire, receive or become the holder of, or otherwise obtain an economic interest in: <ul style="list-style-type: none"> (i) 50% or more of the issued share capital of Target or any material Related Body Corporate of Target; or (ii) all or a substantial part of the assets or business of the Target Group; (d) acquire control of Target or of any material Subsidiary of Target within the meaning of section 50AA of the Corporations Act, disregarding section 50AA(4) of that Act; (e) otherwise acquire or merge with Target or any of its Related Bodies Corporate; or (f) require the abandonment, or failure to proceed with, the Transaction, <p>whether by takeover bid, scheme of arrangement, amalgamation, merger, capital reduction share buy-back, capital reconstruction, consolidation, sale or purchase of assets or businesses, joint venture, reverse takeover, dual listed company structure, recapitalisation, stapled security structure or other form</p>

	of synthetic merger or any other transaction or arrangement.
Control	The meaning given to that term in the Corporations Act.
Corporations Act	The <i>Corporations Act 2001</i> (Cth).
Counter Proposal	The meaning given in clause 9.7(d) .
Court	The Federal Court of Australia (New South Wales Registry) or any other court of competent jurisdiction under the Corporations Act agreed between Target and Bidder.
Cut Off Time	8.00 am on the Second Court Date.
Deed Poll	A deed poll in the form of annexure B or in such other form as agreed by Bidder and Target to be executed by Bidder in favour of the Scheme Participants, under which Bidder covenants in favour of each Scheme Participant to perform the actions attributed to Bidder under the Scheme, and to provide the Scheme Consideration in accordance with the Scheme.
Dividend Loan	The meaning given in clause 8.3(e)
Discloser	The meaning given in clause 3.3(b) .
Dissenting Holder	The meaning given in clause 6.2 .
Duty	The meaning given in clause 18.1(a) .
Effective	In relation to the Scheme, the coming into effect of the Scheme Order pursuant to section 411(10) of the Corporations Act.
Effective Date	The date on which the Scheme becomes Effective.
Encumbrance	Any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement, any "security interest" as defined in sections 12(1) or (2) of the PPSA or any agreement to create any of them or allow them to exist other than a Permitted Encumbrance.
End Date	30 November 2017 or such later date as Bidder and Target agree in writing.
Excluded Share	A Target Share registered in the name of the Bidder or a Related Body Corporate of Bidder.
Exclusivity Period	The period from and including the date of this document to and including the earlier of the date this document is terminated in accordance with its terms and the End Date.

First Court Date	The first day of the First Court Hearing or, if the First Court Hearing is adjourned for any reason, the first day on which the adjourned application is heard.
First Court Hearing	The hearing of the application made to the Court for orders under section 411(1) of the Corporations Act that the Scheme Meeting be convened.
Headcount Test	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.
Implementation Date	The fifth Business Day following the Record Date, or such other date as ordered by the Court or agreed between Bidder and Target.
Impugned Amount	The meaning given in clause 10.4(a) .
Independent Expert	An independent expert determined by Target.
Independent Expert's Report	The report in connection with the Scheme to be prepared by the Independent Expert in accordance with the Corporations Act and ASIC policy and practice, for inclusion in the Scheme Booklet.
Insolvency Event	Any of the following: <ul style="list-style-type: none"> (a) a person is or states that the person is unable to pay from the person's own money all the person's debts as and when they become due and payable; (b) a person is taken or must be presumed to be insolvent or unable to pay the person's debts under any applicable legislation; (c) an application or order is made for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of a corporation, other than where such winding up or dissolution is undertaken voluntarily for the purposes of a solvent restructure; (d) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of a corporation or any action is taken to appoint any such person and

the action is not stayed, withdrawn or dismissed within seven days;

- (e) a controller (as that term is defined in the Corporations Act) is appointed in respect of any property of a corporation;
- (f) a distress, attachment or execution is levied or becomes enforceable against any property of a person;
- (g) a person enters into or takes any action to enter into an arrangement (including a scheme of arrangement or deed of company arrangement other than the Scheme), composition or compromise with, or assignment for the benefit of, all or any class of the person's creditors or members or a moratorium involving any of them; or
- (h) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of a person.

Losses	All claims, actions, proceedings, liabilities, obligations, damages, loss, charges, costs, expenses and duties or other outgoings.
LTIPs	Target's current Employee Option Plan approved by shareholders at the 2016 AGM and Target's previous Employee Option Plan approved by shareholders at the 2014 AGM.
LTIP Option	An option granted to an employee of the Target Group under the terms of the LTIPs.
LTIP Optionholder	A holder of an LTIP Option.
Material Adverse Change	<p>Any matter, event, change or circumstance that:</p> <ul style="list-style-type: none"> (a) occurs on, before or after the date of this document; or (b) will or is reasonably certain to occur after the date of this document; <p>(a Relevant Event) whether or not it becomes public, where that Relevant Event has, has had, or could reasonably be expected to have, individually or when aggregated with all other such matters, events, changes or circumstances of a similar kind or category:</p>

- (a) the effect of diminishing the value of the consolidated net assets of the Target Group taken as a whole (calculated in accordance with the accounting policies and practices applied by Target in the financial statements for the half year ended 31 December 2016 released to ASX) by \$9 million or more, other than as a result of payment of any Target Permitted Special Dividend or as a result of any impairment which is made with the prior written consent of Bidder;
- (b) the effect of reducing the annualised earnings before interest, tax, depreciation and amortisation of the Target Group taken as a whole as at the end of each of three consecutive financial years (calculated in accordance with the accounting policies and practices applied by Target in the financial statements for half year ended 31 December 2016 released to ASX), by \$1.5 million or more, but for the Relevant Event;

other than a matter, change, event or circumstance:

- (c) expressly required to be done or procured by Target or its Related Entities pursuant to this document, the Scheme or the Deed Poll
- (d) fairly disclosed by Target to Bidder prior to the date of this document and:
 - (i) has already occurred prior to the date of this document (for the avoidance of doubt this excludes any forward-looking statements); or
 - (ii) to the extent it is clearly identified as being provided for or otherwise taken into account in the FY17 forecast;
- (e) fairly disclosed by Target in any announcement to or filing with ASX prior to the date of this document;
- (f) undertaken or occurring with the prior written approval or consent of Bidder;
- (g) consisting of or reasonably required to fund or pay a Target Permitted Special Dividend;
- (h) resulting from changes in law occurring after the date of this document that impact Target and its Australian competitors in a similar manner; or

- (i) resulting from changes in the applicable Accounting Standards.

New Bidder Incentives

The employee incentive arrangements described in the Cancellation Deeds.

Officer

In relation to an entity, its directors and senior executives.

Permitted Encumbrance

Any of the following:

- (a) a charge or lien arising in favour of a Governmental Agency by operation of statute unless there is default in payment of money secured by that charge or lien;
- (b) any repairers', mechanics', workmens', bankers', solicitors' or other like lien arising in the ordinary course of business;
- (c) any retention of title arrangement entered into in the ordinary course of day-to-day trading;
- (d) any security interest of the kind referred to in s12(3) of the PPSA;
- (e) an encumbrance granted under any hire purchase or conditional sale or finance lease arrangements or any similar arrangement entered into in the ordinary course of business in respect of goods supplied to Target on the supplier's terms (or on terms more favourable to Target), provided the secured amount is paid when due or is being contested in good faith and any secured amount which remains due after final determination or settlement of the contest is paid promptly; or
- (f) a netting or set-off arrangement entered into in the ordinary course of banking arrangements for the purpose of netting or setting off debit and credit balances.

PPSA

The Personal Property Securities Act 2009 (Cth)

Prescribed Occurrence

Other than:

- (a) as expressly required by this document; or
- (b) as expressly required under the Scheme or Deed Poll; or
- (c) with the express prior written consent of Bidder, which, other than in relation to **paragraphs (g) to (n), (p), (w) and (ee)** (and paragraph **(hh)** to the

extent it relates to any of those paragraphs), must not be unreasonably withheld or delayed; or

- (d) fairly disclosed by Target in any announcement to ASX prior to the date of this document; or
- (e) where the relevant action consists of the payment of or is reasonably required to fund or pay a Target Permitted Special Dividend;
- (f) in relation to paragraphs (h), (j) and (l) only, where the relevant action is undertaken by a wholly owned direct or indirect subsidiary of Target,

the occurrence of any of the following:

- (g) Target converting all or any of its shares into a larger or smaller number of shares;
- (h) any member of the Target Group resolving to reduce, or reducing, its share capital in any way, or reclassifying, redeeming, combining, splitting or repurchasing directly or indirectly any of its shares;
- (i) any member of the Target Group resolving to buy back, or buying back, any of its shares, including by:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (j) any member of the Target Group issuing shares, or granting an option over its shares, or agreeing to make such an issue, other than:
 - (i) an issue of ordinary shares to another member of the Target Group; or
 - (ii) an issue of ordinary shares following the valid exercise of any options or performance rights on issue at the date of this document,in all cases, the existence of which has been fairly disclosed to Bidder;
- (k) any member of the Target Group issuing, or agreeing to issue, securities convertible into shares or debt securities (including any performance rights or options);

- (l) any member of the Target Group making or declaring any distribution whether by way of dividend or capital reduction or otherwise and whether in cash or in specie other than by way of a Target Permitted Special Dividend;
- (m) any member of the Target Group creating or agreeing to create, any Encumbrance over any part of its business or property;
- (n) any member of the Target Group becoming subject to an Insolvency Event;
- (o) any member of the Target Group:
 - (i) acquiring, leasing or disposing of;
 - (ii) agreeing to acquire, lease or dispose of; or
 - (iii) offering or proposing to acquire, lease or dispose of,

any business, assets (other than trading inventories and consumables acquired, leased or disposed of in the ordinary and usual course of business, or pursuant to any contract or commitment to provide goods or services to a customer of a nature ordinarily provided by that member of the Target Group, or pursuant to any non-cash impairment of intangible assets), undertakings or entity, whether in one or a number of such transactions where the amounts or present value of the amounts involved, or which are reasonably expected to be involved, in such transaction or transactions exceeds \$1 million, or entering into, terminating or amending in a material respect, any joint venture, partnership, asset or profit sharing agreement or similar arrangement (other than ordinary course of business joint venture arrangements);
- (p) any member of the Target Group adopting a new constitution or modifying or repealing its constitution or a provision of it or a similar constituent document;
- (q) any member of the Target Group incurring any additional, or increasing any existing, indebtedness or issuing any additional indebtedness by way of borrowings, loans or advances for amounts, or amounts with a present value, in aggregate in excess of \$1 million other than in accordance with the Dividend Loan and

Target Finance Documents and any increase of up to \$10 million in the Target Group's bonding or bank guarantee facilities (and the use of those facilities);

- (r) any member of the Target Group making, or committing to, in aggregate, capital expenditure which is, or is reasonably expected to be, in excess of \$5 million on projects where full details of that expenditure has not been approved by Target and fairly disclosed to Bidder prior to the date of this document;
- (s) any member of the Target Group entering into any contract or commitment (or a series of related contracts or commitments) which is reasonably expected to involve expenditure or revenue or a present value of such revenue or expenditure, or under which it assumes potential liabilities, of more than \$30 million over the term of the contract or commitment, in all cases excluding contracts or commitments entered into pursuant to any tender submitted on or before the date of this document;
- (t) any member of the Target Group terminates or amends in a material respect (excluding ordinary course variations which are not adverse to the Target Group) any Project Contract, or any other contract or commitment (or a series of related contracts or commitments) which involves, or is reasonably expected to involve, expenditure or revenue or a present value of such revenue or expenditure, or under which it assumes potential liabilities, of more than \$10 million over the term of the contract or commitment;
- (u) any member of the Target Group enters into, terminates or amends in a material respect any agreement containing a non-compete restraint in respect of an entity in the Target Group or a restriction on an entity in the Target Group providing similar services to another person;
- (v) any member of the Target Group:
 - (i) waiving any material Third Party default where the financial impact on the Target Group of that waiver will be in excess of \$2 million (individually or in aggregate); or

- (ii) accepting as a compromise of a matter less than the full compensation due from a Third Party to a member of the Target Group where the financial impact of the compromise on the Target Group is more than \$2 million (individually or in aggregate);
- (w) any member of the Target Group assigns or transfers a right or benefit under a contract to which it is party or otherwise has the benefit of where the right or benefit is material to the relevant contract;
- (x) any member of the Target Group commencing any Action against any other party where the amount claimed or in dispute is more than \$2 million;
- (y) hiring or dismissing any one of the 12 officers or employees of the Target Group with the highest total remuneration package of all officers or employees of the Target Group other than a dismissal for cause or a hire to replace a departing employee;
- (z) paying any bonus to, or increasing the compensation of, any Officer or employee of any member of the Target Group, except where it is in the ordinary course of business and consistent with past practice and industry practice, and the aggregate value of all such bonuses or increases does not exceed \$3 million;
- (aa) accelerating the rights of any Officer or employee of any member of the Target Group to compensation or benefits of any kind or making a payment in lieu of any such rights (including under any Target executive or employee share plan or equity or other incentive scheme);
- (bb) permitting the trustee of the Seymour Whyte Employee Share Plan Trust (which is CPU Share Plans Pty Limited as at the date of this document) to subscribe for, or acquire on-market, any Target Shares in connection with the LTIPs;
- (cc) passing any resolution of the Target Board, or otherwise acting in a manner that is contrary to any resolution passed by the Target Board prior to the date of this document in relation to any employee equity or other incentive scheme;

- (dd) granting to any Officer or employee of any member of the Target Group any severance or termination pay or superannuation entitlements (or increasing any such existing entitlements) except to the extent required by an employment contract in place at the date of this document, or required by law or the terms of an award or enterprise bargaining agreement or Australian workplace agreement;
- (ee) issuing any Target Shares or securities convertible to Target Shares to any Officer or employee of any member of the Target Group;
- (ff) establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or superannuation scheme of Target or relating to the Officers or employees of any member of the Target Group;
- (gg) any member of the Target Group making any change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of any member of the Target Group, other than as required to comply with any changes to the Accounting Standards; or
- (hh) any member of the Target Group agrees, offers, commits or announces an intention to do any of the things referred to in paragraphs (g) to (gg) above.

Project Contract	Any contract agreed in writing between the parties on or before the date of this agreement to be a "Project Contract" for the purposes of this definition.
Recipient	The meaning given in clause 3.3(b) .
Recommendation	The meaning given in clause 7(a)(i) .
Record Date	7.00 pm on the fourth Business Day following the Effective Date or such other date and time as Bidder and Target agree.
Register	The register of members of Target maintained by or on behalf of Target in accordance with the Corporations Act.

Registry	The person who maintains the Register in accordance with the Corporations Act.
Regulator's Draft	The draft of the Scheme Booklet provided to ASIC for review pursuant to section 411(2) of the Corporations Act.
Regulatory Approval	<p>(a) Any approval, consent, waiver, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, approval, direction, declaration, authority or exemption from, by or with a Regulatory Authority; or</p> <p>(b) In relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority 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.</p>
Regulatory Authority	Any Australian or foreign government or governmental, semi-governmental, administrative, fiscal, regulatory or judicial entity, commission, tribunal agency or authority or any Minister, department, office or delegate of any government. It includes a self-regulatory organisation established under statute or a stock exchange, ASIC, ASX, the Foreign Investment Review Board and the Australian Competition and Consumer Commission.
Related Body Corporate	The meaning given to that term in the Corporations Act.
Related Entity	<p>Of a party means another entity which:</p> <p>(a) is a Related Body Corporate of the first entity;</p> <p>(b) is in any consolidated entity (as defined in section 9 of the Corporations Act) which contains the party; or</p> <p>(c) the party Controls.</p>
Relevant Interest	The meaning given to that term in the Corporations Act.
Relevant Notice	The meaning given in clause 9.7(c)(iv)(A) .
Representative	<p>In relation to a party:</p> <p>(a) each of the party's Related Entities; and</p> <p>(b) each of the Officers, employees and Advisers of the party or of any of its Related Entities.</p>
Representor	The meaning giving in clause 11.4 .
Rival Acquirer	The meaning given in clause 9.7(a) .

Scheme	The proposed scheme of arrangement between Target and the Scheme Participants under Part 5.1 of the Corporations Act in the form of annexure A (or in such other form as agreed by Bidder and Target), subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed in writing by Bidder and Target.
Scheme Booklet	The information to be dispatched to Target Shareholders for the purposes of the Scheme Meeting, including the Scheme, explanatory statement in relation to the Scheme issued pursuant to section 412 of the Corporations Act and registered with ASIC, the Independent Expert's Report, the Deed Poll, this document, the Tax Opinion, and the notice convening the Scheme Meeting (together with proxy forms).
Scheme Consideration	In respect of each Scheme Share held by a Scheme Participant, a cash amount equal to \$1.285 less the cash amount of any Target Permitted Special Dividend paid.
Scheme Meeting	The meeting ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act in respect of the Scheme, including any adjournment or postponement of that meeting.
Scheme Order	The order of the Court made for the purposes of section 411(4)(b) of the Corporations Act in relation to the Scheme.
Scheme Participant	Each holder of Scheme Shares as at the Record Date.
Scheme Shares	The Target Shares other than any Excluded Shares.
Second Court Date	The first day of the Second Court Hearing or, if the Second Court Hearing is adjourned for any reason, the first day on which the adjourned application is heard.
Second Court Hearing	The hearing of the application made to the Court for the Scheme Order.
Specified Officer	In relation to Target, each of the following persons: <ul style="list-style-type: none"> (a) John Kirkwood; and (b) Nicola Padget.
Subsidiary	The meaning given to that term in the Corporations Act.
Superior Proposal	A bona fide Competing Proposal which the Target Board acting in good faith in order to satisfy what the Target Board reasonably considers to be its fiduciary or statutory duties (after consultation with its external legal

and financial advisers) determines would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to Target Shareholders (as a whole) than the Scheme, taking into account all aspects of the Competing Proposal, including the identity of the person making the proposal, consideration, conditionality, funding, certainty and timing of the proposal.

Takeovers Panel	The body established under section 171 of the <i>Australian Securities and Investments Commission Act 1989</i> (Cth) (and continued in existence by section 261 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)) as the primary forum for resolving disputes about takeovers.
Target Board	The board of directors of Target.
Target Break Fee	\$1 million (ex GST).
Target Director	A director of Target.
Target Disclosure Materials	The information disclosed by Target to Bidder as at 11.59 pm on 21 June 2017 and made available by way of the online data room at www.dataroom.ansarada.com , including, for the avoidance of doubt, the responses to questions provided through the question and answer facility which was part of that online data room.
Target Finance Documents	<p>(a) The Target's debt finance documents disclosed in the Target Disclosure Materials; and</p> <p>(b) any special purpose debt facility entered into by Target (whether before, on or after the date of this document) for the purpose of funding a Target Permitted Special Dividend.</p>
Target Group	Target and each of its Related Entities.
Target Indemnified Parties	Each member of the Target Group and the Officers, employees and contractors of each of those entities.
Target Information	All information contained in the Scheme Booklet and all information provided by or on behalf of Target to the Independent Expert to enable the Independent Expert's Report to be prepared and completed, but does not include the Bidder Information, the Independent Expert's Report, the Tax Opinion, the Scheme or the Deed Poll or any other expert report included in the Scheme Booklet.

Target Permitted Special Dividend	One or more dividends actually paid on Target Shares each as a special dividend, pursuant to Target's discretion to do so under clause 8.3 .
Target Permitted Special Dividend Payment Date	A date to be determined by Target at its sole discretion but in any event no earlier than the Effective Date and no later than the Implementation Date.
Target Permitted Special Dividend Record Date	A date to be determined by Target at its sole discretion but in any event no earlier than the Effective Date and no later than the Record Date.
Target Share	A fully paid ordinary share in the capital of Target.
Target Shareholder	Each person who is registered in the Register as the holder of Target Shares.
Target Suspension Date	7.00 pm on the Effective Date or such other time agreed by the parties.
Target Warranty	Each of the representations and warranties given by Target to Bidder as set out in schedule 2 .
Tax Act	The <i>Income Tax Assessment Act 1997</i> (Cth)
Tax Opinion	An opinion as to the Australian tax impacts of the Transaction for Scheme Participants to be included in the Scheme Booklet for the benefit of Scheme Participants.
Third Party	A person other than Bidder and its Associates and Target and its Associates.
Third Party Consent Contract	<p>A contract or understanding to which a member of the Target Group is a party or is bound in respect of which:</p> <ul style="list-style-type: none"> (a) as a result of the announcement and/or implementation of the Transaction, that member of the Target Group is or will be required to obtain the consent of a counterparty, or a counterparty is or will be entitled to be provided with a notification, or a counterparty is or will be entitled, to (in all cases whether absolutely or contingently); <ul style="list-style-type: none"> (i) terminate, vary the terms of or accelerate the performance of obligations under the contract or understanding; (ii) acquire or require the disposal of any interest in or alter the terms of investment in any one or more companies, businesses, trusts, assets or shares held by the Target Group; or

- (iii) without limiting (i), require the payment or repayment, immediately or earlier than the payment or repayment date would otherwise have been, of any monies borrowed or raised by, or any other monetary obligations of any member of the Target Group; and
- (b) which the Bidder and the Target agree in writing on or before the date of this document is a "Third Party Consent Contract" for the purposes of this document.

Third Party Termination Contract	Any contract or understanding agreed in writing between the parties on or before the date of this agreement to be a "Third Party Termination Contract" for the purposes of this definition.
Timetable	The indicative timetable set out in schedule 1 or such other timetable as may be agreed in writing by the parties or their respective Advisers.
Transaction	The acquisition by Bidder of all of the Scheme Shares through the implementation of the Scheme, in return for the payment of the Scheme Consideration and the separate cancellation or acquisition of the LTIP Options as contemplated by this document.
Transaction Implementation Committee	The committee to be established under clause 5.3 .
Verification Point	The meaning given in clause 5.5(b) .
Voting Intention	The meaning given in clause 7(a)(ii) .

2 Implementation of the Scheme

Target agrees to propose, and the parties agree to implement, the Scheme on the terms set out in this document.

3 Conditions

3.1 Conditions

The Scheme will not become Effective, and the respective obligations of the parties under **clauses 4** and **5** are not binding unless and until each of the conditions in column 1 of the following table has been satisfied or waived in accordance with **clause 3.4**:

Condition	Party responsible for satisfying Condition	Party entitled to benefit
(a) (ASIC and ASX) before the Cut Off Time, ASX provides the waiver referred to in clause 6.1(a)(v) and ASIC and ASX issue or provide all consents, approvals, exemptions, waivers, or other authorisations and do all such other acts which Bidder and Target, acting reasonably, agree are necessary or desirable to implement the Transaction, including in the case of ASIC, providing the statement required under section 411(17)(b) of the Corporations Act, either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (judged by the affected party acting reasonably), and these consents, approvals, exemptions, waivers or other authorisations have not been withdrawn, cancelled or revoked.	Bidder and Target	Bidder and Target
(b) (Court orders) no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition being in effect before and at the Cut Off Time which prevents or restrains or could reasonably be expected to prevent or restrain the lawful consummation of any aspect of the Transaction.	Bidder and Target	Bidder and Target
(c) (No Material Adverse Change) no Material Adverse Change occurs or becomes known to Bidder between (and including) the date of this document and the Cut Off Time.	Target	Bidder

Condition	Party responsible for satisfying Condition	Party entitled to benefit
(d) (No Prescribed Occurrence) no Prescribed Occurrence occurs or becomes known to Bidder between (and including) the date of this document and the Cut Off Time.	Target	Bidder
(e) (LTIP Options) All outstanding LTIP Options are the subject of binding Cancellation Deeds entered into between the relevant LTIP Optionholders and Target as contemplated by clause 6 prior to the Cut Off Time (or are otherwise cancelled or acquired by Bidder on terms satisfactory to Bidder)	Bidder and Target	Bidder
(f) (Independent Expert's Report) the Independent Expert issues the Independent Expert's Report which concludes that the Scheme is in the best interests of Scheme Participants before the Scheme Booklet is registered by ASIC under the Corporations Act and the Independent Expert does not conclude that the Scheme is not in the best interests of Scheme Participants prior to the Cut Off Time.	Target	Target
(g) (Third Party Consent Contracts) As at the Cut Off Time, in respect of each Third Party Consent Contract: (i) all consents and notifications which are referred to in paragraph (a) of the definition of Third Party Consent Contract have been obtained or provided (as applicable);	Target	Bidder

Condition	Party responsible for satisfying Condition	Party entitled to benefit
<p>(ii) the relevant member of the Target Group who is a party to the Third Party Consent Contract has been provided with a written waiver or release of any rights referred to in paragraph (a)(i) to (iii) of the definition of Third Party Consent Contract,</p> <p>in all cases, in a form and subject to conditions acceptable to Bidder, acting reasonably, and such consents, notifications, waivers or releases have not been withdrawn, cancelled or revoked.</p>		
<p>(h) (Third Party Termination Contract)</p> <p>As at the Cut Off Time, in respect of each Third Party Termination Contract, no party has terminated, or given any notice terminating, or purporting to, or advising of an intention to, terminate, the Third Party Termination Contract.</p>	Target	Bidder
<p>(i) (Target Shareholder approval)</p> <p>Target Shareholders (other than any holder of Excluded Shares) approve the Scheme by the necessary majorities at the Scheme Meeting, except to the extent the Court orders otherwise under section 411(4)(a)(ii)(A) of the Corporations Act, as contemplated by clause 3.7.</p>	Target	Neither party
<p>(j) (Court approval of Scheme) the Court approves the Scheme under section 411(4)(b) of the Corporations Act and an office copy of the Scheme Order is lodged with ASIC as</p>	Target	Neither party

Condition	Party responsible for satisfying Condition	Party entitled to benefit
contemplated by section 411(10) of the Corporations Act.		

3.2 Reasonable endeavours

Each party must use its reasonable endeavours to procure that:

- (a) each of the Conditions for which it is responsible (as indicated in column 2 of the table in **clause 3.1**) is satisfied as soon as practicable after the date of this document, or continues to be satisfied at all times until the last time it is to be satisfied (as the case may require), with a view to the Effective Date occurring on or before the End Date; and
- (b) there is no event or circumstance within the reasonable control or influence of that party that would prevent the Conditions being satisfied or delay the satisfaction of the Conditions.

3.3 Regulatory Approvals

- (a) Without limiting the generality of **clause 3.2**, each party must:
 - (i) promptly apply for all relevant Regulatory Approvals, providing a copy to the other party of all such applications, and take all steps it is responsible for as part of the approval process for the Scheme, including responding to requests for information at the earliest practicable time;
 - (ii) (as far as practicable and lawful) consult with the other in advance in relation to all material communications (whether written or oral, and whether direct or through an Adviser) with any Regulatory Authority relating to any Regulatory Approval and provide the other party with all information reasonably requested in connection with the application for any Regulatory Approval and, without limitation:
 - (A) provide the other party with drafts of any material written communications to be sent to a Regulatory Authority and consider in good faith any reasonable amendments as the other party suggests (and which are received in a timely manner); and
 - (B) provide copies of any written communications sent to or received from a Regulatory Authority to the other party promptly upon despatch or receipt (as the case may be);
 - (iii) respond to all requests for information from the relevant Regulatory Authority in respect of the applications for Regulatory Approvals at the earliest practicable time, to the extent such information is within its possession, knowledge or control;

- (iv) provide the other party with all information and assistance reasonably requested by such other party in connection with the applications for Regulatory Approvals to the extent such information is within its possession, knowledge or control;
 - (v) not take any action that will or is likely to hinder or prevent the satisfaction of the Condition in **clause 3.1(a)** except to the extent that such action is required by law; and
 - (vi) so far as it is able, and only to the extent that a party has advance notice that any meeting with a Regulatory Authority relating to a Regulatory Approval will consider issues which relate directly to the business, operations or intentions of the other party, allow the other party the opportunity to be present and make submissions at such portions of those meetings as may relate to those matters.
- (b) Nothing in **clauses 3.2 or 3.3(a)** requires a party (**Discloser**) to disclose to the other party (**Recipient**) any information, document, submission or other material that, or to permit the Recipient or its Representatives to attend meetings the subject matter of which:
- (i) is materially commercially sensitive;
 - (ii) is privileged;
 - (iii) the Discloser is prevented from disclosing due to confidentiality obligations owed to any Third Party; or
 - (iv) may cause a breach of the *Competition and Consumer Act 2010* (Cth),
- provided the Discloser discloses such information, document(s), submission(s) or other material(s) or permits the Recipient or its Representatives to attend meetings:
- (v) to the fullest extent it is reasonably able to do so, including by permitting the Recipient or its Representatives to attend part of meetings or by redacting portions or by disclosing on an agreed limited basis only to certain Representatives of the Recipient; and
 - (vi) in its complete form, with redactions only of any information of the sort referred to in **clauses 3.3(b)(ii), 3.3(b)(iii) or 3.3(b)(iv)**, to the Recipient's external or internal lawyers on a counsel-only basis.

3.4 Third Party Consent Contracts

- (a) The Target agrees that it will provide notifications and seek consents, waivers or releases under the Third Party Consent Contracts and other contracts in connection with the announcement and/or implementation of the Transaction as described below:
 - (i) as soon as practicable after the date of this document, Target must ensure that all notifications are made to, or consents, waivers or releases are sought from, all counterparties to Third Party Consent Contracts, as required by Bidder in order to satisfy the Condition Precedent set out in **clause 3.1(g)**;

- (ii) Target must obtain Bidder's approval of the method and content of communications with each Third Party Consent Contract counterparty that is to receive a notification or request for a consent or waiver under **clause 3.4(a)(i)**;
 - (iii) Target must use its, and must procure that its directors and employees use their, best endeavours to diligently procure consents and waivers from counterparties to Third Party Consent Contracts in the manner contemplated by the terms of the relevant Third Party Consent Contract and in accordance with arrangements agreed under **clause 3.4(a)(ii)**;
 - (iv) Target must also ensure that, in accordance with the requirements of the relevant contracts to which a member of the Target Group is a party, notification is made to, or consent is sought from, all counterparties to contracts referred to in paragraph (a) of the definition of "Third Party Consent Contract" but which are not Third Party Consent Contracts (to the extent that those contracts are material to the Target Group); and
 - (v) Target must keep Bidder informed of its progress in providing the notifications and obtaining the consents and waivers referred to above and use best endeavours to resolve any matters raised by any applicable counterparty in co-operation with Bidder.
- (b) Bidder must provide all information reasonably and customarily requested by contractual counterparties in relation to the change of control contemplated by the Transaction, provided that Bidder may withhold or redact information to the extent that it is confidential to a Third Party or commercially sensitive or privileged or confidential to Bidder.

3.5 Benefit and waiver of certain Conditions

- (a) **(both parties)** Target and Bidder together have the benefit of the Conditions in respect of which they are both entitled to benefit (as indicated in column 3 of the table in **clause 3.1**) and any breach or non-fulfilment of those Conditions can only be waived with the written consent of both parties.
- (b) **(Target)** Target has the benefit of the Conditions in respect of which it is only entitled to benefit (as indicated in column 3 of the table in **clause 3.1**) and any breach or non-fulfilment of that Condition can only be waived with the written consent of Target.
- (c) **(Bidder)** Bidder has the benefit of the Conditions in respect of which it is only entitled to benefit (as indicated in column 3 of the table in **clause 3.1**) and any breach or non-fulfilment of those Conditions can only be waived with the written consent of Bidder.
- (d) The Conditions in respect of which neither party is entitled to benefit (as indicated in column 3 of the table in **clause 3.1**) cannot be waived.

- (e) A party entitled to waive a Condition under this **clause 3.4** may elect to do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the relevant Condition applies must take place before the Cut Off Time.
- (f) If a party waives the breach or waives non-fulfilment of any of the Conditions, that waiver will not preclude it from suing the other party for any breach of this document, including a breach that resulted in the non-fulfilment of the Condition that was waived.
- (g) Unless specified in the waiver, a waiver of the breach or waiver of the non-fulfilment of any Condition will not constitute:
 - (i) a waiver of breach or waiver of non-fulfilment of any other Condition resulting from events or circumstances giving rise to the breach or non-fulfilment of the first Condition; or
 - (ii) a waiver of breach or waiver of non-fulfilment of that Condition resulting from any other event or circumstance.

3.6 Notification of certain events

- (a) Each party must:
 - (i) **(keep informed)** promptly and reasonably inform the other party either directly or through its Advisers of the steps it has taken and of its progress towards satisfaction of the Conditions;
 - (ii) **(notice of satisfaction)** promptly notify the other party if it becomes aware that any Condition has been satisfied, and in circumstances where the relevant Condition is satisfied by the occurrence of a particular event, the notifying party must also provide reasonable evidence that the relevant event has occurred;
 - (iii) **(notice of failure)** promptly notify the other party if it becomes aware that any Condition has failed to be satisfied or has become incapable of being satisfied or is not reasonably capable of being satisfied by the End Date or of any circumstances which may reasonably be expected to lead to such a state of affairs; and
 - (iv) **(notice of waiver)** after having given or received a notice in accordance with **clause 3.6(iii)** in relation to a Condition that it is entitled under **clause 3.4** to waive, give notice to the other party as soon as possible (and in any event before 5.00pm on the Business Day immediately before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of the relevant Condition, specifying the Condition in question.
- (b) Subject to the satisfaction or waiver of the Conditions, Bidder and Target must each provide the Court on the Second Court Date with a certificate that all of the Conditions (other than the Condition requiring Court approval of the Scheme) are satisfied, or if not satisfied, are waived. Each party must provide the other party with a draft of such certificate by 5.00 pm on the Business Day prior to the Second Court Date.

- (c) The giving of a certificate by each of Bidder and Target under **clause 3.6(b)** will in the absence of manifest error, be conclusive evidence of the satisfaction or waiver of the Conditions referred to in the certificate.

3.7 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 Bidder or Target considers, acting reasonably, that one or more Target Shareholders have split their holdings of Scheme Shares into two or more parcels, or some abusive or improper conduct, may have caused, or materially contributed to, the Headcount Test not having been satisfied then Target must:

- (a) seek the Scheme Order, 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 all Court proceedings related to the Scheme, in consultation with Bidder, 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 to disregard the Headcount Test.

3.8 Consultation if Conditions not met

If:

- (a) there is a breach or non-fulfilment of a Condition which is not waived (where capable of waiver) in accordance with this document by the time or date specified in this document for its satisfaction or in any event before the End Date; or
- (b) there is an act, failure to act, event or occurrence which will prevent a Condition being satisfied by the time or date specified in this document for its satisfaction or in any event before the End Date (and the breach or non-fulfilment of the Condition which would otherwise occur has not already been waived); or
- (c) the Scheme does not become Effective by 5.00 pm on the Business Day immediately before the End Date,

then the parties will consult in good faith with a view to determining whether:

- (d) the Transaction may proceed by way of alternative means or methods and, if so, to agree on the terms of such alternative means or methods;
- (e) to extend the relevant time or date for satisfaction of the Conditions;
- (f) to change the date of the application to be made to the Court for the Scheme Order or adjourn that application (as applicable) to another date agreed by the parties; or
- (g) to extend the End Date.

3.9 Failure to agree

- (a) If the parties are unable to reach agreement under **clause 3.8** within ten Business Days of the relevant event or occurrence (or any shorter

period ending at 5.00 pm on the Business Day before the Second Court Date), then unless that Condition is waived in accordance with **clause 3.4**, a party entitled to the benefit of that Condition may (subject to **clause 3.9(b)**) terminate this document.

- (b) A party will not be entitled to terminate this document pursuant to **clause 3.9(a)** if the relevant Condition has not been satisfied as a result of:
 - (i) a breach of this document by that party; or
 - (ii) a deliberate act or omission of that party for the purpose of frustrating satisfaction of that Condition.
- (c) Termination of this document under **clause 3.9(a)** does not affect any accrued rights of either party arising from any breach of this document prior to termination.

3.10 Interpretation

For the purposes of this **clause 3**, a Condition will be regarded as incapable of satisfaction or incapable of being fulfilled if 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 document).

4 Scheme

4.1 Scheme

Target must propose the Scheme to Target Shareholders on and subject to the terms of this document.

4.2 Scheme Consideration

Subject to the terms of the Scheme, Bidder covenants in favour of Target and of each Scheme Participant that in consideration for the transfer to Bidder of the Scheme Shares held by each Scheme Participant under the terms of the Scheme, Bidder will on the Implementation Date:

- (a) accept that transfer; and
- (b) in accordance with procedure contemplated by the Deed Poll, the Scheme and this document, provide to each Scheme Participant the Scheme Consideration.

4.3 Appointment of nominee

Bidder may, no later than 15 Business Days after the date of this document by written notice to Target, nominate any wholly-owned subsidiary of Bidder (**Bidder's Nominee**) to acquire all of the Scheme Shares instead of Bidder. If any such nomination is made and unless the context otherwise requires, all references in this document with respect to Bidder acquiring all of the Scheme Shares or taking any other action under or in respect of the Scheme are to be read as references to Bidder's Nominee doing so. Bidder irrevocably guarantees (as a principal obligation) the due and punctual performance by

Bidder's Nominee of all of its obligations under or in connection with this document, the Scheme and the Deed Poll. If Bidder's Nominee commits any default or breach of this document, Bidder will, immediately on written demand by Target, perform all obligations (if any) of Bidder's Nominee in accordance with the provisions of this document.

5 Steps for implementation

5.1 Target's obligations

Target must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Scheme on a basis consistent with this document, use reasonable endeavours to implement the Scheme as soon as reasonably practicable and in accordance with the Timetable, and in particular Target must:

- (a) **(announce recommendation of the Scheme)** immediately after execution of this document release (and not withdraw or qualify except in accordance with **clause 7**) the Announcement, including stating that each member of the Target Board:
 - (i) considers that the Scheme is in the best interests of Target and Target Shareholders and recommends that Target Shareholders vote in favour of all resolution(s) to be proposed at the Scheme Meeting to approve the Scheme; and
 - (ii) who holds Target Shares intends to vote their Target Shares in favour of the resolution(s) to be proposed at the Scheme Meeting to approve the Scheme,
 qualified only by words to the effect of:
 - (iii) 'subject to the Independent Expert concluding that the Scheme is in the best interests of Target Shareholders'; and
 - (iv) 'in the absence of a Superior Proposal';
- (b) **(Scheme Booklet)** prepare the Scheme Booklet in accordance with **clause 5.4**;
- (c) **(Independent Expert)**:
 - (i) promptly appoint the Independent Expert (and any other specialist expert required) and provide all assistance and information reasonably requested by the Independent Expert (and any other specialist expert) in connection with the preparation of the necessary report(s) for inclusion in the Scheme Booklet; and
 - (ii) on receipt, provide Bidder with a copy of any draft of the Independent Expert's Report (and any other specialist report) and provide Bidder with an opportunity to correct any factual inaccuracies in those reports;
- (d) **(approval of Regulator's Draft)** as soon as 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 a duly appointed committee of the Target Board) is convened to approve that draft as being in a form appropriate for provision to ASIC for review;
- (e) **(liaison with ASIC)** as soon as practicable after the resolution referred to in **clause 5.1(d)** is passed, provide the Regulator's Draft to ASIC and:
- (i) liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet;
 - (ii) without limiting **clause 3.3(a)(ii)**, keep Bidder reasonably informed of any material matters raised by ASIC in relation to the Scheme Booklet; and
 - (iii) without limiting **clause 3.3(a)(vi)**, at Bidder's request, allow Bidder to attend such portions of any meetings and discussions with ASIC which are relevant to the Bidder Information (provided that Bidder's request is provided in a timely manner and ASIC has no objection to same);
- (f) **(approval of Scheme Booklet)** as soon as practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Target Board (or a duly appointed committee of the Target Board) is convened to approve the Scheme Booklet in the form approved by ASIC and also to approve an application to the Court for an order that the Scheme Meeting be convened;
- (g) **(ASIC statements)** apply to ASIC for the production of:
- (i) an indication of intent letter stating that ASIC does not intend to appear at the First Court Hearing; and
 - (ii) a statement in writing pursuant to section 411(17)(b) of the Corporations Act, stating that ASIC has no objection to the Scheme;
- (h) **(Scheme Meeting)** promptly after and provided that the approvals in **clauses 5.1(f)** and **5.2(e)** are given:
- (i) apply to the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting; and
 - (ii) take all steps necessary to comply with the orders of the Court including, as required, despatching the Scheme Booklet to Target Shareholders and holding the Scheme Meeting;
- (i) **(registration of explanatory statement)** 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;
- (j) **(approval and implementation of Scheme)** if the resolution submitted to the Scheme Meeting is passed by the necessary majorities and once the Conditions are satisfied or waived, promptly apply (and, to the extent

necessary, re-apply) to the Court for orders approving the Scheme and if that approval is obtained:

- (i) promptly lodge with ASIC an office copy of the Scheme Order in accordance with section 411(10) of the Corporations Act;
 - (ii) close the Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme and Deed Poll;
 - (iii) execute proper instruments of transfer on behalf of Scheme Participants, and, subject to Bidder providing the Scheme Consideration in accordance with the terms of the Scheme, effect and register the transfer of the Scheme Shares in accordance with the Scheme; 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;
- (k) **(ASX listing)** use its best endeavours to ensure that the Target Shares continue to be quoted on the official list conducted by ASX until (and including) the Implementation Date;
- (l) **(legal representation)** allow, and not oppose, any application by Bidder for leave of the Court to be represented, or the separate representation of Bidder by counsel, at the First Court Hearing and the Second Court Hearing;
- (m) **(Bidder Information)** during the period until the Bidder Information becomes publically available, not use the Bidder Information for any purposes other than those expressly contemplated by this document or the Scheme;
- (n) **(Court documents)** consult with Bidder in relation to the content of the documents required for submission to the Court for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider, for the purpose of amending drafts of those documents, comments from Bidder on those documents provided that such comments are provided to Target in a timely manner;
- (o) **(Scheme advocacy)** participate in and ensure that the Target Board participates in efforts reasonably requested by Bidder to promote the merits of the Merger, including meeting with key Target Shareholders at the reasonable request of Bidder, advocate, and use reasonable endeavours to ensure the Target Board advocates, the merits of the Scheme and participates in efforts reasonably requested by Bidder to promote the merits of the Transaction, including meeting with key Target Shareholders at the reasonable request of Bidder;
- (p) **(Registry details)** subject to the terms of the Scheme:
 - (i) provide all necessary information about the Scheme Participants to Bidder which Bidder reasonably requires in order to assist Bidder to solicit votes at the Scheme Meeting; and

- (ii) provide all necessary directions to the Registry to promptly provide any information that Bidder reasonably requests (through Target) in relation to the Register, including any sub-register, and, where requested by Bidder, Target must procure that information to be provided to Bidder in electronic form as is reasonably requested by Bidder;
- (q) **(Proxy reports)** cause the Registry to report to it and Bidder and their Representatives on the status of proxy forms received by the Registry for the Scheme Meeting, at 10 Business Days before the Scheme Meeting, at each subsequent Business Day up to the deadline for receipt of proxy forms and at that deadline and provide to Bidder any other information as it may receive concerning the voting intentions of Target Shareholders;
- (r) **(publication of information)** as soon as they become available, publish on its website the First Court Date and the Second Court Date, the date of the Scheme Meeting, and the text of all announcements made to ASX in connection with the Transaction;
- (s) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction; and
- (t) **(dividend funding)** apply any Dividend Loan received in accordance with clause 8.3(e) to pay Target Permitted Special Dividend and nothing else.

5.2 Bidder's obligations

Bidder must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Scheme on a basis consistent with this document, use reasonable endeavours to implement the Scheme as soon as reasonably practicable and in accordance with the Timetable, and in particular Bidder must:

- (a) **(Bidder Information)** prepare the Bidder Information in accordance with **clause 5.5** and provide the Bidder Information to Target for inclusion in the Scheme Booklet as soon as reasonably practicable;
- (b) **(Independent Expert)** provide all assistance and information reasonably requested by the Independent Expert (and any other specialist expert required) in connection with the preparation of all necessary report(s) for the purposes of the Scheme Booklet;
- (c) **(assistance)** provide any assistance or information reasonably requested by Target in connection with the preparation of the Scheme Booklet and any other document to be sent to Target Shareholders in order to facilitate satisfaction of the Condition in **clause 3.1(i)**;
- (d) **(approval of draft Bidder Information for ASIC)** as soon as practicable after the preparation of an advanced draft of the Bidder Information suitable for review by ASIC, procure that the President of Bidder (or any committee duly appointed by the President with authority to approve the

Bidder Information) approves the Bidder Information provided to Target as being in a form appropriate for provision to ASIC for review;

- (e) **(approval of Bidder Information for Scheme Booklet)** as soon as practicable after the conclusion of the review by ASIC of the Scheme Booklet:
 - (i) procure that the President of Bidder (or any committee duly appointed by the President with authority to approve the Bidder Information) is convened to approve the inclusion of the Bidder Information in the Scheme Booklet; and
 - (ii) provide to Target, Bidder's unconditional written consent to the inclusion of the Bidder Information in the Scheme Booklet;
- (f) **(legal representation)** procure that Bidder is represented by counsel at the First Court Hearing and the Second Court Hearing, at which, through its counsel, Bidder will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be necessary to ensure the fulfilment of its obligations under the Scheme, and, to the extent that leave of the Court is required for Bidder to be represented at the First Court Hearing or the Second Court Hearing, apply for that leave;
- (g) **(Target Information)** during the period until the Target Information becomes publically available, not use the Target Information for any purposes other than those expressly contemplated by this document or the Scheme;
- (h) **(Deed Poll)** prior to the Business Day which is immediately before the First Court Date, execute the Deed Poll and deliver an original executed copy of that Deed Poll to Target;
- (i) **(Scheme Consideration)** if the Scheme becomes Effective, provide the Scheme Consideration on the Implementation Date in accordance with the Deed Poll and **clause 4.2** of this document;
- (j) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (k) **(dividend funding)** provide any parent guarantee or Dividend Loan requested in accordance with, and subject to the provisions of **clause 8.3**.

5.3 Transaction Implementation Committee

- (a) As soon as practicable after the date of this document, the parties will establish the Transaction Implementation Committee made up of two persons nominated by Bidder and two persons nominated by Target or such other persons as the parties may agree from time to time.
- (b) The parties' initial representatives on the Transaction Implementation Committee shall be:

Target: John Kirkwood and Nicola Padget;

Bidder: Paul Scippa and Bernard Lenfant.

- (c) The role of the Transaction Implementation Committee will be to act as a forum for consultation and planning by the parties to implement the Transaction.
- (d) The Transaction Implementation Committee will meet at least once every week.
- (e) Nothing in this **clause 5.3** requires either party to act at the direction of the other, and each party:
 - (i) acknowledges that the business of each party and its Subsidiaries will continue to operate independently of the other until the Implementation Date; and
 - (ii) agrees that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

5.4 Preparation of the Scheme Booklet

- (a) **(preparation)** Target will prepare the Scheme Booklet and will ensure that the Scheme Booklet complies with all applicable laws, including the requirements of:
 - (i) the Corporations Act and the *Corporations Regulations 2001* (Cth);
 - (ii) ASIC policy (including *Regulatory Guide 60*); and
 - (iii) the ASX Listing Rules,and will ensure that the Target Information, and all information provided by or on its behalf to the Independent Expert, is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date the Scheme Booklet is despatched to Target Shareholders.
- (b) **(update)** Target must, until the date of the Scheme Meeting, continue to supplement the information contained in the Scheme Booklet (whether by way of issuing a supplementary scheme booklet, ASX announcement or media announcement as appropriate) with all such further or new information which may arise or become known to Target after the Scheme Booklet has been despatched, and which is necessary to ensure that the Scheme Booklet complies with the standards referred to in paragraph (a).
- (c) **(drafts)** Target must:
 - (i) provide to Bidder a draft of the Scheme Booklet within a reasonable time before the Regulator's Draft is finalised to enable Bidder to review the Regulator's Draft at least five Business Days before its submission to ASIC;
 - (ii) consult with Bidder in relation to the content of the Regulator's Draft (including inclusion of any Bidder Information); and

- (iii) consider in good faith, for the purpose of amending the Regulator's Draft, any comments received from Bidder and its Representatives.
- (d) **(dispute)** If, after a reasonable period of consultation, there is a dispute in relation to the content or form of the draft Scheme Booklet:
 - (i) where the dispute relates to the Bidder Information, Bidder will make the final determination as to the content and form of the Bidder Information to be included in the Scheme Booklet; and
 - (ii) in all other circumstances, Target will make the final determination as to the content and form of the Scheme Booklet,

provided that nothing in this clause requires Target or any Officer of Target to include anything in the Scheme Booklet which Target or the relevant Officer of Target considers to be materially incorrect, misleading or deceptive, or to omit any information, the omission of which would, in the opinion of Target or the relevant Officer cause the Scheme Booklet to be defective in any material respect.

5.5 Preparation of Bidder Information

- (a) Bidder must:
 - (i) as soon as practicable after the date of this document, prepare the Bidder Information and provide that Bidder Information to Target for inclusion in the Scheme Booklet;
 - (ii) consult with Target in relation to the content of the Bidder Information;
 - (iii) consider in good faith, for the purpose of amending the Bidder Information, any comments received from Target and its Representatives;
 - (iv) ensure that the Bidder Information is not misleading or deceptive in any material respect (whether by omission or otherwise); and
 - (v) provide to Target all such further or new information which may arise or become known to Bidder after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (b) Bidder must on or before each of:
 - (i) the Business Day which is immediately prior to the day on which a meeting of the Target Board is scheduled to be convened to approve the matters described in **clause 5.1(f)**;
 - (ii) the Business Day which is immediately prior to the day on which the Scheme Booklet is proposed by Target to be dispatched to Target Shareholders; and

- (iii) the Business Day which is immediately prior to the day of the Scheme Meeting,

(each a **Verification Point**) verify all statements forming part of the Bidder Information, and any statements directly derived from the Bidder Information, contained in the Scheme Booklet. Bidder will provide such documentation to evidence its verification that Target may reasonably request, including a verification certificate signed by Representatives of Bidder responsible for verification.

- (c) Bidder will ensure that the Bidder Information, and all information provided by or on its behalf to the Independent Expert, is not misleading or deceptive in any material respect (whether by omission or otherwise) as at each Verification Point.

5.6 Responsibility statements

The Scheme Booklet will contain statements to the effect that:

- (a) Bidder is responsible for the Bidder Information contained in the Scheme Booklet; and
- (b) Target is responsible for all Target Information contained in the Scheme Booklet.

5.7 Compliance with obligations

Target and Bidder each agree to use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external Advisers) to comply with their respective obligations in this **clause 5** and to produce the Scheme Booklet in accordance with the Timetable.

5.8 Court proceedings

- (a) If the Court refuses to make an order convening the Scheme Meeting or approving the Scheme, at Bidder's request, Target must appeal the Court's decision to the fullest extent possible, except to the extent that the parties agree otherwise, or an independent senior counsel indicates that, in his or her view, an appeal would have no reasonable prospect of success, in which case either party may terminate this document.
- (b) Each of Bidder and Target must vigorously defend, or must cause to be vigorously defended, any lawsuits or other claims or proceedings (including any Takeovers Panel proceedings) brought against it (or any member of the Bidder Group or Target Group) challenging this document or the completion of the Transaction. Neither Bidder nor Target may settle or compromise (or permit any member of the Bidder Group or Target Group to settle or compromise) any claim brought in connection with this document without the prior written consent of the other, such consent not to be unreasonably withheld.
- (c) Any costs incurred as a result of the operation of this clause will be borne equally by Bidder and Target.

5.9 Board and management changes

As soon as practicable after Bidder has complied with its obligation to provide the Scheme Consideration in accordance with the Deed Poll:

- (a) Target must cause the appointment as directors of Target and each other member of the Target Group of such persons nominated by Bidder; and
- (b) Target must use reasonable endeavours to ensure that such members of the Target Board and the boards of each other member of the Target Group as nominated by Bidder resign from the Target Board (or board of another member of the Target Group), and that each such director provides written notice to the effect that they have no claim outstanding for loss of office, remuneration or otherwise against the Target Group (without any payment from, or cost to, the Target Group or the Bidder Group).

6 LTIP Options

6.1 Cancellation Deeds

- (a) Except to the extent otherwise directed in writing by Bidder, Target must:
 - (i) **(no exercise of Target Board discretion)** without limiting any paragraph of the definition of Prescribed Occurrence, procure that the Target Board does not exercise any discretion, including under the LTIPs, which has the effect of accelerating the vesting of the LTIP Options or causing them to vest where they would otherwise not vest but for the exercise of that discretion, for any reason, including, but not limited to, the Transaction;
 - (ii) **(procure execution)** use reasonable endeavours to ensure that, as soon as reasonably practicable but in any event prior the Cut Off Time, each LTIP Optionholder enters into a Cancellation Deed;
 - (iii) **(no variation and performance)** both:
 - (A) not, without Bidder's prior written approval, amend, vary or waive any right under any Cancellation Deed after it is entered into; and
 - (B) perform its obligations under each Cancellation Deed entered into and otherwise enforce its rights under those documents;
 - (iv) **(communications)** keep Bidder fully informed of all communications with LTIP Optionholders and other parties under this **clause 6.1**, and provide to Bidder copies of all pro forma documents and correspondence to LTIP Optionholders, and where applicable, all material individual written communication with such persons; and

- (v) **(ASX waiver)** to the extent required following discussions between ASX and Target in respect of the Cancellation Deeds:
 - (A) apply to ASX for a waiver of Listing Rule 6.23.2 to allow the LTIP Options to be cancelled on the terms of the Cancellation Deeds;
 - (B) obtain Bidder's prior written approval to the form of the waiver application; and
 - (C) consult with Bidder on all matters relating to the waiver application.
- (b) Bidder must:
 - (i) **(co-operation)** co-operate with Target and provide to each LTIP Optionholder all information required by law in order to offer to such optionholder the New Bidder Incentives and otherwise take all reasonable steps to ensure that each LTIP Optionholder enters into a Cancellation Deed as soon as reasonably practicable, but in any event before the Cut Off Time, under which each LTIP Optionholder agrees to cancel or transfer to Bidder or Bidder's Nominee (as applicable) each of their Options with effect from the Effective Date; and
 - (ii) **(New Bidder Incentives)** procure that it grants New Bidder Incentives (if any) required under the Cancellation Deeds in accordance with their terms as consideration for the cancellation or transfer to Bidder or Bidder's Nominee (as applicable) of each of the LTIP Options with effect from the Effective Date.

6.2 Dissenting Holders

At any time prior to the Cut Off Time, Target must provide Bidder as soon as practicable following a written request by Bidder with notice of all LTIP Optionholders who have not entered into Cancellation Deeds (**Dissenting Holders**).

7 Target Directors' recommendation and voting intentions

- (a) Target represents and warrants to Bidder that each Target Director in office as at the date of this document has confirmed by way of a resolution of the Target Board or by separate written confirmation that:
 - (i) he or she will, as at the date of the Announcement, recommend that Target Shareholders vote in favour of the Scheme (**Recommendation**); and
 - (ii) he or she intends to vote, or cause to be voted, all Target Shares in which he or she has a Relevant Interest in favour of the Scheme (**Voting Intention**),
- in each case:

- (iii) in the absence of a Superior Proposal; and
 - (iv) subject to the Independent Expert concluding that the Scheme is in the best interests of Target Shareholders and continuing to conclude that the Scheme is in the best interests of Target Shareholders.
- (b) Subject to a Target Director withdrawing or changing a Recommendation or Voting Intention in the circumstances set out in **clauses 7(c)(iii) or 7(c)(iv)**, Target must ensure that the Scheme Booklet includes statements to the effect that the Target Director gives the Recommendation and has the Voting Intention qualified only by the words 'in the absence of a Superior Proposal, or the Independent Expert no longer concluding that the Scheme is in the best interests of Target Shareholders'.
- (c) Target must use its best endeavours to ensure that no Target Director:
 - (i) changes, withdraws or modifies his or her Recommendation or Voting Intention; or
 - (ii) makes a public statement or takes any action that is inconsistent with his or her Recommendation or Voting Intention,
 in each case except where:
 - (iii) Target receives a Competing Proposal and Target Directors determine, after all of Bidder's rights under **clause 9.7** have been exhausted, that the Competing Proposal constitutes a Superior Proposal; or
 - (iv) subject to, where applicable, complying with clause 9.7, the Independent Expert concludes that the Scheme is not in the best interests of Target Shareholders.

8 Conduct of business

8.1 Conduct of business

From the date of this document up to and including the Implementation Date, Target must, and it must procure that each member of the Target Group must:

- (a) conduct their respective businesses in the ordinary and usual course and substantially consistent with the manner in which their respective businesses have been conducted immediately before the date of this document;
- (b) comply with all applicable laws and regulations;
- (c) comply in all material respects with all material and binding contracts to which it is party;
- (d) use their best endeavours to maintain their businesses and assets, including maintaining at least its level of insurance as at the date of this document over its business and assets;

- (e) use their best endeavours to keep available the services of their Officers and employees; and
- (f) use their best endeavours to preserve their relationships with customers, suppliers, licensors, licensees, joint venturers and others with whom they have business dealings,

except:

- (g) to the extent expressly required by this document, the Scheme or the Deed Poll;
- (h) to the extent required by law;
- (i) with the prior written agreement or direction of Bidder.

8.2 No Prescribed Occurrences

Other than with the prior written approval of Bidder or as expressly required by this document, Target must not, and must ensure that the other members of the Target Group do not, from the date of this document up to and including the Implementation Date, take any action which would, or would be reasonably expected to, give rise to a Prescribed Occurrence.

8.3 Target Permitted Special Dividend

- (a) Subject to **clauses 8.3(b) and 8.3(c)**, and subject to compliance with the law, Target may, in its sole discretion, determine and pay to Target Shareholders who are recorded in the Register as a holder of Target Shares at the Target Permitted Special Dividend Record Date the Target Permitted Special Dividend (which shall be fully franked) on the Target Permitted Special Dividend Payment Date.
- (b) The total amount paid to Target Shareholders pursuant to the Target Permitted Special Dividend must not exceed \$39,149,423.
- (c) The parties agree to consult and cooperate with each other in respect of the timing and mechanics associated with the Target Permitted Special Dividend with a view to ensuring that the dividend(s) can, to the extent lawfully possible, be fully franked utilising the franking account balance of Target, provided that the Target must not under any circumstances allow a franking deficit to subsist at the Implementation Date such that a liability of Target under any tax laws, including as to franking deficit tax, could be incurred.
- (d) Target and Bidder will together use reasonable endeavours to obtain third party debt financing up to \$32,551,205.10 (**Funded Special Dividend Amount**) to enable Target to pay the Target Permitted Special Dividend (**Third Party Debt Financing**). The terms of the Third Party Debt Financing shall be on normal commercial terms acceptable to Bidder (acting reasonably) and must include as a condition precedent to funding, that the Effective Date has occurred. Bidder must use its reasonable endeavours to agree the terms of and to provide a stand-alone guarantee in favour of the lender or lenders under the Third Party Debt Financing, such guarantee to be limited to an amount equal to the

Funded Special Dividend Amount (for the avoidance of doubt, any such guarantee will have no force and effect unless draw-down under the Third Party Debt Financing and the Effective Date occurs).

- (e) If the Scheme becomes Effective and the Target determines to pay a Target Permitted Special Dividend, and Target and Bidder have been unable, acting reasonably, to obtain third party financing as contemplated by **clause 8.3(d)** the Target may request and Bidder must provide or procure that a member of the Bidder Group provides a loan on normal commercial terms up to the Funded Special Dividend Amount on the later of the first Business Day after the Effective Date and the first Business Day after the Target Permitted Special Dividend is / are determined (**Dividend Loan**).
- (f) A Dividend Loan cannot be repaid using proceeds from the issue of shares by the Target Group or Bidder to the Bidder Group.
- (g) The Target Group must, in relation to any Third Party Debt Financing or Dividend Loan (as applicable) ensure that it is and remains in compliance with Part 2J.3 of the Corporations Act.
- (h) For the avoidance of doubt, it is agreed that:
 - (i) the decision whether to pay a Target Permitted Special Dividend is entirely within the discretion of the Target Board and Bidder shall have no right to influence that decision;
 - (ii) the Scheme is not conditional on payment or otherwise of a Target Permitted Special Dividend; and
 - (iii) a Target Permitted Special Dividend may not be debited against Target's share capital account.

8.4 Access

- (a) Between the date of this document and the Implementation Date, Target must, and must cause each member of the Target Group to:
 - (i) afford to Bidder and its Representatives reasonable access, during normal business hours and at mutually convenient times, to such documents, records and other information (subject to any existing confidentiality obligations owed to third parties), Officers and Advisers of Target and of any member of the Target Group and such reasonable co-operation as Bidder reasonably requires for the purpose of:
 - (A) understanding Target's financial position (including its cashflow and working capital position), trading performance and management control systems;
 - (B) meeting its obligations under this document;
 - (C) preparing for carrying on the business of the Target Group following implementation of the Scheme;

- (D) facilitating the smooth implementation of the plans of Bidder for the business following implementation of the Scheme;
 - (E) verifying warranties, compliance with this document, or whether a Prescribed Occurrence or Material Adverse Change has occurred; and
 - (F) any other purpose which is agreed in writing between the parties;
- (ii) keep Bidder fully informed of, and consult with Bidder as reasonably required by Bidder in respect of, all material developments relating to the Target Group and the Project Contracts; and
- (iii) share such information as is reasonably required for the purposes specified in **paragraphs 8.4(a)(i)(A) to 8.4(a)(i)(F)** above, provided that Bidder must:
 - (A) keep all information obtained by it as a result of this **clause 8.4(a)** confidential;
 - (B) provide Target with reasonable notice of any request for meetings or access;
 - (C) comply with the reasonable requirements of Target in relation to such access; and
 - (D) not unreasonably interfere with the Business or the operations of the Target Group.
- (b) Subject to appropriate redaction to the extent required to comply with **clause 8.4(e)**, Target must provide to Bidder (immediately after they are provided to the Target Board) copies of regular reports provided to the Target Board in relation to the conduct of the business of the Target Groups in substantially the same format and with substantially the same regularity as provided to the Target Board prior to the date of this document.
- (c) The parties must undertake discussions in good faith in respect of how customer and other key contractual relationships are to be managed prior to the Implementation Date, including where any Third Party consents are required in connection with, or as a result of, the Transaction, and Target must use all reasonable endeavours to satisfy any reasonable request of Bidder in respect of the management of such customer and other key contractual relationships.
- (d) Nothing in this **clause 8.4** gives Bidder any rights to undertake further due diligence investigations, or any rights as to the decision-making of any member of the Target Group or its business.
- (e) Nothing in this **clause 8.4** obliges Target or any member of the Target Group to provide to Bidder or its Representatives any information:

- (i) concerning the Target Directors' or Target's management's consideration of the Transaction or any Competing Proposal (save as otherwise provided in this document);
- (ii) concerning the Target Group's business that is, in the reasonable opinion of Target, commercially sensitive, including any specific pricing and margin information, customer details and any material term of any project tender where a member of the Target Group reasonably considers that a member of the Bidder Group may also be invited to prepare a tender response for the same project;
- (iii) in circumstances which may result in a breach of the *Competition and Consumer Act 2010* (Cth);
- (iv) which would, in the reasonable opinion of Target, result in unreasonable disruptions to the Target Group's business;
- (v) which would breach an obligation of confidentiality to any person or any applicable privacy laws; or
- (vi) which would be reasonably likely to result in a loss of legal professional privilege.

9 Exclusivity

9.1 No current discussions

Target represents and warrants to Bidder that, as at the date of this document:

- (a) neither it nor any of its Representatives:
 - (i) has received any offer, proposal or expression of interest from any person which remains current, or is otherwise participating, directly or indirectly, in any discussions or negotiations with any Third Party that concern, or could reasonably be expected to lead to, a Competing Proposal; or
 - (ii) is a party to any agreement, arrangement or understanding with any Third Party in relation to a Competing Proposal or a possible Competing Proposal that prevents it from entering into this document, or may prevent it from complying with its obligations under this document;
- (b) each third party that received confidential information regarding the Target Group in connection with the process outlined in a process letter issued in early 2017 executed a confidentiality document which contained a standstill provision (**Bid Process CA**) and Target has not terminated or waived any of its rights under any such Bid Process CA; and
- (c) it has, or will as soon as practicable after the date of this document, ensure that any electronic data room access granted to any third party prior to the date of this agreement is withdrawn and request the return, or

destruction or deletion of Target's confidential information in accordance with the terms of the Bid Process CA.

9.2 Enforcement of rights

During the Exclusivity Period, Target must:

- (a) diligently enforce all its rights under:
 - (i) each Bid Process CA and any Rival Acquirer CA referred to in **clause 9.7(a)**; and
 - (ii) any other confidentiality document entered into by Target with a third party which contains a similar restriction to that set out in clause 4.2 of the Confidentiality Deed; and
- (b) not grant any waivers or releases or agree to any amendments under any Bid Process CA or any Rival Acquirer CA referred to in **clause 9.7(a)**.

9.3 No shop restriction

During the Exclusivity Period, Target must ensure that neither it nor any of its Representatives, directly or indirectly, solicits, initiates or invites any enquiries, negotiations or discussions in relation to, or with a view to obtaining, or which would reasonably be expected to encourage or lead to the making of, any expression of interest, offer or proposal from any person in relation to a Competing Proposal, or communicate to any person an intention to do any of the foregoing.

9.4 No talk

Subject to **clause 9.8**, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives directly or indirectly:

- (a) facilitates, enters into or otherwise participates in any negotiations or discussions with any person regarding a Competing Proposal;
- (b) communicates to any person an intention to do any of the things referred to in **clause 9.4(a)**; or
- (c) approves or recommends a Competing Proposal,

even if the Competing Proposal was not directly or indirectly solicited, encouraged or initiated by Target or any of its Representatives, or the Competing Proposal has been publically announced.

9.5 No due diligence

During the Exclusivity Period, Target must not and must ensure that its Representatives do not, directly or indirectly:

- (a) solicit, initiate, invite or encourage or (subject to **clause 9.8**) facilitate or permit any person other than Bidder to undertake due diligence investigations in respect of Target or any of its Related Bodies Corporate or any of their businesses or operations in connection with or for the purposes of an actual, proposed or potential Competing Proposal; or

- (b) subject to **clause 9.8**, make available to any person other than Bidder or its Representatives or permit any such person to receive any non-public information relating to Target or any of its Related Bodies Corporate or any of their businesses or operations in connection with or for the purposes of an actual, proposed or potential Competing Proposal.

9.6 Notification of approaches

- (a) During the Exclusivity Period, Target must, promptly notify Bidder in writing of the fact of:
 - (i) any approach, inquiry or proposal made by any person to Target or any of its Representatives, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Competing Proposal; and
 - (ii) any request made by any person to Target or any of its Representatives, for any non-public 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 Proposal.
- (b) Subject to **clause 9.8**, a notice given under **clause 9.6(a)** must be accompanied by all material terms and conditions (including price, conditions precedent, timetable and break free if any) of any Competing Proposal or any proposed Competing Proposal (to the extent then known to Target), but for the avoidance of doubt, need not identify the proponent of the Competing Proposal.

9.7 Target's response to Rival Acquirer and Bidder's right to respond

- (a) If Target is permitted by virtue of **clause 9.8** to engage in an activity that would otherwise breach any of **clauses 9.4, 9.5(a)** and **9.6**, Target must enter into a confidentiality agreement with the person who has made the applicable Competing Proposal (**Rival Acquirer**) on customary terms (**Rival Acquirer CA**).
- (b) To the extent that the terms of the Rival Acquirer CA are less favourable to Target than the Confidentiality Deed, Target must offer to agree with Bidder to amend the terms of the Confidentiality Deed so that it is no more favourable to Target than the Rival Acquirer CA.
- (c) If Target receives a Competing Proposal and as a result:
 - (i) any Target Director proposes to change, withdraw or modify his or her Recommendation or Voting Intention; or
 - (ii) Target proposes to enter into any agreement, commitment, arrangement or understanding relating to the Competing Proposal (other than a confidentiality agreement contemplated by **clause 9.7(a)**),

Target must use reasonable endeavours to procure that no Target Director changes, withdraws or modifies his or her Recommendation or Voting Intention and Target must not enter into any agreement, commitment, arrangement or understanding set out in **clause 9.7(c)(ii)**:

- (iii) unless the Competing Proposal is a Superior Proposal; and
- (iv) until each of the following has occurred:
 - (A) Target has given Bidder written notice (**Relevant Notice**) of the proposal to take the action referred to in **clauses 9.7(c)(i) or 9.7(c)(ii)** (as the case may be);
 - (B) Target has given Bidder all information that would be required by **clause 9.6(b)** (without applying the exception in **clause 9.8**); and
 - (C) the Target Directors have made the determination contemplated by **clause 9.8** in respect of that Competing Proposal after evaluation of any Counter Proposal and the exhaustion of Bidder's rights under and in accordance with **clause 9.7(d)**.
- (d) If Target gives a Relevant Notice to Bidder under **clause 9.7(c)(iv)(A)**, Bidder will have the right, but not the obligation, at any time during the period of five Business Days after the day on which Bidder receives the Relevant Notice and all information required to be provided under **clause 9.7(c)(iv)(B)**, to propose to amend the terms of the Transaction including by increasing the amount of consideration offered under the Transaction or proposing any other form of consideration or transaction (each a **Counter Proposal**), and if it does so then the Target Directors must review the Counter Proposal in good faith. If the Target Directors determine that the Counter Proposal would be more favourable, or at least no less favourable, to Target Shareholders than the Competing Proposal (having regard to all aspects of the two proposals, including the identity of the person making the proposal, consideration, conditionality, funding, certainty and timing of the proposal), then Target and Bidder must use their best endeavours to agree the amendments to this document 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 reasonable endeavours to procure that the Target Directors publicly recommend the Counter Proposal to Target Shareholders and not recommend the applicable Competing Proposal.

9.8 Fiduciary carve out

The restrictions in **clauses 9.4, 9.5(a) and 9.5(b)** and the obligation in **clause 9.6(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 bona fide Competing Proposal (in relation to which there has been no contravention of **clauses 9.1, 9.2 or 9.3**) if the Target Board, acting in good faith and reasonably, determines, after consultation with Target's external financial and legal advisers that:

- (a) the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal; and
- (b) failing to take the action or refusing to take the action (as the case may be) with respect to the Competing Proposal would be reasonably likely to constitute a breach of the fiduciary or statutory duties of the Target Board.

9.9 Revisions to a Competing Proposal

Any material modification to any Competing Proposal will be deemed to make that proposal a new Competing Proposal in respect of which Target must comply with its obligations under **clauses 9.6 and 9.7**.

9.10 Equal access to information

If Target provides any information relating to the Target Group or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Proposal, which has not already been provided or made available to Bidder, it must promptly provide Bidder with access to, or a copy of, that information.

10 Target Break Fee

10.1 Rationale

Target and Bidder acknowledge that:

- (a) if they enter into this document and the Scheme is subsequently not implemented, Bidder will have incurred significant costs, expenses, outgoings and losses (which it is difficult to quantify);
- (b) the Target Break Fee represents a genuine and reasonable pre-estimate of the internal, external advisory, financial and opportunity costs (and all associated out of pocket expenses) of Bidder in relation to the proposed Scheme and the acquisition of the Target Shares;
- (c) Bidder has required the inclusion of this **clause 10**, in the absence of which it would not have entered into this document and its proposal would not have been put to Target;
- (d) each party and their respective boards of directors believe that the Scheme will provide significant benefits to Target Shareholders and to Bidder shareholders and that it is reasonable and appropriate that the parties agree to the inclusion of this **clause 10**, in order to secure Bidder's execution of this document and the parties' agreement to propose the Scheme; and
- (e) each party has received legal advice on the size and terms of the Target Break Fee.

10.2 Target Break Fee event

Subject to this **clause 10**, Target must pay Bidder the Target Break Fee within 10 Business Days of a written demand by Bidder if any of the following occur:

- (a) **(change of recommendation or voting intention)** Bidder becomes entitled to terminate this document under **clause 15.3(c)** (whether or not Bidder or Target have actually terminated the document) or any Target Director does not vote any Target Shares in which they have a Relevant Interest in favour of the resolution to approve the Scheme, in each case other than in circumstances where the Independent Expert concludes in the Independent Expert's Report or in any supplementary report that the Scheme is not in the best interests of Target Shareholders;
- (b) **(Superior Proposal)** Target becomes entitled to terminate this document under **clause 15.2(a)** as a consequence of a Superior Proposal or, prior to the termination of this document, Target enters into a legally binding agreement to undertake a Superior Proposal (whether or not subject to conditions);
- (c) **(Competing Proposal)** at any time before the earlier of the End Date and the date this document is terminated in accordance with its terms, a Competing Proposal is announced or made by a Third Party (whether or not the proposal is stated to be subject to any pre-conditions) and within nine months after that time, a Competing Proposal is completed or implemented, or a binding agreement, arrangement or understanding with Target or the Target Directors with respect to the Competing Transaction is entered into, by the Third Party or any of its Associates;
- (d) **(material breach)** Bidder becomes entitled to terminate this document in accordance with **clause 15.1(b), 15.3(d) or 15.3(e)**; or
- (e) **(Prescribed Occurrence or Material Adverse Change)** Bidder becomes entitled to terminate this document under **clauses 15.3(a) or 15.3(b)** and the relevant event, matter, circumstance or occurrence giving rise to the relevant Prescribed Occurrence or Material Adverse Change was:
 - (i) either:
 - (A) something the prevention of which was within the control of Target; or
 - (B) a result of a deliberate failure of Target to take reasonable steps (which steps were within the control of Target) to prevent the event, matter, circumstance or occurrence; and
 - (ii) materially adverse in the context of the Scheme and the Transaction taken as a whole; and
 - (iii) not rectified within 10 Business Days after receipt from Bidder requiring Target to do so.

10.3 Limitation of claims

- (a) For the purposes of **clause 10.2**, customary qualifications and explanations contained in the Scheme Booklet in relation to a recommendation to vote in favour of the Scheme to the effect that the recommendation is made in the absence of a superior proposal from a

Third Party should not be regarded as a failure to make or withdraw the making of a recommendation in favour of the Scheme.

- (b) No amount will be payable by Target under **clause 10.2** if the Scheme becomes Effective, notwithstanding the occurrence of any event in **clause 10.2**. To the extent that any amounts have already been paid under **clause 10.2** and the Scheme becomes Effective, such amounts will be immediately refunded to Target.
- (c) Target's liability to pay the Target Break Fee will be reduced to the extent that any amount is recovered by Bidder as a result of a claim against Target pursuant to any other remedies available to Bidder under this document. Bidder will refund any such reduction amount to Target if the Target Break Fee has already been paid.
- (d) Notwithstanding any other provision of this document (other than **clause 18.15** to which this clause is subject), the maximum aggregate liability of Target to Bidder under or in connection with this document, including in respect of a breach of this document (including a breach of representation or warranty), is an amount equal to the Target Break Fee, except to the extent that liability arises in connection with any wilful misconduct or fraud by, or on behalf of, Target.
- (e) Notwithstanding any other provision of this document (other than **clause 18.15** to which this clause is subject), the maximum aggregate liability of Bidder to Target under or in connection with this document, including in respect of a breach of this document (including a breach of representation or warranty), is an amount equal to the Target Break Fee, except to the extent that liability arises in connection with any wilful misconduct or fraud by, or on behalf of, Bidder or to the extent Bidder has any liability under the Deed Poll.

10.4 Compliance with law

- (a) If the payment of all or part of the Target Break Fee:
 - (i) involves, involved or would involve a breach of the duties of the Target Directors; or
 - (ii) constitutes unacceptable circumstances within the meaning of the Corporations Act (as declared by a Court or the Takeovers Panel); or
 - (iii) is, was or would be unlawful,

(Impugned Amount),

then:

 - (iv) the requirement to pay the Target Break Fee does not apply to the extent of the Impugned Amount;
 - (v) Target is not obliged to comply with **clause 11** to the extent of the Impugned Amount; and

- (vi) if Target has received the Impugned Amount, it must refund it within five Business Days of the final determination being made.
- (b) Target must not make, nor may it cause or permit to be made, any application to a Court or the Takeovers Panel for or in relation to a determination referred to in **clause 10.4(a)**.
- (c) If a Court or the Takeovers Panel consents, Target must allow Bidder to participate in any action or proceedings referred to in **clause 10.4(a)**.

11 Representations and warranties

11.1 Preliminary

- (a) Each of the Target Warranties and the Bidder Warranties respectively are given subject to:
 - (i) any matter that has been fairly disclosed to the other party as at the date of this document; and
 - (ii) in respect of the Target Warranties, any matter that has been fairly disclosed in any announcement to ASX prior to the date of this document.
- (b) Each of the Target Warranties and Bidder Warranties respectively is given, unless otherwise expressly stated, as at each of the date of this document, the date of the Scheme Meeting, the Cut Off Time and the Implementation Date.

11.2 Target's representations

Target represents and warrants to Bidder in the terms of the Target Warranties set out in **schedule 2**.

11.3 Bidder's representations

Bidder represents and warrants to Target in the terms of the Bidder Warranties set out in **schedule 3**.

11.4 Reliance by parties

Each party (the **Representor**) acknowledges that in entering into this document the other party has relied on the representations and warranties provided by the Representor under this **clause 11**.

11.5 Severability of representations

The representations and warranties provided by each party under this **clause 11** are severable.

11.6 Notification of breach and compliance certificate

- (a) Bidder and Target will respectively promptly advise each other in writing of any fact, matter or circumstance of which it becomes aware and which results in, or is reasonably likely to result in:
 - (i) a breach of a representation or warranty provided in this document by either party; or

- (ii) a material breach of this document by it.
- (b) By 5.00 pm on the Business Day immediately before the Second Court Date, each of Bidder and Target must execute and deliver to the other party a certificate signed by a director which certifies that, having made all relevant enquiries except as fairly disclosed to the other in a notice provided under **clause 11.6(a)**:
 - (i) it has complied in all material respects with its obligations under this document; and
 - (ii) the representations and warranties given by it under **clause 11** remain true and correct, subject to the qualifications in **clause 11.1(a)**.

12 Indemnities

12.1 Target's indemnity

- (a) Target agrees with Bidder (on its own behalf and separately as trustee for each of the Bidder Indemnified Parties) to indemnify and keep indemnified the Bidder Indemnified Parties from and against all Losses which a Bidder Indemnified Party may suffer or incur by reason of or in relation to any breach of any Target Warranty by Target. This **clause 12.1** must be read down to the extent necessary to ensure that there is no breach of section 199A of the Corporations Act.

12.2 Bidder's indemnity

Bidder agrees with Target (on its own behalf and separately as trustee for each of the Target Indemnified Parties) to indemnify and keep indemnified the Target Indemnified Parties from and against all Losses which a Target Indemnified Party may suffer or incur by reason of or in relation to any breach of any Bidder Warranty by Bidder. This **clause 12.2** must be read down to the extent necessary to ensure that there is no breach of section 199A of the Corporations Act.

12.3 Survival of indemnities

Each indemnity provided by each party under this **clause 12**:

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this document; and
- (d) survives the termination of this document.

12.4 Release of Target Indemnified Parties

- (a) Bidder releases its rights, and agrees with Target that it will not make a Claim, against any Target Indemnified Party (other than Target and its

Related Bodies Corporate as at the date of this document and from time to time) in connection with:

- (i) any breach of any covenant, representation or warranty of Target in this document; or
- (ii) any disclosure containing any statement which is false or misleading whether in content or by omission or any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity (including negligence), under statute or otherwise, except where the Target Indemnified Party has engaged in wilful misconduct or fraud.

- (b) This **clause 12.4** is subject to any restriction imposed by law and will be read down accordingly.
- (c) Target receives and holds the benefit of this **clause 12.4** to the extent it relates to each Target Indemnified Party as trustee for each of them.

12.5 Release of Bidder Indemnified Parties

- (a) Target releases its rights, and agrees with Bidder that it will not make a Claim, against any Bidder Indemnified Party (other than Bidder and its Related Bodies Corporate as at the date of this document and from time to time) in connection with:

- (i) any breach of any covenant, representation or warranty of Bidder in this document; or
- (ii) any disclosure containing any statement which is false or misleading whether in content or by omission or any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity (including negligence), under statute or otherwise, except where the Bidder Indemnified Party has engaged in wilful misconduct or fraud.

- (b) This **clause 12.5** is subject to any restriction imposed by law and will be read down accordingly.
- (c) Bidder receives and holds the benefit of this **clause 12.5** to the extent it relates to each Bidder Indemnified Party as trustee for each of them.

12.6 Directors' and Officers' Insurances and indemnities

- (a) Subject to the Scheme becoming Effective and the Transaction completing, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:
 - (i) for a period of seven 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 document 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 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 and, without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained, for a period of seven years from the retirement date of each director and officer.
- (b) Bidder acknowledges that notwithstanding any other provision of this document, Target may, prior to the Implementation Date, enter into arrangements to secure directors and officers run-off insurance for up to such seven year period on terms and at such costs which are reasonable and standard for a company similar to Target or a member of the Target Group (as the case may be), and that any actions to facilitate that insurance or in connection therewith will not be Prescribed Occurrences or breach any provision of this document.
- (c) The undertakings contained in **clause 12.6(a)** are subject to any Corporations Act restriction and will be read down accordingly.
- (d) Target receives and holds the benefit of **clause 12.6(a)**, to the extent it relates to the other Target Indemnified Parties as trustee for them.
- (e) The undertakings contained in **clause 12.6(a)** are given until the earlier of the end of the relevant period specified in **clause 12.6(a)** or the relevant Target Group Member ceasing to be part of the Target Group.

13 Confidentiality

Each party must comply, and must procure that its Representatives comply, with the terms of the Confidentiality Deed governing the use and disclosure of confidential information. To the extent of any inconsistency, this document prevails. For the purposes of the Confidentiality Deed, each party consents to the use of, and the disclosure on a confidential basis to a Regulatory Authority of, its confidential information for the purposes of satisfying any Condition and the implementation of the transactions contemplated by this document.

14 Public announcements

14.1 Announcement of Transaction

Immediately after execution of this document, Target will issue the Announcement.

14.2 Public announcements

Subject to **clause 14.3**, no public announcement or disclosure (including any briefing to analysts, the media or shareholders) of the Transaction or any other transaction the subject of this document may be made other than in a form

approved by each party (acting reasonably), but each party must use all reasonable endeavours to provide such approval as soon as practicable.

14.3 Required disclosure

Where a party is required by law or the ASX Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this document, it may do so only after it has given at least one Business Day's notice, or such lesser period required by law, to the other party and has taken all reasonable steps to consult with the other party and its legal advisers and to take account of all reasonable comments received from the other party. Nothing in this **clause 14.3** shall require any party to act, or to delay acting, in a way that would result in it breaching the ASX Listing Rules.

14.4 Statements on termination

The parties must act in good faith and use all reasonable endeavours to issue an agreed statement or statements in respect of any termination provided for in this document and will make no statements or disclosure in respect of the termination of this document except in accordance with **clauses 14.2 and 14.3**.

15 Termination

15.1 Termination by either party

- (a) Either party may terminate this document in accordance with **clause 3.9(a)**.
- (b) Other than in respect of a breach of a Bidder Warranty or Target Warranty, at any time before the Cut Off Time, either party may terminate this document if the other party commits a material breach of this document, provided that:
 - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances have not been remedied within 10 Business Days from the time such notice is given (or any shorter period ending at 5:00 pm on the Business Day before the Second Court Hearing); and
 - (iii) the material breach must either:
 - (A) if it is a breach by the Target, constitute a Material Adverse Change; or
 - (B) in any case, be material in the context of the Scheme taken as a whole.

Termination under this **clause 15.1(b)** will take effect at the expiry of the period referred to in **clause 15.1(b)(ii)**.

15.2 Termination by Target

Target may terminate this document by written notice to Bidder at any time before the Cut Off Time if:

- (a) either of the circumstances set out in **clauses 7(c)(iii)** (Superior Proposal) or **7(c)(iv)** (Independent Expert negative conclusion) occur; or
- (b) at the time they were made, the Bidder Warranties were not:
 - (i) to the extent the representation or warranty already includes a qualification as to materiality, true and accurate in all respects; or
 - (ii) to the extent the representation or warranty does not include a qualification as to materiality, true and accurate in all material respects,provided that:
 - (iii) Target has given written notice to Bidder setting out the relevant circumstances and stating an intention to terminate this document or to allow the Scheme to lapse; and
 - (iv) the relevant breach or circumstances have not been remedied within ten Business Days of receipt by it of such written notice (or such shorter period ending at 5.00 pm on the last Business Day before the Second Court Hearing); and
 - (v) the loss that would reasonably be expected to flow from the relevant breach of the Bidder Warranties is material in the context of the Transaction taken as a whole; or
- (c) an Insolvency Event occurs in relation to Bidder.

15.3 Termination by Bidder

Bidder may terminate this document by written notice to Target at any time before the Cut Off Time if:

- (a) a Prescribed Occurrence occurs or becomes known to Bidder on or after the date of this document; or
- (b) a Material Adverse Change occurs or becomes known to Bidder on or after the date of this document; or
- (c) any Target Director or person who was a Target Director as at the date of this agreement fails to make, withdraws or adversely modifies or qualifies his or her Recommendation or Voting Intention, or publicly recommends, promotes or otherwise endorses a Competing Proposal (including where permitted by clause 7(c));
- (d) Target breaches **clause 9**;
- (e) at the time they were made, the Target Warranties were not:
 - (i) to the extent the representation or warranty already includes a qualification as to materiality, true and accurate in all respects

- (ii) to the extent the representation or warranty does not include a qualification as to materiality, true and accurate in all material respects,

provided that:

- (iii) Bidder has given written notice to Target setting out the relevant circumstances and stating an intention to terminate this document or to allow the Scheme to lapse; and
 - (iv) the relevant breach or circumstances have not been remedied within ten Business Days of receipt by it of such written notice (or such shorter period ending at 5.00 pm on the last Business Day before the Second Court Hearing); and
 - (v) the relevant breach of the Target Warranties would result in a Material Adverse Change or be material in the context of the Transaction taken as a whole; or
- (f) an Insolvency Event occurs in relation to Target or a material Subsidiary of Target.

15.4 Effect of termination

If this document is terminated by a party under this **clause 15**:

- (a) each party will be released from its obligations under this document except its obligations under **clauses 10, 11, 12, 13, 14, 16 and 18** (other than **clause 18.7**) which will survive termination;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this document; and
- (c) in all other respects, all future obligations of the parties under this document will immediately terminate and be of no further force or effect, including without limitation any further obligations in respect of the Scheme.

15.5 Damages

For the avoidance of doubt, the exercise of a right of termination under **clauses 15.1 to 15.3** will not prejudice or otherwise limit (except under **clause 10.3(d) and clause 10.3(e)**) the right of the non-defaulting party to damages for Losses suffered by it in respect of any breach of this document.

15.6 No other termination

Neither party may terminate or rescind this document except as specifically provided for in this **clause 15**.

16 GST

16.1 Construction

In this **clause 16**:

- (a) unless there is a contrary indication, words and expressions which are not defined in this document but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- (b) **GST Law** has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act; and
- (c) references to GST payable and input tax credit entitlements include:
 - (i) notional GST payable by, and notional input tax credit entitlements of the Commonwealth, a State or a Territory (including a government, government body, authority, agency or instrumentality of the Commonwealth, a State or a Territory); and
 - (ii) GST payable by, and the input tax credit entitlements of, the representative member of a GST group of which the entity is a member.

16.2 Consideration GST exclusive

All consideration, whether monetary or non-monetary, payable or to be provided under or in connection with this document is exclusive of GST (**GST-exclusive consideration**).

16.3 Payment of GST

If GST is payable on any supply made by:

- (a) a party; or
- (b) an entity that is taken under the GST Law to make the supply by reason of the capacity in which a party acts,

(**Supplier**) under or in connection with this document, the recipient of the supply, or the party providing the consideration for the supply, must pay to the Supplier an amount equal to the GST payable on the supply.

16.4 Timing of GST payment

The amount referred to in **clause 16.3** must be paid in addition to and at the same time and in the same manner (without any set-off or deduction) that the GST-exclusive consideration for the supply is payable or to be provided.

16.5 Tax invoice

The Supplier must deliver a tax invoice or an adjustment note to the recipient of a taxable supply before the Supplier is entitled to payment of an amount under **clause 16.3**.

16.6 Adjustment event

If an adjustment event arises in respect of a supply made by a Supplier under or in connection with this document, any amount that is payable under **clause 16.3** will be calculated or recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires. However, the Supplier is not required to make any payment to the recipient if, at the time the payment would otherwise be required, a time limit has expired or there is another limitation preventing the Supplier from being entitled to claim, or from claiming a corresponding credit or refund in respect of that payment.

16.7 Reimbursements

- (a) Where a party is required under or in connection with this document to pay for, reimburse or contribute to any expense, loss, liability or outgoing suffered or incurred by another party or indemnify another party in relation to such an expense, loss, liability or outgoing (**Reimbursable Expense**), the amount required to be paid, reimbursed or contributed by the first party will be reduced by the amount of any input tax credits to which the other party is entitled in respect of the Reimbursable Expense.
- (b) This **clause 16.7** does not limit the application of **clause 16.3**, if appropriate, to the Reimbursable Expense as reduced in accordance with **clause 16.7(a)**.

16.8 Calculations based on other amounts

If an amount of consideration payable or to be provided under or in connection with this document is to be calculated by reference to:

- (a) any expense, loss, liability or outgoing suffered or incurred by another person (**Cost**), that reference will be to the amount of that Cost excluding the amount of any input tax credit entitlement of that person relating to the Cost suffered or incurred; and
- (b) any price, value, sales, proceeds, revenue or similar amount (**Revenue**), that reference will be to that Revenue determined by deducting from it an amount equal to the GST payable on the supply for which it is consideration.

16.9 No merger

This **clause 16** does not merge on the completion, rescission or other termination of this document or on the transfer of any property supplied under this document.

17 Notices

17.1 General

A notice, demand, certification, process or other communication relating to this document must be in writing in English and may be given by an agent of the sender.

17.2 How to give a communication

In addition to any other lawful means, a communication may be given by being:

- (a) personally delivered;
- (b) left at the party's current delivery address for notices, including by commercial courier; or
- (c) sent by email to the party's current email delivery address for notices.

17.3 Particulars for delivery of notices

- (a) The particulars for delivery of notices are initially:

Bidder

Delivery address: VINCI Construction International Network c/- Mr J Algar, Clayton Utz, 1 Bligh Street, Sydney NSW 2000

Attention: Mr Gilles Chauveau

Email: gilles.chauveau@vinci-construction.com

Target

Delivery address: 12 Electronics Street, Eight Mile Plains, Qld 4113

Attention: John Kirkwood and Julie Tealby

Email: john.kirkwood@seymourwhyte.com.au
julie.tealby@seymourwhyte.com.au

- (b) Each party may change its particulars for delivery of notices by notice to each other party.

17.4 Communications by email

Subject to **clause 17.5**, a communication is given if sent by email at the time it is sent, unless the sender receives a non-delivery reply.

17.5 After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place, provided that a notice of termination given before the Cut Off Time on the Second Court Date under **clauses 15.1, 15.2 or 15.3** will be taken to be received at the time it is given.

17.6 Process service

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this document may be served by any method contemplated by this **clause 17** or in accordance with any applicable law.

17.7 Appointment of process agent

Without preventing any method of service allowed under any relevant law, Bidder:

- (a) irrevocably appoints Clayton Utz as its process agent to receive any document in an action in connection with this document; and
- (b) agrees that failure by a process agent to notify Bidder of any document in an action in connection with this document does not invalidate the action concerned.

If for any reason Clayton Utz ceases to be able to act as process agent, Bidder agrees to appoint another person as its process agent in the place referred to in **clause 18.8** and ensure that the replacement process agent accepts its appointment and confirms its appointment to Bidder and Target.

Bidder agrees that service of documents on its process agent at the following address is sufficient service on it:

VINCI Construction International Network c/o Mr J Algar, Clayton Utz
1 Bligh Street, Sydney NSW 2000

18 General

18.1 Duty

- (a) Bidder as between the parties is liable for, must pay, and must indemnify the other parties for, all stamp duty, duty, or like duties or imposts (including any fine, interest or penalty) (**Duty**) payable or assessed on or in connection with:
 - (i) this document;
 - (ii) the Scheme, the Deed Poll and any document executed under or required by or contemplated by any of these documents; and
 - (iii) any transaction evidenced, effected or contemplated by a document referred to in **clause 18.1(a)(i)** or **clause 18.1(a)(ii)**.
- (b) If a party other than Bidder pays any Duty, in whole or in part, Bidder must reimburse the paying party without set-off or deduction immediately on demand.

18.2 Legal costs

Except as expressly stated otherwise in this document, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this document.

18.3 Amendment

This document may only be varied or replaced by a document executed by the parties.

18.4 Waiver and exercise of rights

- (a) A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

18.5 Rights cumulative

Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

18.6 Consents

Except as expressly stated otherwise in this document, a party may conditionally or unconditionally give or withhold any consent to be given under this document and is not obliged to give its reasons for doing so.

18.7 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to this document and to perform its obligations under it.

18.8 Governing law and jurisdiction

- (a) This document is governed by and is to be construed in accordance with the laws applicable in the State of Queensland, Australia.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in the State of Queensland, Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

18.9 Assignment

- (a) A party must not assign or deal with any right under this document without the prior written consent of the other parties.
- (b) Any purported dealing in breach of this clause is of no effect.

18.10 Liability

An obligation of two or more persons binds them separately and together.

18.11 Counterparts

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

18.12 Entire understanding

- (a) This document and the Confidentiality Deed contain the entire understanding between the parties as to the subject matter of this document. To the extent of any inconsistency between this document and the Confidentiality Deed, the provisions in this document prevail.

- (b) Other than the Confidentiality Deed, all previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this document are merged in and superseded by this document and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
 - (i) affects the meaning or interpretation of this document; or
 - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

18.13 Relationship of parties

This document is not intended to create a partnership, joint venture or agency relationship between the parties.

18.14 No merger

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

18.15 Specific performance

The parties acknowledge that damages will not be an adequate remedy for breaches of obligations under this document and that it would be appropriate for a court to grant specific performance of those obligations.

18.16 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (g) a matter has been "fairly disclosed" by Target to Bidder only if it was disclosed in writing in the Target Disclosure Materials prior to the date of this document in sufficient detail so as to enable a reasonable person experienced in operating a business similar to the business conducted by Target to identify the nature, import and scope of the relevant matter;
- (h) a reference to:
 - (i) a holder includes a joint holder;

- (ii) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
- (iii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
- (iv) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
- (v) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
- (vi) a right includes a benefit, remedy, discretion or power;
- (vii) time is to local time in Brisbane, Australia;
- (viii) '\$' or 'dollars' is a reference to Australian currency;
- (ix) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
- (x) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
- (xi) this document includes all schedules and annexures to it; and
- (xii) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document;
- (i) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day;
- (j) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded; and
- (k) a reference to any statement, including a warranty made by Target on the basis of its knowledge, belief or awareness, is made on the basis of the actual knowledge, belief or awareness as at the date of the relevant statement or warranty of:
 - (i) in the case of Target Warranties in paragraph (o) (Target Disclosure Materials) of schedule 2, the Specified Officers (and no other persons); and
 - (ii) in all other cases, the Specified Officers of the party (and no other persons), having made reasonable enquiries of Steve Lambert, Will MacDonald, Steve Davies-Evans and Angelo Soumboulidis.

18.17 Headings

Headings do not affect the interpretation of this document.

Schedule 1

Timetable

Action (actions to be in the following order)	Date
Regulator's Draft Scheme Booklet lodged with ASIC	Late July
Deed Poll executed by Bidder	Mid August
First Court Date	Mid August
Scheme Booklet registered by ASIC and released on ASX	Mid August
Scheme Booklet dispatched to Target Shareholders	Late August
Scheme Meeting	Late September
Second Court Date	Late September
Effective Date: office copy of Court order approving the Scheme lodged with ASIC	Early October
Target Suspension Date	Early October
Target Permitted Special Dividend Record Date	Early October
Payment of Target Permitted Special Dividend	Early October
Record Date	Mid October
Implementation Date	Mid October

Schedule 2

Target Warranties

Target represents and warrants to Bidder that:

- (a) **(status)** it, and each of its Related Bodies Corporate, is a body corporate duly incorporated under the laws of its jurisdiction of incorporation or formation;
- (b) **(power for business)** each member of the Target Group has the power to own its assets and to carry on its business as now conducted or contemplated;
- (c) **(power for document)** it has the corporate power to enter into and perform or cause to be performed its obligations under this document and the Transaction and to carry out the transactions contemplated by this document and the Transaction;
- (d) **(corporate authorisations)** it has taken or will take all necessary corporate action to authorise the entry into and performance of this document and the Transaction and to carry out the transactions contemplated by this document and the Transaction;
- (e) **(document binding)** this document is a valid and binding obligation enforceable in accordance with its terms;
- (f) **(transactions permitted)** subject to satisfaction of the Conditions in **clause 3.1(a)** as they apply to Target, the execution and performance by it of its obligations under this document and each transaction contemplated by this document and the Transaction did not and will not violate in any material respect a provision of a law or treaty or a judgment, ruling, order or decree of a Regulatory Authority binding on it, or its constitution;
- (g) **(continuous disclosure)** it:
 - (i) has materially complied with its obligations under chapter 3 of the ASX Listing Rules and the information disclosed to ASX is true and correct in all material respects;
 - (ii) is not relying on the carve out in Listing Rule 3.1A to withhold any material information from public disclosure; and
 - (iii) is not aware of any information relating to any member of the Target Group or their respective businesses or operations that has or could reasonably be expected to give rise to a Material Adverse Change that has not been fairly disclosed to Bidder;
- (h) **(provision of Target Information)** the Target Information included in the Scheme Booklet:
 - (i) will be included in good faith and on the understanding that Bidder and each of the Officers of Bidder will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet

and approving the entry by Bidder into the Deed Poll, and that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report; and

- (ii) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and all relevant policy statements, practice notes and other guidelines and requirements of ASIC and the Takeovers Panel;
- (i) **(Target Information true)** the Target Information included or incorporated by reference in the Scheme Booklet will not, as at the date of despatch of the Scheme Booklet to Target Shareholders, contain any statement which is misleading or deceptive in any material respect (by omission or otherwise);
- (j) **(Opinions)** any statement of opinion or belief contained in the Target Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) **(securities)** its issued securities as at the date of this document are no more than:
 - (i) 87,976,230 Target Shares;
 - (ii) 429,072 LTIP Options issued in FY15;
 - (iii) 1,259,088 LTIP Options issued in FY16; and
 - (iv) 2,345,404 LTIP Options issued in FY17,

and no member of the Target Group is under any obligation to issue any shares or securities convertible into Target Shares to any person and, except as specified above, no option exists nor is any member of the Target Group subject to any actual or contingent obligation to issue or convert securities;
- (l) **(Subsidiaries)** it is the beneficial owner of all the issued share capital in each of its Subsidiaries and there is no obligation to transfer, or issue new shares in any of those companies to third parties;
- (m) **(employee incentive arrangements)** it has disclosed to Bidder the terms applicable to the LTIPs and all other existing employee equity incentive arrangements which currently remain in operation;
- (n) **(compliance with laws)** as far as the Target is aware, each member of the Target Group has complied in all material respects with all applicable laws and regulations which would, if breached, have a material adverse effect on:
 - (i) the financial position of the Target Group as a whole; or
 - (ii) the implementation of the Transaction;
- (o) **(Target Disclosure Materials)** to the best of the Target's knowledge, the Target Disclosure Materials:
 - (i) are true and accurate in all material respects as at the date of this document; and
 - (ii) are not misleading or deceptive (including by omission) in any material respect when taken as a whole; and
 - (iii) include true, correct and complete:

- (A) copies of all terms and conditions of any equity incentive schemes to which any member of the Target Group is a party and under which rights remain current (including the LTIPs) and copies of the terms and conditions of the LTIP Options;
 - (B) copies of the register of options including details of all LTIP Options and each LTIP Optionholder; and
 - (C) disclosures of all commitments, arrangements and understandings Target has entered into with any of its Officers or employees as to any bonus, incentive or other payment which may become payable to them upon or in connection with the Scheme becoming Effective;
- (p) Target is not aware of any material information relating to any member of the Target Group that has not been disclosed to Bidder and is objectively necessary for Bidder to make an informed decision as to whether to proceed with the Transaction. Target has not knowingly or recklessly withheld from Bidder anything of which Target is aware and which might reasonably affect the willingness of Bidder to enter into and complete the Transaction contemplated by this document;
- (q) **(Termination of Third Party Consent Contract)** as at the date of this document, no party to a Third Party Consent Contract has terminated, or given any notice terminating, or purporting to or advising of an intention to, terminate, a Third Party Consent Contract;
- (r) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another member of the Target Group, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this document; and
- (s) **(Target Shares not indirect Australian real property interests)** the relevant Target Shares held by each Scheme Participant 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 Tax Act for the Scheme Participant.

Schedule 3

Bidder Warranties

Bidder represents and warrants to Target that:

- (a) **(status)** it, and each of its Related Bodies Corporate, is a body corporate duly incorporated under the laws of its jurisdiction of incorporation or formation;
- (b) **(power for business)** each member of the Bidder Group has the power to own its assets and to carry on its business as now conducted or contemplated;
- (c) **(power for document)** it has the corporate power to enter into and perform or cause to be performed its obligations under this document, the Transaction and the Deed Poll and to carry out the transactions contemplated by this document, the Transaction and the Deed Poll that are required to be carried out by Bidder;
- (d) **(corporate authorisations)** it has taken or will take all necessary corporate action to authorise the entry into and performance of this document, the Transaction and the Deed Poll and to carry out the transactions contemplated by this document, the Transaction and the Deed Poll that are required to be carried out by Bidder;
- (e) **(document binding)** this document is a valid and binding obligation enforceable in accordance with its terms;
- (f) **(transactions permitted)** the execution and performance by it of its obligations under this document, the Transaction and the Deed Poll and each transaction contemplated by this document, the Transaction and the Deed Poll did not and will not violate in any material respect a provision of a law or treaty or a judgment, ruling, order or decree of a Regulatory Authority binding on it, or its constitution;
- (g) **(provision of Bidder Information)** the Bidder Information:
 - (i) will be provided in good faith and on the understanding that Target and each of the Officers of Target will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme, and that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and all relevant policy statements, practice notes and other guidelines and requirements of ASIC and the Takeovers Panel; and
- (h) **(Bidder Information true)** the Bidder Information included or incorporated by reference in the Scheme Booklet in the form consented to by Bidder will not, as at the date of dispatch of the Scheme Booklet to Target Shareholders, contain any statement which is misleading or deceptive in any material respect (by omission or otherwise); and

- (i) **(Opinions)** any statement of opinion or belief contained in the Bidder Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (j) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another member of the Bidder Group, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this document.

Execution

Executed as an agreement.

Executed by VINCI Construction)
International Network:)
)

.....
President

Mr Gilles Godard

.....
Name of President (print)

Executed by Seymour Whyte Limited)
ACN 105 493 203 in accordance with)
section 127 of the Corporations Act:

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Annexure A

Scheme

Seymour Whyte Limited

Scheme Participants

Scheme of Arrangement

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Parties

Seymour Whyte Limited ACN 105 493 203 of 12 Electronics Street, Eight Mile Plains, Qld 4113 (**Target**)

Each Scheme Participant

Background

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth) between the parties.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Scheme, these terms have the following meanings:

ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited ACN 008 624 691, or as the context requires or permits, the financial market known as the Australian Securities Exchange operated by it.
Bidder	[Name of nominee under clause 4.3 of the Scheme Implementation Agreement.]
Bidder's Guarantor	VINCI Construction International Network of 9 place de l'Europe, 92500 Rueil-Malmaison, France, registered in the Nanterre Company and Business Registry under number 331 631 408.
Business Day	a business day as defined in the Listing Rules
CHESS	the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Court	the Federal Court of Australia (New South Wales Registry) or such other court of competent jurisdiction under the Corporations Act agreed between Target and

	Bidder's Guarantor.
Cut Off Time	8.00 am on the Second Court Date.
Deed Poll	the deed poll dated [insert] executed by Bidder and Bidder's Guarantor under which each of Bidder and Bidder's Guarantor covenants in favour of the Scheme Participants to perform the actions attributed to it under this Scheme.
Effective	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 this Scheme.
Effective Date	the date on which this Scheme becomes Effective.
End Date	the 'End Date' determined in accordance with the Scheme Implementation Agreement.
Implementation Date	the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between Target and Bidder.
Listing Rules	the official listing rules of ASX as amended from time to time.
LTIPs	The Company's current Employee Option Plan approved by shareholders at the 2016 AGM and the Company's previous Employee Option Plan approved by shareholders at the 2014 AGM.
LTIP Option	An option granted to an employee of the Group under the terms of the LTIPs.
Record Date	7.00pm on the fourth Business Day after the Effective Date or such other time and date agreed to in writing between Target and Bidder.
Register	the register of members of Target maintained in accordance with the Corporations Act.
Registered Address	in relation to an Target Shareholder, the address shown in the Register as at the Record Date.
Scheme	this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Participants, subject to any alterations or conditions agreed between Target and Bidder and approved by the Court or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Target and Bidder.
Scheme Consideration	in respect of each Scheme Share held by a Scheme Participant, a cash amount equal to \$1.285 less the cash

	value of any Target Permitted Special Dividend paid.
Scheme Implementation Agreement	the scheme implementation agreement dated [insert date] between Target and Bidder's Guarantor.
Scheme Meeting	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 this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.
Scheme Share	a Target Share on issue as at the Record Date.
Scheme Participant	a person who holds one or more Scheme Shares.
Second Court Date	the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this 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.
Settlement Rules	the ASX Settlement Operating Rules.
Subsidiary	has the meaning given to that term in section 46 of the Corporations Act.
Target Permitted Special Dividend	A dividend actually paid on Target Shares as a special dividend, pursuant to Target's discretion to do so under clause 8.3 of the Scheme Implementation Agreement.
Target Registry	Computershare Investor Services Pty Ltd or any replacement provider of share registry services to Target.
Target Share	an issued fully paid ordinary share in the capital of Target.
Target Shareholder	a person who is registered in the Register as a holder of one or more Target Shares
Trust Account	an Australian dollar denominated trust account operated by Target as trustee for the benefit of Scheme Participants, as nominated by Target and notified to Bidder at least 5 Business Days prior to the Implementation Date, being the account into which Bidder will deposit the Scheme Consideration in accordance with clause 5.2(a) .

2 Preliminary

2.1 Target

- (a) Target is a public company limited by shares, registered in Victoria and admitted to the official list of ASX.
- (b) The Target Shares are officially quoted on ASX.
- (c) As at [insert], Target's issued securities were as follows:
 - (i) [87,976,230] Target Shares; and
 - (ii) [insert] LTIP Options.

2.2 Bidder and Bidder's Guarantor

- (a) Bidder is a [company incorporated in Australia and is a company limited by shares - insert description of Bidder].
- (b) Bidder's Guarantor is a Societe par actions simplifiee, a simplified shareholding company, incorporated in France.

2.3 General

- (a) Target and Bidder's Guarantor have agreed by executing the Scheme Implementation Agreement to implement this Scheme.
- (b) This Scheme attributes actions to Bidder and Bidder's Guarantor but does not itself impose an obligation on it to perform those actions, as Bidder and Bidder's Guarantor are not parties to this Scheme. Bidder and Bidder's Guarantor have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the provision of the Scheme Consideration in accordance with **clause 5.2(a)** of this Scheme.

2.4 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) Bidder will provide, and Bidder's Guarantor will procure that Bidder provides, the Scheme Consideration in accordance with **clause 5.2(a)** of this Scheme; and
- (b) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to Bidder, and Target will enter Bidder in the Register as the holder of the Scheme Shares with the result that Target will become a wholly-owned subsidiary of Bidder.

3 Conditions

3.1 Scheme conditions

- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (i) all the conditions precedent in clauses 3.1 of the Scheme Implementation Agreement (other than the condition in clause 3.1(j) of the Scheme Implementation Agreement (Court approval)) having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by no later than the Cut Off Time;
 - (ii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are accepted in writing by Target and Bidder;
 - (iii) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are accepted by Target and Bidder in writing, having been satisfied; and
 - (iv) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date Target and Bidder agree in writing).
- (b) The satisfaction of the conditions referred to in **clause 3.1** of this document is a condition precedent to the operation of **clauses 4** and **5**.

3.2 Certificate in relation to conditions precedent

- (a) On the Second Court Date:
- (i) Target must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at the Cut Off Time the conditions set out in clause 3.1 (other than clause 3.1(j)) of the Scheme Implementation Agreement have been satisfied or waived in accordance with the Scheme Implementation Agreement; and
 - (ii) Bidder must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at the Cut Off Time the conditions set out in clause 3.1 (other than clause 3.1(j)) of the Scheme Implementation Agreement have been satisfied or waived in accordance with the Scheme Implementation Agreement.
- (b) The certificates referred to in **clause 3.2(a)** will constitute conclusive evidence of whether the conditions precedent referred to in **clause 3.1(a)(i)** of this Scheme have been satisfied or waived as at the Cut Off Time.

3.3 Termination of Scheme Implementation Agreement

Without limiting rights under the Scheme Implementation Agreement if the Scheme Implementation Agreement is terminated in accordance with its terms before the Cut Off Time, Target, Bidder and Bidder's Guarantor are each released from:

- (a) any further obligation to take steps to implement the Scheme; and
- (b) any liability with respect to the Scheme.

3.4 End dates

The Scheme will lapse and be of no further force or effect if the Scheme has not become Effective on or before the End Date.

4 Implementation

4.1 Lodgement of Court orders

Target must lodge with ASIC office copies of any Court orders under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme as soon as possible and in any event no later than by 5.00pm on the first Business Day after the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the payment by Target of the Scheme Consideration in the manner contemplated by **clause 5.2(b)**, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Bidder, without the need for any further act by any Scheme Participant (other than acts performed by Target or its officers as agent and attorney of the Scheme Participants under **clause 8.6** or otherwise), by:
 - (i) Target delivering to Bidder a duly completed and executed share transfer form to transfer all the Scheme Shares to Bidder, executed on behalf of the Scheme Participants by Target, for registration; and
 - (ii) Bidder duly executing such transfer form and delivering it to Target for registration; and
- (b) immediately after receipt of the transfer form in accordance with **clause 4.2(a)(ii)** Target must enter, or procure the entry of, the name of Bidder in the Register in respect of the Scheme Shares transferred to Bidder in accordance with this Scheme.

5 Scheme Consideration

5.1 Amount of Scheme Consideration

Each Scheme Participant is entitled to receive the Scheme Consideration.

5.2 Payment of Scheme Consideration

- (a) Bidder must, and Bidder's Guarantor must procure that Bidder does, by no later than the Business Day before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the

aggregate amount of the total Scheme Consideration payable to all Scheme Participants, such amount to be held by Target on trust for the Scheme Participants and for the purpose of sending the aggregate Scheme Consideration to the Scheme Participants (except that any interest, net of bank fees and other charges, on the amount will be for the account of Bidder).

- (b) On the Implementation Date and subject to funds having been deposited in accordance with **clause 5.2(a)**, Target must pay or procure the payment of the Scheme Consideration to each Scheme Participant from the Trust Account by doing any of the following at its election:
 - (i) sending (or procuring the Target Registry to send) it to the Scheme Participant's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
 - (ii) depositing (or procuring the Target Registry to deposit) it by electronic funds transfer into an account with any Australian ADI (as defined in the Corporations Act) notified to Target (or the Target Registry) by an appropriate authority from the Scheme Participants (which will include a current authority to pay dividends).
- (c) To the extent that, following satisfaction of Target's obligations under **clause 5.2(b)**, there is a surplus in the amount held in the Trust Account, that surplus may be paid by Target to Bidder.

5.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent at the sole discretion of Target, either to the holder whose name appears first in the Register as at the Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded, at the sole discretion of Target, either to the holder whose name appears first in the Register as at the Record Date or to the joint holders.

5.4 Fractional entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

5.5 Unclaimed monies

To the extent that a cheque or electronic funds transfer issued under this **clause 5** is returned to Target as undelivered, or the cheque is not presented

by a Scheme Participant earlier than six months after the Implementation Date
(**Unclaimed Consideration**):

- (a) Target may cancel the cheque or electronic funds transfer issued in respect of the Unclaimed Consideration;
- (b) during the period of one year commencing on the Implementation Date, on request from a Scheme Participant, Target must reissue a cheque or electronic funds transfer that was previously cancelled under this **clause 5.5**; and
- (c) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008* (Vic)).

5.6 Order of a court

If:

- (a) written notice is given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant by Target in accordance with this **clause 5**, then Target may procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction that prevents Target from making a payment to any particular Scheme Participant in accordance with **clause 5.2(b)**, or such payment is otherwise prohibited by applicable law, Target may retain an amount equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration until such time as payment in accordance with this **clause 5** is permitted by that order or direction or otherwise by law,

and the payment or retention by Target (or the Target Registry) will constitute the full discharge of Target's obligations under **clause 5.2(b)** with respect of the amount so paid or retained until, in the case of **clause 5.6(b)**, it is no longer required to be retained.

5.7 Definition of 'sending'

For the purposes of **clause 5**, the expression **sending** means, in relation to each Scheme Participant:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Participant as at the Record Date; or
- (b) delivery to the Registered Address of that Scheme Participant as at the Record Date by any other means at no cost to the recipient.

6 Dealings in Target Shares

6.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in Target Shares or other alterations to the Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant Target Shares on or before the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before the Record Date occurs at the place where the Register is kept,

and Target will not accept for registration, nor recognise for any purpose (except a transfer to Bidder under this Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) **(Registration of transfers)** Target must register registrable transmission applications or transfers of the kind referred to in **clause 6.1(b)** by or as soon as reasonably practicable after the Record Date (provided that for the avoidance of doubt nothing in this **clause 6.2** requires Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a 'marketable parcel' (as defined in the Settlement Rules).
- (b) **(No registration after Record Date)** Target will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Target Shares received after the Record Date, other than to Bidder in accordance with this Scheme and any subsequent transfer by Bidder or its successors in title.
- (c) **(Maintenance of Register)** For the purpose of determining entitlements to the Scheme Consideration, Target must maintain the Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Participants. The Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) **(No disposal after Record Date)** From the Record Date until registration of Bidder in respect of all Scheme Shares under **clause 4.2(b)**, no Target Shareholder may dispose or otherwise deal with Target Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for Target Shares will cease to have effect from the Record Date as

documents of title in respect of those shares. As from the Record Date, each entry current at that date on the Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Target Shares relating to that entry.

- (f) **(Provision of Scheme Participant details)** As soon as practicable after the Record Date and in any event within one Business Day after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Participant are available to Bidder in the form Bidder reasonably requires.

7 Quotation of Target Shares

- (a) Target will apply to ASX to suspend trading on the ASX in Target Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidder, and only after the transfer of the Scheme Shares has been registered in accordance with **clause 4.2(b)**, Target will apply:
 - (i) for termination of the official quotation of Target Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

8 General Scheme Provisions

8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Target may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented in writing; and
- (b) each Scheme Participant agrees to any such alterations or conditions to which counsel for Target has consented.

8.2 Binding effect of Scheme

This Scheme binds Target and all Scheme Participants (including those who did not attend the Scheme Meeting, those who did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of Target.

8.3 Scheme Participants' agreements and acknowledgment

Each Scheme Participant:

- (a) agrees to the transfer of their Target Shares together with all rights and entitlements attaching to those Target Shares in accordance with this Scheme;

- (b) agrees to any variation, cancellation or modification of the rights attached to their Target Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any share certificates relating to their Target Shares; and
- (d) acknowledges and agrees that this Scheme binds Target and all Scheme Participants (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting).

8.4 Warranties by Scheme Participants

- (a) Each Scheme Participant is deemed to have warranted to Target, in its own right and for the benefit of Bidder and Bidder's Guarantor, that as at the Implementation Date:
 - (i) all of its Scheme Shares which are transferred to Bidder under this Scheme, including any rights and entitlements attaching to those Scheme Shares, will, at the date of transfer, be free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind (but acknowledging that a security interest holder may potentially have an interest in the Scheme Consideration in accordance with the terms of such security interest);
 - (ii) all of its Target Shares which are transferred to Bidder under this Scheme will, on the date on which they are transferred to Bidder, be fully paid;
 - (iii) it has full power and capacity to transfer its Target Shares to Bidder together with any rights attaching to those shares; and
 - (iv) it has no existing right to be issued any Target Shares, LTIP Options, Target convertible notes or any other Target securities, other than, in the case of any Scheme Participant who is also the holder of LTIP Options, the right to receive Target Shares on the exercise of those LTIP Options in accordance with their terms.
- (b) Target undertakes that it will provide the warranties in **clause 8.4(a)** to Bidder and Bidder's Guarantor as agent and attorney of each Scheme Participant.

8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of section 12 of the *Personal Property*

Securities Act 2009 (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.

- (b) On and from the Implementation Date, immediately after the payment by Target of the Scheme Consideration in the manner contemplated in **clause 5.2(b)**, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Target of Bidder in the Register as the holder of the Scheme Shares.

8.6 Authority given to Target

- (a) Scheme Participants will be deemed to have authorised Target to do and execute all acts, matters, things and documents on the part of each Scheme Participant necessary for or incidental to the implementation of this Scheme, including executing, as agent and attorney of each Scheme Participant, a share transfer or transfers in relation to Scheme Shares as contemplated by **clause 4.2**.
- (b) Each Scheme Participant, without the need for any further act, irrevocably appoints Target and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares.

8.7 Appointment of sole proxy

Immediately after the payment by Target of the Scheme Consideration in the manner contemplated in **clause 5.2(b)**, and until Target registers Bidder as the holder of all Target Shares in the Register, each Scheme Participant:

- (a) is deemed to have irrevocably appointed Bidder as its attorney and agent (and directed Bidder in such capacity) to appoint an officer or agent nominated by Bidder as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of Target, exercise the votes attaching to the Scheme Shares registered in its name and sign any Shareholders' resolution;
- (b) undertakes not to otherwise attend shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than as under **clause 8.7(a)**;
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in **clause 8.7(a)**, Bidder and any officer or agent nominated by Bidder under **clause 8.7(a)** may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.8 Instructions and elections

If not prohibited by law, all instructions, notifications or elections by a Scheme Participant to Target binding or deemed binding between the Scheme Participant and Target relating to Target or Target Shares (including any email addresses, instructions relating to communications from Target, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from Target) will be deemed from the Implementation Date (except to the extent determined otherwise by Bidder in its sole discretion), by reason of this Scheme, to be made by the Scheme Participant to Bidder until that instruction, notification or election is revoked or amended in writing addressed to Bidder at its registry.

9 General

9.1 Stamp duty

Bidder must pay, and Bidder's Guarantor must procure that Bidder pays, all stamp duty payable in connection with the transfer of the Scheme Shares to Bidder.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Target's registered office or at the office of the Target Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non- receipt of such a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.3 Further assurances

- (a) Target must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.
- (b) Each Scheme Participant consents to Target doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws of Queensland.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.

9.5 Listing requirements included in law

A listing rule or business rule of a financial market 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.

9.6 Construction

Unless expressed to the contrary, in this Scheme:

- (a) words in the singular include the plural and vice versa;
- (b) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (c) 'includes' means includes without limitation;
- (d) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (e) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (f) a reference to:
 - (i) a holder includes a joint holder;
 - (ii) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (iii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iv) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (v) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (vi) a right includes a benefit, remedy, discretion or power;
 - (vii) time is to local time in Brisbane, Australia;
 - (viii) '\$' or 'dollars' is a reference to Australian currency;
 - (ix) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
 - (x) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax or email transmissions;
 - (xi) a clause or schedule is a reference to a clause or schedule of this Scheme;

- (g) if the date on or by which any act must be done under this Scheme is not a Business Day, the act must be done on or by the next Business Day;
- (h) where Target is obliged to “procure” Bidder to take any action or to refrain from taking any action, that obligation will be fully discharged by Target or its directors or officers taking all reasonable available steps to enforce the Deed Poll against Bidder and (where applicable) Bidder’s Guarantor as the attorney and agent of any Scheme Participant; and
- (i) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

9.7 Headings

Headings do not affect the interpretation of this document.

Annexure B

Deed Poll

VINCI Construction International Network

[Bidding entity]

Deed Poll

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Date

By

VINCI Construction International Network] of 9 place de l'Europe, 92500 Rueil-Malmaison, France, registered in the Nanterre Company and Business Registry under number 331 631 408 (**Bidder's Guarantor**)

[Insert name and details of bidding entity nominated under clause 4.3 of the Scheme Implementation Agreement] (**Bidder**)

in favour of each Scheme Participant.

Background

- A Bidder's Guarantor and Target have entered into the Scheme Implementation Agreement under which Target agreed, subject to the satisfaction or waiver of certain conditions, to propose the Scheme to Scheme Participants.
 - B Bidder's Guarantor is a holding company of Bidder.
 - C Under the Scheme Implementation Agreement, Bidder's Guarantor agreed, subject to the satisfaction or waiver of certain conditions, to do all things within its power necessary or desirable on its part to implement the Scheme, including providing the Scheme Consideration.
 - D Bidder's Guarantor and Bidder are entering into this document for the purpose of covenanting in favour of Scheme Participants to:
 - (a) comply with all of their obligations under the Scheme Implementation Agreement;
 - (b) perform the actions attributed to Bidder's Guarantor and Bidder under the Scheme; and
 - (c) provide the Scheme Consideration in accordance with the Scheme.
-

Declarations

1 Definitions

- (a) In this document these terms have the following meanings:

Scheme	The scheme of arrangement under section 411 of the Corporations Act between Target and the Scheme Participants the form of which is attached
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to the Scheme Implementation Agreement, subject to any alterations or conditions agreed in writing between Target and Bidder and approved by the Court or made or required by the Court pursuant to section 411(6) of the Corporations Act and agreed in writing by Target and Bidder.

Scheme Implementation Agreement	The agreement of that name dated [insert date] and entered into between Target and Bidder's Guarantor.
Target	Seymour Whyte Limited ACN 105 493 203.
Trust Account	an Australian dollar denominated trust account operated by Target as trustee for the benefit of Scheme Participants, as nominated by Target and notified to Bidder at least 5 Business Days prior to the Implementation Date.

- (b) Words and phrases defined in the Scheme Implementation Agreement have the same meaning in this document unless the context requires otherwise.

2 Nature of this deed poll

Bidder and Bidder's Guarantor each acknowledges that:

- (a) this document may be relied on and enforced by any Scheme Participant in accordance with its terms, even though the Scheme Participants are not party to it; and
- (b) under the Scheme, each Scheme Participant irrevocably appoints Target and any of Target's directors and officers (jointly and each of them severally) as its agent and attorney, inter alia, to enforce this document against Bidder and Bidder's Guarantor.

3 Conditions precedent and termination

3.1 Conditions precedent

The obligations of Bidder and Bidder's Guarantor in respect of the Scheme pursuant to this document are subject to the Scheme becoming Effective.

3.2 Termination

If:

- (a) the Scheme Implementation Agreement is terminated in accordance with its terms before the Scheme becomes Effective; or
- (b) the Scheme does not become Effective on or before the End Date,

the obligations of Bidder and Bidder's Guarantor under this document will automatically terminate, unless Bidder's Guarantor and Target otherwise agree in writing in accordance with the Scheme Implementation Agreement.

3.3 Consequences of termination

If this document is terminated under **clause 3.2** then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Participants:

- (a) Bidder and Bidder's Guarantor are each released from its obligations to further perform this document, except those obligations contained in **clause 7** and any other obligations which by their nature survive termination; and
- (b) each Scheme Participant retains any rights, power or remedies it has against Bidder or Bidder's Guarantor in respect of any breach of this document by Bidder or Bidder's Guarantor which occurred before termination of this document.

4 Scheme Consideration

4.1 Performance of obligations generally

Subject to **clause 3**:

- (a) Bidder undertakes in favour of each Scheme Participant to perform the actions attributed to it under the Scheme as if it were a party to the Scheme; and
- (b) Bidder's Guarantor undertakes in favour of each Scheme Participant to:
 - (i) procure that Bidder complies with **clause 4.1(a)**; and
 - (ii) perform the actions attributed to Bidder's Guarantor under the Scheme as if it were a party to the Scheme.

4.2 Provision of Scheme Consideration

Subject to **clause 3**:

- (a) Bidder undertakes in favour of each Scheme Participant to deposit the Scheme Consideration into the Trust Account in accordance with the terms of the Scheme; and
- (b) Bidder's Guarantor undertakes in favour of each Scheme Participant to procure that Bidder complies with **clause 4.2(a)**.

5 Representations and warranties

Each of Bidder and Bidder's Guarantor represents and warrants in favour of each Scheme Participant that:

- (a) it is a company duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) it has the power to enter into and perform its obligations under this document and to carry out the transactions contemplated by this document;
- (c) it has taken all necessary corporate action to authorise the entry into and performance of this document and to carry out the transactions contemplated by this document;
- (d) this document is a valid and binding obligation on it and is enforceable in accordance with its terms;
- (e) the execution and performance by it of this document and each transaction contemplated by this document did not and will not violate in any respect:
 - (i) any provision of its constitution; or
 - (ii) any writ, order or injunction, judgement, law, rule or regulation to which it is subject or by which it is bound;
- (f) it is not otherwise bound by any agreement that would prevent, restrain or restrict it from entering into or performing any of its obligations or undertakings contained in this document; and
- (g) (**solvency**) it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up, deregistration or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

6 Continuing obligations

This document is irrevocable and, subject to **clause 3**, remains in full force and effect until:

- (a) each of Bidder and Bidder's Guarantor have completely performed their obligations under this document; or
- (b) this document is terminated in accordance with **clause 3**, whichever comes first.

7 Notices

7.1 General

Any notice, transfer, transmission, application, direction, demand, consent or other communication (**Notice**) given or made to Bidder or Bidder's Guarantor under this document must be in writing in English and signed by the sender or a person duly authorised by the sender.

7.2 How to give a Notice

- (a) A Notice must be given to Bidder by being:
 - (i) personally delivered;
 - (ii) left at Bidder's current delivery address for notices;
 - (iii) sent to Bidder's current delivery address for notices or current registered office by pre-paid ordinary mail; or
 - (iv) sent by fax to the Bidder's current fax number for notices.
- (b) A Notice must be given to Bidder's Guarantor by being:
 - (i) personally delivered;
 - (ii) left at Bidder's Guarantor's current delivery address for notices;
 - (iii) sent to Bidder's Guarantor's current delivery address for notices or current registered office by pre-paid ordinary mail; or
 - (iv) sent by fax to the Bidder's Guarantor's current fax number for notices.

7.3 Particulars for delivery of notices

- (a) The particulars for delivery of Notices to Bidder are:
 - Attention: [insert]
 - Delivery address: [insert]
 - Postal address: [insert]
 - Fax: [insert]
- (b) The particulars for delivery of Notices to Bidder's Guarantor are:
 - Attention: [insert]
 - Delivery address: [insert]
 - Postal address: [insert]
 - Fax: [insert]

7.4 Communications

Subject to **clause 7.5**, a Notice is given:

- (a) if delivered, at the time of delivery;

- (b) if posted within Australia to an Australian postal address, three Business Days after posting; or
- (c) if posted outside of Australia to an Australian postal address or within Australia to an address outside of Australia, seven Business Days after posting;
- (d) if sent by fax, the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety.

7.5 After hours communications

If a Notice is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

7.6 Process service

Any process or other document relating to litigation, administrative or arbitral proceedings relating to this document may be served by any method contemplated by this **clause 7** or in accordance with any applicable law.

8 General

8.1 Stamp duty

Bidder must pay, and Bidder's Guarantor must procure that Bidder pays, all stamp duties and any related fines, interest and penalties, in respect of or in connection with this document, the performance of this document and each transaction effected by or made or any instrument executed under this document or the Scheme, including the transfer of Scheme Shares under the Scheme.

8.2 Waiver

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 document by any person 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 rights, power or remedy provided by law or under this document. A waiver is not valid or binding on the person granting that waiver unless made in writing.

8.3 Cumulative rights

The rights, powers and remedies of Bidder and Bidder's Guarantor and of each Scheme Participant under this document are cumulative with and do not

exclude any other rights, powers or remedies provided by law or equity independently of this document.

8.4 Amendment

A provision of this document may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by Target, Bidder and Bidder's Guarantor; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by Target, Bidder and Bidder's Guarantor and is approved by the Court,

in which event Bidder and Bidder's Guarantor must enter into a further deed poll in favour of the Scheme Participants giving effect to that amendment.

8.5 Assignment

The rights and obligations of Bidder and Bidder's Guarantor and of each Scheme Participant under this document are personal and must not be assigned, encumbered or otherwise dealt with at law or in equity and no person may attempt, or purport, to do so without the prior written consent of Bidder, Bidder's Guarantor and Target. Any purported dealing in contravention of this **clause 8.5** is invalid.

8.6 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This **clause 8.6** has no effect if the severance alters the basic nature of this document or is contrary to public policy.

8.7 Further assurances

Bidder and Bidder's Guarantor will each execute and deliver all documents and do all acts and things necessary or desirable to give full effect to this document and the transactions contemplated by it.

8.8 Governing law and jurisdiction

- (a) This document is governed by and is to be construed in accordance with the laws applicable in the State of Queensland, Australia.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in the State of Queensland, Australia, and any courts which have jurisdiction to hear appeals from any of those courts, and waives any right to object to any proceedings being brought in those courts.

8.9 Construction

The rules specified in clause 18.16 of the Scheme Implementation Agreement form part of this document as if set out in full in this document.

8.10 Headings

Headings do not affect the interpretation of this document.

Execution

Executed as a deed poll in the State of Queensland, Australia.

[insert VINCI execution block]

[insert Bidder execution block]

Annexure C

Announcement