



ASX RELEASE

1 August 2018

## Sirtex Shareholders to Vote on Scheme of Arrangement for Proposed Acquisition by CDH-CGP

Sydney, Australia

Sirtex Medical Limited (ASX:SRX) (**Sirtex**) announces that the Federal Court of Australia (**Court**) has today made orders approving the despatch of the scheme booklet (**Scheme Booklet**) in relation to the proposed acquisition of all of the shares in Sirtex by Grand Pharma Sphere (Australia Bidco) Pty Ltd (**Bidco**), an entity owned by CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited (collectively, **the Bidders**) by way of scheme of arrangement (**Scheme**) and has ordered that a meeting of Sirtex shareholders be convened to consider and vote on the Scheme (**Scheme Meeting**).

The Scheme Meeting will be held at 10.00am (Sydney time) on Monday, 10 September 2018 at the Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000.

All Sirtex shareholders are encouraged to vote either by attending the Scheme Meeting in person, or by lodging a proxy form with the Sirtex share registry by 10.00am (Sydney time) on Saturday, 8 September 2018, being not later than 48 hours before the commencement of the Scheme Meeting. Any proxy form received after that time will not be valid for the scheduled Scheme Meeting. Details of how to lodge a proxy form are included in the Scheme Booklet.

The Scheme Booklet has today been registered by the Australian Securities and Investments Commission.

A copy of the Scheme Booklet, including the Independent Expert's Report, a notice of Scheme Meeting and a copy of the proxy form for the Scheme Meeting, is attached to this announcement and will be sent to Sirtex shareholders by Wednesday, 8 August 2018.

The Independent Expert appointed by the Board of Directors of Sirtex in relation to the Scheme, Deloitte Corporate Finance Pty Limited (**Deloitte**), has concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex shareholders. The Independent Expert's conclusions should be read in the context of the full Independent Expert's Report and the Scheme Booklet attached to this announcement.

The Sirtex Board continues to unanimously recommend that shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to Deloitte continuing to conclude that the Scheme is in the best interests of Sirtex shareholders. Each Sirtex Director intends to vote all Sirtex shares held or controlled by them in favour of the Scheme, subject to the same qualifications.

As announced to the ASX on 3 July 2018, the Treasurer of the Commonwealth of Australia (through the Foreign Investment Review Board (**FIRB**)) issued a no objection notification stating that the Commonwealth Government does not object to Bidco acquiring all of the Sirtex Shares under the

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Scheme, subject only to FIRB's standard tax conditions and to a condition requiring the Bidders to notify FIRB of the terms of its debt funding arrangements within 60 days of the loan being made.

Further, as announced to the ASX on 16 July 2018, the US Federal Trade Commission granted early termination of the waiting period under the Clayton Act and Premerger Notification Rules with respect to the Premerger Notification made by Sirtex and CDH Fund V, L.P. under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Receipt of these approvals in respect of the Scheme satisfied two of the conditions to implementation of the Scheme. However, implementation of the Scheme remains subject to the satisfaction or waiver (as applicable) of certain other conditions precedent, including no regulatory restraints in certain jurisdictions, Sirtex shareholder approval in respect of the Scheme and approval by the Court.

## **Indicative Timetable**

The key events and expected timing in relation to the approval and implementation of the Scheme are set out in the table below.

<b>Event</b>	<b>Expected date</b>
Scheme Booklet dispatched to Sirtex shareholders	8 August 2018
Latest date for proxy forms to be received by Sirtex share registry	10.00am (Sydney time) on 8 September 2018
Scheme Meeting to vote on the Scheme	10.00am (Sydney time) on 10 September 2018
Second Court Date for approval of the Scheme	10.15am (Sydney time) on 12 September 2018
Effective Date of the Scheme	13 September 2018
Scheme Record Date (for determining entitlement to Scheme Consideration)	7.00pm (Sydney time) 17 September 2018
Scheme Implementation Date	20 September 2018

All dates are indicative only and are subject to the Court approval process and the satisfaction or, where applicable, waiver of conditions precedent under the Scheme. Any changes to the above timetable will be announced by Sirtex to ASX.

## **Shareholder Information**

If Sirtex shareholders have any questions regarding the Scheme or this Scheme Booklet you should contact the Sirtex Shareholder Information Line on 1300 794 682 (within Australia) or +61 1300 794 682 (outside Australia) on Monday to Friday between 8:30am and 5:30pm (Sydney time) or consult your legal, financial, taxation or other professional adviser.

**– ENDS –**

This is an important document and requires your immediate attention.

You should read this Scheme Booklet carefully and in its entirety before deciding whether or not to vote in favour of the Scheme.

If you are in any doubt as to what you should do, you should consult your broker, financial adviser or legal adviser immediately.

# SIRTeX

Sirtex Medical Limited (ABN 35 078 166 122)

## SCHEME BOOKLET

For a scheme of arrangement in relation to the proposed acquisition of all the ordinary shares in Sirtex Medical Limited (**Sirtex**) by Grand Pharma Sphere (Australia Bidco) Pty Ltd (**Bidco**), an entity owned by CDH Genetech Limited (**CDH Genetech**) and China Grand Pharmaceutical and Healthcare Holdings Limited (**CGP**) (collectively, **the Bidders**).

The Sirtex Directors unanimously recommend that you

## VOTE IN FAVOUR

of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.

A Notice of Scheme Meeting is included as Annexure E to this Scheme Booklet, and a proxy form for the Scheme Meeting accompanies this Scheme Booklet.

The Scheme Meeting will be held at 10:00am (Sydney time) on Monday, 10 September 2018 at the Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000.

Financial adviser



Legal adviser



# IMPORTANT NOTICES

## DEFINED TERMS

Capitalised terms used in this Scheme Booklet are defined in the Glossary in section 10 of this Scheme Booklet.

## THIS SCHEME BOOKLET

This Scheme Booklet includes the explanatory statement required to be sent to Sirtex Shareholders in relation to the Scheme under Part 5.1 of the Corporations Act. A copy of the proposed Scheme is set out in Annexure C to this Scheme Booklet.

You should read this Scheme Booklet carefully and in its entirety before making a decision as to how to vote on the resolution to be considered at the Scheme Meeting. If you are in doubt as to what you should do, you should consult your legal, financial or other professional adviser.

## RESPONSIBILITY FOR INFORMATION

- (a) Except as provided in paragraphs (b) to (d) below, the information in this Scheme Booklet has been provided by Sirtex and is the responsibility of Sirtex. The Bidders, their subsidiaries and their respective directors, officers, employees and advisers do not assume any responsibility for the accuracy or completeness of any such Sirtex information.
- (b) The Bidders have provided and are responsible for the Bidder Information. Sirtex, its subsidiaries and their respective directors, officers, employees and advisers do not assume any responsibility for the accuracy or completeness of the Bidder Information.
- (c) PricewaterhouseCoopers Securities Limited has provided and is responsible for the information contained in section 8 of this Scheme Booklet. Neither Sirtex nor the Bidders, nor their subsidiaries nor their respective directors, officers, employees and advisers, assumes any responsibility for the accuracy or completeness of the information contained in section 8 of this Scheme Booklet. PricewaterhouseCoopers Securities Limited does not assume any responsibility for the accuracy or completeness of the information contained in this Scheme Booklet other than that contained in section 8 of this Scheme Booklet.
- (d) The Independent Expert, Deloitte, has provided and is responsible for the information contained in Annexure A to this Scheme Booklet. Sirtex, its subsidiaries and their respective directors, officers, employees and advisers do not assume any responsibility for the accuracy or completeness of the information contained in Annexure A to this Scheme Booklet except in relation to information given by it to the Independent Expert. The Bidders, their subsidiaries and their respective directors, officers, employees and advisers do not assume any responsibility for the accuracy or completeness of the information contained in Annexure A to this Scheme Booklet. The Independent Expert does not assume any responsibility for the accuracy or completeness of the information contained in this Scheme Booklet other than that contained in Annexure A.
- (e) The Sirtex Registry, Link Market Services Limited, has had no involvement in the preparation of any part of this Scheme Booklet other than being named as the Sirtex Registry. The Sirtex Registry has not authorised or caused the issue of, and expressly disclaims and takes no responsibility for, any part of this Scheme Booklet.

## INVESTMENT DECISIONS

The information in this Scheme Booklet does not constitute financial product advice. This Scheme Booklet has been prepared without reference to the investment objectives, financial situation or particular needs of any Sirtex Shareholder or any other person. This Scheme Booklet should not be relied on as the sole basis for any investment decision. Independent legal, financial and taxation advice should be sought before making any investment decision in relation to your Sirtex Shares.

## ASIC AND ASX INVOLVEMENT

This document is the explanatory statement for the scheme of arrangement between Sirtex and the holders of Sirtex Shares as at the Scheme Record Date for the purposes of section 412(1) of the Corporations Act. A copy of the proposed Scheme is included in this Scheme Booklet as Annexure C.

A copy of this Scheme Booklet (including the Independent Expert's Report) has been lodged with ASIC for the purposes of section 411(2)(b) of the Corporations

Act and registered for the purposes of section 412(6) of the Corporations Act by ASIC. ASIC has been requested to provide a statement in accordance with section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme. If ASIC provides that statement, then it will be produced to the Court on the Second Court Date.

Neither ASIC nor any of its officers take any responsibility for the contents of this Scheme Booklet.

A copy of this Scheme Booklet has been lodged with ASX. Neither ASX nor any of its officers take any responsibility for the contents of this Scheme Booklet.

## IMPORTANT NOTICE ASSOCIATED WITH COURT ORDER UNDER SUBSECTION 411(1) OF THE CORPORATIONS ACT

The fact that under subsection 411(1) of the Corporations Act the Court has ordered that a meeting be convened and has approved the explanatory statement required to accompany the notice of the meeting does not mean that the Court:

- (a) has formed any view as to the merits of the proposed Scheme or as to how members should vote (on this matter members must reach their own decision); or
- (b) has prepared, or is responsible for the content of, the explanatory statement.

## NOTICE REGARDING SECOND COURT HEARING AND IF A SIRTEx SHAREHOLDER WISHES TO OPPOSE THE SCHEME

The date of the Second Court Hearing to approve the Scheme is Wednesday, 12 September 2018.

The hearing will be at 10.15am (Sydney time) at the Federal Court of Australia at Law Courts Building, 184 Phillip Street, Sydney NSW 2000.

A Sirtex Shareholder has the right to appear and be heard at the Second Court Hearing and may oppose the approval of the Scheme at the Second Court Hearing. If you wish to oppose in this manner, you must file and serve on Sirtex a notice of appearance, in the prescribed form, together with any affidavit on which you wish to rely at the hearing. The notice of appearance and affidavit must be served on Sirtex at its address for service at least one day before Wednesday, 12 September 2018.

The address for service for Sirtex is:

Sirtex Medical Limited, Level 33, 101 Miller Street, North Sydney NSW 2060  
(Attention: Darren Smith)

Email: dsmith@sirtex.com

## DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This Scheme Booklet contains both historical and forward-looking statements.

The forward-looking statements in this Scheme Booklet are not based on historical facts, but rather reflect the current views of Sirtex or, in relation to the Bidder Information, the Bidders and Bidco, held only as at the date of this Scheme Booklet concerning future results and events and generally may be identified by the use of forward-looking words or phrases such as "believe", "aim", "expect", "anticipated", "intending", "foreseeing", "likely", "should", "planned", "may", "estimated", "potential", or other similar words and phrases. Similarly, statements that describe Sirtex's and the Bidders' and Bidco's objectives, plans, goals or expectations are or may be forward-looking statements.

The statements in this Scheme Booklet about the impact that the Scheme may have on the results of Sirtex's operations, and the advantages and disadvantages anticipated to result from the Scheme, are also forward-looking statements.

Any forward-looking statements included in the Bidder Information have been made on reasonable grounds. Although the Bidders and Bidco believe that the views reflected in any forward-looking statements included in the Bidder Information have been made on a reasonable basis, no assurance can be given that such views will prove to have been correct.

# IMPORTANT NOTICES

Any other forward-looking statements included in this Scheme Booklet and made by Sirtex have been made on reasonable grounds. Although Sirtex believes that the views reflected in any forward-looking statements in this Scheme Booklet (other than the Bidder Information, the information in section 8 and the information in Annexure A) have been made on a reasonable basis, no assurance can be given that such views will prove to have been correct.

These forward-looking statements involve known and unknown risks, uncertainties, assumptions and other factors that may cause either Sirtex's, the Bidders' or Bidco's actual results, performance or achievements to differ materially from the anticipated results, performance or achievements expressed, projected or implied by these forward-looking statements. Deviations as to future results, performance and achievements are both normal and to be expected. Sirtex Shareholders should note that the historical financial performance of Sirtex is no assurance of future financial performance of Sirtex (whether the Scheme is implemented or not). Sirtex Shareholders should review carefully all of the information included in this Scheme Booklet. The forward-looking statements included in this Scheme Booklet are made only as of the date of this Scheme Booklet. Neither Sirtex, nor the Bidders nor Bidco, nor their directors give any representation, assurance or guarantee to Sirtex Shareholders that any forward-looking statements will actually occur or be achieved. Sirtex Shareholders are cautioned not to place undue reliance on such forward-looking statements.

Subject to any continuing obligations under law or the Listing Rules, Sirtex, the Bidders and Bidco do not give any undertaking to update or revise any forward-looking statements after the date of this Scheme Booklet to reflect any change in expectations in relation to those statements or any change in events, conditions or circumstances on which any such statement is based.

## PRIVACY AND PERSONAL INFORMATION

Sirtex, the Bidders and Bidco may collect personal information to implement the Scheme. The personal information may include the names, contact details and details of holdings of Sirtex Shareholders, plus contact details of individuals appointed by Sirtex Shareholders as proxies, corporate representatives or attorneys at the Scheme Meeting. The collection of some of this information is required or authorised by the Corporations Act.

The Sirtex Registry advises that personal information it holds about you (including your name, address, date of birth and details of the financial assets) is collected by the Sirtex Registry organisations to administer your investment. Personal information is held on the public register in accordance with Chapter 2C of the Corporations Act. Some or all of your personal information may be disclosed to contracted third parties, or related companies of the Sirtex Registry in Australia and overseas. Your information may also be disclosed to Australian government agencies, law enforcement agencies and regulators, or as required under other Australian law, contract, and court or tribunal order. For further details about the personal information handling practices of the Sirtex Registry, including how you may access and correct your personal information and raise privacy concerns, visit the Sirtex Registry's website at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) for a copy of the Link Group Privacy Policy, or contact the Sirtex Registry by phone on +61 1800 502 355 (free call within Australia), 9:00am to 5:00pm (Sydney time) Monday to Friday (excluding public holidays) to request a copy of the complete privacy policy of the Sirtex Registry.

The information may be disclosed to print and mail service providers, and to Sirtex and the Bidders and their respective related bodies corporate and advisers to the extent necessary to effect the Scheme. If the information outlined above is not collected, Sirtex may be hindered in, or prevented from, conducting the Scheme Meeting or implementing the Scheme effectively or at all. Sirtex Shareholders who appoint an individual as their proxy, corporate representative or attorney to vote at the Scheme Meeting should inform that individual of the matters outlined above.

## NOTICE TO PERSONS OUTSIDE AUSTRALIA

This Scheme Booklet and the Scheme are subject to Australian disclosure requirements, which may be different from the requirements applicable in other jurisdictions. The financial information included in this document is based on financial statements that have been prepared in accordance with Australian equivalents to International Financial Reporting Standards, which may differ from generally accepted accounting principles in other jurisdictions.

This Scheme Booklet and the Scheme do not in any way constitute an offer of securities in any place in which, or to any person to whom, it would not be lawful to make such an offer.

## EFFECT OF ROUNDING

A number of figures, amounts, percentages, estimates, calculations of value and fractions in this Scheme Booklet are subject to the effect of rounding. Accordingly, the actual calculation of these figures may differ from the figures set out in this Scheme Booklet.

## TIMES AND DATES

Unless otherwise stated, all times referred to in this Scheme Booklet are times in Sydney, Australia. All dates following the date of the Scheme Meeting are indicative only and are subject to the Court approval process and the satisfaction or, where applicable, waiver of the Conditions Precedent to the implementation of the Scheme (see section 4.5 of this Scheme Booklet).

## CURRENCY

The financial amounts in this Scheme Booklet are expressed in Australian currency unless otherwise stated. A reference to \$ and cents is to Australian currency, unless otherwise stated.

## DATE OF SCHEME BOOKLET

This Scheme Booklet is dated 1 August 2018.

# CONTENTS

KEY DATES	3
LETTER FROM THE CHAIRMAN OF SIRTEX	4
1 SUMMARY OF THE SCHEME AND NEXT STEPS	7
2 KEY CONSIDERATIONS RELEVANT TO YOUR VOTE	11
3 FREQUENTLY ASKED QUESTIONS	18
4 OVERVIEW OF THE SCHEME	30
5 PROFILE OF SIRTEX	37
6 INFORMATION ABOUT THE BIDDERS AND BIDCO	46
7 WHAT IF THE SCHEME IS NOT IMPLEMENTED?	52
8 TAX CONSIDERATIONS	56
9 ADDITIONAL INFORMATION	61
10 GLOSSARY AND INTERPRETATION	71
ANNEXURE A INDEPENDENT EXPERT'S REPORT	78
ANNEXURE B SCHEME IMPLEMENTATION DEED	138
ANNEXURE C SCHEME OF ARRANGEMENT	203
ANNEXURE D DEED POLL	218
ANNEXURE E NOTICE OF SCHEME MEETING	232
CORPORATE DIRECTORY	Inside Back Cover

## KEY DATES

Time and date	Event
<b>Wednesday, 1 August 2018</b>	First Court hearing – this is the date the Court made orders convening the Scheme Meeting and authorising the despatch of this Scheme Booklet
<b>Wednesday, 29 August 2018</b>	Release of financial results of Sirtex for the financial year ended 30 June 2018
<b>10:00am on Saturday, 8 September 2018</b>	Latest time and date for receipt of proxy forms (including proxies lodged online) or powers of attorney by the Sirtex Registry for the Scheme Meeting
<b>7:00pm on Saturday, 8 September 2018</b>	Time and date for determining eligibility to vote at the Scheme Meeting
<b>10:00am on Monday, 10 September 2018</b>	Scheme Meeting

### If the Scheme is approved by Sirtex Shareholders at the Scheme Meeting:

<b>10:15am on Wednesday, 12 September 2018</b>	Second Court Hearing to approve the Scheme
<b>Thursday, 13 September 2018</b>	Effective Date - this is the date on which the Scheme comes into effect and is binding on Sirtex Shareholders. Court order approving the Scheme is lodged with ASIC and announced on ASX <i>Sirtex Shares will be suspended from trading at the close of trading on ASX on the Effective Date. If the Scheme proceeds, this will be the last day that Sirtex Shares will trade on ASX.</i>
<b>7:00pm on Monday, 17 September 2018</b>	Scheme Record Date – all Sirtex Shareholders who hold Sirtex Shares on the Scheme Record Date will be entitled to receive the Scheme Consideration
<b>Thursday, 20 September 2018</b>	Implementation Date – all Scheme Shareholders will be sent the Scheme Consideration to which they are entitled

All times and dates in the above timetable are references to the time and date in Sydney, New South Wales, Australia and all such times and dates are subject to change. Sirtex may vary any or all of these dates and times and will provide notice of any such variation on ASX. Certain times and dates are conditional on the approval of the Scheme by Sirtex Shareholders and by the Court. Any changes will be announced by Sirtex to ASX.



# LETTER FROM THE CHAIRMAN OF SIRTEX

1 August 2018

Dear Sirtex Shareholder,

On behalf of the Sirtex Directors, I am pleased to provide you with this Scheme Booklet which contains details for your consideration in relation to the proposed acquisition of Sirtex by Grand Pharma Sphere (Australia Bidco) Pty Ltd (**Bidco**), an entity ultimately owned 51% by CDH Genetech Limited (**CDH Genetech**) and 49% by China Grand Pharmaceutical and Healthcare Holdings Limited (**CGP**) (collectively, **the Bidders**).

## *Terminated Varian Scheme*

On 30 January 2018, Sirtex entered into a scheme implementation deed with Varian Medical Systems, Inc. (**Varian**) to implement a scheme of arrangement (**Varian Scheme**) under which Sirtex Shares would have been acquired by Varian and Sirtex Shareholders would have received \$28.00 per Sirtex Share. On 3 May 2018 and prior to implementation of the Varian Scheme, Sirtex received a non-binding proposal from CDH Investments (**CDH**) to acquire Sirtex at a price of \$33.60 per Sirtex Share. Sirtex elected to engage further with CDH, and subsequently CGP, in order to allow them to formulate a binding proposal (**CDH-CGP Proposal**) and to understand and assess the risks associated with this proposal.

Following detailed consideration of the relative merits and risks of the CDH-CGP Proposal and the Varian Scheme, the Board of Sirtex unanimously formed the view that the CDH-CGP Proposal was superior to the Varian Scheme and in the best interests of Sirtex Shareholders. Further details on the rationale for the Board's decision are set out in sections 2.1 and 2.2 of this Scheme Booklet.

## *Scheme with the Bidders*

Accordingly, on 14 June 2018, Sirtex terminated the scheme implementation deed with Varian and entered into a Scheme Implementation Deed with the Bidders under which it is proposed that they will acquire 100% of Sirtex Shares by way of a scheme of arrangement (the **Scheme**). The Scheme is subject to shareholder approval and certain other Conditions Precedent as described in section 4.5 of this Scheme Booklet.

If the Scheme is approved and implemented, Sirtex Shareholders will receive a cash payment of \$33.60 per Sirtex Share, less any dividends paid by Sirtex up to a

maximum amount of \$0.30 per Sirtex Share.<sup>1</sup> This represents an attractive premium<sup>2</sup> over both the Varian Scheme and the trading prices of Sirtex Shares on ASX prior to the announcement of the Varian Scheme:

- 20.0% premium to the offer price of \$28.00 under the Varian Scheme;<sup>2</sup>
- 78.4% premium to the Sirtex closing price of \$18.83 per share on 29 January 2018, being the last trading day prior to announcement of the Varian Scheme on 30 January 2018;<sup>2</sup>
- 92.3% premium to the 1-month volume weighted average price (**VWAP**) to 29 January 2018 of \$17.48;<sup>2,3</sup>
- 113.0% premium to the 3-month VWAP to 29 January 2018 of \$15.78;<sup>2,3</sup> and
- 121.2% premium to the 6-month VWAP to 29 January 2018 of \$15.19.<sup>2,3</sup>

The Scheme Consideration of \$33.60<sup>4</sup> per Sirtex Share implies a fully diluted market capitalisation for Sirtex of \$1.90 billion<sup>5</sup> and an implied enterprise value for Sirtex of \$1.80 billion.<sup>6</sup>

## *Deposit and Bidder Facilitation / Break Fee*

Prior to the date of this Scheme Booklet, the Bidders have deposited \$220 million with a major Australian bank to be held as escrow agent for Sirtex and the Bidders. The Scheme Implementation Deed requires the Bidders to deposit the balance of the Scheme Consideration into the same account no later than the Business Day prior to the date of the Scheme Meeting.

If the Scheme becomes Effective, these amounts will be applied in payment of the Scheme Consideration payable to Sirtex Shareholders.

If the Scheme does not proceed:

- in certain circumstances (which are further described in sections 3 and 9.1(i) of this Scheme Booklet), Sirtex will be entitled to be paid \$200 million (plus GST) (the **Bidder Facilitation / Break Fee**) from these amounts; and
- otherwise, these amounts will be returned to the Bidders.

1. Sirtex does not intend to pay any dividends in the absence of any delay in the anticipated timetable for implementation of the Scheme as set out in the section of this Scheme Booklet titled "Key dates".

2. Premiums calculated on a cum dividend basis in order to be comparable.

3. VWAP is calculated based on cumulative value traded on ASX and CHI-X divided by cumulative volume traded on ASX and CHI-X to 29 January 2018. Source: IRESS

4. The Scheme Consideration will be reduced for any dividends paid by Sirtex up to a maximum amount of \$0.30 per Sirtex Share.

5. Based on 56.4 million fully diluted shares on issue, comprising 55.8 million existing shares and 0.7 million performance rights.

6. Based on net cash at 31 December 2017 of A\$92.8 million and no adjustment made for any other liabilities.



## *China Commercialisation Rights*

Under the terms of the Scheme Implementation Deed, Sirtex and the Bidders are required to use best endeavours to negotiate and enter into an agreement for the grant by Sirtex to the Bidders of exclusive commercialisation rights for the China market (**China Commercialisation Agreement**) that would apply if the Scheme Implementation Deed is terminated in similar circumstances to those in which the Bidder Facilitation / Break Fee is payable and Sirtex has received payment of the Bidder Facilitation / Break Fee. The China Commercialisation Agreement will not apply if the Scheme does not become Effective solely because Shareholders do not approve the Scheme by the Requisite Majorities.

As at the date of this Scheme Booklet, Sirtex and the Bidders are continuing with these negotiations and have not concluded the China Commercialisation Agreement. If Sirtex and the Bidders do not reach agreement on terms of a China Commercialisation Agreement on or before 9 August 2018 (or such later date as Sirtex and the Bidders may agree), the Bidders will have a right of first refusal under which Sirtex may not enter into an agreement with any third party for the grant of commercialisation rights for the China market for a period of 3 years following termination of the Scheme Implementation Deed in those circumstances unless it has first offered to enter into an agreement with either or both of the Bidders on terms no less favourable to it or them. Further details of the China Commercialisation Agreement and this right of first refusal are set out in sections 3 and 9.1(j) of this Scheme Booklet.

## *CGP Shareholder Approval*

The proposed investment by CGP (as one of the Bidders) is a “major transaction” under the Hong Kong Stock Exchange Listing Rules and, as such, will require the approval of more than 50% of the votes cast by shareholders at a special general meeting of CGP. The Bidders and Sirtex have been provided irrevocable undertakings by shareholders of CGP that collectively own and control over 50% of the issued shares in CGP to vote their shares in favour of the required resolution. It is currently anticipated that the CGP special general meeting will be held on 17 August 2018, prior to the Scheme Meeting. Receipt of CGP shareholder approval is not a condition precedent to the Scheme and the Bidders do not have an ability to terminate the Scheme due solely to a failure to obtain approval from CGP shareholders.

## *Directors’ recommendation*

Your directors have considered the advantages and disadvantages of the Scheme, and **unanimously recommend that you vote in favour of the Scheme** in the absence of a Superior Proposal, and subject to the Independent Expert continuing to conclude that the

Scheme is in the best interests of Sirtex Shareholders. Subject to those same qualifications, each of your directors intends to vote all the Shares held or controlled by them in favour of the Scheme.

While the Sirtex Board is confident that Sirtex is well positioned to continue to deliver growth for Shareholders into the future, your directors consider that the material premium implicit in the CDH-CGP Proposal and the opportunity to realise certain and immediate value represents a highly attractive outcome for Sirtex Shareholders.

The reasons to vote in favour of the Scheme Resolution are set out in detail in section 2.2 of this Scheme Booklet. There are also reasons why you may choose to vote against the Scheme Resolution which are set out in section 2.3 of this Scheme Booklet.

## *Independent Expert*

Deloitte (**Independent Expert**) has prepared the Independent Expert’s Report in relation to the Scheme.

**The Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders.** The Independent Expert has assessed the market value of a Sirtex Share at between \$25.16 and \$31.36.

A complete copy of the Independent Expert’s Report is included as Annexure A to this Scheme Booklet.

## *How to vote*

The Scheme can only be implemented if approved by Sirtex Shareholders by the Requisite Majorities at the Scheme Meeting to be held at 10:00am (Sydney time) on Monday, 10 September 2018 at the Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000 and approved by the Court at the Second Court Hearing.

Your vote is important and I strongly encourage you to vote on this significant transaction. You may vote by attending the Scheme Meeting, or by appointing a proxy, attorney or body corporate representative to attend the Scheme Meeting and vote on your behalf. If you do not wish to or are unable to attend the Scheme Meeting in person, I encourage you to vote by proxy by completing the enclosed personalised proxy form and returning it so that it is received no later than 10:00am (Sydney time) on Saturday, 8 September 2018.

I also encourage you to read this Scheme Booklet carefully and in its entirety as it contains important information that you should consider before you vote. You should also seek independent legal, financial, taxation or other professional advice before making an investment decision in relation to your Sirtex Shares.

# LETTER FROM THE CHAIRMAN OF SIRTEX

## *Further information*

If you have any questions regarding the Scheme or this Scheme Booklet you should contact the Sirtex Shareholder Scheme Information Line on 1300 794 682 (from within Australia) or +61 1300 794 682 (from outside Australia) on Monday to Friday between 8:30am and 5:30pm (Sydney time) or consult your legal, financial, taxation or other professional adviser.

On behalf of the Sirtex Directors, I thank you for your ongoing support and I look forward to your participation at the Scheme Meeting.

Yours sincerely,



John Eady

**Interim Chairman**

**Sirtex Medical Limited**

# 1

## SUMMARY OF THE SCHEME AND NEXT STEPS

# 1 SUMMARY OF THE SCHEME AND NEXT STEPS

## 1.1 THE SCHEME

<b>Overview</b>	<p>On 14 June 2018, Sirtex entered into the Scheme Implementation Deed with the Bidders, under which it is proposed that the Bidders (through Bidco) will acquire all of the Sirtex Shares on issue by way of the Scheme.</p> <p>If the Scheme is approved by Sirtex Shareholders at the Scheme Meeting and by the Court, and if all other necessary approvals and conditions for the Scheme are satisfied or waived (as applicable), Sirtex will become a wholly-owned subsidiary of Bidco and will be delisted from ASX.</p>
<b>The Scheme Consideration</b>	<p>Under the terms of the Scheme, if the Scheme becomes Effective, Sirtex Shareholders will receive the Scheme Consideration of \$33.60 cash for each Sirtex Share held as at the Scheme Record Date, less any dividends paid by Sirtex up to a maximum amount of \$0.30 per Sirtex Share.<sup>1</sup></p> <p>Payments will be made by direct deposit into Sirtex Shareholders' nominated bank account, as advised to the Sirtex Registry as at the Scheme Record Date. If you have not nominated a bank account, payment will be made by Australian dollar cheque. Payment of the Scheme Consideration will be made on the Implementation Date (currently expected to be Thursday, 20 September 2018).</p> <p>If a Sirtex Shareholder does not have a registered address, or Sirtex considers the Shareholder is not known at its registered address and no bank account has been nominated, payments due to the Sirtex Shareholder will be held by Sirtex until claimed or applied under the relevant laws dealing with unclaimed money.</p>
<b>Key steps in the Scheme</b>	<p>In order for the Scheme to proceed, the Scheme Resolution approving the Scheme must be passed by the Requisite Majorities of Sirtex Shareholders at the Scheme Meeting, being:</p> <ul style="list-style-type: none"> <li>• a majority in number (more than 50%) of Sirtex Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate Sirtex Shareholders, body corporate representative); and</li> <li>• at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting.</li> </ul> <p>The Scheme must also be approved by the Court. Further information on the Scheme approval requirements is provided in sections 4.8, 4.9 and 4.10 of this Scheme Booklet.</p> <p>The Scheme is also subject to a number of Conditions Precedent. The following Conditions Precedent are outstanding as at the date of this Scheme Booklet:</p> <ul style="list-style-type: none"> <li>• approval of the Scheme at the Scheme Meeting by the Requisite Majorities of Sirtex Shareholders;</li> <li>• approval of the Scheme by the Court;</li> <li>• no court or Government Agency in Australia, USA, Germany, Italy, Belgium, the United Kingdom or Ireland has issued any temporary restraining order, preliminary or permanent injunction or other order restraining, preventing or imposing any legal restraint on the Scheme that is in effect at 8:00am on the Second Court Date;</li> <li>• no Prescribed Occurrence occurring before 8:00am on the Second Court Date;</li> <li>• the Independent Expert not withdrawing or changing its conclusion before 8:00am on the Second Court Date; and</li> <li>• neither Bidder suffering an Insolvency Event before 8:00am on the Second Court Date.</li> </ul> <p>The conditions of the Scheme are further detailed in section 4.5 of this Scheme Booklet and are set out in full in clause 3.1 of the Scheme Implementation Deed which is Annexure B to this Scheme Booklet.</p> <p>The Scheme Implementation Deed may also be terminated in certain circumstances. The circumstances are summarised in section 4.6 of this Scheme Booklet and set out in full in clause 11.1 of the Scheme Implementation Deed.</p>

<sup>1</sup> Sirtex does not intend to pay any dividends in the absence of any delay in the anticipated timetable for implementation of the Scheme as set out in the section of this Scheme Booklet titled "Key dates".

# 1 SUMMARY OF THE SCHEME AND NEXT STEPS

<b>The Sirtex Directors' recommendation</b>	<p><b>The Sirtex Directors unanimously recommend that you vote in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.</b></p> <p>The Sirtex Directors intend to vote, or procure the voting of, any of the Sirtex Shares held or controlled by them in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.</p> <p>The Sirtex Directors consider that the reasons for Sirtex Shareholders to vote in favour of the Scheme outweigh the reasons to vote against it, in the absence of a Superior Proposal. These reasons and other relevant considerations are set out in section 2 of this Scheme Booklet.</p>
<b>Independent Expert's conclusion</b>	<p>The Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders. You should read the Independent Expert's Report which is contained in Annexure A of the Scheme Booklet.</p>

## 1.2 NEXT STEPS

You should read this Scheme Booklet carefully in its entirety, including the reasons to vote in favour or against the Scheme (as set out in sections 2.1, 2.2 and 2.3 of the Scheme Booklet), before making any decision on how to vote on the Scheme Resolution.

Answers to various frequently asked questions about the Scheme are set out in section 3 of this Scheme Booklet. If you have any additional questions about this Scheme Booklet or the Scheme, please contact the Sirtex Shareholder Scheme Information Line on 1300 794 682 (within Australia) or +61 1300 794 682 (outside Australia), or contact your broker or legal, financial, taxation or other professional adviser.

<b>Who is entitled to vote at the Scheme Meeting?</b>	<p>If you are registered as a Sirtex Shareholder on the Sirtex Share Register at 7:00pm on Saturday, 8 September 2018, you will be entitled to attend and vote at the Scheme Meeting.</p> <p>In the case of Sirtex Shares held by joint holders, only one of the joint holders is entitled to vote. If more than one shareholder votes in respect of jointly held Sirtex Shares, only the vote of the Sirtex Shareholder whose name appears first in the Sirtex Share Register will be counted.</p>
<b>Your vote is important</b>	<p>In order for the Scheme to be implemented, the Scheme Resolution must be approved by Sirtex Shareholders at the Scheme Meeting.</p> <p>For this reason, the Sirtex Directors unanimously recommend that you vote in favour of the Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider that the Scheme is in the best interests of Sirtex Shareholders.</p> <p>If you are unable to attend the Scheme Meeting, the Sirtex Directors urge you to complete and return, in the enclosed reply-paid envelope, the personalised proxy form that accompanies this Scheme Booklet or lodge your proxy form online at the Sirtex Registry's website (<a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a>) in accordance with the instructions given there.</p>
<b>Details of the Scheme Meeting</b>	<p>The details of the Scheme Meeting are as follows:</p> <p>Location: Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000</p> <p>Date: Monday, 10 September 2018</p> <p>Time: 10:00am (Sydney time)</p>
<b>Voting in person, by attorney or corporate representative</b>	<p>If you wish to vote in person, you must attend the Scheme Meeting.</p> <p>If you cannot attend the Scheme Meeting, you may vote by proxy by completing the Proxy Form accompanying this Scheme Booklet.</p> <p>Attorneys who plan to attend the Scheme Meeting should bring with them the original or a certified copy of the power of attorney under which they have been authorised to attend and vote at the Scheme Meeting.</p> <p>A body corporate which is a Sirtex Shareholder may appoint an individual to act as its corporate representative. The appointment must comply with the requirements of section 250D of the Corporations Act. The representative should bring to the Scheme Meeting evidence of his or her appointment, including any authority under which it is signed.</p>

## 1 SUMMARY OF THE SCHEME AND NEXT STEPS

<b>Voting by proxy</b>	<p>If you wish to appoint a proxy to attend and vote at the Scheme Meeting on your behalf, please complete and sign the personalised Proxy Form accompanying this Scheme Booklet in accordance with the instructions set out on the Proxy Form or lodge your proxy vote online at the Sirtex Registry's website (<a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a>) in accordance with the instructions given there. You may complete the Proxy Form in favour of the Chairperson of the Scheme Meeting or appoint up to two proxies to attend and vote on your behalf at the Scheme Meeting.</p> <p>Proxy Forms, duly completed in accordance with the instructions set out on the Proxy Form, may be returned to the Registry:</p> <ul style="list-style-type: none"><li>• by posting them in the reply-paid envelope provided;</li><li>• by delivering them to Link Market Services Limited at 1A Homebush Bay Drive, Rhodes NSW 2138;</li><li>• by faxing them to +61 2 9287 0309;</li><li>• by posting them to Sirtex Medical Limited, c/- Link Market Services Limited, Locked Bag A14, Sydney South NSW 1235 Australia; or</li><li>• online at <a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a>.</li></ul> <p>Login to the Link website using the details as shown on the Proxy Form. Select 'Voting' and follow the prompts to lodge your proxy. To use the online proxy lodgement facility, Sirtex Shareholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the front of the proxy form).</p> <p><b>TO BE VALID, PROXY FORMS FOR THE SCHEME MEETING MUST BE RECEIVED BY THE REGISTRY BY NO LATER THAN 10:00AM (SYDNEY TIME) ON SATURDAY, 8 SEPTEMBER 2018.</b></p> <p>Given the last date for lodgement of Proxy Forms falls on a Saturday, please ensure that any Proxy Form which you intend to post or deliver is received by close of business on Friday, 7 September 2018. Sirtex will accept proxies received by fax or online before 10:00am (Sydney time) on Saturday, 8 September 2018.</p>
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# 2

## KEY CONSIDERATIONS RELEVANT TO YOUR VOTE



## 2 KEY CONSIDERATIONS RELEVANT TO YOUR VOTE

### 2.1 SUMMARY OF REASONS WHY YOU MIGHT VOTE FOR OR AGAINST THE SCHEME

#### REASONS TO VOTE **IN FAVOUR** OF THE SCHEME

✓	The Sirtex Directors unanimously recommend that you vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders. Subject to those same qualifications, the Sirtex Directors will be voting all Sirtex Shares held or controlled by them in favour of the Scheme
✓	The Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders
✓	The Scheme provides the opportunity to realise certainty of value for your investment in Sirtex, and is unaffected by the outcome of the Class Action
✓	The Scheme Consideration of \$33.60 <sup>1</sup> cash per Share represents an attractive premium over the offer price under the proposed Varian Scheme and over undisturbed trading prices of Sirtex Shares prior to announcement of the proposed Varian Scheme. This is an all cash offer
✓	No Superior Proposal has emerged since the announcement of the Scheme
✓	No brokerage or stamp duty will be payable by you on the transfer of your Sirtex Shares if the Scheme proceeds
✓	Sirtex's share price may fall if the Scheme is not implemented and no Superior Proposal emerges
✓	If the Scheme does not proceed, you will continue to be subject to the risks and uncertainties associated with Sirtex's business and general market risks

**These reasons are discussed in more detail in section 2.2 of this Scheme Booklet.**

#### REASONS TO VOTE **AGAINST** THE SCHEME

✗	You may disagree with the Sirtex Directors' unanimous recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests
✗	You may prefer to participate in the future financial performance of the Sirtex business, and may consider that the Scheme does not capture Sirtex's long term potential
✗	You may wish to maintain your current investment profile
✗	You may consider that there is a possibility that a Superior Proposal could emerge in the foreseeable future
✗	The tax consequences of the Scheme may not suit your current financial position

**These reasons are discussed in more detail in section 2.3 of this Scheme Booklet.**

<sup>1</sup> Less any dividends paid by Sirtex up to a maximum amount of \$0.30 per Sirtex Share.

### 2.2 REASONS TO VOTE IN FAVOUR OF THE SCHEME

This section sets out the reasons why the Sirtex Directors consider that you should vote in favour of the Scheme.

**(a) The Sirtex Directors unanimously recommend that you vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders. Subject to those same qualifications, the Sirtex Directors will be voting all Sirtex Shares held or controlled by them in favour of the Scheme**

The Sirtex Board unanimously recommends that Sirtex Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Sirtex Shareholders.

Sirtex's Directors have reached this recommendation having had regard to the reasons to vote in favour of, or against, the Scheme as set out in this Scheme Booklet. The Sirtex Directors have considered the market position of Sirtex and the outlook for the business when determining whether to recommend the Scheme.

In the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Sirtex Shareholders, each Director intends to vote all the Sirtex Shares held or controlled by them in favour of the Scheme. The interests of the Sirtex Directors are set out in sections 9.3, 9.4 and 9.5 of this Scheme Booklet.

**(b) The Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders**

Sirtex appointed Deloitte to prepare an Independent Expert's Report providing an opinion as to whether the Scheme is in the best interests of Sirtex Shareholders.

The Independent Expert concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders.

The Independent Expert has assessed the market value of a Sirtex Share at between \$25.16 and \$31.36. As the Scheme Consideration is above the Independent Expert's estimate of the market value of a Sirtex Share, the Independent Expert has concluded that the Scheme is fair.

The Independent Expert's valuation has not had explicit regard to any potential compensation payable by Sirtex as a result of the Class Action which relates to alleged breaches of continuous disclosure obligations and alleged misleading and deceptive statements made by Sirtex in 2016 given the significant uncertainty in the outcome of any compensation. However, should any compensation become payable by Sirtex, this would reduce the value of Sirtex and therefore improve the fairness of the Scheme.

The reasons why the Independent Expert reached these conclusions are set out in the Independent Expert's Report, a copy of which is included in Annexure A of this Scheme Booklet. Sirtex Shareholders should carefully review the Independent Expert's Report in its entirety.

**(c) The Scheme provides the opportunity to receive certainty of value for your investment in Sirtex, and is unaffected by the outcome of the Class Action**

The offer is a 100% cash offer. If implemented, the Scheme provides a high degree of certainty of value.

More specifically, if the Scheme is implemented, Scheme Shareholders will receive \$33.60<sup>2</sup> in cash for each Sirtex Share held by them at the Scheme Record Date (currently expected to be 7:00pm (Sydney time) on Monday, 17 September 2018), to be paid on or about the Implementation Date, which is currently expected to be Thursday, 20 September 2018. The Scheme Consideration is unaffected by the outcome of the Class Action.

**(d) The Scheme Consideration of \$33.60<sup>2</sup> cash per Sirtex Share represents an attractive premium over the offer price under the proposed Varian Scheme and over undisturbed trading prices of Sirtex Shares on ASX prior to announcement of the proposed Varian Scheme. This is an all cash offer.**

The Scheme Consideration of \$33.60<sup>2</sup> cash for each Scheme Share, which will be paid to Sirtex Shareholders if the Scheme is approved and implemented, represents an attractive premium to the offer price under the Varian Scheme and to trading prices for Sirtex Shares on ASX prior to the announcement of Varian's proposed acquisition on 30 January 2018.

The Scheme Consideration of \$33.60<sup>2</sup> cash per share represents<sup>3</sup> a:

- 20.0% premium to the offer price of \$28.00 per Sirtex share under the Varian Scheme;
- 78.4% premium to the Sirtex closing price of \$18.83 per share on 29 January 2018, being the last trading day prior to the announcement of the Varian Scheme on 30 January 2018;
- 92.3% premium to the 1-month VWAP to 29 January 2018 of \$17.48;<sup>4</sup>

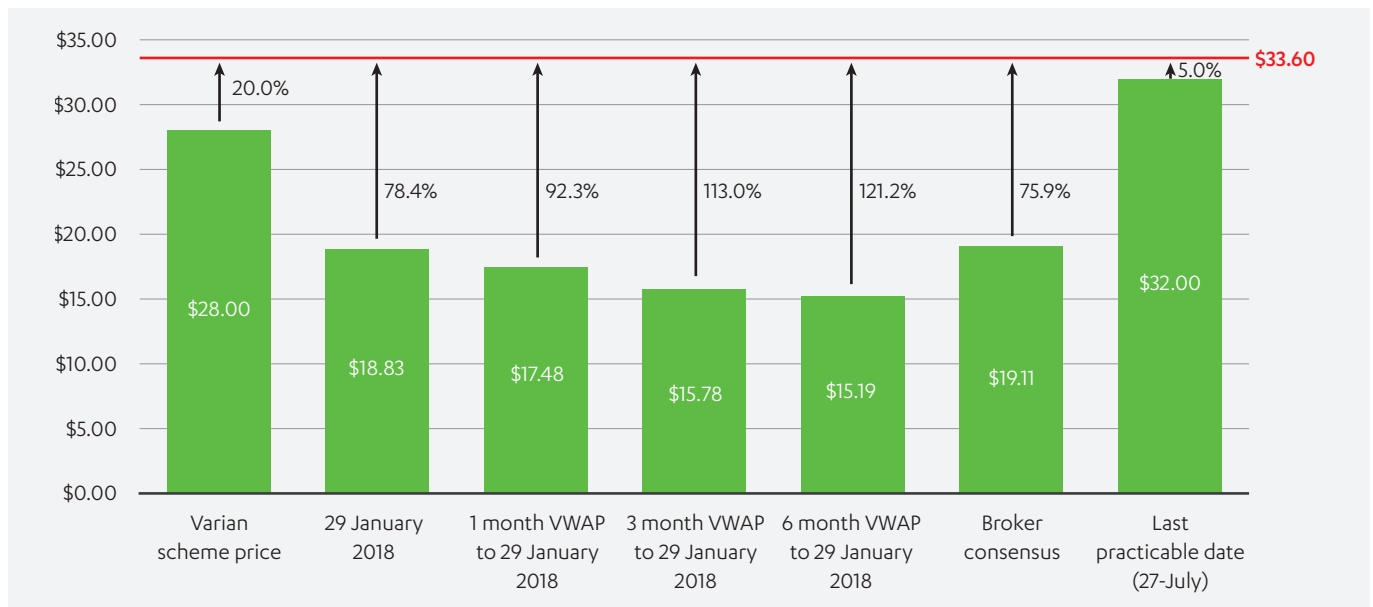
2. Less any dividends paid by Sirtex up to a maximum amount of \$0.30 per Sirtex Share.

3. Premiums calculated on a cum dividend basis in order to be comparable.

4. VWAP is calculated based on cumulative value traded on ASX and CHI-X divided by cumulative volume traded on ASX and CHI-X to 29 January 2018. Source: IRESS

## 2 KEY CONSIDERATIONS RELEVANT TO YOUR VOTE

- 113.0% premium to the 3-month VWAP to 29 January 2018 of \$15.78;<sup>4</sup>
- 121.2% premium to the 6-month VWAP to 29 January 2018 of \$15.19;<sup>4</sup>
- 75.9% premium to the broker consensus target price of \$19.11 prior to the announcement of the Varian Scheme on 30 January 2018;<sup>5</sup> and
- 5.0% premium to the Sirtex closing price of \$32.00 per share on 27 July 2018, being the Last Practicable Trading Date.



Source: IRESS

### (e) No Superior Proposal has emerged since the announcement of the Scheme

Since the announcement of the Varian Scheme on 30 January 2018, the Bidders are the only parties to have come forward with an alternative proposal. This proposal led to Sirtex entering into the Scheme Implementation Deed with the Bidders on 14 June 2018. Since execution of the Scheme Implementation Deed on 14 June 2018 and up to the Last Practicable Trading Date, no Superior Proposal has emerged and your Directors are not aware, as at the Last Practicable Trading Date, of any Superior Proposal that is likely to emerge.

### (f) No brokerage or stamp duty will be payable by you on the transfer of your Sirtex Shares if the Scheme proceeds

You will not incur any brokerage or stamp duty on the transfer of your Scheme Shares to Bidco under the Scheme.

If you sell your Sirtex Shares on ASX (rather than disposing of them via the Scheme), you may incur brokerage charges (and, potentially GST on those charges).

### (g) Sirtex's share price may fall if the Scheme is not implemented and no Superior Proposal emerges

If the Scheme is not implemented, and in the absence of a Superior Proposal, the price of Sirtex Shares on ASX may fall.

See section 5.7 of this Scheme Booklet for an overview of prices at which Sirtex Shares have recently traded before and after announcement of the Varian Scheme, the CDH-CGP Proposal and the Scheme.

The Sirtex Directors are unable to predict the price at which Sirtex Shares will trade in the future, but consider that in the absence of the implementation of the Scheme and in the absence of a Superior Proposal, the price of Sirtex Shares may fall.

### (h) If the Scheme does not proceed, you will continue to be subject to the risks and uncertainties associated with Sirtex's business and general market risks

The Sirtex Board considers that Sirtex has significant growth opportunities as an independent listed company on the ASX. Nevertheless, these initiatives will take time to fully implement, may require further capital investment, and carry execution risks, some of which are outside the control of Sirtex. Further, Sirtex is also exposed to the industry risk of fluctuations in dose sales and/or profit movements. This may be caused by factors such as increased competition, and new technology in the cancer treatment area. If the Scheme does not proceed, Sirtex Shareholders will continue to be subject to these risks, as well as other specific risks inherent in Sirtex's business, including those summarised in more detail in section 7 of this Scheme Booklet.

5. The broker consensus target price of \$19.11 prior to the announcement of the Varian Scheme on 30 January 2018 has been calculated from 4 broker valuations dated between 17 January 2018 and 22 January 2018 being publicly available institutional broker target prices ranging from \$16.57 to \$24.40 known to Sirtex and published after Sirtex's trading update released to the ASX on 17 January 2018.

## 2 KEY CONSIDERATIONS RELEVANT TO YOUR VOTE

In addition, Sirtex Shares will continue to remain quoted on ASX and will continue to be subject to market volatility, including general stock market movements, the impact of general economic conditions and the demand for listed securities. The price that Sirtex Shareholders will be able to realise for their Sirtex Shares in terms of price will necessarily be uncertain and subject to a number of other risks outlined in section 7 of this Scheme Booklet.

The Scheme removes these risks and uncertainties for Sirtex Shareholders and allows shareholders to exit their investment in Sirtex at a price that your Directors consider is attractive. If the Scheme is approved and implemented, these risks and uncertainties will be assumed by Bidco, as the sole shareholder of Sirtex following implementation of the Scheme.

### 2.3 REASONS YOU MAY WANT TO VOTE AGAINST THE SCHEME

This section summarises the reasons identified by the Sirtex Directors as to why you may want to vote against the Scheme. The Sirtex Directors believe that the reasons to vote in favour of the Scheme outweigh the reasons you may want to vote against the Scheme and that the Scheme is in the best interests of the Sirtex Shareholders, in the absence of a Superior Proposal. However, the Sirtex Directors believe that Sirtex Shareholders should take into consideration these factors when deciding whether or not to vote in favour of the Scheme.

#### **(a) You may disagree with the Sirtex Directors' unanimous recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests**

Notwithstanding the unanimous recommendation of the Sirtex Directors and the conclusions of the Independent Expert, you may believe that the Scheme is not in your best interests.

There is no obligation to follow the recommendation of the Sirtex Directors or to agree with the opinion of the Independent Expert.

#### **(b) You may prefer to participate in the future financial performance of the Sirtex business, and may consider that the Scheme does not capture Sirtex's long term potential**

If the Scheme is approved and implemented, you will cease to be a Sirtex Shareholder. As such, you will no longer be able to participate in the future financial performance or future prospects of Sirtex's ongoing business, including any benefits that may result from being a Sirtex Shareholder. You may consider that Sirtex has stronger long-term growth potential and that the Scheme Consideration of \$33.60<sup>2</sup> per Share does not fully reflect your views on long term value. You may therefore prefer to retain your listed Sirtex Shares and realise the value of them over the longer term. However, there is no guarantee as to Sirtex's future performance, as with all investments in listed securities.

#### **(c) You may wish to maintain your current investment profile**

You may wish to maintain an interest in Sirtex because you are seeking an investment in a publicly listed company with the specific characteristics of Sirtex, including it being an Australian based company, its strategy, and potential growth profile.

Implementation of the Scheme may result in a disadvantage to those who wish to maintain their investment profile. Sirtex Shareholders who wish to maintain their investment profile may find it difficult to find an investment with a similar profile to that of Sirtex and they may incur transaction costs in undertaking any new investment.

#### **(d) You may consider that there is a possibility that a Superior Proposal could emerge in the foreseeable future**

You may consider that a Superior Proposal, which is more attractive to Sirtex Shareholders than the Scheme, could emerge in the foreseeable future.

Since the announcement of the Varian Scheme on 30 January 2018, the Bidders are the only parties to have come forward with an alternative proposal. This proposal led to Sirtex entering into the Scheme Implementation Deed with the Bidders on 14 June 2018.

Since the announcement of the Scheme on 14 June 2018 and up to the Last Practicable Trading Date, the Sirtex Directors have not received or become aware of a Superior Proposal and have no reason to believe that a Superior Proposal will emerge.

The Scheme Implementation Deed prohibits Sirtex from soliciting Competing Proposals. However, Sirtex is not restricted from taking any action in relation to an unsolicited Competing Proposal, if the Sirtex Board, acting in good faith, determines:

- after consultation with its financial advisers, that the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal; and
- after receiving written advice from its legal advisers, that failing to respond to that Competing Proposal would be reasonably likely to constitute a breach of fiduciary or statutory duties of the Sirtex Directors.

Further details of the Scheme Implementation Deed are provided in section 9.1 of this Scheme Booklet. A copy of the Scheme Implementation Deed is also contained in Annexure B of this Scheme Booklet.

## 2 KEY CONSIDERATIONS RELEVANT TO YOUR VOTE

### **(e) The tax consequences of the Scheme may not suit your financial position**

Implementation of the Scheme may trigger taxation consequences for Sirtex Shareholders. A general guide to the taxation implications of the Scheme is set out in section 8 of this Scheme Booklet. This guide is expressed in general terms only and Sirtex Shareholders should seek professional taxation advice regarding the tax consequences applicable to their own circumstances.

### 2.4 OTHER CONSIDERATIONS

You should also take into account the following additional considerations in deciding whether to vote in favour of, or against, the Scheme.

#### **(a) The Scheme may be implemented even if you vote against the Scheme or you do not vote at all**

You should be aware that even if you do not vote, or vote against the Scheme, the Scheme may still be implemented if it is approved by the Requisite Majorities of Sirtex Shareholders and the Court. If this occurs, your Sirtex Shares will be transferred to Bidco and you will receive the Scheme Consideration even though you did not vote on, or voted against, the Scheme.

#### **(b) Implications for Sirtex if the Scheme is not implemented**

If the Scheme is not implemented, Sirtex Shareholders will retain their Sirtex Shares and will not receive the Scheme Consideration. Irrespective of whether the Scheme is implemented, transaction related costs (arising in connection with the Scheme and with the Varian Scheme) of approximately \$22 million are expected to be incurred by Sirtex.<sup>6</sup> Further transaction related costs will be incurred if the Scheme is implemented. These amounts do not include transaction or other similar costs that may be incurred by CDH, CGP or Bidco.

#### **(c) Exclusivity obligations**

Under the Scheme Implementation Deed, Sirtex is subject to certain exclusivity obligations, including no shop, no talk, no due diligence, notification obligations and matching rights in respect of Competing Proposals. Refer to section 9.1(f) of this Scheme Booklet for further information on these arrangements.

#### **(d) Risk of delays**

While any Conditions Precedent (other than Court approval of the Scheme) remain unsatisfied and have not been waived (if applicable), there is a risk that the Second Court Hearing (currently scheduled for Wednesday, 12 September 2018) may be delayed, until as soon as reasonably practicable after those Conditions Precedent have been satisfied or waived (if applicable).

Most relevantly, while CFIUS clearance is not a condition precedent to implementation of the Scheme, CFIUS could impose a temporary legal restraint on implementation of the Scheme while finalising its review.

If the Second Court Hearing is delayed, this may in turn delay the Implementation Date, which is currently scheduled to be Thursday, 20 September 2018. Scheme Shareholders will not be issued the Scheme Consideration until the Implementation Date. Accordingly any delay in the Implementation Date will result in a delay in Scheme Shareholders receiving their Scheme Consideration.

In addition, the Scheme will not proceed if the Conditions Precedent are not satisfied or waived (if applicable) by the End Date. The End Date is 14 June 2019, subject to that date being extended by agreement between Sirtex and the Bidders.

#### **(e) Sirtex Reimbursement Fee and Bidder Facilitation / Break Fee**

If the Scheme does not become Effective:

- a Sirtex Reimbursement Fee of approximately \$19 million (excluding GST) may be payable by Sirtex to the Bidders; and
- a Bidder Facilitation / Break Fee of \$200 million (excluding GST) may be payable by CGP to Sirtex.<sup>7</sup> This fee would be satisfied by the Deposit being paid out of the Deposit Account to Sirtex.

The circumstances in which the Sirtex Reimbursement Fee or the Bidder Facilitation / Break Fee would be payable are set out in sections 9.1(h) and 9.1(i) of this Scheme Booklet. These circumstances do not include the Scheme not becoming Effective solely because Shareholders do not approve the Scheme by the Requisite Majorities.

#### **(f) China Commercialisation Rights**

If the Scheme does not become Effective and Sirtex has received payment of the Bidder Facilitation / Break Fee, the China Commercialisation Rights may apply. The China Commercialisation Rights will not apply if the Scheme does not become Effective solely because Shareholders do not approve the Scheme by the Requisite Majorities.

Details of the China Commercialisation Rights and the circumstances in which they would apply are set out in sections 3 and 9.1(j) of this Scheme Booklet.

6. This amount includes the reimbursement fee of approximately \$16 million paid by Sirtex to Varian, in respect of which the Bidders have reimbursed Sirtex.

7. See section 6.7(c) for further details.

### **(g) Warranty by Scheme Shareholders about their Scheme Shares and no encumbrances over Scheme Shares**

Each Scheme Shareholder is deemed to have warranted to Bidco that all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Bidco, be fully paid and free from all encumbrances of any kind, and that they have full power and capacity to sell and transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to Bidco under the Scheme. See section 4.19 of this Scheme Booklet for further details.

In addition, the Scheme provides that, to the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under the Scheme to Bidco will, at the time of transfer of them to Bidco vest in Bidco free of all securities for payment of moneys or performance of obligations (including mortgages, charges, liens, encumbrances, pledges, trusts, power of title retention or flawed deposit arrangements and any 'security interests' within the meaning of section 12(1) or 12(2) of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

# 3

## FREQUENTLY ASKED QUESTIONS



### 3 FREQUENTLY ASKED QUESTIONS

This section 3 answers some frequently asked questions about the Scheme. It is not intended to address all relevant issues for Sirtex Shareholders. This section 3 should be read together with all other parts of this Scheme Booklet.

Question	Answer
<b>The Scheme</b>	
<b>Why have I received this Scheme Booklet?</b>	<p>This Scheme Booklet has been sent to you because you are a Sirtex Shareholder and Sirtex Shareholders are being asked to vote on a scheme of arrangement which, if implemented, will result in Bidco acquiring all Sirtex Shares for \$33.60<sup>1</sup> cash per Sirtex Share.</p> <p>This Scheme Booklet is intended to help you to decide how to vote on the Scheme Resolution which needs to be passed at the Scheme Meeting to allow the Scheme to proceed.</p>
<b>What is the Scheme?</b>	<p>The Scheme is a scheme of arrangement between Sirtex and the Scheme Shareholders, under which it is proposed that Bidco acquires all Sirtex Shares on issue.</p> <p>If the Scheme becomes Effective, Bidco will acquire all of the Scheme Shares for the Scheme Consideration and Sirtex will be removed from the official list of ASX.</p>
<b>Who are CDH, CDH Genetech, CGP and Bidco?</b>	<p>CDH Genetech is a wholly-owned subsidiary of CDH Fund V, L.P. (<b>CDH Fund V</b>), an offshore USD private equity fund managed by CDH.</p> <p>CDH is a China-based alternative asset fund manager with over US\$20 billion of committed capital under management. CDH was established in 2002 and invests capital on behalf of leading international pension funds, endowments, family offices, corporates and sovereign wealth funds. CDH Fund V has US\$2.6 billion of total capital commitments.</p> <p>CGP is principally engaged in the development, manufacture and sale of pharmaceutical preparations, medical devices, pharmaceutical intermediates, specialised raw materials and healthcare products. It is listed on the Hong Kong Stock Exchange, with a market capitalisation of approximately A\$1.97 billion. CGP is approximately 59%<sup>2</sup> owned by China Grand Enterprises, Inc. (<b>CGE</b>), a Chinese conglomerate whose core businesses include the research, manufacture and sale of pharmaceutical products in China, including oncology therapies.</p> <p>The Bidders are proposing to acquire Sirtex through Bidco, a wholly-owned subsidiary of the Bidders incorporated in Australia under the Corporations Act. Bidco is ultimately owned 51% by CDH Genetech and 49% by CGP.</p> <p>For more information on the Bidders and Bidco, please see section 6 of this Scheme Booklet.</p>
<b>Conditions Precedent and termination</b>	
<b>How will the Scheme be implemented?</b>	<p>In order for the Scheme to be implemented, all Conditions Precedent under the Scheme Implementation Deed must be satisfied or waived (where applicable), including that the Scheme Resolution must be approved by Sirtex Shareholders by the Requisite Majorities at the Scheme Meeting and the Scheme must be approved by the Court at the Second Court Hearing.</p> <p>Details of the Scheme Resolution and the majorities required to approve the resolution are set out in section 4.8 of this Scheme Booklet.</p>

1. Less any dividends paid by Sirtex up to a maximum amount of \$0.30 per Sirtex Share.

2. This comprises shares owned by CGE controlled subsidiaries Outwit Investments Limited, East Ocean Capital (Hong Kong) Company Limited and Shanghai China Grand Asset Finance Investment Management Co., Limited.

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>Are there any conditions to the Scheme?</b>	<p>There are a number of Conditions Precedent that will need to be satisfied or waived (as applicable) before the Scheme can be implemented.</p> <p>In summary, as at the date of this Scheme Booklet, the outstanding Conditions Precedent (which must be satisfied or waived (as applicable) before the Scheme can become Effective) include:</p> <ul style="list-style-type: none"> <li>• approval of the Scheme at the Scheme Meeting by the Requisite Majorities of Sirtex Shareholders;</li> <li>• approval of the Scheme by the Court;</li> <li>• no court or Government Agency in Australia, USA, Germany, Italy, Belgium, the United Kingdom or Ireland has issued any temporary restraining order, preliminary or permanent injunction or other order restraining, preventing or imposing any legal restraint on the Scheme that is in effect at 8:00am on the Second Court Date;</li> <li>• no Prescribed Occurrence occurring before 8:00am on the Second Court Date;</li> <li>• the Independent Expert does not withdraw or change its conclusion before 8:00am on the Second Court Date; and</li> <li>• neither Bidder suffering an Insolvency Event before 8:00am on the Second Court Date.</li> </ul> <p>The Conditions Precedent of the Scheme are summarised in further detail in section 4.5 of this Scheme Booklet.</p> <p>As at the Last Practicable Trading Date, the Sirtex Directors are not aware of any reason why these Conditions Precedent should not be satisfied or waived (as applicable).</p> <p>The Scheme is <u>not</u> subject to any condition precedent requiring that there is no material adverse change affecting Sirtex, that CFIUS approval is obtained, or that shareholders of CGP approve the transaction at the CGP special shareholder meeting.</p>
<b>Can the Scheme Implementation Deed be terminated?</b>	<p>The Scheme Implementation Deed may be terminated in certain circumstances, details of which are summarised in section 4.6 of this Scheme Booklet. If the Scheme Implementation Deed is terminated, the Scheme will not proceed.</p>
<b>Information about CFIUS</b>	
<b>What is CFIUS?</b>	<p>CFIUS is the Committee on Foreign Investment in the United States.</p>
<b>Is CFIUS approval required?</b>	<p>Under US law (the Defense Production Act of 1950, as amended), CFIUS has the power to review the direct or indirect acquisition of US businesses by non-US parties and to direct the parties to take steps to mitigate any potential national security concerns, and the President of the US has the authority to suspend or prohibit such an acquisition (by, among other things, taking action to prevent parties from completing an acquisition) based on a finding that it threatens to impair national security.</p> <p>Sirtex's US operations constitute a US business the acquisition of which by the Bidders is a covered transaction that is subject to review and investigation by CFIUS and potential action to prohibit the transaction by the President.</p> <p>The Bidders and Sirtex have submitted a draft of a joint voluntary notification of the Scheme to CFIUS.</p> <p>CFIUS approval is not a condition precedent to implementation of the Scheme. However an order issued by CFIUS pursuant to an ongoing investigation may result in a legal restraint being imposed that could delay or prevent the Scheme from completing.</p>

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>Is CFIUS clearance expected to be obtained, and if so, when?</b>	<p>The Bidders and Sirtex lodged a draft joint voluntary notification with CFIUS on 16 July 2018 (US time). They expect CFIUS to initiate a review within 30 days of that lodgement, which generally includes a period when CFIUS has commented on the draft notice and the parties have filed a final joint voluntary notification that CFIUS determines complies with the requirements of the regulations.</p> <p>As at the date of this Scheme Booklet, CFIUS has not provided an indication of the prospects of, or timing for, obtaining CFIUS clearance.</p> <p>However it is possible that such clearance could take until at least 90 days from the initiation date (i.e., including the initial 30 day review, a subsequent 45 day investigation if CFIUS initiates it, and 15 days for a Presidential determination if CFIUS recommends action by the President). Additionally, if CFIUS has not completed its investigation within the first two phases (i.e., by the end of the 45 day investigation), it is possible that CFIUS could request the Bidders and Sirtex to withdraw and refile their notification, which would start the process anew and afford CFIUS more time for its review. It is also possible that CFIUS, as a condition of agreeing to the withdrawal and refiling of the joint notification, may require that the Bidders and Sirtex not implement the Scheme pending the completion of its investigation.</p> <p>The Sirtex Directors consider that the overall risk of CFIUS seeking to stop the Scheme is low, having regard to CDH's previous experience with CFIUS, the nature of Sirtex's business, and the agreement by the Bidders in the Scheme Implementation Deed to undertake particular mitigation strategies as outlined further below. CDH was part of the investor group that previously received CFIUS clearance in relation to its 2013 acquisition of Smithfield Foods, Inc. by WH Group, forming the world's largest pork company.</p>
<b>What is the potential impact of the timing of receipt of CFIUS clearance on the timing of implementation of the Scheme?</b>	<p>Sirtex anticipates that the Scheme will be implemented on Thursday, 20 September 2018.</p> <p>If, as discussed above, the Scheme were to be subject to a full review and investigation cycle, or the Bidders and Sirtex, at CFIUS' request, withdraw and refile their notification - extending the process even further - it is possible that the CFIUS review and investigation could be pending on the date that the Scheme is scheduled to be implemented.</p> <p>However, unless CFIUS orders the Bidders and Sirtex not to implement the Scheme during its review (resulting in a legal restraint on the Scheme) or the Bidders and Sirtex agree otherwise, the Scheme may still be implemented while the investigation continues and, in such circumstances, the Bidders would bear the risk of an adverse outcome. The Scheme Implementation Deed requires the parties to vigorously defend and resist any actual or threatened legal restraint on the Scheme.</p> <p>If a legal restraint is imposed on the Scheme (including by CFIUS), there is a risk that the Second Court Hearing (currently scheduled for Wednesday, 12 September 2018) may be delayed, until that legal restraint ceases.</p> <p>If the Second Court Hearing is delayed, this may in turn delay the Implementation Date, which is currently scheduled to be Thursday, 20 September 2018. Scheme Shareholders will not be issued the Scheme Consideration until the Implementation Date. Accordingly any delay in the Implementation Date will result in a delay in Scheme Shareholders receiving their Scheme Consideration.</p> <p>In addition, the Scheme will not proceed if any such legal restraint has not ceased by the End Date (being 14 June 2019, subject to that date being extended by agreement between Sirtex and the Bidders).</p>

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>What have the Bidders and Sirtex agreed to in relation to potential CFIUS undertakings?</b>	<p>Under the Scheme Implementation Deed, the Bidders are contractually obliged to take all steps to avoid or eliminate any impediment, or that may be requested or required by CFIUS or any other US Government Agency, and to offer, accept and effect all matters that are necessary, advisable or requested by CFIUS in connection with obtaining CFIUS clearance, so as to enable the Scheme to be implemented as promptly as practicable, including:</p> <ol style="list-style-type: none"> <li>(1) the sale, divestiture, licence or disposition of any constituent element of Sirtex's US business;</li> <li>(2) operational or other restrictions or limitations on Sirtex's US business;</li> <li>(3) restrictions on the access and management rights of the Bidders in relation to Sirtex's US business;</li> <li>(4) holding all or an element of Sirtex's US business under arrangements that delegate control to a third party, whilst retaining ownership; and</li> <li>(5) outsourcing any of Sirtex's US operations involving collection, management or retention of US patient data and/or manufacturing and other activities involving handling of radioactive materials.</li> </ol> <p>In relation to items 1 – 4 above (but not item 5), the Bidders would not be obliged to take these actions if they would be reasonably likely to result, individually or in aggregate, in a reduction in consolidated annual sales of Sirtex of US\$50 million or greater.</p> <p>In addition, under the terms agreed between the parties in a separate undertaking, if CFIUS raises any issues or concerns about CGP's equity participation in the transaction that could be addressed to CFIUS' satisfaction by the Bidders restructuring their equity and other internal arrangements relating to their intended joint ownership and operation of Sirtex (including by CGP not having any direct or indirect ownership of any equity interest in, or control rights over, Sirtex's US operations), the Board of Sirtex may require the Bidders to undertake such restructuring.</p>
<b>The Scheme Consideration</b>	
<b>What is the Scheme Consideration?</b>	<p>If the Scheme is implemented, Scheme Shareholders will receive the Scheme Consideration of \$33.60<sup>1</sup> cash in respect of each Sirtex Share they hold at the Scheme Record Date.</p> <p>Sirtex is permitted to pay dividends of up to \$0.30 per Sirtex Share (<b>Permitted Dividends</b>) prior to implementation of the Scheme. To the extent that Permitted Dividends are paid, the Scheme Consideration will be reduced by the amount of the Permitted Dividends.</p> <p>Sirtex does not intend to pay any dividends in the absence of any delay in the anticipated timetable for implementation of the Scheme as set out in the section of this Scheme Booklet titled "Key dates".</p>
<b>Am I entitled to receive the Scheme Consideration?</b>	<p>Sirtex Shareholders as at the Scheme Record Date are Scheme Shareholders and, if the Scheme is implemented, are entitled to receive the Scheme Consideration for each Scheme Share that they hold.</p>
<b>What is the premium of the Scheme Consideration to Sirtex's share price?</b>	<p>The Scheme Consideration of \$33.60<sup>1</sup> cash per Sirtex Share represents<sup>3</sup> a:</p> <ul style="list-style-type: none"> <li>• 20.0% premium to the offer price of \$28.00 per Sirtex share under the Varian Scheme;</li> <li>• 78.4% premium to the Sirtex closing price of \$18.83 on 29 January 2018, being the last trading day prior to the announcement of the Varian Scheme on 30 January 2018;</li> <li>• 92.3% premium to the 1-month VWAP to 29 January 2018 of \$17.48;<sup>4</sup></li> <li>• 113.0% premium to the 3-month VWAP to 29 January 2018 of \$15.78;<sup>4</sup></li> <li>• 121.2% premium to the 6-month VWAP to 29 January 2018 of \$15.19;<sup>4</sup></li> <li>• 75.9% premium to the broker consensus target price of \$19.11 prior to the announcement of the Varian Scheme on 30 January 2018;<sup>5</sup> and</li> <li>• 5.0% premium to the Sirtex closing price of \$32.00 per share on 27 July 2018, being the Last Practicable Trading Date.</li> </ul>

3. Premiums calculated on a cum dividend basis in order to be comparable.

4. VWAP is calculated based on cumulative value traded on ASX and CHI-X divided by cumulative volume traded on ASX and Chi-X to 29 January 2018. Source: IRESS

5. The broker consensus target price of \$19.11 prior to the announcement of the Varian Scheme on 30 January 2018 has been calculated from 4 broker valuations dated between 17 January 2018 and 22 January 2018 being publicly available institutional broker target prices ranging from \$16.57 to \$24.40 known to Sirtex and published after Sirtex's trading update released to the ASX on 17 January 2018.

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
How are the Bidders and Bidco funding the Scheme Consideration?	<p>Details of the proposed funding arrangements are set out below.</p> <p><b>Debt facilities to CDH Genetech:</b> CDH Genetech has obtained commitments from the Bank of China, Macau Branch for US\$700 million (approximately \$933 million) of debt facilities to be used to fund the Scheme Consideration.</p> <p><b>Equity contribution from CDH Fund V, L.P.:</b> CDH Genetech will fund its equity commitment of approximately \$493 million from uncommitted funds from CDH Fund V.</p> <p><b>Equity contribution from CGP:</b> CGP intends to fund its equity commitment of approximately \$474 million by raising new equity from its existing shareholders via a rights issue under which its major shareholders, controlling approximately 60% of the equity, have irrevocably undertaken to participate. The rights issue was announced by CGP to HKEX on 4 July 2018 and is expected to be completed on 5 September 2018. To the extent there is a shortfall in the equity raise, CGP has obtained commitments for debt facilities from Sun Hung Kai Investment Services Limited, which will enable CGP to draw down up to 100% of its equity component of the Scheme Consideration. For more information on the Bidders' and Bidco's funding arrangements, see section 6.4 of this Scheme Booklet.</p>
When and how will I receive my Scheme Consideration?	<p>If the Scheme becomes Effective, the Scheme Consideration will be paid to Scheme Shareholders on the Implementation Date (currently proposed to be Thursday, 20 September 2018).</p> <p>Payment of the Scheme Consideration will be made by direct deposit into your nominated bank account, as advised to the Sirtex Registry as at the Scheme Record Date.</p> <p>If you have not nominated a bank account, payment will be made by Australian dollar cheque sent by post to your registered address as shown on the Sirtex Share Register.</p>
What are the taxation implications of the Scheme?	<p>The taxation implications of the Scheme will depend on your personal circumstances.</p> <p>A general outline of the main Australian taxation implications of the Scheme for certain Sirtex Shareholders is set out in section 8 of this Scheme Booklet.</p> <p>As this outline is general in nature, you should consult with your own taxation advisers for detailed tax advice regarding the Australian and, if applicable, foreign taxation implications for participating in the Scheme in light of the particular circumstances which apply to you before making a decision as to how to vote on the Scheme.</p>
Will I have to pay brokerage or stamp duty?	<p>You will not have to pay brokerage or stamp duty on the transfer of your Sirtex Shares under the Scheme.</p>
Can I sell my Sirtex Shares now?	<p>You can sell your Sirtex Shares on market at any time before the close of trading on ASX on the Effective Date at the then prevailing market price (which may differ from the price to be paid for Sirtex Shares under the Scheme Consideration).</p> <p>Sirtex intends to apply to ASX for Sirtex Shares to be suspended from trading on ASX from close of trading on the Effective Date. You will not be able to sell your Sirtex Shares on market after this date.</p> <p>If you sell your Sirtex Shares on ASX, you may pay brokerage on the sale, you will not receive the Scheme Consideration, if a Superior Proposal emerges, you will not be able to obtain the benefit of that Superior Proposal in respect of those Sirtex Shares you have sold and there may be different tax consequences compared to those that would arise if you retain those shares until the Scheme is implemented.</p>

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>The Sirtex Directors' recommendation and reasons to vote for or against the Scheme</b>	
<b>What do the Sirtex Directors recommend?</b>	<p>Sirtex Directors unanimously recommend that you vote in favour of the Scheme Resolution to approve the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.</p> <p>The Sirtex Directors consider that the reasons for Sirtex Shareholders to vote in favour of the Scheme outweigh the reasons to vote against it.</p> <p>The Sirtex Directors encourage you to seek independent legal, financial, taxation or other professional advice.</p>
<b>What are the reasons you may want to vote in favour of the Scheme?</b>	<p>Reasons why you may want to vote in favour of the Scheme include:</p> <ul style="list-style-type: none"> <li>• The Sirtex Directors unanimously recommend that you vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders. Subject to those same qualifications, the Sirtex Directors will be voting all Sirtex Shares held or controlled by them in favour of the Scheme.</li> <li>• The Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders.</li> <li>• The Scheme provides the opportunity to realise certainty of value for your investment in Sirtex, and is unaffected by the outcome of the Class Action.</li> <li>• The Scheme Consideration represents an attractive premium over the offer price under the proposed Varian Scheme and over undisturbed trading prices of Sirtex Shares on ASX prior to announcement of the Varian Scheme. This is an all cash offer.</li> <li>• No Superior Proposal has emerged since the announcement of the Scheme.</li> <li>• No brokerage or stamp duty will be payable by you on the transfer of your Sirtex Shares if the Scheme proceeds.</li> <li>• Sirtex's share price may fall if the Scheme is not implemented and no Superior Proposal emerges.</li> <li>• If the Scheme does not proceed, you will continue to be subject to the risks and uncertainties associated with Sirtex's business and general market risks.</li> </ul>
<b>What are the reasons you may want to vote against the Scheme?</b>	<p>Reasons why you may want to vote against the Scheme include:</p> <ul style="list-style-type: none"> <li>• You may disagree with the Sirtex Directors' unanimous recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests.</li> <li>• You may prefer to participate in the future financial performance of the Sirtex business, and may consider that the Scheme does not capture Sirtex's long term potential.</li> <li>• You may wish to maintain your current investment profile.</li> <li>• You may consider that there is a possibility that a Superior Proposal could emerge in the foreseeable future.</li> <li>• The tax consequences of the Scheme may not suit your current financial position.</li> </ul>
<b>How are the Sirtex Directors intending to vote?</b>	<p>Each of the Sirtex Directors intends to vote, or cause to be voted, in favour of the Scheme in respect of all the Sirtex Shares they hold or control, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.</p>
<b>What is the opinion of the Independent Expert?</b>	<p>Deloitte was appointed as the Independent Expert to undertake an independent assessment of the Scheme.</p> <p>The Independent Expert has concluded that the Scheme is fair and reasonable and is therefore in the best interests of Sirtex Shareholders.</p> <p>The Independent Expert has estimated the market value of a Sirtex Share to be in the range of \$25.16 to \$31.36.</p> <p>You should read the Independent Expert's Report which is contained in Annexure A of this Scheme Booklet carefully and in its entirety.</p>

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>Scheme, voting and approvals</b>	
<b>When and where will the Scheme Meeting be held?</b>	The Scheme Meeting to consider the Scheme is scheduled to be held at 10:00am on Monday, 10 September 2018 at the Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000.
<b>What will Sirtex Shareholders be asked to vote on at the Scheme Meeting?</b>	At the Scheme Meeting, Sirtex Shareholders will be asked to vote on whether to approve the Scheme.
<b>What is the Sirtex Shareholder approval threshold for the Scheme?</b>	<p>To become Effective, the Scheme must be agreed to by:</p> <ul style="list-style-type: none"> <li>a majority in number (more than 50%) of Sirtex Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate Sirtex Shareholders, body corporate representative); and</li> <li>at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting by Sirtex Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate Sirtex Shareholders, body corporate representative).</li> </ul> <p>The Court has the discretion to waive the first of the above two requirements if it considers appropriate to do so.</p> <p>Even if the Scheme is agreed to by Sirtex Shareholders at the Scheme Meeting, the Scheme is still subject to the approval of the Court (as well as other Conditions Precedent outlined in section 4.5 of this Scheme Booklet).</p>
<b>Am I entitled to vote at the Scheme Meeting?</b>	If you are registered as a Sirtex Shareholder on the Sirtex Share Register at 7:00pm (Sydney time) on Saturday, 8 September 2018, you will be entitled to attend and vote at the Scheme Meeting.
<b>How can I vote if I can't attend the Scheme Meeting?</b>	If you would like to vote but cannot attend the Scheme Meeting in person, you can vote by appointing a proxy or attorney (including by lodging your proxy online at <a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a> ) to attend and vote on your behalf. Corporate Sirtex Shareholders may also vote by corporate representative.
<b>Is voting compulsory?</b>	<p>Voting is not compulsory.</p> <p>However, the Scheme will only be successful if it is approved by the Requisite Majorities of Sirtex Shareholders, so voting is important and Sirtex Directors encourage you to vote.</p> <p>In addition, if the Scheme is approved, you will be bound by the Scheme whether or not you voted and whether or not you voted in favour of it.</p>
<b>When will the results of the Scheme Meeting be known?</b>	The results of the Scheme Meeting are expected to be available shortly after the conclusion of the Scheme Meeting and will be announced to ASX ( <a href="http://www.asx.com.au">www.asx.com.au</a> ) and on the Sirtex website ( <a href="http://www.sirtex.com">www.sirtex.com</a> ) once available.
<b>What happens to my Sirtex Shares if I do not vote, or if I vote against the Scheme, and the Scheme becomes Effective and is implemented?</b>	If you do not vote, or vote against the Scheme, and the Scheme becomes Effective and is implemented, any Scheme Shares held by you on the Scheme Record Date (currently expected to be 7:00pm on Monday, 17 September 2018) will be transferred to Bidco, and you will receive the Scheme Consideration, despite not having voted or having voted against the Scheme.
<b>When will the Scheme become Effective and when will it be implemented?</b>	Subject to satisfaction or waiver (as applicable) of the Conditions Precedent, the Scheme will become Effective on the Effective Date (currently expected to be Thursday, 13 September 2018) and will be implemented on the Implementation Date (currently expected to be Thursday, 20 September 2018).
<b>What happens if there is a delay in satisfying any of the Conditions Precedent?</b>	<p>While any Conditions Precedent (other than Court approval of the Scheme) remain unsatisfied and have not been waived (if applicable), then there is a risk that the Second Court Hearing (currently scheduled for Wednesday, 12 September 2018) will be delayed, until as soon as reasonably practicable after those Conditions Precedent have been satisfied or waived (if applicable).</p> <p>Most relevantly, while CFIUS clearance is not a condition precedent to implementation of the Scheme, CFIUS could impose a temporary legal restraint on implementation of the Scheme while finalising its review.</p> <p>If the Second Court Hearing is delayed, this may in turn delay the Implementation Date, which is currently scheduled to be Thursday, 20 September 2018.</p> <p>In addition, the Scheme will not proceed if the Conditions Precedent are not satisfied or waived (if applicable) by the End Date. The End Date is 14 June 2019, subject to that date being amended by agreement between Sirtex and the Bidders.</p>



### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>Further information on the Scheme</b>	
<b>How will Sirtex Rights under the Sirtex Incentive Plan be treated in connection with the Scheme?</b>	<p>As at the Last Practicable Trading Date, Sirtex had 672,080 Sirtex Rights on issue:</p> <ul style="list-style-type: none"> <li>• 16,467 of these Sirtex Rights (<b>the FY16 Sirtex Rights</b>) have vested; and</li> <li>• the balance of the Sirtex Rights (<b>the FY17 and FY18 Sirtex Rights</b>) remain unvested.</li> </ul> <p>The vested FY16 Sirtex Rights may be exercised by the holders at any time on or before 31 August 2018, failing which they will automatically lapse. The Sirtex Board has determined that FY16 Sirtex Rights exercised during this period will convert into Sirtex Shares and that this conversion will be satisfied by way of the issue of new Sirtex Shares before the Scheme Record Date to allow the relevant former holders of those Sirtex Rights to participate in the Scheme.</p> <p>As contemplated by the Scheme Implementation Deed, the Sirtex Board has determined to exercise its discretion (in accordance with and as permitted by the terms of the Sirtex Incentive Plan) to vest all of the unvested FY17 and FY18 Sirtex Rights that are outstanding on the Effective Date subject to the Scheme becoming Effective and to issue Sirtex Shares to holders of those FY17 and FY18 Sirtex Rights that exercise those Sirtex Rights prior to the Scheme Record Date.</p> <p>The Sirtex Shares to be issued to the holders of the FY17 and FY18 Sirtex Rights on exercise will therefore be eligible to participate in the Scheme, such that the holders would receive the Scheme Consideration in respect of those Sirtex Shares to be issued to them.</p> <p>FY17 and FY18 Sirtex Rights that are not exercised will lapse if the Scheme becomes Effective.</p> <p>Given that the Scheme Implementation Deed has been entered into, Sirtex has determined that it will not issue further Sirtex Rights in respect of the financial year ending 30 June 2019 (as it otherwise would). However, if the Scheme Implementation Deed is terminated for any reason, Sirtex will consider issuing Sirtex Rights to persons that otherwise would have received them in respect of the financial year ending 30 June 2019.</p> <p>Please refer to section 9.2 of this Scheme Booklet for further details regarding the treatment of Sirtex Rights.</p>
<b>What will happen if a Superior Proposal emerges?</b>	<p>If Sirtex receives a Competing Proposal from a third party or is approached to discuss a Competing Proposal, the following applies:</p> <ul style="list-style-type: none"> <li>• Sirtex must notify the Bidders as soon as reasonably practicable and in any event within 24 hours after receipt of the Competing Proposal or approach and disclose the material terms (including price) of the Competing Proposal and the identity of the third party making or proposing the Competing Proposal;</li> <li>• Sirtex must not enter into any legally binding agreement, arrangement or understanding to implement a Competing Proposal unless it is a Superior Proposal and Sirtex has notified the above details (including the identity of the third party making the proposed Competing Proposal) to the Bidders;</li> <li>• the Bidders will be given 5 Business Days during which they can put forward a counter proposal; and</li> <li>• if the Bidders provide a counter proposal and the Sirtex Directors decide, acting in good faith, that the counter proposal will provide an equivalent or superior outcome for Sirtex Shareholders as a whole than the Competing Proposal, then Sirtex and the Bidders must use their reasonable endeavours to agree, as soon as reasonably practicable, any amendments to the Scheme Implementation Deed as are reasonably necessary to reflect and implement the Bidders' counter proposal.</li> </ul> <p>Details of these provisions (and other provisions) of the Scheme Implementation Deed are set out in section 9.1 of this Scheme Booklet.</p> <p>Since the announcement of the Scheme on 14 June 2018 and up to the Last Practicable Trading Date, no Superior Proposal has emerged.</p>

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
Is there a break fee payable?	<p>Under the Scheme Implementation Deed, Sirtex must pay to the Bidders the Sirtex Reimbursement Fee of approximately \$19 million (exclusive of GST) if any of the following events occur:</p> <ul style="list-style-type: none"> <li>• if certain types of Competing Proposals are announced during the Exclusivity Period and completed within 12 months of the announcement, except in certain circumstances;</li> <li>• if a majority of the Sirtex Directors change their recommendation that Sirtex Shareholders vote in favour of the Scheme or their statement that they will vote all Sirtex Shares held or controlled by them in favour of the Scheme, or make a recommendation or statement that is inconsistent with such recommendation or statement, or make a public statement indicating that they no longer support the Scheme or that they support a Competing Proposal, except in certain circumstances;</li> <li>• Sirtex terminates the Scheme Implementation Deed because the Independent Expert adversely changes its opinion in the Independent Expert's Report (or any update or variation to that report), where the reason for that conclusion is a Competing Proposal; or</li> <li>• the Bidders validly terminate the Scheme Implementation Deed because of a breach by Sirtex of the Scheme Implementation Deed (or a representation or warranty given by Sirtex under the Scheme Implementation Deed), which is material in the context of the Scheme taken as a whole.</li> </ul> <p>The Sirtex Reimbursement Fee is not payable solely because Shareholders do not approve the Scheme by the Requisite Majorities.</p> <p>CGP<sup>6</sup> must pay the Bidder Facilitation / Break Fee of \$200 million (exclusive of GST) to Sirtex if any of the following events occur:</p> <ul style="list-style-type: none"> <li>• the Scheme has not become Effective by the End Date and any of the following Conditions Precedent have not been satisfied or waived by the End Date: <ul style="list-style-type: none"> <li>– the Treasurer of the Commonwealth of Australia (or his delegate) either gives the Bidders written advice that the Commonwealth Government does not object under the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) or its foreign investment policy to the Scheme or, by passage of time, becomes precluded from making an order under FATA in respect of the Scheme;<sup>7</sup></li> <li>– all applicable waiting periods for the Scheme under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (US) expire or are otherwise terminated;<sup>7</sup></li> <li>– no court or Government Agency in Australia, USA, Germany, Italy, Belgium, the United Kingdom or Ireland has issued any temporary restraining order, preliminary or permanent injunction or other order restraining, preventing or imposing any legal restraint on the Scheme that is in effect at 8:00am on the Second Court Date; and</li> <li>– no Bidder having suffered an Insolvency Event before 8:00am on the Second Court Date;</li> </ul> </li> <li>• an event occurs which prevents any of those same Conditions Precedent from being able to be satisfied and that Condition Precedent is not waived;</li> <li>• Sirtex and the Bidders agree voluntarily to withdraw the application for approval of the transaction by CFIUS and the Scheme Implementation Deed is terminated; or</li> <li>• Sirtex validly terminates the Scheme Implementation Deed because of a breach by the Bidders of the Scheme Implementation Deed (or a representation or warranty given by the Bidders under the Scheme Implementation Deed), which is material in the context of the Scheme taken as a whole.</li> </ul> <p>The Sirtex Reimbursement Fee and the Bidder Facilitation / Break Fee arrangements are summarised in further detail in sections 9.1(h) and 9.1(i) of this Scheme Booklet.</p>

6. See section 6.7(c) for further details.

7. See section 6.7(a) for further details.

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>What are the China Commercialisation Rights?</b>	<p>Under the Scheme Implementation Deed, Sirtex and the Bidders have agreed to use their best endeavours to negotiate (having regard to their own best interests) and enter into an agreement for the grant by Sirtex to the Bidders of exclusive commercialisation rights for the China market (the <b>China Commercialisation Agreement</b>) that would apply in the event that the Scheme Implementation Deed is terminated in circumstances where Sirtex is entitled to, and has received, payment of the Bidder Facilitation / Break Fee (except if the entitlement arises as a result of the Bidders suffering an Insolvency Event or Sirtex and the Bidder agreeing to terminate the Scheme Implementation Deed).</p> <p>As at the date of this Scheme Booklet, Sirtex and the Bidders are continuing with these negotiations and have not concluded the China Commercialisation Agreement. Sirtex will advise the market in the event that a China Commercialisation Agreement is concluded.</p> <p>If Sirtex and the Bidders do not reach agreement on terms of the China Commercialisation Agreement on or before 9 August 2018 (or such later date as Sirtex and the Bidders may agree), the Bidders will have a right of first refusal under which Sirtex may not enter into an agreement with any third party for the grant of commercialisation rights for the China market for a period of 3 years following termination of the Scheme Implementation Deed in those circumstances unless it has first offered to enter into an agreement with either or both of the Bidders on terms no less favourable to it or them.</p> <p>The China Commercialisation Rights are summarised in further detail in section 9.1(j) of this Scheme Booklet.</p>
<b>Do the Bidders need any approvals from their shareholders?</b>	<p>CDH does not require any shareholder approvals.</p> <p>The proposed investment by CGP is a “major transaction” under the Hong Kong Stock Exchange Listing Rules and, as such, will require the approval of more than 50% of the votes cast by shareholders at a special general meeting of CGP. The Bidders and Sirtex have been provided irrevocable undertakings by shareholders of CGP that collectively own and control over 50% of the issued shares in CGP to vote their shares in favour of the required resolution. It is currently anticipated that the CGP special general meeting will be held on 17 August 2018, prior to the Scheme Meeting.</p> <p>Receipt of CGP shareholder approval is not a condition precedent to the Scheme and the Bidders do not have an ability to terminate the Scheme due solely to a failure to obtain approval from CGP shareholders.</p>
<b>What happens if the Court does not approve the Scheme or the Scheme does not otherwise proceed?</b>	<p>If the Scheme is not approved at the Scheme Meeting, or if it is approved at the Scheme Meeting but is not approved by the Court or a Condition Precedent is not fulfilled or otherwise waived (as applicable), or if the Scheme Implementation Deed is terminated, then the Scheme will not become Effective and will not be implemented.</p> <p>If the Scheme does not become Effective or is not implemented, Sirtex will continue to operate as a standalone group listed on ASX.</p> <p>In that scenario, Sirtex Shareholders will not receive the Scheme Consideration but will retain their Sirtex Shares.</p> <p>Depending on the reason for the Scheme not proceeding:</p> <ul style="list-style-type: none"> <li>• Sirtex may be liable to pay to the Bidders the Sirtex Reimbursement Fee of approximately \$19 million (excluding GST);</li> <li>• CGP may be liable to pay to Sirtex the Bidder Facilitation / Break Fee of \$200 million (excluding GST); and</li> <li>• the China Commercialisation Rights may apply.</li> </ul> <p>The circumstances in which the Sirtex Reimbursement Fee or the Bidder Facilitation / Break Fee would be payable are set out in sections 9.1(h) and 9.1(i) of this Scheme Booklet and the circumstances in which the China Commercialisation Rights may apply are set out in sections 3 and 9.1(j) of this Scheme Booklet.</p>

### 3 FREQUENTLY ASKED QUESTIONS

Question	Answer
<b>Where can I get further information?</b>	<p>For further information, you can call the Sirtex Shareholder Scheme Information Line on 1300 794 682 (from within Australia) or +61 1300 794 682 (from outside Australia) Monday to Friday between 8:30am and 5:30pm (Sydney time).</p> <p>Sirtex is a listed disclosing entity for the purpose of the Corporations Act and as such is subject to regular reporting and disclosure obligations. Information disclosed to ASX by Sirtex is available on ASX's website at <a href="http://www.asx.com.au">www.asx.com.au</a> or on Sirtex's website at <a href="http://www.sirtex.com">www.sirtex.com</a>.</p> <p>If you are in doubt about anything in this Scheme Booklet, please contact your legal, financial, taxation or other professional adviser.</p>

# 4

## OVERVIEW OF THE SCHEME

## 4 OVERVIEW OF THE SCHEME

### 4.1 BACKGROUND

On 14 June 2018, Sirtex entered into the Scheme Implementation Deed with the Bidders, under which, subject to the satisfaction or waiver of a number of Conditions Precedent, it is proposed that Bidco will acquire all of the ordinary shares in Sirtex pursuant to a scheme of arrangement under Part 5.1 of the Corporations Act.

If the Scheme is implemented, Scheme Shareholders will be entitled to receive the Scheme Consideration, being a cash payment of \$33.60<sup>1</sup> for each Sirtex Share held by each Scheme Shareholder as at the Scheme Record Date.

A brief summary of the Scheme Implementation Deed is included in section 9.1 of this Scheme Booklet. This section 4 contains an overview of the Scheme.

### 4.2 THE SIRTIX DIRECTORS' UNANIMOUS RECOMMENDATION

The Sirtex Directors unanimously recommend that Sirtex Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.

The Sirtex Directors consider that the reasons for Sirtex Shareholders to vote in favour of the Scheme outweigh the reasons to vote against the Scheme. See section 2 of this Scheme Booklet for key considerations relevant to your vote.

In considering whether to vote in favour of the Scheme, the Sirtex Directors encourage you to:

- carefully read all of this Scheme Booklet (including the Independent Expert's Report);
- consider the choices available to you as outlined in section 4.14 of this Scheme Booklet;
- have regard to your individual risk profile, portfolio strategy, taxation position and financial circumstances; and
- obtain financial advice from your broker or financial adviser on the Scheme and obtain taxation advice on the effect of the Scheme becoming Effective.

Each Sirtex Director's interests are disclosed in sections 9.3, 9.4 and 9.5 of this Scheme Booklet.

### 4.3 VOTING INTENTIONS OF THE SIRTIX DIRECTORS

Each Sirtex Director intends to vote, or procure the voting of, any Sirtex Shares held or controlled by them, in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.

Details of the interests of each Sirtex Director in Sirtex Shares are set out in section 9.3 of this Scheme Booklet.

### 4.4 INDEPENDENT EXPERT'S CONCLUSION

Sirtex appointed Deloitte as an Independent Expert to review the Scheme and opine on whether the Scheme is in the best interests of Sirtex Shareholders.

The Independent Expert concluded that the Scheme is fair and reasonable and therefore in the best interests of Sirtex Shareholders.

The Independent Expert has assessed the market value of a Sirtex Share at between \$25.16 and \$31.36. As the Scheme Consideration offered by the Bidders is higher than the Independent Expert's estimate of the market value of a Sirtex Share, the Independent Expert has concluded that the Scheme is fair and is therefore reasonable.

The Independent Expert's valuation has not had explicit regard to any potential compensation payable by Sirtex as a result of the Class Action which relates to alleged breaches of continuous disclosure obligations and misleading and deceptive statements made by Sirtex in 2016 given the significant uncertainty in the outcome of any compensation. However, should any compensation become payable by Sirtex, this would reduce the value of Sirtex and therefore improve the fairness of the Scheme.

The reasons why the Independent Expert reached this conclusion are set out in the Independent Expert's Report, a copy of which is included in Annexure A of this Scheme Booklet.

### 4.5 CONDITIONS TO THE SCHEME

The Scheme is subject to a number of Conditions Precedent that will need to be satisfied or waived (as applicable) before the Scheme can become Effective. The Conditions Precedent are set out in clause 3.1 of the Scheme Implementation Deed, a copy of which is attached as Annexure B of this Scheme Booklet. In summary, as at the date of this Scheme Booklet, the outstanding Conditions Precedent include:

- approval of the Scheme at the Scheme Meeting by the Requisite Majorities of Sirtex Shareholders;
- approval of the Scheme by the Court;

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<sup>1</sup> Less the amount of any Permitted Dividend.

## 4 OVERVIEW OF THE SCHEME

- no court or Government Agency in Australia, USA, Germany, Italy, Belgium, the United Kingdom or Ireland has issued any temporary restraining order, preliminary or permanent injunction or other order restraining, preventing or imposing any legal restraint on the Scheme that is in effect at 8:00am on the Second Court Date;
- no Prescribed Occurrence occurring before 8:00am on the Second Court Date;
- the Independent Expert not withdrawing or changing its conclusion before 8:00am on the Second Court Date; and
- neither Bidder suffering an Insolvency Event before 8:00am on the Second Court Date.

The first 2 Conditions Precedent outlined above (relating to Sirtex Shareholder approval and Court approval) cannot be waived.

As at the Last Practicable Trading Date, none of the Sirtex Directors are aware of any circumstances which would cause any Condition Precedent not to be satisfied.

CFIUS approval is not a condition precedent to implementation of the Scheme. However, in the course of the CFIUS investigation, CFIUS could order Sirtex and the Bidders not to implement the Scheme pending the completion of its review (resulting in a legal restraint being imposed that could delay or prevent the Scheme from being implemented) or require Sirtex and the Bidders to accept such a standstill as a condition precedent to allowing the withdrawal and refiling of the joint notification. See section 3 for further details.

Further, the Scheme is not subject to any condition precedent requiring that there is no material adverse change affecting Sirtex or that shareholders of CGP approve the transaction at the CGP special shareholder meeting.

### 4.6 TERMINATION RIGHTS

The Scheme Implementation Deed may be terminated in certain circumstances. The termination rights are set out in clause 11 of the Scheme Implementation Deed, a copy of which is attached as Annexure B of this Scheme Booklet. In summary:

- (a) either party may terminate the Scheme Implementation Deed if:
  - (1) the Scheme has not become Effective by the End Date;
  - (2) any event occurs which would or does prevent a Condition Precedent from being satisfied and that Condition Precedent is not waived (where applicable); or
  - (3) the other party commits a breach of the Scheme Implementation Deed or a representation, or warranty given by that party under the Scheme Implementation Deed, which is material in the context of the Scheme taken as a whole and which is not rectified within 10 Business Days of notification of the breach by the non-breaching party;
- (b) Sirtex may terminate the Scheme Implementation Deed if:
  - (1) a majority of the Sirtex Board publicly recommends a Competing Proposal that is a Superior Proposal, provided that the Competing Proposal was not connected with a breach of Sirtex's exclusivity obligations (described in section 9.1(f) of this Scheme Booklet); or
  - (2) the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Sirtex Shareholders, or adversely changes its opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Sirtex Shareholders;
- (c) the Bidders may terminate the Scheme Implementation Deed if a majority of the members of the Sirtex Board have changed, withdrawn or modified their recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting; and
- (d) the parties may terminate the Scheme Implementation Deed by mutual agreement.

If the Scheme Implementation Deed is terminated, the Scheme will not proceed.

### 4.7 DEPOSIT

Prior to the date of this Scheme Booklet, the Bidders have deposited \$220 million with a major Australian bank to be held by the bank as escrow agent for Sirtex and the Bidders (the **Deposit Account**). This amount was paid in two instalments, the first of which was an amount of approximately \$171 million paid on entering into the Scheme Implementation Deed on 14 June 2018 and the second of which was an amount of approximately \$49 million paid on 28 June 2018.

The Scheme Implementation Deed requires the Bidders to deposit the balance of the Scheme Consideration into the Deposit Account no later than the Business Day prior to the date of the Scheme Meeting. Sirtex will make an announcement to ASX confirming once this payment has been made.

If the Scheme becomes Effective, these amounts will be applied towards payment of the Scheme Consideration payable to Sirtex Shareholders.



## 4 OVERVIEW OF THE SCHEME

If the Scheme does not proceed:

- in certain circumstances (which are further described in sections 3 and 9.1(i) of this Scheme Booklet), Sirtex will be entitled to be paid the Bidder Facilitation / Break Fee from these amounts; and
- otherwise, these amounts will be returned to the Bidders.

In all circumstances the Bidders are entitled to all interest accrued on funds held in the Deposit Account.

### 4.8 SCHEME APPROVAL REQUIREMENTS

The Scheme will only become Effective and be implemented if:

- it is approved by the Requisite Majorities of Sirtex Shareholders at the Scheme Meeting;
- it is approved by the Court at the Second Court Hearing;
- the Conditions Precedent are satisfied or waived (as appropriate); and
- the Scheme Implementation Deed has not been terminated.

The Requisite Majorities of Sirtex Shareholders necessary to approve the Scheme are:

- a majority in number (more than 50%) of Sirtex Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, in the case of corporate Sirtex Shareholders, body corporate representative) – it should be noted that the Court has the power to waive this requirement; and
- at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting by Sirtex Shareholders.

The Court has the discretion to waive the first of the above two requirements if it considers appropriate to do so.

### 4.9 SCHEME MEETING

#### (a) The Scheme Meeting

The Court has ordered Sirtex to convene the Scheme Meeting at which Sirtex Shareholders will be asked to approve the Scheme.

The terms of the Scheme Resolution to be considered at the Scheme Meeting are contained in the Notice of Scheme Meeting in Annexure E of this Scheme Booklet.

The fact that the Court has ordered the Scheme Meeting to be convened and has approved this Scheme Booklet required to accompany the Notice of Scheme Meeting does not mean that the Court has prepared, or is responsible for the content of, this Scheme Booklet or has any view as to the merits of the Scheme or as to how Sirtex Shareholders should vote. On these matters Sirtex Shareholders must reach their own decision.

#### (b) Attendance at the Scheme Meeting

The entitlement of Sirtex Shareholders to attend and vote at the Scheme Meeting is set out in the Notice of Scheme Meeting in Annexure E of this Scheme Booklet.

Instructions on how to attend and vote at the Scheme Meeting (in person, by proxy, or in person through an attorney or corporate representative) are set out in the Notice of Scheme Meeting.

Voting is not compulsory. However, the Sirtex Directors unanimously recommend that Sirtex Shareholders vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider that the Scheme is in the best interests of Sirtex Shareholders.

The results of the Scheme Meeting will be available as soon as possible after the conclusion of the Scheme Meeting and will be announced to ASX ([www.asx.com.au](http://www.asx.com.au)) and on the Sirtex website ([www.sirtex.com](http://www.sirtex.com)) once available.

### 4.10 COURT APPROVAL OF THE SCHEME

In the event that:

- the Scheme is approved by the Requisite Majorities of Sirtex Shareholders at the Scheme Meeting (see section 4.8 of this Scheme Booklet for the Scheme approval requirements);
- all Conditions Precedent (except Court approval of the Scheme) have been, or are expected to be, satisfied or waived (if they are capable of being waived); and
- the Scheme Implementation Deed has not been terminated,

then Sirtex will apply to the Court for orders approving the Scheme. Sirtex may apply to the Court for orders approving the Scheme notwithstanding the first of the above requirements is not satisfied.

A Sirtex Shareholder has the right to appear at the Second Court Hearing.

## 4 OVERVIEW OF THE SCHEME

### 4.11 EFFECTIVE DATE

If the Court approves the Scheme, the Scheme will become Effective on the Effective Date, being the date an office copy of the Court order from the Second Court Hearing approving the Scheme is lodged with ASIC. Sirtex will, on the Scheme becoming Effective, announce that on ASX. Under the Scheme Implementation Deed, Sirtex must provide an office copy of the Court order from the Second Court Hearing to ASIC by no later than 5:00pm on the first Business Day after the day on which the Court approves the Scheme. Sirtex will, when the Scheme becomes Effective, give notice of that event to ASX.

### 4.12 SUSPENSION OF SIRTEX SHARES

If the Court approves the Scheme, Sirtex will immediately notify the ASX. It is expected that suspension of trading on the ASX in Sirtex Shares will occur at the close of business on the Effective Date.

### 4.13 IF THE SCHEME DOES NOT PROCEED

If the Scheme is not implemented:

- Sirtex will remain listed on ASX and will continue to operate on a standalone basis;
- Sirtex Shareholders will retain their Sirtex Shares and will continue to be exposed to general risks as well as risks specific to Sirtex and the industries in which it operates;
- Sirtex Shareholders will not receive the Scheme Consideration;
- the Sirtex Reimbursement Fee of approximately \$19 million (exclusive of GST) may be payable by Sirtex to the Bidders in certain circumstances. Those circumstances will not of itself include the failure by Sirtex Shareholders to approve the Scheme at the Scheme Meeting by the Requisite Majorities;
- the Bidder Facilitation / Break Fee of \$200 million (exclusive of GST) may be payable by CGP to Sirtex in certain circumstances; and
- the China Commercialisation Rights may apply in certain circumstances.

If the Scheme is not implemented, the advantages of the Scheme described in section 2.2 of this Scheme Booklet will not be realised and the potential disadvantages of the Scheme described in section 2.3 of this Scheme Booklet will not arise.

Irrespective of whether the Scheme is implemented, transaction related costs (arising in connection with the Scheme and with the Varian Scheme) of approximately \$22 million are expected to be incurred by Sirtex.<sup>2</sup> Further transaction related costs will be incurred by Sirtex if the Scheme is implemented. These amounts do not include transaction or other similar costs that may be incurred by the Bidders or Bidco.

### 4.14 YOUR CHOICES AS A SIRTEX SHAREHOLDER

As a Sirtex Shareholder, you have four choices currently available to you, which are as follows.

<b>Vote in favour of the Scheme</b>	<p><b>This is the course of action unanimously recommended by the Sirtex Directors, in the absence of a Superior Proposal and subject to the Independent Expert maintaining its conclusion that the Scheme is in the best interests of Sirtex Shareholders.</b></p> <p>If you wish to follow the Sirtex Directors' unanimous recommendation, you should vote in favour of the Scheme at the Scheme Meeting. For a summary of how to vote on the Scheme, please refer to section 1.2 of this Scheme Booklet, and the Notice of Scheme Meeting contained in Annexure E to this Scheme Booklet.</p> <p>If the Scheme is implemented, each Scheme Shareholder will receive the Scheme Consideration.</p>
<b>Vote against the Scheme</b>	<p>If, despite the Sirtex Directors' unanimous recommendation and the Independent Expert's conclusion that the Scheme is in the best interests of Sirtex Shareholders, you do not support the Scheme, you may vote against the Scheme at the Scheme Meeting.</p> <p>However, if all the Conditions Precedent for the Scheme are satisfied or waived (as applicable) and the Scheme becomes Effective, the Scheme will bind all Sirtex Shareholders, including those who voted against the Scheme at the Scheme Meeting and those who did not vote at all.</p>

<sup>2</sup> This amount includes the reimbursement fee of approximately \$16 million paid by Sirtex to Varian, in respect of which the Bidders have reimbursed Sirtex.

## 4 OVERVIEW OF THE SCHEME

<b>Sell or transfer your Sirtex Shares</b>	<p>The existence of the Scheme does not prevent you from selling some or all of your Sirtex Shares for cash, or transferring your shares, if you wish. However, if the Scheme becomes Effective, trading in Sirtex Shares on ASX will end at the close of trading on ASX on the Effective Date.</p> <p>If you are considering selling some or all of your Sirtex Shares:</p> <ul style="list-style-type: none"> <li>• you may wish to have regard to the prevailing trading prices of Sirtex Shares and compare those to the Scheme Consideration. You may ascertain the current trading prices of Sirtex Shares through the ASX website (<a href="http://www.asx.com.au">www.asx.com.au</a>); and</li> <li>• you should contact your stockbroker for information on how to effect that sale, and you should also contact your legal, financial, taxation or other professional adviser if you require any other information or advice.</li> </ul> <p>Sirtex Shareholders who sell some or all of their Sirtex Shares on ASX:</p> <ul style="list-style-type: none"> <li>• may receive payment (which may vary from the Scheme Consideration) for the sale of Sirtex Shares sooner than they would receive the Scheme Consideration under the Scheme;</li> <li>• may incur a brokerage charge;</li> <li>• will not be able to participate in the Scheme or, if one emerges, a Superior Proposal, in respect of those Sirtex Shares they have sold; and</li> <li>• may be liable to pay Australian tax on the disposal of their Sirtex Shares (as you also may be under the Scheme – see the Tax Considerations set out at section 8 of this Scheme Booklet).</li> </ul>
<b>Do nothing</b>	<p>Sirtex Shareholders who elect not to vote at the Scheme Meeting or do not sell their Sirtex Shares will:</p> <ul style="list-style-type: none"> <li>• if the Scheme is implemented, have their Scheme Shares transferred to Bidco by operation of the Scheme and receive the Scheme Consideration; or</li> <li>• if the Scheme is not implemented, retain their Sirtex Shares.</li> </ul>

### 4.15 SCHEME RECORD DATE AND ENTITLEMENT TO SCHEME CONSIDERATION

Those Sirtex Shareholders on the Sirtex Share Register on the Scheme Record Date (currently proposed to be 7:00pm on Monday, 17 September 2018) will be entitled to receive the Scheme Consideration in respect of the Sirtex Shares they hold at that time.

#### (a) Dealings before the Scheme Record Date

For the purpose of determining which Sirtex Shareholders are eligible to participate in the Scheme, dealings in Sirtex Shares will be recognised only if:

- in the case of dealings of the type to be effected using CHESS, the transferee is registered on the Sirtex Registry as the holder of the relevant Sirtex Shares on or before the Scheme Record Date; and
- in all other cases, registrable transmission applications or transfers in respect of those dealings are received by the Sirtex Registry on or before the Scheme Record Date.

For the purpose of determining entitlements under the Scheme, Sirtex will not accept for registration or recognise any transfer or transmission applications in respect of Sirtex Shares received after the Scheme Record Date.

#### (b) Dealings after the Scheme Record Date

For the purpose of determining entitlements to the Scheme Consideration, Sirtex must maintain the Sirtex Share Register in its form as at the Scheme Record Date, until the Scheme Consideration has been paid to the Scheme Shareholders. The Sirtex Share Register in this form will solely determine entitlements to the Scheme Consideration.

After the Scheme Record Date:

- all statements of holding for Sirtex Shares will cease to have effect as documents relating to title in respect of such Sirtex Shares; and
- each entry on the Sirtex Share Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Sirtex Shares relating to that entry.

### 4.16 IMPLEMENTATION DATE

Scheme Shareholders will be issued the Scheme Consideration on the Implementation Date (currently proposed to be Thursday, 20 September 2018). Immediately after the Scheme Consideration is issued to Scheme Shareholders the Scheme Shares will be transferred to Bidco.

## 4 OVERVIEW OF THE SCHEME

### 4.17 DEED POLL

The Bidders and Bidco have entered into the Deed Poll, pursuant to which the Bidders and Bidco have agreed in favour of the Scheme Shareholders to:

- pay, or procure the payment of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and
- undertake all other actions attributed to them under the Scheme,

subject to the Scheme becoming Effective.

A copy of the Deed Poll is contained in Annexure D of this Scheme Booklet.

### 4.18 COPY OF THE SIRTEX SHARE REGISTER

Under section 173 of the Corporations Act, any Sirtex Shareholder has a right to inspect, and to ask for a copy of, the Sirtex Share Register which contains details of the name and address of each Sirtex Shareholder. Sirtex may require a Sirtex Shareholder to provide reasons for their request prior to providing a copy of the Sirtex Share Register and a Sirtex Shareholder must not use any information obtained for an improper purpose. A copy of the Sirtex Share Register will be given to any Sirtex Shareholder upon request and payment of the prescribed fee under the Corporations Act where Sirtex is satisfied that the details provided are not likely to be used for an improper purpose.

### 4.19 WARRANTY BY SCHEME SHAREHOLDERS

The terms of the Scheme provide that each Scheme Shareholder warrants to Bidco, and is deemed to have authorised Sirtex to warrant to Bidco as its agent and attorney, that:

- all their Scheme Shares (including any rights and entitlements attaching to those shares) transferred to Bidco under the Scheme will, at the date of transfer, be fully paid and free from all securities for payment of money or performance of obligations (including mortgages, liens, charges, pledges, trusts, powers or title retention or flawed deposit arrangements and any “security interest” as defined in sections 12(1) or 12(2) of the *Personal Property Securities Act 2009* (Cth)) and all agreements to create any of them or allow them to exist; and
- they have full power and capacity to sell and transfer their Scheme Shares (including any rights and entitlements attaching to those shares) to Bidco under the Scheme.

### 4.20 DELISTING OF SIRTEX

Following the Implementation Date, Sirtex will apply for the termination of the official quotation of Sirtex Shares on ASX and for Sirtex to be removed from the official list of ASX.

# 5

## PROFILE OF SIRTEX

## 5 PROFILE OF SIRTEX

### 5.1 INTRODUCTION

Sirtex is an Australian-based global life-sciences company that develops and delivers oncology treatments using small particle technology.

Sirtex is headquartered in Sydney, and is listed on the ASX where it trades under the symbol of SRX. The company was founded in 1997 and currently employs approximately 245 people globally.

For the financial year ended 30 June 2017, Sirtex reported dose sales of 12,578, sales revenue of \$234.3m and Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA) before significant items of \$61.5m. For the half year ended 31 December 2017, Sirtex reported dose sales of 6,023, revenue of \$109.4m and EBITDA before significant items of \$34.1m.

### 5.2 OVERVIEW OF OPERATIONS

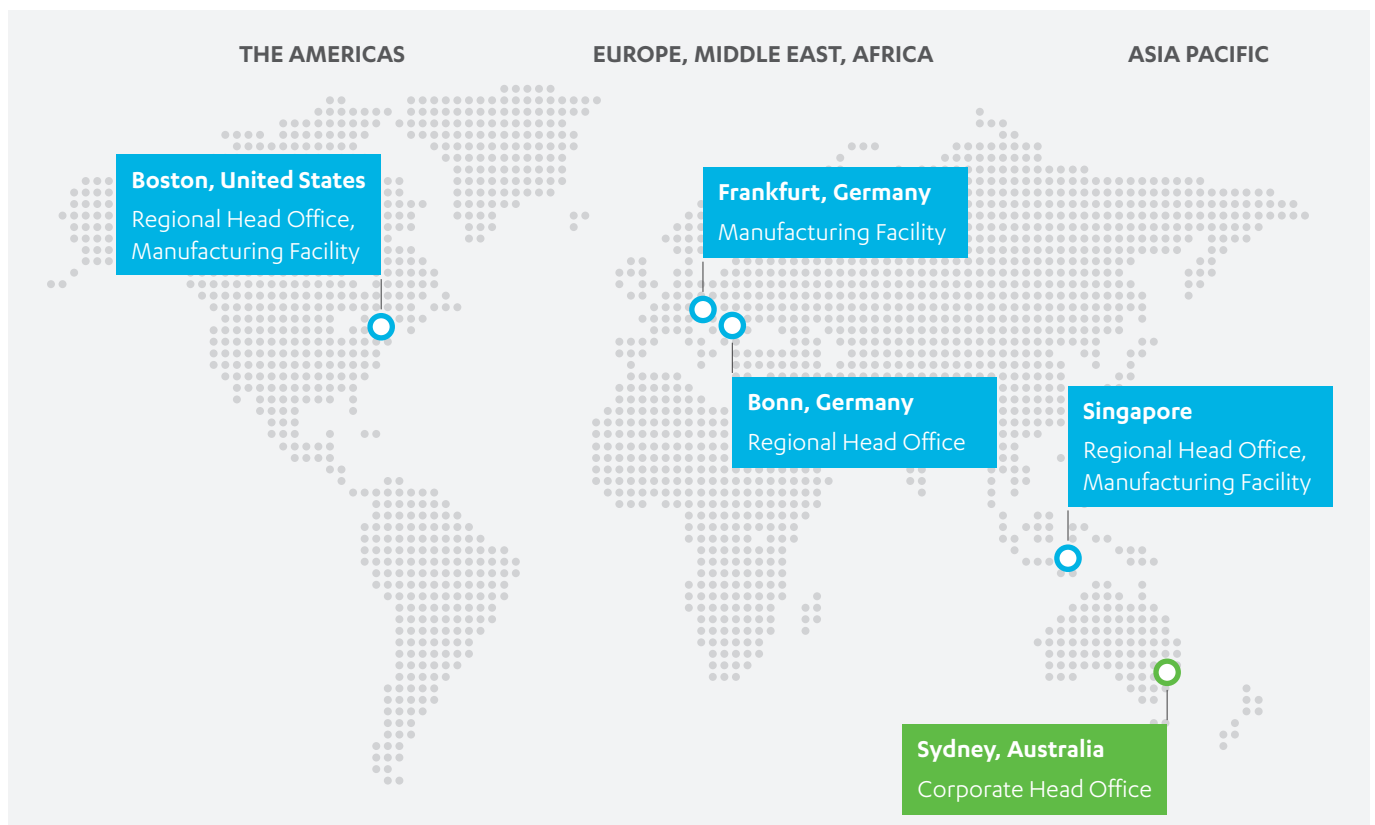
Sirtex generates revenues through the sale of SIR-Spheres® Y-90 resin microspheres, a targeted radiation therapy for liver cancer.

SIR-Spheres microspheres are used to deliver targeted internal radiation therapy directly to liver tumours via the hepatic artery. The therapy is called Selective Internal Radiation Therapy (SIRT) and is performed using minimally invasive techniques by interventional radiologists. SIR-Spheres microspheres are currently used in primary liver cancer (hepatocellular carcinoma) and secondary liver cancer (metastatic liver cancer), where the liver tumour has originated from cancer in another part of the body.

Over 86,000 doses of SIR-Spheres® Y-90 resin microspheres have been supplied in over 1,160 medical centres across more than 40 different countries.

Sirtex has manufacturing capabilities in Singapore, Wilmington, Massachusetts and Frankfurt, Germany. The facilities are close to transport hubs, which allows for efficient dispatch of SIR-Spheres microspheres across the Americas, EMEA and Asia Pacific regions.

### SIRTEX'S GLOBAL OPERATING FOOTPRINT



Sirtex's business is organised into three reportable segments – The Americas, EMEA and Asia Pacific. Sirtex generates 70% of its dose sales and 80% of its sales revenues from the Americas region.

FIGURE 1: DOSE SALES – BY GEOGRAPHY (FY17A)

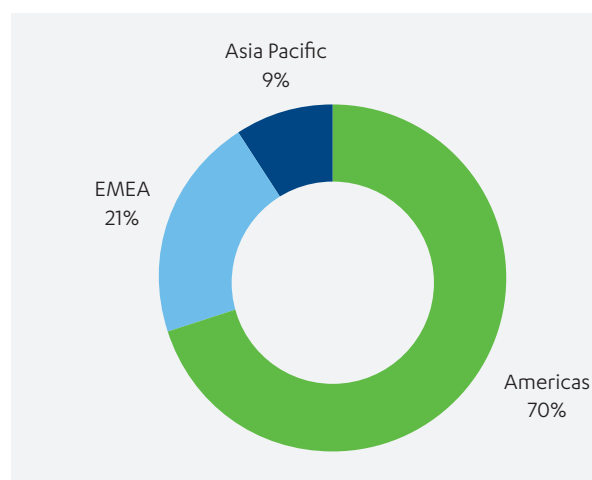
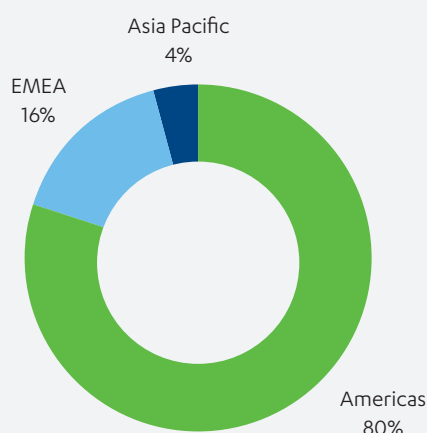


FIGURE 2: SALES REVENUE – BY GEOGRAPHY (FY17A)



### 5.3 BOARD AND SENIOR MANAGEMENT

#### (a) Sirtex Board

The directors of Sirtex (as at the Last Practicable Trading Date) are listed below.

Name	Current position
Grant Boyce	Non-Executive Director
John Eady	Non-Executive Director (Interim Chairman)
Helen Kurincic	Non-Executive Director
Andrew McLean	Executive Director and Chief Executive Officer
Neville Mitchell	Non-Executive Director
Katherine Woodthorpe	Non-Executive Director

#### (b) Sirtex senior management

Sirtex's current senior management comprises the following members.

Name	Current position
Andrew McLean	Chief Executive Officer
Anthony Dixon	Executive Vice President, Sales & Marketing, EMEA
Brett Carroll	Global Head of Compliance, Safety & Quality, and interim Chief HR Officer
Darren Smith	Chief Financial Officer, and Company Secretary
Donna Fort	Executive Vice President, Sales & Marketing, APAC
Grant Spindler	Global Head of Operations
Kevin Smith	Executive Vice President, Sales & Marketing, Americas
Suki Shergill	VP Global Pricing, Reimbursement & Market Access
Tom Duthy	Global Head of Investor Relations & Corporate Development

#### (c) Employment of Andrew McLean

As announced on ASX on 25 July 2018, on 1 August 2018, Andrew McLean's employment was transferred from Sirtex to Sirtex Medical, Inc., one of Sirtex's wholly owned US subsidiaries. Andrew McLean continues to be the Chief Executive Officer of Sirtex and a Sirtex Director, and continues to have oversight and responsibility for the Sirtex business, reporting to the Board.

As part of Andrew McLean's transfer of employment, Sirtex Medical, Inc. has agreed to pay certain relocation expenses (repayable by Andrew McLean if his employment is voluntarily terminated within one year of commencement of his employment with Sirtex Medical, Inc.). Under his new employment contract with Sirtex Medical, Inc., Andrew McLean is being paid a base annual gross salary of US\$634,000 and continues to be entitled to participate in short and long-term incentive plans. That participation continues to be subject to the absolute discretion of the Board.

## 5 PROFILE OF SIRTEX

Under his new employment contract with Sirtex Medical, Inc., Andrew McLean and Sirtex Medical, Inc. are entitled to terminate Andrew McLean's employment at any time by giving 12 months' written notice. Sirtex Medical, Inc. is also entitled to terminate Andrew McLean's employment for cause without notice in certain circumstances. However, Andrew McLean is no longer subject to the post-employment restraints that were contained in his employment agreement with Sirtex.

The transfer of employment of Andrew McLean to Sirtex Medical Inc., and the commencement of his employment in the US, are not subject to the Scheme becoming Effective. These arrangements have already been implemented.

See section 9.5(b) of this Scheme Booklet for details relating to Andrew McLean's terms of employment following the Scheme becoming Effective.

### 5.4 SIRTEX DIRECTORS' INTENTIONS

If the Scheme becomes Effective, the Sirtex Directors will resign and the Sirtex Board will be reconstituted in accordance with the instructions of the Bidders on the Implementation Date (see section 6.5(d) of this Scheme Booklet). Accordingly, it is not possible for the current Sirtex Directors to provide a statement of their intentions regarding:

- (a) the continuation of the business of Sirtex or how Sirtex's existing business will be conducted;
- (b) any major changes to be made to the business of Sirtex, including any redeployment of the fixed assets of Sirtex; or
- (c) the future employment of the present employees of Sirtex,

in each case, after the Scheme is implemented.

If the Scheme is implemented, Bidco will own all of the Sirtex Shares and the Bidders will be the ultimate controllers of Sirtex. The Sirtex Directors have been advised that the intentions of the Bidders are as set out in section 6 of this Scheme Booklet.

### 5.5 CAPITAL STRUCTURE

As at the Last Practicable Trading Date, the issued securities of Sirtex were as follows:

Type of security	Number on issue
Sirtex Shares	55,773,045
Sirtex Rights	672,080

Refer to section 9.2 of this Scheme Booklet in relation to the impact of the Scheme on Sirtex Rights.

### 5.6 SIRTEX'S SUBSTANTIAL SHAREHOLDERS

As extracted from filings released on ASX, in each case prior to the Last Practicable Trading Date, the following persons were substantial holders of Sirtex Shares:

Substantial holder	Number of Sirtex Shares	Voting power
UBS Group AG and its related bodies corporate	4,192,424	7.52%
OMNI Partners LLP	3,983,943	7.14%
Mitsubishi UFJ Financial Group, Inc.	3,765,199	6.75%
Morgan Stanley and its subsidiaries	3,765,199	6.75%
Macquarie Group Limited and its controlled bodies corporate	3,535,130	6.33%
Hanate Pty Ltd	2,812,822	5.04%

### 5.7 RECENT SIRTEX SHARE PRICE PERFORMANCE

Entry into the Scheme Implementation Deed was announced to the market after close of ASX trading on Thursday, 14 June 2018. The last recorded closing price for Sirtex Shares on ASX before that announcement was \$29.64 (on 14 June 2018).

Immediately prior to that announcement, Sirtex was party to a scheme implementation deed with Varian to implement the Varian Scheme. Over the 12 months before the announcement of the Varian Scheme on 30 January 2018, Sirtex Shares traded between a



high of \$18.83 on 29 January 2018 and a low of \$10.75 on 18 May 2017. On the last trading day before the announcement of the Varian Scheme, the Sirtex Share price closed at \$18.83. On the day after announcement of the Varian Scheme, the Sirtex Share price closed at \$27.45.

Sirtex first announced the receipt of a competing proposal to the Varian Scheme that ultimately eventuated in the proposed Scheme on 4 May 2018. From the day after the announcement of the Varian Scheme to the day prior to that announcement, the closing price of Sirtex Shares ranged between \$27.32 and \$27.92. From the date of that announcement until the date of announcement of entry into the Scheme Implementation Deed with the Bidders, the closing price of Sirtex Shares ranged between \$28.94 and \$29.84.

On the last trading day before the announcement of the proposed Scheme, the Sirtex Share price closed at \$29.62. On the day after announcement of the proposed Scheme, the Sirtex Share price closed at \$31.00.

The closing price of Sirtex Shares on ASX on 27 July 2018, being the Last Practicable Trading Date, was \$32.00, being a discount of 4.8% to the Scheme Consideration of \$33.60 for each Sirtex Share.<sup>1</sup>

The following chart highlights the movements in the Sirtex Share price for the period from 30 January 2017 (12 months prior to announcement of the Varian Scheme) until 27 July 2018, being the Last Practicable Trading Date.



### 5.8 HISTORICAL FINANCIAL INFORMATION

#### (a) Basis of preparation

This section 5.8 presents summary financial information in relation to Sirtex for the purpose of this Scheme Booklet. The information has been extracted from Sirtex's financial results for the half year ended 31 December 2017, and its audited financial statements for the financial years ended 30 June 2016 and 30 June 2017.

The financial information contained in this section is presented in an abbreviated form and may not contain all the disclosures, presentation, statements or comparatives that are usually provided in an annual report prepared in accordance with the Corporations Act, and should therefore be read in conjunction with the financial statements for the respective periods, including the description of accounting policies contained in those financial statements and the notes to those financial statements. A full description of Sirtex's accounting policies can be found in its annual financial report for FY2017.

Sirtex's full financial accounts, including all notes to those accounts, can be found in:

- the Sirtex Appendix 4E and the 2016 Annual Financial Report (released to the ASX on 24 August 2016);
- the Sirtex Appendix 4E and the 2017 Annual Financial Report (released to the ASX on 23 August 2017); and
- The Sirtex Appendix 4D and the Interim Report for the half year ended 31 December 2017 (released to the ASX on 21 February 2018).

Copies of these reports can be found on ASX's website at [www.asx.com.au](http://www.asx.com.au) and the Sirtex website at [www.sirtex.com](http://www.sirtex.com).

<sup>1</sup> Disregarding any Permitted Dividend.

## 5 PROFILE OF SIRTEX

### (b) Sirtex historical consolidated statement of profit or loss

Below is a summary of Sirtex's consolidated statements of profit or loss or other comprehensive income for the financial years ended 30 June 2016 and 30 June 2017 and for the six months ended 31 December 2017.

\$'000	Year ended 30 June 2016	Year ended 30 June 2017	Half year ended 31 December 2017
Revenue from the sale of goods	232,492	234,282	109,396
Cost of sales	(35,287)	(36,177)	(17,726)
<b>Gross profit</b>	<b>197,205</b>	<b>198,105</b>	<b>91,670</b>
Other revenue and income	4,328	2,814	1,100
Operating expenses	(129,856)	(146,373)	(57,084)
Impairment of intangibles	-	(90,541)	-
Other expenses and foreign exchange losses	(1,679)	(4,959)	(2,517)
<b>(Loss)/profit before income tax</b>	<b>69,998</b>	<b>(40,954)</b>	<b>33,169</b>
Income tax benefit/(expense)	(16,416)	14,697	(9,616)
<b>(Loss)/profit for the year</b>	<b>53,582</b>	<b>(26,257)</b>	<b>23,553</b>
Items that may be reclassified subsequently to profit or loss			
Foreign currency translation (net of tax) of foreign operations	464	(713)	1,404
<b>Total comprehensive (loss)/income for the year attributable to members of the parent entity</b>	<b>54,046</b>	<b>(26,970)</b>	<b>24,957</b>

Note: For the half year ended 31 December 2017 quality assurance expenses were reclassified from an operating expense to be a cost of sales. In the summary of Sirtex's consolidated statements of profit or loss or other comprehensive income for the financial years ended 30 June 2016 and 30 June 2017, \$2.218m and \$2.232m of quality assurance expenses were included in operating expenses.

**(c) Sirtex historical consolidated statement of financial position**

Below is a summary of Sirtex's consolidated statement of financial position as at 30 June 2016, 30 June 2017 and 31 December 2017.

\$'000	30 June 2016	30 June 2017	31 December 2017
<b>Assets</b>			
<b>Current Assets</b>			
Cash and cash equivalents	21,025	50,349	42,808
Other short-term deposits	86,000	68,000	50,000
Trade and other receivables	42,272	36,976	34,932
Inventories	1,918	1,993	2,382
Other financial assets	1,687	1,575	1,780
Other current assets	4,212	3,583	2,775
<b>Total - Current Assets</b>	<b>157,114</b>	<b>162,476</b>	<b>134,677</b>
<b>Non-Current Assets</b>			
Property, plant and equipment	13,987	12,045	11,104
Intangible assets	82,821	9,436	9,147
Other non-current assets	-	-	521
Deferred tax assets	7,795	10,165	9,416
<b>Total - Non-Current Assets</b>	<b>104,603</b>	<b>31,646</b>	<b>30,188</b>
<b>Total Assets</b>	<b>261,717</b>	<b>194,122</b>	<b>164,865</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Trade and other payables	28,090	26,433	16,418
Current tax liabilities	7,239	8,412	6,383
Short-term provisions	7,009	7,972	9,192
<b>Total - Current Liabilities</b>	<b>42,338</b>	<b>42,817</b>	<b>31,993</b>
<b>Non-Current Liabilities</b>			
Long-term provisions	1,153	919	1,062
Deferred tax liabilities	24,722	919	663
<b>Total - Non-Current Liabilities</b>	<b>25,875</b>	<b>1,838</b>	<b>1,725</b>
<b>Total Liabilities</b>	<b>68,213</b>	<b>44,655</b>	<b>33,718</b>
<b>Net Assets</b>	<b>193,504</b>	<b>149,467</b>	<b>131,147</b>
<b>Equity</b>			
Issued capital	32,684	34,792	7,847
Reserves	6,656	3,257	5,056
Retained earnings	154,164	111,418	118,244
<b>Total - Equity</b>	<b>193,504</b>	<b>149,467</b>	<b>131,147</b>

**(d) Sirtex historical consolidated statement of cash flows**

Below is a summary of Sirtex's consolidated statements of cash flow for the financial years ended 30 June 2016 and 30 June 2017 and for the six months ended 31 December 2017.

\$'000	Year ended 30 June 2016	Year ended 30 June 2017	Half year ended 31 December 2017
<b>Cash flows from operating activities</b>			
Receipts from customers	225,153	239,375	110,813
Payments to suppliers and employees	(153,992)	(177,823)	(80,002)
Interest received	2,184	2,611	1,117
Net income tax paid	(8,134)	(8,191)	(11,155)
<b>Net cash provided by operating activities</b>	<b>65,211</b>	<b>55,972</b>	<b>20,833</b>
<b>Cash flows from investing activities</b>			
Utilisation/(investment) in other short-term deposits	(34,000)	18,000	18,000
Proceeds from plant and equipment	137	-	-
Purchase of plant and equipment	(1,718)	(1,239)	(220)
Purchase of intangible assets	(19,196)	(21,701)	(385)
<b>Net cash used by investing activities</b>	<b>(54,777)</b>	<b>(4,940)</b>	<b>17,395</b>
<b>Cash flows from financing activities</b>			
Share buy-back	-	(2,873)	(27,127)
Payment of dividends	(11,432)	(17,306)	(16,727)
<b>Net cash used by financing activities</b>	<b>(11,432)</b>	<b>(20,179)</b>	<b>(43,854)</b>
<b>Net increase/(decrease) in cash held</b>	<b>(998)</b>	<b>30,853</b>	<b>(5,626)</b>
<b>Cash and cash equivalents at beginning of financial year</b>	<b>21,941</b>	<b>21,025</b>	<b>50,349</b>
<b>Effect of exchange rate fluctuations on cash held</b>	<b>82</b>	<b>(1,529)</b>	<b>(1,915)</b>
<b>Cash and cash equivalents at end of financial year</b>	<b>21,025</b>	<b>50,349</b>	<b>42,808</b>

**5.9 MATERIAL CHANGES IN FINANCIAL POSITION OF SIRTEX**

To the knowledge of the directors of Sirtex, the financial position of Sirtex has not materially changed since 31 December 2017, as reported in the Sirtex Interim Report for the half year ended 31 December 2017, other than:

- the accumulation of profits in the ordinary course of trading;
- as disclosed to ASX by Sirtex; or
- as disclosed in this Scheme Booklet.

A copy of the Sirtex Interim Report is available on Sirtex's website ([www.sirtex.com](http://www.sirtex.com)).

**5.10 OUTLOOK**

On 22 May 2018, Sirtex released an announcement on ASX that provided the following commentary on outlook:

*As previously announced to the market, Sirtex's first half 2018 financial year dose sales were relatively flat, reflecting a 0.4% decline versus the prior corresponding period (pcp). Through the majority of the second quarter of FY18, Sirtex experienced positive momentum in dose sales. Subsequent to the announcement of the Varian Scheme, dose sales have not met internal expectations.*

- *Worldwide dose sales for the period 1 January to 30 April 2018 were 3,755, down 10.6% versus the pcp.*
- *Worldwide dose sales from the period 1 July 2017 to 30 April 2018 were 9,778, down 4.6% versus the pcp.*

*Andrew McLean, the Chief Executive Officer of Sirtex said "Since the announcement of the Varian Scheme, Sirtex has experienced uncertainty and distraction, and this has contributed to dose sales being below expectations. As a result, our second half dose sales are expected to be relatively flat versus the first half. We believe once the current process has been resolved, the recent growth initiatives implemented will drive positive momentum, and market growth rates are still favourable."*

*Sirtex now anticipates that FY18 underlying EBITDA<sup>2</sup> will be at the lower end of the \$75-85 million guidance previously issued.*

2. Underlying EBITDA excludes costs associated with the acquisition process, legal costs associated with the shareholder class action and unrealised / realised FX gains / losses.

As at the date of this Scheme Booklet, to the knowledge of the Sirtex Directors, Sirtex's outlook has not materially changed since that announcement.

### 5.11 RISKS RELATING TO SIRTEX'S BUSINESS

There are existing risks relating to Sirtex's business and an investment in Sirtex which will continue to be relevant to Sirtex Shareholders if the Scheme does not become Effective. A summary of the key risks relating to Sirtex's business and an investment in Sirtex is set out in section 7 of this Scheme Booklet.

### 5.12 CLASS ACTION AND OTHER LITIGATION

Sirtex is from time to time involved in disputes and litigation.

As at the date of this Scheme Booklet, Sirtex is the respondent (i.e. the defendant) to a representative proceeding (commonly known as a class action) being brought against it in the Federal Court of Australia. The current class action proceeding is a consolidation of two separate class actions initiated by Pawel Kuterba and Todd Hayward in 2017, which were formally consolidated by order of the Court on 30 April 2018.

The consolidated proceeding is said to concern all persons who acquired an interest in Sirtex Shares during the period from 24 August 2016 to 16 December 2016. A broad range of allegations are made against Sirtex in the class action, including alleged contraventions of the Corporations Act, the Australian Securities and Investments Commission Act 2001 (Cth) and the Competition and Consumer Act 2010 (Cth) in relation to misleading and deceptive conduct and breach of continuous disclosure obligations.

The applicants are seeking orders for damages, interest and costs from Sirtex on behalf of themselves and the group members they represent. Prior to the consolidation of the two separate proceedings, one of the representative applicants, Mr Hayward, had previously asserted that the potential value of the claims in his action was in the order of \$277M to \$283M (excluding interest and costs). This amount was based upon a range of assumptions favourable to the applicant and group members in that action. The solicitors in the consolidated proceeding have not formally disclosed the quantum of the applicants' consolidated claim but have asserted \$283M to be a relevant estimate of Sirtex's potential liability.

The Court has set a timetable for the filing of lay and expert evidence and the matter is set down for hearing commencing on 29 April 2019.

Having regard to the status of the proceeding, the current pleadings and other presently available information, Sirtex believes that any potential liability arising out of the class action cannot be reliably assessed or estimated at this point in time.

Sirtex is vigorously defending the class action and will continue to incur legal costs in doing so.

Nonetheless, there is a risk that a judgment may be entered against Sirtex or a settlement reached in the proceeding, requiring Sirtex to pay compensation to the applicants and the class members.

The class action also represents a reputational risk to Sirtex given the nature and seriousness of the allegations and issues involved.

Other than as described in this section 5.12, to the best knowledge of the Sirtex Directors and senior management, Sirtex is not involved in any litigation or dispute which is material in the context of Sirtex and its subsidiaries taken as a whole.

### 5.13 PUBLICLY AVAILABLE INFORMATION ABOUT SIRTEX

Sirtex is a listed disclosing entity for the purpose of the Corporations Act and as such is subject to regular reporting and disclosure obligations. Specifically, as a company listed on ASX, Sirtex is subject to Listing Rules which require (subject to some exceptions) continuous disclosure of any information that Sirtex has that a reasonable person would expect to have a material effect on the price or value of Sirtex shares.

ASX maintains files containing publicly disclosed information about all entities listed on ASX. Information disclosed to ASX by Sirtex is available on the ASX's website at [www.asx.com.au](http://www.asx.com.au). Further announcements concerning developments at Sirtex will continue to be made available on this website after the date of this Scheme Booklet.

In addition, Sirtex is required to lodge various documents with ASIC. Copies of documents lodged with ASIC by Sirtex may be obtained from or inspected at an ASIC office.

Sirtex shareholders may obtain copies of the Sirtex Interim Report for the half year ended 31 December 2017 and the Sirtex Annual Report for the financial year ended 30 June 2017 on ASX's website at [www.asx.com.au](http://www.asx.com.au).

Sirtex will also make copies of the Sirtex Interim Report for the half year ended 31 December 2017 and the 2017 Annual Report available, free of charge. Requests can be made by contacting the Sirtex Registry on 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia) between 8:30am and 5:30pm (Sydney time) Monday to Friday, prior to the Effective Date.

A substantial amount of information about Sirtex, including financial information and releases to ASX, is available in electronic form on Sirtex's website at <https://www.sirtex.com>.

# 6

## INFORMATION ABOUT THE BIDDERS AND BIDCO

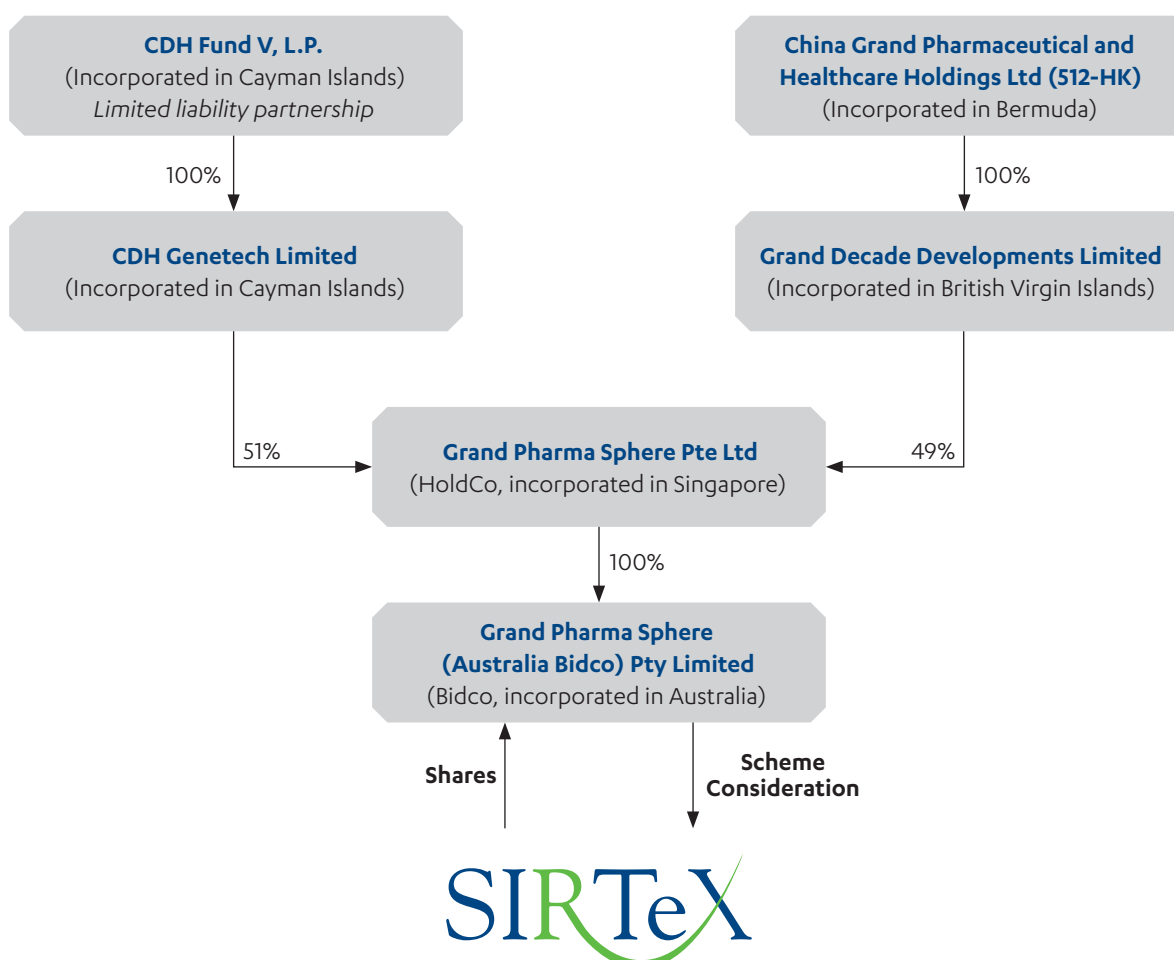
## 6 INFORMATION ABOUT THE BIDDERS AND BIDCO

Information contained in this section 6 has been prepared by the Bidders. The information concerning the Bidders and the intentions, views and opinions contained in this section 6 are the responsibility of the Bidders. Sirtex and its directors and officers do not assume any responsibility for the accuracy or completeness of this information.

### 6.1 OVERVIEW OF BIDCO

#### (a) Ownership structure

The ownership structure illustrated below has been determined by the Bidders for the acquisition of Sirtex. The Bidders have registered and incorporated a holding company in Singapore (**HoldCo**) in which CDH Genetech and CGP own 51% and 49% respectively. HoldCo holds 100% of the Australian incorporated company (**Bidco**) which will acquire the Sirtex Shares.



#### (b) Governance arrangements between the Bidders

As noted above, CDH Genetech and CGP hold 51% and 49% respectively of the ordinary shares in HoldCo, which is the parent company of Bidco. The relationship between CDH Genetech and CGP as shareholders of HoldCo is governed by a shareholders agreement. That agreement regulates the arrangements between CDH Genetech and CGP in relation to the ongoing management and operation of HoldCo and its subsidiaries (including Bidco and, following implementation of the Scheme, Sirtex).

#### (c) Overview of CDH

CDH and its affiliates (**CDH Group**) is a dedicated alternative asset fund manager with approximately US\$20 billion of committed capital under management. CDH Group was established in 2002 and is managed by an experienced team of senior private equity professionals who have worked together for more than 20 years. CDH Group managed funds are anchored by renowned institutional investors, including sovereign wealth funds, pension funds, endowments, and family offices. Sponsored by Government of Singapore Investment Corporation (GIC) and Capital Z, an investment fund backed by Zurich Insurance, CDH Group is headquartered in Singapore and maintains offices in Mainland China, Hong Kong, and Vietnam. CDH Group seeks to partner with exceptional management teams to foster growth and build successful companies. As at the date of this Scheme Booklet, CDH Group has

## 6 INFORMATION ABOUT THE BIDDERS AND BIDCO

invested in more than 190 companies, including more than 60 companies which have successfully listed publicly in the United States, Hong Kong, and China. CDH Group is recognized as a leading healthcare private equity investor with a focus on investing in global companies with growth potential in China.

CDH Genetech is part of the CDH Group. As at the date of this Scheme Booklet, the directors of CDH Genetech are Mr William Shang, Mr Wi Hsu and Mr Lei Li.

### **(d) Overview of CGP**

CGP is a public company listed on the Hong Kong stock exchange with a market capitalization of approximately \$1.97 billion.

CGP develops, manufactures and distributes pharmaceutical products and medical devices to retailers and medical organisations. CGP currently distributes its products to approximately 6,000 hospitals and approximately 30,000 pharmacies and has a sales team of more than 2,000 employees.

CGP also has significant experience in R&D and product commercialisation in China. Such experience dealing with the relevant Chinese regulatory bodies makes CGP an ideal strategic partner for CDH Genetech as it looks to gain regulatory approval to introduce Sirtex's SIR-Spheres to the Chinese market.

As at the date of this Scheme Booklet, the directors of CGP are Mr Liu Chengwei, Mr Hu Bo, Dr Shao Yan, Dr Niu Zhanqi, Ms Tsoi Wan So, Winnie and Dr Pei Geng.

### **(e) Acquisition rationale and strategy**

The Bidders recognise Australia's leadership in medical research and a world-class regulatory system and plans to invest in Sirtex to ensure its continued success and enhance its growth prospects globally in existing and new markets.

The Bidders are committed to leveraging their extensive experience in China's healthcare market to support Sirtex's existing management and employees to grow the business in new markets. In particular, the Bidders see significant potential to introduce Sirtex's liver cancer treatment product, SIR-Spheres, into China. Liver cancer is a leading cause of death in China, and China alone accounts for over half of the world's population of liver cancer patients. However, the effectiveness of prevailing treatments is limited, and Chinese patients have fewer treatment options than those in developed countries.

Together the Bidders consider that they are ideally positioned to grow Sirtex's existing global business and unlock the potential of SIR-Spheres in China. CDH is recognised as a leading healthcare private equity investor in China and has helped many of its healthcare portfolio companies achieve high growth in the region, whilst CGP has significant experience in R&D and product commercialization in China and is able to leverage its well-established distribution network.

Whilst the Bidders have identified significant opportunities for geographic expansion, particularly in China, they also intend to build on Sirtex's strong foundations in existing markets.

## 6.2 OVERVIEW OF HOLDCO

### **(a) General**

HoldCo is a Singapore private company established on 19 July 2018 by CDH Genetech and CGP as the ultimate holding company for the Bidders' respective interests in Sirtex on and from implementation of the Scheme. As at the date of this Scheme Booklet, HoldCo does not conduct any other business, though it is not limited by its constituent documents from doing so in future.

As at the date of this Scheme Booklet, CDH Genetech and CGP own 51% and 49% of the ordinary shares of HoldCo respectively.

### **(b) Directors of HoldCo**

As at the date of this Scheme Booklet, the directors of HoldCo are as follows: Minfeng Wu and Chen Zhenzhi (being nominees of CDH Genetech) and Chao Zhou (being the nominee of CGP).

#### *Mr Minfeng Wu*

Since 2012, Mr Wu has been with CDH Investments as an Investment Professional on the Private Equity team. His current position is Executive Director, where he is responsible for sourcing, executing, monitoring and divestment management for private equity investments under CDH managed funds. Prior to his current role, Mr Wu was a Senior Manager at CITIC Capital (2009-2012) and was a Senior Consultant at the Boston Consulting Group (2004-2007). Mr Wu holds a Bachelor in International Finance from Fudan University (2001), as well as a Master Of Business Administration from the Wharton School of the University of Pennsylvania (2009).

#### *Mr Zhenzhi Chen*

Since 2017, Mr Chen has been with CDH Investments as Vice President of Legal, Compliance and Risk Management Department where he looks after the compliance function in Singapore. Prior to his current role, Mr Chen was Chief Compliance Officer at Duxton Asset Management Pte Ltd (2013-2017) and was a Compliance Manager at China International Capital Corporation (2011-2012). Before that, Mr Chen worked in the Compliance team at Fullerton Fund Management Company (2008-2011). Mr Chen holds a Bachelor in Business Management from Royal Melbourne Institute of Technology (2006).



## 6 INFORMATION ABOUT THE BIDDERS AND BIDCO

*Mr Chao Zhou*

Since 2016, Mr Zhou has held the position of Senior Manager in the internal legal security department of CGP. Prior to his current role, Mr Zhou held the position of Manager (2014 - 2016) and Management Trainee (2013 - 2014) separately in the internal legal security department of CGP. Mr Zhou holds a Bachelor in Law from the Ocean University of China (2011), as well as a Masters in International Law from the University of International Business and Economics (2013).

### 6.3 OVERVIEW OF BIDCO

#### (a) General

Bidco is an Australian proprietary company established on 23 July 2018 for the purpose of receiving the transfer of the Scheme Shares and acting as the Bidders' holding company of its interests in Sirtex on and from implementation of the Scheme. Upon implementation of the Scheme, Bidco will hold all of the Scheme Shares.

Bidco is wholly owned by HoldCo. As at the date of this Scheme Booklet, CDH Genetech and CGP own 51% and 49% of the ordinary shares of HoldCo respectively.

#### (b) Directors of Bidco

As at the date of this Scheme Booklet, the sole director of Bidco is Mr Andrew Metcalfe, an Australian resident.

### 6.4 FUNDING ARRANGEMENTS FOR THE SCHEME CONSIDERATION

#### (a) Cash consideration

If the Scheme becomes Effective and is implemented, holders of Scheme Shares will be entitled to receive \$33.60 in cash per Sirtex share held on the Scheme Record Date less any Permitted Dividends paid prior to the Implementation Date. Based on the number of Sirtex Shares and Sirtex Rights currently outstanding, the aggregate amount of cash payable by the Bidders to holders of Sirtex Shares (including Sirtex Shares issued as a result of the vesting and exercise of the Sirtex Rights currently on issue) in connection with the Scheme will be approximately \$1.90 billion.

Pursuant to the Deed Poll, the Bidders and Bidco have undertaken in favour of each Scheme Shareholder to pay, or procure the payment of, an amount equal to the aggregate Scheme Consideration payable to all Scheme Shareholders in a trust account operated by or on behalf of Sirtex as trustee for the Scheme Shareholders, subject to and in accordance with the Scheme. For further details regarding the obligations of the Bidders and Bidco, see sections 4 and 9.1 of this Scheme Booklet.

#### (b) Overview of funding arrangements

The Bidders intend to fund the Scheme Consideration from the following sources:

Source of Funds		\$ million
CDH Genetech equity contribution	(i)	493.2
CGP equity contribution	(ii)	473.9
Bank of China Facilities	(iii)	933.3
<b>Scheme Consideration<sup>1</sup></b>		<b>1,900.4</b>

- (i) CDH Genetech has a binding commitment in place to fund its equity component of the Transaction. The funding will be provided from CDH Fund V L.P. which currently has US\$605 million of uncommitted capital.
- (ii) CGP intends to fund its equity component of the Scheme Consideration by raising new equity from its existing shareholders via a rights issue under which its major shareholders, controlling approximately 60% of the equity, have irrevocably undertaken to participate. The rights issue was announced by CGP to HKEX on 4 July 2018 and is expected to be completed on 5 September 2018. To the extent there is a shortfall in the equity raise, CGP has entered into a legally binding commitment letter with Sun Hung Kai Investment Services Limited pursuant to which CGP and Sun Hung Kai Investment Services Limited have agreed to enter into formal loan documentation to provide debt facilities to CGP to enable it to draw down up to 100% of its equity component of the Scheme Consideration, subject to various conditions being satisfied (**Sun Hung Kai Facilities**). As part of the commitment letter, CGP and Sun Hung Kai Investment Services Limited have agreed a term sheet in respect of the Sun Hung Kai Facilities. Sun Hung Kai Investment Services Limited has obtained credit committee approval to the terms of the Sun Hung Kai Facilities. CGP expects that the formal loan and security documentation under which the Sun Hung Kai Facilities will be provided will be in place in sufficient time to enable draw down under those facilities to occur (if required) by no later than the Business Day prior to the date of the Scheme Meeting.

<sup>1</sup> Represents the Scheme Consideration before any permitted dividends based on the number of Sirtex Shares and Sirtex Rights outstanding as at the date of the Scheme Implementation Deed.

## 6 INFORMATION ABOUT THE BIDDERS AND BIDCO

- (iii) CDH Genetech has entered into a legally binding commitment letter with Bank of China Limited Macau Branch pursuant to which CDH Genetech and Bank of China Limited Macau Branch have agreed to enter into formal loan and security documentation to provide debt facilities to HoldCo for a maximum aggregate amount of US\$700 million (approximately \$933 million), subject to various conditions being satisfied (**Bank of China Facilities**). As part of the commitment letter, CDH Genetech and Bank of China Limited Macau Branch have agreed a term sheet in respect of the Bank of China Facilities. Bank of China Limited Macau Branch has obtained credit committee approval to the terms of the Bank of China Facilities. CDH Genetech expects that the formal loan and security documentation under which the Bank of China Facilities will be provided will be in place in sufficient time to enable draw down under those facilities to occur by no later than the Business Day prior to the date of the Scheme Meeting.

On the basis of the arrangements described above, the Bidders are of the opinion that they have a reasonable basis for forming the view that they will be able to satisfy their obligation to pay the Scheme Consideration, as well as the costs associated with the Scheme. Additionally:

- (i) as at 28 June 2018, the Bidders have paid a total amount of A\$220 million into the Deposit Account – this amount will form part payment of the aggregate Scheme Consideration if the Scheme becomes Effective; and
- (ii) the Bidders are required under the Scheme Implementation Deed to pay the balance of the Scheme Consideration of approximately A\$1,680 million into the Deposit Account no later than one Business Day before the Scheme Meeting.

If the Scheme becomes Effective, on the Business Day immediately prior to the Implementation Date, the Bidders and Sirtex will give an irrevocable direction to the Deposit Holder to release all of the funds in the Deposit Account (other than the accrued interest, which will be released to the Bidders) into the Trust Account. The aggregate Scheme Consideration will then be paid to Scheme Shareholders from the Trust Account in accordance with the terms of the Scheme.

### 6.5 BIDDERS' AND BIDCO'S INTENTIONS IF THE SCHEME IS IMPLEMENTED

This section sets out the current intentions of the Bidders and Bidco in relation to:

- the continuation of the business of Sirtex;
- any major changes to be made to the business of Sirtex, including any redeployment of fixed assets of Sirtex; and
- the future employment of present employees of Sirtex,

in circumstances where the Scheme is implemented.

These intentions have been formed on the basis of facts and information concerning Sirtex and the general business environment which are known to the Bidders and Bidco at the time of preparing this Scheme Booklet. Final decisions about any major changes to the future commercial operating plan and management organisation for Sirtex, will only be made by the Bidders and Bidco in light of all material facts and circumstances at the relevant time. Accordingly, statements set out in this section 6.5 are statements of current intention only and may change as new information becomes available or circumstances change.

#### (a) Sirtex to be delisted

If the Scheme is implemented, the Bidders will cause Sirtex to request ASX to remove Sirtex from ASX's official list.

#### (b) Corporate structure

If the Scheme is implemented, Sirtex will become wholly-owned through an Australian subsidiary of the Singaporean HoldCo, of which CDH Genetech and CGP will hold 51% and 49% respectively. This structure is set out in section 6.1(a).

#### (c) Operations and continuation of business

The Bidders intend to relocate Sirtex's corporate headquarters, research and development function and management of its IT functions to the United States. The Bidders consider that this relocation makes strategic sense as a significant percentage of Sirtex's global revenue is derived from the Americas, the majority of Sirtex's clinician customers are based within the US, and Sirtex owns and operates a manufacturing facility in close proximity to its US headquarters. The Bidders also note that (irrespective of the outcome of the Scheme) Sirtex's CEO, Mr Andrew McLean, is relocating from the Sydney corporate headquarters to Sirtex's Americas office just outside Boston, Massachusetts.

The Bidders intend to build on Sirtex's strong foundations in existing markets and will maintain all of Sirtex's existing manufacturing facilities given the quality of Sirtex's existing production capacity and the importance of getting the product to market quickly.

The Bidders are also committed to supporting Sirtex's existing management and employees to grow the business in new markets, particularly in China, where the Bidders see significant potential to introduce Sirtex's SIR-Spheres as a treatment option for liver cancer.

Under the terms of the commitment letter that CDH Genetech has entered into with Bank of China Limited Macau Branch in respect of the Bank of China Facilities, CDH Genetech has agreed that members of the Sirtex Group accede to the Bank of China Facilities as guarantors and provide security over their assets in favour of Bank of China Limited Macau Branch.

#### (d) Board of directors

If the Scheme is implemented, Bidco will replace the members of the Sirtex Board and each of its subsidiaries with nominees of Bidco (who have yet to be identified).

### (e) Management and employees

The Bidders view the existing Sirtex management as an integral part of the business and critical to driving future growth of the business. The Bidders currently intend to retain Sirtex's existing management team and employees.

Nevertheless, the Bidders will evaluate future management and employment requirements as appropriate and with regard to the operation of the business in the future.

### 6.6 BIDCO'S INTERESTS AND DEALINGS IN SIRTEX SHARES

#### (a) Relevant Interest in Sirtex Shares

As at the date of this Scheme Booklet, none of the Bidders, Bidco, any of its related bodies corporate or any of their respective associates has any Relevant Interest in any Sirtex Shares or Sirtex Rights or any voting power in Sirtex.

#### (b) No dealings in Sirtex Shares in the previous four months

Except for the consideration to be provided under the Scheme and as described in this Scheme Booklet, none of the Bidders, Bidco, any of their related bodies corporate or any of their respective associates has provided or agreed to provide consideration for any Sirtex Shares or Sirtex Rights under any transaction during the period of four months before the date of this Scheme Booklet.

#### (c) Benefits to holders of Sirtex Shares in previous four months

During the four months before the date of this Scheme Booklet, none of the Bidders, Bidco, any of their related bodies corporate or any of their respective associates have given or offered to give or agreed to give a benefit to another person where the benefit was likely to induce the other person or an associate to:

- vote in favour of the Scheme; or
- dispose of Sirtex Shares,

where the benefit was not offered to all Sirtex Shareholders.

### 6.7 OTHER MATERIAL INFORMATION

Other material information relating to the Bidders and Bidco in relation to the Scheme is set out below.

#### (a) Regulatory approvals

On 3 July 2018, the Treasurer of the Commonwealth of Australia (through the Foreign Investment Review Board (**FIRB**)) issued a no objection notification under the FATA stating that the Commonwealth Government does not object to Bidco acquiring all of the Sirtex Shares under the Scheme, subject only to FIRB's standard tax conditions and to a condition requiring the Bidders to notify FIRB of the terms of its debt funding arrangements within 60 days of the loan being made. Sirtex announced to ASX on 3 July 2018 the receipt of FIRB approval.

On 13 July 2018, the United States Federal Trade Commission notified Sirtex and the Bidders that it had granted the parties' request for early termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, in respect of the Scheme.

Receipt of these approvals in respect of the Scheme satisfies two of the key conditions to implementation of the Scheme.

CFIUS has the authority to review on national security grounds any transaction whereby a non-US party acquires control of a US business. An acquisition by a non-US party of a non-US company with US business is within the scope of CFIUS's review. CFIUS actions may range from clearance, to clearance with agreed mitigation arrangements, or referral to the President to block the transaction.

CFIUS approval is not a condition precedent to implementation of the Scheme. However, in the course of the CFIUS investigation, CFIUS could order Sirtex and the Bidders not to implement the Scheme pending the completion of its review (resulting in a legal restraint being imposed that could delay or prevent the Scheme from being implemented) or require Sirtex and the Bidders to accept such a standstill as a condition precedent to allowing the withdrawal and refiling of the joint notification. See section 3 for further details.

#### (b) Benefits to Sirtex officers

Except for the consideration to be provided under the Scheme and as described in this Scheme Booklet, none of the Bidders, Bidco, any of their related bodies corporate or their respective associates will be making any payment or giving any benefit to any current officers of Sirtex as compensation or consideration for, or otherwise in connection with, their resignation, retirement or removal from their respective positions as officers of Sirtex if the Scheme is implemented.

#### (c) Funding of Bidder Facilitation / Break Fee

Following the entry into the Scheme Implementation Deed and the subsequent formation of Bidco, the Bidders have agreed as between themselves that Bidco (which is ultimately owned 51% by CDH Genetech and 49% by CGP) will be responsible for CGP's obligation under the Scheme Implementation Deed to pay the Bidder Facilitation / Break Fee.

#### (d) No other information

Except as set out in this Scheme Booklet, there is no other information regarding the Bidders, Bidco, or its intentions regarding Sirtex, that is material to the making of a decision by a Sirtex Shareholder in relation to the Scheme, being information that is within the knowledge of the Bidders or Bidco as at the Last Practicable Trading Date, which has not been previously disclosed to Sirtex Shareholders.

# 7

WHAT IF THE  
SCHEME IS NOT  
IMPLEMENTED?

## 7 WHAT IF THE SCHEME IS NOT IMPLEMENTED?

### 7.1 WHAT IF THE SCHEME IS NOT IMPLEMENTED

If the Scheme is not implemented, Sirtex will continue to operate on a stand-alone basis. As such, Sirtex will remain listed on the ASX and you will retain your Sirtex Shares and they will not be acquired by Bidco. The other immediate consequences of the Scheme not being implemented are set out section 4.13 of this Scheme Booklet.

### 7.2 STRATEGY AND INTENTIONS FOR SIRTEX IF THE SCHEME DOES NOT PROCEED

Sirtex intends to continue its current strategic plans and operate on a stand-alone basis should the Scheme not proceed. The current strategic plan targets operational efficiency and organic expansion, patient registries, clinical studies, analysis of clinical study results, as well as core business aligned research and development.

- Operational
  - Efficiency and productivity gains
  - Becoming easier to do business with
- Four core areas of organic expansion
  - Geographical
  - New segments within existing geographies
  - Reimbursement
  - Indication expansion

### 7.3 RISKS ASSOCIATED WITH SIRTEX IF THE SCHEME IS NOT IMPLEMENTED

If the Scheme is not implemented Sirtex will remain as a listed company and as such Sirtex will continue to be subject to various risk factors. Some notable risk factors that could have an impact on Sirtex and therefore a continued investment in Sirtex Shares are listed below. The risks described below are not to be taken as exhaustive or listed in any order of importance. The risks described below as well as other risks not described below could, in the future, materially and adversely affect the financial performance of Sirtex and the value of Sirtex Shares.

In considering the Scheme, you should be aware that there are a number of risk factors, both general and specific associated with an investment in Sirtex.

This section outlines:

- general investment risks (refer to section 7.4 of this Scheme Booklet);
- Sirtex specific investment risks (refer to section 7.5 of this Scheme Booklet).

This section 7 is a summary only and does not purport to list every risk that may be associated with an investment in Sirtex now or in the future.

If the Scheme is implemented you will receive the Scheme Consideration, will cease to be a Sirtex Shareholder and will also no longer be exposed to the risks set out below.

These risk factors do not take into account the individual investment objectives, financial situation, position or particular needs of Sirtex Shareholders. If you do not understand any part of this Scheme Booklet or are in any doubt as to how to vote in relation to the Scheme, it is recommended that you consult your legal, financial, taxation or other professional adviser before deciding how to vote. You should carefully consider the risk factors discussed in this section 7, as well as the other information contained in this Scheme Booklet before voting on the Scheme.

### 7.4 GENERAL INVESTMENT RISKS

As with many listed companies, Sirtex is subject to a number of general risks that could materially adversely affect its financial position, assets and liabilities, reputation, profits, prospects and market price and/or value of Sirtex Shares and/or dividends that may be paid by Sirtex. These could include any of the following:

- changes in investor sentiment and overall performance of the Australian and international stock markets;
- changes in general business, industry cycles and economic conditions including inflation, interest rates, exchange rates, commodity prices, employment levels and consumer demand;
- changes in government fiscal, monetary and regulatory policies, including foreign investment;
- government or political intervention in export and import markets (including sanction controls and import duties) and the disruptions this causes to supply and demand dynamics;
- loss of key personnel;

## 7 WHAT IF THE SCHEME IS NOT IMPLEMENTED?

- interruptions at Sirtex's workplaces arising from industrial disputes, work stoppages and accidents, which may result in business operations delays;
- natural disasters and catastrophes, whether on a global, regional or local scale; and
- changes in accounting standards which affect the financial performance and position reported by Sirtex.

### 7.5 SPECIFIC RISKS ASSOCIATED WITH YOUR CURRENT INVESTMENT IN SIRTEX

#### **(a) Increased competition and technological obsolescence**

The interventional oncology industry is highly competitive, and includes companies with significantly greater financial, technical, human, research and development, and marketing resources than Sirtex. There is a risk that existing competitors or new entrants may attempt to grow or establish market share or reposition their offerings closer to Sirtex's offerings.

Further, Sirtex's main product SIR-Sphere is subject to technological obsolescence as new cancer treatment products develop and come to market. New cancer treatment products can result in increasing competition.

Any deterioration in Sirtex's competitive position may result in a decline in sales and margins and a loss of market share which could have a material adverse impact on Sirtex's business, operational performance, financial results and growth strategies.

#### **(b) Relationships with key distributors and customers**

The performance of Sirtex is reliant on its relationships with distributors and key customers. Loss of relationships or a change in the size and/or structure of the SIRT market may impact Sirtex's revenues and profitability in the future. In addition, the loss of relationships with key customers could impact on the Sirtex's future operating and business performance.

#### **(c) Health care insurers and reimbursement**

In both domestic and foreign markets, dose sales of Sirtex's main product SIR-Spheres will continue to be influenced by the availability and amounts of reimbursement of patients' medical expenses by third party payer organisations including government agencies, private health care insurers and other health care payers. There is no assurance that reimbursement of expenses for Sirtex's products currently available will continue to be available in the future, either at all or at the same rates, or that reimbursements will be available in markets that Sirtex seeks to expand to, either at all or without substantial delay.

#### **(d) Protection of intellectual property**

Sirtex relies on a number of patents and intellectual property as part of its core SIR-Spheres technology. Sirtex's intellectual property and know-how are carefully guarded by a number of trademarks, patents and confidentiality agreements. However, these legal measures afford only limited protection and may not provide sufficient protection to prevent the infringement, misuse or misappropriation of Sirtex's intellectual property. Accordingly, this could adversely affect Sirtex's competitive position.

The patents Sirtex owns (and any future applications for or granting of patents) could be challenged, invalidated or circumvented by others and may not be of sufficient scope or strength to provide meaningful protection or commercial advantage. Sirtex's trade secrets, data and know-how could be subject to unauthorised use, misappropriation or unauthorised disclosure.

Competitors or new entrants may seek to copy or emulate Sirtex's intellectual property. While Sirtex may seek to resist any breaches of its intellectual property, there is no guarantee it will be successful in doing so or it may not be economical to do so. This may adversely affect Sirtex's revenue or operating costs.

#### **(e) FX depreciation**

The majority of Sirtex revenues and cost of goods sold are foreign currency denominated so currency depreciation in terms of AUD can impact Sirtex's financial performance and the value of Sirtex Shares. No currency hedging is currently in place.

#### **(f) Quality**

A product quality issue could adversely impact the brand reputation and the brand equity of the products sold by Sirtex and could also expose Sirtex to product liability claims or litigation, resulting in the removal of regulatory approvals and/or monetary damages being awarded against Sirtex. In such event, Sirtex's liability may exceed its insurance coverage. Quality and regulatory controls are embedded in the company, from material sourcing and product design through to manufacturing and distribution, including a number of stringent quality control checks, though there can be no assurance that unforeseen adverse manufacturing defects or other events will not arise.

#### **(g) Business continuity**

Sirtex's sales and profit could be significantly impacted by a major disruption to critical points in the company's supply chain or IT systems. Sirtex has a concentrated list of suppliers and manufacturing facilities, although it has extensive logistics and supply chain planning that reduces the risk of significant business downtime.

### **(h) Litigation and disputes**

Sirtex may be exposed to potential legal claims, disputes and litigation in the future, with respect to its operations, suppliers or customers in the ordinary course of business. Proceedings may result in high legal costs, adverse monetary judgments and/or damage to Sirtex's reputation, which could have an adverse effect on Sirtex and its financial performance.

Sirtex is currently defending a Class Action which could result in a significant award of damages against Sirtex. Further detail relating to this Class Action is set out in section 5.12 of this Scheme Booklet.

### **(i) Compliance with regulations**

The health industry is heavily regulated. As a service provider to this industry, Sirtex is exposed to changes in laws and regulations. Regulations give rise to risks such as:

- increasing cost of compliance with relevant regulations (both directly and indirectly through changing business practices);
- breaches of law;
- criminal and/or civil lawsuits; and
- increased product requirements for Sirtex's products and the inherent development and execution risks.

Any unfavourable changes in laws and regulations have the potential to adversely affect Sirtex's financial performance and operating model.

Further, inadvertently Sirtex may find that it has not complied with regulations in a jurisdiction that the business operates in. A finding of non-compliance with regulations may be detrimental to Sirtex leading to financial penalty and/or reputation damage.

### **(j) Global tax law and company law**

There is the potential for changes to taxation and company laws in jurisdictions in which Sirtex operates. Any change to the current rates of taxes imposed on Sirtex (including in foreign jurisdictions in which Sirtex operates) is likely to affect returns to Sirtex Shareholders.

An interpretation of taxation laws by the relevant tax authority that is contrary to Sirtex's view of those laws may increase the amount of tax to be paid or cause changes in the carrying value of tax assets in Sirtex's financial statements. In addition, any change in tax rules and tax arrangements could have an adverse effect on the level of dividend franking and Sirtex Shareholder returns.

Changes in the tax laws in the jurisdictions in which Sirtex operates may adversely impact its profitability.

### **(k) Brand and reputational risk**

The reputation and brand of Sirtex and its products are important in attracting hospitals, other medical centres and physicians to use Sirtex's products. Any reputation damage or negative publicity around Sirtex or its products could adversely impact on Sirtex's business operations and profitability.

### **(l) Clinical trial failure risk**

Clinical trials required for product candidates or new indications of Sirtex's marketed products are expensive and time-consuming, and their outcome is highly uncertain. If any such trials are delayed or yield unfavourable results, regulatory approval for Sirtex's product candidates or new indications of Sirtex's marketed products may be delayed or become unobtainable.

Clinical trials may produce negative or inconclusive results for many reasons, including, among others, failure of the product candidate to demonstrate safety or efficacy, the development of serious or life-threatening adverse events (or side effects) caused by or connected with exposure to the product candidate, difficulty in enrolling and maintaining subjects in a clinical trial, lack of sufficient supplies of the product candidate, and failure of clinical investigators, trial monitors, contractors, consultants, or trial subjects to comply with the trial plan, protocol, or applicable regulations. A clinical trial may fail because it did not include and retain a sufficient number of patients to detect the endpoint being measured or reach statistical significance. A clinical trial may also fail because the dose(s) of the product candidate included in the trial were either too low or too high to determine the optimal effect of the product candidate.

Sirtex will need to re-evaluate any product candidate that does not test favourably and either conduct new studies, which are expensive and time consuming, or abandon that product development program.

### **(m) Transaction distraction**

Since the announcement of the Varian Scheme, Sirtex has experienced uncertainty and distraction, and this has contributed to a decrease in sales. This uncertainty and distraction may continue until the Scheme is either implemented or terminated, and this could adversely impact on Sirtex's business operations and profitability.

### **(n) Other risks**

Additional risks and uncertainties not currently known to Sirtex may also have a material adverse effect on Sirtex and the information set out above does not purport to be, nor should it be construed as representing, an exhaustive list of the risks affecting Sirtex.

# 8

## TAX CONSIDERATIONS





The Directors  
Sirtex Medical Limited  
Level 33, 101 Miller Street  
North Sydney NSW 2060  
Australia

1 August 2018

### **Scheme of Arrangement - General Australian Tax Implications**

Dear Directors

We have been engaged by Sirtex Medical Limited (the **Company** or **Sirtex** as relevant) to provide a general summary of the Australian income tax, goods and services tax (**GST**), and stamp duty implications for Australian and non-Australian tax resident Shareholders (the **Scheme Shareholders**) who participate in the proposed Scheme of Arrangement (**Scheme**) between Sirtex, CDH Genetech Limited (**CDH Genetech**) and China Grand Pharmaceutical and Healthcare Holdings Limited (**CGP**) (collectively, the **Bidders**), and Scheme Shareholders under which the Bidders will acquire 100% of the Shares in Sirtex (the **Shares**).

This summary has been prepared for inclusion in the Scheme Booklet dated on or about 30 June 2018 to be issued by the Company in respect of the Scheme.

The advice within this report is necessarily general in nature. Scheme Shareholders should obtain, and rely upon, their own independent taxation advice about the consequences of disposing of the Shares having regard to their own specific circumstances.

The categories of Shareholders considered in this summary are limited to individuals, companies (other than life insurance companies), trusts, partnerships and complying superannuation funds that hold their shares on capital account.

This summary does not consider the tax consequences for Shareholders who:

- hold their Shares on revenue account;
- carry on a business of trading in shares;
- are exempt from Australian tax; or
- are subject to Division 230 of the Income Tax Assessment Act 1997 (the Taxation of Financial Arrangements or “TOFA” regime) and have made fair value or reliance on financial reports elections.

This summary is based on the Australian tax law, and our understanding of the practice of the tax authorities, at the time of issue of the Scheme Booklet. The laws are complex and subject to change periodically as is their interpretation by the courts and the tax authorities. This summary is general in nature and is not intended to be an authoritative or complete statement of the applicable law. It does not take into account the tax law of countries other than Australia. The precise implications of ownership or disposal will depend upon each Scheme Shareholder’s specific circumstances.

In providing our tax comments, PricewaterhouseCoopers Securities Ltd has relied on information contained in the Scheme Booklet. PricewaterhouseCoopers Securities Ltd has relied on the accuracy and completeness of the information provided and has not undertaken any procedures to validate or verify the completeness or accuracy of such information. Therefore, PricewaterhouseCoopers Securities Ltd does not accept any responsibility or any liability arising from the inaccuracy or incompleteness of any information provided to us.

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## 1 *Certain income tax consequences of the Scheme for Scheme shareholders*

Under the terms of the Scheme, Scheme Shareholders will be entitled to receive A\$33.60 in cash per Sirtex share (**Scheme Consideration**), subject to all applicable conditions being satisfied or waived and the Scheme being implemented.

### 1.1 *Resident shareholders*

The disposal of a Share by a Scheme Shareholder will be a capital gains tax (**CGT**) event at the time the Scheme Shareholders dispose of their shares to the Bidders under the Scheme (i.e. the Implementation Date).

#### 1.1.1 *Calculation of capital gain or capital loss*

Scheme Shareholders will make a capital gain on the disposal of each of their Sirtex Shares to the extent that the capital proceeds received in respect of the Sirtex Share is more than its cost base. Conversely, Scheme Shareholders will make a capital loss to the extent that the capital proceeds in respect of each of their Sirtex Shares is less than their reduced cost base for those Sirtex Shares.

A net capital gain arises where a taxpayer's capital gains for a year exceed their capital losses for that year, plus any unused capital losses from prior years (subject to the satisfaction of the loss recoupment rules). Any net capital gain will be included in assessable income.

#### 1.1.2 *Capital proceeds*

The capital proceeds should be equal to the cash proceeds from the sale (in this instance, A\$33.60 per share).

#### 1.1.3 *Cost base and reduced cost base*

The cost base (or reduced cost base) of each Sirtex Share held by a Scheme Shareholder will broadly be:

- the amount of money paid, or the value of property given, in order to acquire the Sirtex Share; plus
- any 'incidental costs' as defined in the CGT rules; plus
- any non-capital costs not claimed as an income tax deduction; less
- any previous capital returns made by Sirtex.

#### 1.1.4 *CGT discount*

A CGT discount may be applied against the capital gain where the Scheme Shareholder is an individual, complying superannuation entity or trustee, the Shares have been held for more than 12 months (excluding the day of acquisition and disposal) and certain other requirements have been met. Where the CGT discount applies, any capital gain arising to individuals and entities acting as trustees (other than a trust that is a complying superannuation entity) may be reduced by one-half. For a complying superannuation entity, any capital gain may be reduced by one-third.

Scheme Shareholders will be taken to have disposed of their Shares on the Implementation Date.

#### 1.1.5 *Capital losses*

A capital loss will arise where the reduced cost base of the Share exceeds the capital proceeds from disposal. Capital losses may only be offset against capital gains realised by the Scheme Shareholder in the same income year or future income years, subject to certain loss recoupment tests being satisfied. Capital losses cannot be offset against other assessable income.



Specific capital loss recoupment rules apply to companies to restrict their ability to utilise capital losses in future years in some circumstances. Scheme Shareholders should obtain their own tax advice in relation to the operation of these rules.

### **1.2 Non-resident shareholders**

Scheme Shareholders who are not residents of Australia for income tax purposes and do not hold their Sirtex Shares through a permanent establishment in Australia, should be able to disregard any capital gain or capital loss that would otherwise arise from the disposal of their Sirtex Shares to the Bidders. This is on the basis of advice from Sirtex that the Sirtex Shares will not constitute 'taxable Australian property' at the Implementation Date.

the Bidders should not be required to withhold a portion of the Scheme Consideration payable to Scheme Shareholders who are not residents of Australia for income tax purposes and do not hold their Sirtex Shares through a permanent establishment in Australia as the Shares should not be considered to be 'taxable Australian property'.

### **1.3 Payment of dividend prior to implementation date**

For completeness, we understand that Sirtex does not intend to pay any dividends in the absence of any delay in the anticipated timetable for implementation of the Scheme as set out in the section of this Scheme Booklet titled "Key dates". Accordingly, it is assumed that no dividends will be paid that would have the effect of reducing the \$33.60 scheme consideration.

## **2 Goods and Services Tax**

No GST will be payable by Scheme Shareholders in respect of the disposal of their Sirtex Shares under the Scheme. Scheme Shareholders may however be charged GST on their costs (such as advisor fees) that relate to their participation in the Scheme.

Scheme Shareholders may be entitled to full or partial input tax credits for any GST payable on such costs, but this will depend on each Scheme Shareholder's individual circumstances. Scheme Shareholders should seek independent advice in this regard.

## **3 Stamp Duty**

Under current stamp duty legislation, no stamp duty would ordinarily be payable by Scheme Shareholders on the disposal of the Shares.

\* \* \* \* \*

### **Consent**

PricewaterhouseCoopers Securities Ltd has consented to the inclusion of this tax summary in the Scheme Booklet in the form and context in which it is included.

### **Liability**

The liability of PricewaterhouseCoopers Securities Ltd is limited to the inclusion of this tax summary in the Scheme Booklet. PricewaterhouseCoopers Securities Ltd makes no representation regarding, and has no liability for, any other statements or other material in, or omissions from the Scheme Booklet.

### **Disclaimer**

The information contained in this summary does not constitute "financial product advice" within the meaning of the Corporations Act 2001 (Cth) (Corporations Act). To the extent that this



summary contains any information about a "financial product" within the meaning of the Corporations Act, taxation is only one of the matters that must be considered when making a decision about the relevant financial product.

This material has been prepared for general circulation and does not take into account the objectives, financial situation or needs of any recipient. Accordingly, any recipient should, before acting on this material, consider taking advice from a person who is licensed to provide financial product advice under the Corporations Act. Any recipient should, before acting on this material, also consider the appropriateness of this material having regard to their objectives, financial situation and needs, and consider obtaining independent financial advice.

Yours faithfully

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

Joshua Cardwell  
Authorised Representative of  
PricewaterhouseCoopers Securities Ltd

# 9

## ADDITIONAL INFORMATION

### 9.1 SCHEME IMPLEMENTATION DEED

#### (a) Overview

On 14 June 2018, Sirtex and the Bidders entered into the Scheme Implementation Deed. The key terms of the Scheme Implementation Deed are summarised below.

A full copy of the Scheme Implementation Deed is contained at Annexure B to this Scheme Booklet.

#### (b) Conditions Precedent

Implementation of the Scheme is subject to Conditions Precedent, which must be satisfied or waived (as applicable).

For details of the Conditions Precedent, see clause 3.1 of the Scheme Implementation Deed and section 4.5 of this Scheme Booklet.

If a Condition Precedent is not satisfied or waived by the Second Court Date (including if there is a temporary restraining order, preliminary or permanent injunction or other order of the type that would result in the relevant Condition Precedent not being satisfied as at that date), the Scheme Implementation Deed requires (unless there is no reasonable prospect that the Condition Precedent will be satisfied or waived by the End Date) that the Second Court Date be deferred until such date (not later than the Business Day before the End Date) as reasonably required to enable more time to satisfy the Condition Precedent.

#### (c) Regulatory matters

The Scheme Implementation Deed contains extensive provisions relating to the obligations of the parties in relation to obtaining necessary regulatory approvals and avoiding any legal restraints on implementation of the Scheme. These are set out in clauses 3.2 to 3.4 of the Scheme Implementation Deed. In summary:

- The Scheme Implementation Deed requires the Bidders to apply promptly for FIRB approval (which was obtained on 3 July 2018) and for US anti-trust clearance (with the United States Federal Trade Commission notifying Sirtex and the Bidders on 13 July 2018 that it had granted early termination of the waiting period under the Clayton Act and Premerger Notification Rules in respect of the Scheme), to consult with Sirtex in relation to the applications for, and material correspondence relating to, those approvals, and to offer to the relevant Government Agency, and agree or accept, all undertakings, commitments and conditions reasonably necessary or appropriate in order to obtain the approvals, unless it would be unreasonable to do so.
- Further, the Scheme Implementation Deed requires the Bidders to take (and to cause other members of the Bidder group to take) all steps that are necessary or advisable to avoid or eliminate each and every impediment, or that may be required by any Government Agency with responsibility for antitrust laws, and obtain all regulatory approvals required under antitrust laws, so as to enable the consummation of the Scheme as promptly as practicable (and in any event no later than the End Date).
- While not a Condition Precedent, the Scheme Implementation Deed contains provisions requiring the parties to submit a joint filing to CFIUS and to cooperate with each other in connection with the filing. This was done on 17 July 2018. It also requires:
  - Sirtex to take (and to cause members of the Sirtex Group to take), and the Bidders to take (and to cause each member of the Bidder group, CDH China Management Company Limited, CDH V Holdings Company Limited, Outwit Investments Ltd., Grand (Hong Kong) International Investments Holdings Limited, China Grand Enterprises Inc., Mr. Kaijun Hu and Ms. Tung Chau, and the parents, intermediate parents and ultimate parents thereof, and any other individuals or entities that control any of the foregoing (together, **Bidder Entities**) to take) as promptly as practicable any and all steps that are necessary or advisable to avoid or eliminate each and every impediment, or that may be requested or required by CFIUS or any other Government Agency of the United States; and
  - the Bidders to agree, at a time and in a form reasonably determined by Sirtex, to (and to cause each Bidder Entity to agree to) propose, offer, negotiate, accept, commit to, consent to and effect, by any consent decrees, mitigation agreements, letters of assurance, hold separate orders, trusts, or otherwise (and the entry into agreements with, and submission to orders of, CFIUS or the relevant Government Agency), that are necessary, advisable, or requested by CFIUS, in connection with obtaining CFIUS clearance,

so as to enable the consummation of the Scheme as promptly as practicable (and in any event no later than the End Date), including any such actions or arrangements which require:

- (1) the sale, divestiture, licence or disposition of any constituent element of the Sirtex US business;
- (2) operational or other restrictions or limitations on the Sirtex US business;
- (3) operational or other restrictions on the rights and ability of any of the Bidder Entities to have access to, or participate in the management of, the Sirtex US business;
- (4) the holding of the Sirtex US business or a constituent element thereof in a proxy agreement, voting trust, or other arrangement, under a structure acceptable to CFIUS and or the relevant Government Agency of the United States, that effectively delegates control thereof to a third party while the Bidders retain ownership; and
- (5) the outsourcing to a third party of any US operations of the Sirtex US business involving (i) US patient data collection, management or retention and/or (ii) the US manufacturing and any other US activities involving the handling of radioactive materials by the Sirtex US business,

provided that nothing contained in the Scheme Implementation Deed shall require any member of the Sirtex Group or the Bidder Entities to agree to or effect any such action or arrangement with respect to Sirtex or the Bidders, to the extent that such action or arrangement:

- is not conditioned upon the occurrence of the implementation of the Scheme or is effective prior to the implementation of the Scheme; or
- requires a matter set out in paragraphs 1 to 4 above and would or would be reasonably likely to result, individually or in the aggregate with all other such actions or arrangements, in a reduction of the consolidated sales of Sirtex during the 12 month period commencing on the proposed implementation of such action or arrangement of US\$50 million or more.

In addition, under the terms agreed between the parties in a separate undertaking, if CFIUS raises any issues or concerns about CGP's equity participation that could be addressed to CFIUS' satisfaction by the Bidders restructuring their ownership equity and other internal arrangements relating to their intended joint ownership and operation of Sirtex (including by CGP not having any direct or indirect ownership of any equity interest in, or control rights over, Sirtex's US operations), the Board of Sirtex may require the Bidders to do so.

- If any legal action, investigation or inquiry which may result in a temporary restraining order, preliminary or permanent injunction or other order being issued by any court of competent jurisdiction in, or Government Agency of, Australia, the United States of America, Germany, Italy, Belgium, the United Kingdom or Ireland preventing or imposing any legal restraint on the Scheme is instituted (or threatened to be instituted), each party must, and the Bidders must procure each member of the Bidder group to, vigorously contest and resist any such matter (through negotiation, litigation or otherwise), including any order that is in effect and that prohibits, prevents, delays or restricts the consummation of the Scheme.
- The Bidders agree to indemnify Sirtex against any reasonable third party cost or expense incurred by Sirtex arising out of or in connection with any action taken by Sirtex to procure satisfaction of the Conditions Precedent relating to FIRB approval, US antitrust clearance and there being no legal restraint on the Scheme and any action taken by Sirtex under the provisions relating to the CFIUS filing and clearance process.

### (d) Termination of Varian transaction

To allow the Scheme to be proposed, the Scheme Implementation Deed required Sirtex to terminate the scheme implementation deed relating to the Varian Scheme. Sirtex did this on 14 June 2018.

The Bidders agreed to indemnify Sirtex in respect of the reimbursement fee payable by Sirtex to Varian. Sirtex has paid, and the Bidders have reimbursed Sirtex for payment of, this amount.

### (e) Deposit

In accordance with the terms of the Scheme Implementation Deed, the Bidders have deposited \$220 million into the Deposit Account prior to the date of this Scheme Booklet.

The Scheme Implementation Deed requires the Bidders to deposit the balance of the Scheme Consideration into the Deposit Account no later than the Business Day prior to the date of the Scheme Meeting.

If the Scheme becomes Effective, these amounts will be applied towards payment of the Scheme Consideration. If the Scheme does not proceed, the amounts will be returned to the Bidders except that, in certain circumstances (further described in section 9.1(i) of this Scheme Booklet), Sirtex will be entitled to be paid the Bidder Facilitation / Break Fee from these amounts.

In all circumstances the Bidders are entitled to all interest accrued on funds held in the Deposit Account.

### (f) Exclusivity arrangements

The Scheme Implementation Deed contains certain customary exclusivity arrangements granted by Sirtex in favour of the Bidders. These exclusivity arrangements are set out in clause 9 of the Scheme Implementation Deed. In summary, during the Exclusivity Period:

- **(No-shop)** Sirtex must not directly or indirectly solicit, invite, encourage or initiate any enquiries, negotiations or discussions in relation to, or that may lead to, a Competing Proposal, or communicate any intention to do any of those things;
- **(No-talk)** Sirtex must not directly or indirectly negotiate, or enter into or participate in negotiations or discussions with, or enter into any agreement or understanding with, any person regarding, a Competing Proposal;
- **(No due diligence)** Sirtex must not, in relation to a Competing Proposal, make available to any person (other than the Bidders) or permit any such person to receive any non-public information relating to any member of the Sirtex Group.

Sirtex's "no-talk" and "no-due diligence" obligations described above do not apply to the extent that they restrict Sirtex or the Sirtex Board from taking or refusing to take any action with respect to a genuine Competing Proposal (which was not solicited, invited, encouraged or initiated by Sirtex or its representatives in contravention of Sirtex's "no-shop" obligations described above) if the Sirtex Board determines:

- after consultation with its financial advisors, that the Competing Proposal is, or may reasonably be expected to lead to, a Superior Proposal; and
- after receiving written legal advice from Sirtex’s legal advisers, that failing to respond to that Competing Proposal would be reasonably likely to constitute a breach of the Sirtex Board’s fiduciary or statutory obligations;
- **(Notification obligation)** Sirtex must inform the Bidders as soon as practicable and in any event within 24 hours if Sirtex (directly or indirectly) receives an unsolicited approach with respect to a Competing Proposal, including details of the identity of the person making the approach and all known material terms of the Competing Proposal, or if Sirtex proposes to engage in activities the subject of the “no-talk” and “no-due diligence” obligations described above; and
- **(Matching rights)** Sirtex must not enter into an arrangement to give effect to a Competing Proposal and must use its reasonable endeavours to procure that no Sirtex Director withdraws or changes their recommendation in respect of the Scheme, or otherwise makes a public statement to endorse or recommend an actual, proposed or potential Competing Proposal, unless:
  - the Competing Proposal is a Superior Proposal;
  - Sirtex has provided the Bidders with the material terms and conditions of the Competing Proposal;
  - Sirtex has given the Bidders 5 Business Days after the provision of that information to provide a matching or superior proposal to the terms of the Competing Proposal; and
  - the Bidders have not provided a matching or superior counter proposal by the expiry of that 5 Business Day period.

If the Bidders propose to Sirtex, or announces, amendments to the Scheme or a new proposal that constitutes a matching or superior proposal to the terms of the Competing Proposal (**Bidder Counterproposal**), Sirtex must procure that the Sirtex Board considers the Bidder Counterproposal and if it determines that the Bidder Counterproposal would provide an equivalent or superior outcome for Sirtex Shareholders as a whole compared with the Competing Proposal, then Sirtex and the Bidders must endeavour to agree the amendments to the Scheme Implementation Deed, the Scheme and Deed Poll that are reasonably necessary to reflect and implement the Bidder Counterproposal and Sirtex must endeavour to procure that each of the Sirtex Directors recommends the Scheme (as modified by the Bidder Counterproposal) to Sirtex Shareholders.

### (g) Change in recommendation

Sirtex has agreed in the Scheme Implementation Deed to use reasonable endeavours to procure that the members of the Sirtex Board do not change, withdraw or modify their recommendation to vote in favour of the Scheme or their statement that they will vote (or procure the voting) of all Sirtex Shares held or controlled by them in favour of the Scheme at the Scheme Meeting (and do not make a recommendation or statement that is inconsistent with such recommendation or statement) unless:

- the Independent Expert provides a report to Sirtex that concludes that the Scheme is not in the best interests of Scheme Shareholders or adversely changes its opinion given in the Independent Expert’s Report;
- Sirtex receives a Competing Proposal and the Board, acting in good faith, determines (after consultation with its financial advisers) that the Competing Proposal constitutes a Superior Proposal; or
- the Sirtex Director determines (acting in good faith and after taking written advice from Sirtex’s external financial and legal advisers) that a failure by them or the Board to do so would be reasonably likely to constitute a breach of their fiduciary or statutory obligations.

Sirtex’s obligations regarding the recommendation of the Sirtex Board are set out in clause 5.6 of the Scheme Implementation Deed.

### (h) Sirtex Reimbursement Fee

Sirtex has agreed to pay the Bidders a fee of 1% of the total Scheme Consideration payable (exclusive of GST) if any of the following events occur:

- a third party makes or announces a proposal to acquire control of Sirtex (or any of Sirtex’s material subsidiaries), or to acquire assets, or an economic interest in assets, of the Sirtex Group with an aggregate book value representing 20% or more of the total assets of Sirtex as at 30 June 2017, or to otherwise acquire or merge or amalgamate with Sirtex (or any of its material subsidiaries), during the Exclusivity Period and such a proposal is completed within 12 months of the announcement, except where the Independent Expert concludes that the Scheme is not in the best interests of Sirtex Shareholders or adversely changes its previously given opinion in the Independent Expert’s Report that the Scheme is in the best interests of Sirtex Shareholders (except where the reason for that conclusion is a Competing Proposal having been announced or made public);
- a majority of the Sirtex Directors make a public statement withdrawing or adversely changing their recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting or their statement that they will vote (or procure the voting) of all Sirtex Shares held or controlled by them in favour of the Scheme at the Scheme Meeting, or make a recommendation or statement that is inconsistent with such recommendation or statement, or make a public statement indicating that they no longer support the Scheme or that they support a Competing Proposal, except where the Independent Expert concludes that the Scheme is not in the best interests of Sirtex Shareholders or adversely changes its previously given opinion in the



Independent Expert's Report that the Scheme is in the best interests of Sirtex Shareholders (other than where the reason for that conclusion is a Competing Proposal having been announced or made public) or where Sirtex is entitled to terminate the Scheme Implementation Deed due to a breach by the Bidders of the Scheme Implementation Deed (or a representation or warranty given by the Bidders under the Scheme Implementation Deed), which is material in the context of the Scheme taken as a whole;

- Sirtex terminates the Scheme Implementation Deed because the Independent Expert concludes that the Scheme is not in the best interests of Sirtex Shareholders or adversely changes its previously given opinion in the Independent Expert's Report that the Scheme is in the best interests of Sirtex Shareholders, where the reason for that conclusion is a Competing Proposal; or
- the Bidders validly terminate the Scheme Implementation Deed because of a breach by Sirtex of the Scheme Implementation Deed (or a representation or warranty given by Sirtex under the Scheme Implementation Deed), which is material in the context of the Scheme taken as a whole.

The Sirtex Reimbursement Fee arrangements are set out in clause 10.2 of the Scheme Implementation Deed. The Sirtex Reimbursement Fee is not payable more than once and is not payable if the Scheme becomes Effective. In addition, the Sirtex Reimbursement Fee is not payable solely because Shareholders do not approve the Scheme by the Requisite Majorities.

### **(i) Bidder Facilitation / Break Fee**

CGP<sup>1</sup> has agreed to pay Sirtex a fee of \$200 million (exclusive of GST) if any of the following events occur:

- the Scheme has not become Effective by the End Date and any of the following Conditions Precedent have not been satisfied or waived by the End Date:
  - the Treasurer of the Commonwealth of Australia (or his delegate) either gives the Bidders written advice that the Commonwealth Government does not object under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) or its foreign investment policy to the Scheme or, by passage of time, becomes precluded from making an order under FATA in respect of the Scheme;<sup>2</sup>
  - all applicable waiting period for the Scheme under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (US) expire or are otherwise terminated;<sup>2</sup>
  - no court or Government Agency in Australia, USA, Germany, Italy, Belgium, the United Kingdom or Ireland has issued any temporary restraining order, preliminary or permanent injunction or other order restraining, preventing or imposing any legal restraint on the Scheme that is in effect at 8:00am on the Second Court Date; and
  - no Bidder having suffered an Insolvency Event before 8:00am on the Second Court Date;
- an event occurs which prevents any of those same Conditions Precedent from being able to be satisfied and that Condition Precedent is not waived;
- Sirtex and the Bidders agree voluntarily to withdraw the application for approval of the transaction by CFIUS and the Scheme Implementation Deed is terminated; or
- Sirtex validly terminates the Scheme Implementation Deed because of a breach by the Bidders of the Scheme Implementation Deed (or a representation or warranty given by the Bidders under the Scheme Implementation Deed), which is material in the context of the Scheme taken as a whole.

The Bidder Facilitation / Break Fee arrangements are set out in clause 10.3 of the Scheme Implementation Deed. The Bidder Facilitation / Break Fee is not payable more than once and is not payable if the Scheme becomes Effective.

### **(j) China Commercialisation Rights**

Under the Scheme Implementation Deed, Sirtex and the Bidders have agreed to use their best endeavours to negotiate (having regard to their own best interests) and enter into an agreement for the grant by Sirtex to the Bidders of exclusive commercialisation rights for the China market (the China Commercialisation Agreement) that would apply if the Scheme Implementation Deed is terminated in circumstances where Sirtex is entitled to, and has received, payment of the Bidder Facilitation / Break Fee (except if the entitlement arises as a result of the Bidders suffering an Insolvency Event or Sirtex and the Bidder agreeing to terminate the Scheme Implementation Deed). The China Commercialisation Agreement will not apply if the Scheme does not become Effective solely because Shareholders do not approve the Scheme by the Requisite Majorities.

As at the date of this Scheme Booklet, Sirtex and the Bidders are continuing with these negotiations and have not concluded the China Commercialisation Agreement. Sirtex will advise the market in the event that a China Commercialisation Agreement is concluded.

If Sirtex and the Bidders do not reach agreement on terms of a China Commercialisation Agreement on or before 9 August 2018 (or such later date as Sirtex and the Bidders may agree), the Bidders will have a right of first refusal under which Sirtex may not enter into an agreement with any third party for the grant of commercialisation rights for the China market for a period of 3 years following termination of the Scheme Implementation Deed in those circumstances unless it has first offered to enter into an agreement with either or both of the Bidders on terms no less favourable to it or them.

The China Commercialisation Rights are set out in clause 12 of the Scheme Implementation Deed.

1. See section 6.7(c) for further details.

2. See section 6.7(a) for further details.

### (k) Representations and warranties

Each of Sirtex and the Bidders has given customary representations and warranties to the other party. A breach of such representations and warranties is capable of triggering an obligation to pay the Sirtex Reimbursement Fee (as summarised in further detail in sections 9.1(h) and 9.1(i) of this Scheme Booklet and as set out in clause 10.2 and 10.3 of the Scheme Implementation Deed) or of giving rise to a termination right (see clause 11 of the Scheme Implementation Deed and section 4.6 of this Scheme Booklet). These representations and warranties are set out in clause 6 and schedules 1 and 2 of the Scheme Implementation Deed.

### (l) Conduct of business

Clause 5.4 of the Scheme Implementation Deed sets out the obligations of Sirtex from the date of the Scheme Implementation Deed up to and including the Implementation Date in relation to the conduct of its business.

Broadly, Sirtex has agreed to conduct its business in the ordinary and proper course of business in a manner generally consistent with the manner in which it was conducted in the 12-month period prior to the date of the Scheme Implementation Deed.

Sirtex has also agreed not to undertake certain activities with respect to conduct of the Sirtex Group (subject to certain exceptions). These activities include:

- settling the Class Action currently being defended by Sirtex (see section 5.12 of this Scheme Booklet for further details of these);
- incurring any additional financial indebtedness or guaranteeing or indemnifying the obligations of other persons; and
- making any material change to the terms of employment of any director, executive or senior manager.

### (m) Termination rights

The Scheme Implementation Deed may be terminated in certain circumstances.

For details of the termination rights of each party, see clause 11 of the Scheme Implementation Deed and section 4.6 of this Scheme Booklet.

### (n) Joint and several obligations of Bidders

The Scheme Implementation Deed provides that, other than the obligation to pay the Bidder Facilitation / Break Fee (for which CGP is solely responsible<sup>3</sup>), the obligations of the Bidders under the Scheme Implementation Deed (including to pay or procure the payment of the Scheme Consideration if the Scheme becomes Effective) are joint and several.

## 9.2 IMPACT OF THE SCHEME ON THE SIRTEX INCENTIVE PLAN

### (a) Sirtex Rights

Sirtex has granted Sirtex Rights to employees under the Sirtex Incentive Plan. Sirtex Rights were granted under the Sirtex Incentive Plan to provide employees with long term incentive awards, which are designed to reward employees and align their interests with the interests of Sirtex Shareholders.

As at the Last Practicable Trading Date, Sirtex had 672,080 Sirtex Rights on issue:

- 16,467 of these Sirtex Rights (the **FY16 Sirtex Rights**) have vested; and
- the balance of the Sirtex Rights (the **FY17 and FY18 Sirtex Rights**) remain unvested.

Vested Sirtex Rights may convert into Sirtex Shares on a one-for-one basis or be satisfied by a cash payment or a combination of Sirtex Shares and a cash payment, as determined by the Board.

Sirtex Rights may lapse for a number of reasons including, unless otherwise determined by the Sirtex Board, where an employee ceases to be employed by the Sirtex Group.

### (b) Intended treatment of FY16 Sirtex Rights

Under the Sirtex Incentive Plan, in the event of a change of control of Sirtex, or certain other events that may lead to a change of control of Sirtex (including the Court ordering a meeting of Sirtex Shareholders for the purpose of considering a scheme of arrangement for Sirtex's amalgamation with any other body corporate), occurring, holders of vested Sirtex Rights may exercise those Sirtex Rights within 1 month. Any vested Sirtex Rights that are not exercised in this period will lapse.

On Wednesday, 1 August 2018, the Court ordered that the Scheme Meeting be convened, triggering these provisions. Accordingly, holders of FY16 Sirtex Rights may exercise those Sirtex Rights on or before 31 August 2018, failing which they will automatically lapse.

The Sirtex Board has determined that FY16 Sirtex Rights exercised during this period will convert into Sirtex Shares and that this conversion will be satisfied by way of the issue of new Sirtex Shares before the Scheme Record Date to allow the relevant former holders of those Sirtex Rights to participate in the Scheme.

If the Scheme becomes Effective, Sirtex Shares issued to the holders of the exercised FY16 Sirtex Rights as outlined above will be acquired by Bidco along with the other Sirtex Shares held by Scheme Shareholders and the holders of those Sirtex Shares will be entitled to receive the Scheme Consideration.

3. See section 6.7(c) for further details.

**(c) Intended treatment of FY17 and FY18 Sirtex Rights**

Under the Sirtex Incentive Plan, in the event of a change of control of Sirtex, or certain other events that may lead to a change of control of Sirtex (including the Court ordering a meeting of Sirtex Shareholders for the purpose of considering a scheme of arrangement for Sirtex's amalgamation with any other body corporate), occurring, a proportion of the unvested Sirtex Rights on issue at the relevant time vest according to prescribed formulae and any remaining unvested Sirtex Rights lapse. However, under the terms of the Sirtex Incentive Plan, the Sirtex Board has discretion to determine a different treatment of any unvested Sirtex Performance Rights.

On Wednesday, 1 August 2018, the Court ordered that the Scheme Meeting be convened, triggering these provisions. In accordance with the Sirtex Incentive Plan, the Sirtex Board (exclusive of Andrew McLean, who did not participate in discussions due to his interest in the matter) has exercised its discretion and determined that all of the FY17 and FY18 Sirtex Rights (excluding any that lapse before the Effective Date) will, subject to the Scheme becoming Effective, vest with effect from 1 August 2018 (being the date that the Court ordered that the Scheme Meeting be convened) and, subject to those vested Sirtex Rights being exercised, will convert into Sirtex Shares and that this conversion be satisfied by way of the issue of new Sirtex Shares before the Scheme Record Date to allow the relevant former holders of those Sirtex Rights to participate in the Scheme.

In accordance with the terms of the Sirtex Incentive Plan, holders of those vested Sirtex Rights may exercise those Sirtex Rights on or before 31 August 2018, failing which they will automatically lapse.

If the Scheme becomes Effective, Sirtex Shares issued to the holders of the vested and exercised Sirtex Rights as outlined above will be acquired by Bidco along with the other Sirtex Shares held by Scheme Shareholders and the holders of those Sirtex Shares will be entitled to receive the Scheme Consideration.

If the Scheme does not become Effective, none of the FY17 and FY18 Sirtex Rights will vest or lapse as a result of this Scheme or anything connected with it (including the Court ordering that the Scheme Meeting be convened) and holders of Sirtex Rights will continue to hold those Sirtex Rights.

**(d) Further information**

A separate letter detailing this process, together with access to this Scheme Booklet, will be provided to all holders of Sirtex Rights. It is currently expected that this letter will be provided on or before 8 August 2018.

**(e) FY19 Sirtex Rights**

Given that the Scheme Implementation Deed has been entered into, Sirtex has determined that it will not issue further Sirtex Rights in respect of the financial year ending 30 June 2019 (as it otherwise would). However, if the Scheme Implementation Deed is terminated for any reason, Sirtex will consider issuing Sirtex Rights to persons that otherwise would have received them in respect of the financial year ending 30 June 2019.

**9.3 INTERESTS OF SIRTEX DIRECTORS IN SIRTEX SECURITIES**

As at the Last Practicable Trading Date, the number of Sirtex Shares and Sirtex Rights held by or on behalf of each of the Sirtex Directors is as follows:

Sirtex Director	Position	Relevant Interest in Sirtex Shares	Relevant Interest in Sirtex Rights
Grant Boyce	Non-Executive Director	10,418	Nil
John Eady	Non-Executive Director and Interim Chairman	11,773	Nil
Helen Kurincic	Non-Executive Director	590	Nil
Andrew McLean	Chief Executive Offer	Nil	102,723
Neville Mitchell	Non-Executive Director	10,236	Nil
Katherine Woodthorpe	Non-Executive Director	4,760	Nil

Sirtex Directors who hold Sirtex Shares will be entitled to vote at the Scheme Meeting and receive the Scheme Consideration along with the other Scheme Shareholders.

Each Sirtex Director intends to vote any Sirtex Shares held or controlled by him or her in favour of the Scheme, in absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.

### 9.4 INTERESTS OF SIRTIX DIRECTORS IN BIDDER SECURITIES

No Sirtex Director has any interest in any securities of the Bidders, Bidco or any other member of the Bidders' group.

### 9.5 BENEFITS AND AGREEMENTS

#### (a) Benefits in connection with retirement from office

There is no payment or other benefit that is proposed to be made or given to any Director, secretary or executive officer of Sirtex (or any of its related bodies corporate) as compensation for the loss of, or consideration for or in connection with his or her retirement from, office in Sirtex (or any of its related bodies corporate) in connection with the Scheme.

#### (b) Other agreements or arrangements connected with or conditional on the Scheme

Andrew McLean holds 102,723 Sirtex Rights that will be subject to the regime described in section 9.2 of this Scheme Booklet.

Andrew McLean has entered into an agreement with CDH Genetech under which they have agreed that, contingent on implementation of the Scheme, Andrew McLean will continue to be employed by Sirtex Medical Inc., based in the US. Under the terms of this agreement, Andrew McLean will continue to receive the same base annual gross salary that he will be paid by Sirtex Medical, Inc. prior to the Implementation Date (see section 5.3(c) of this Scheme Booklet for details) and will continue to be entitled to participate in Sirtex Medical, Inc.'s short and long-term incentive plans, the details of which have not yet been determined.

Additionally, under the terms of this agreement, Andrew McLean will be entitled to additional termination benefits if Sirtex Medical, Inc. becomes subject to certain change of control events (other than the Scheme). These additional termination benefits include:

- a cash severance payment equal to 2.5 times the sum of (i) Andrew McLean's annual base salary rate and (ii) the greater of either Andrew McLean's most recently established annual cash incentive target or the average annual cash incentive paid to Andrew McLean over the preceding two fiscal years;
- a pro-rata payment of Andrew McLean's annual bonus for the period in which his employment is terminated; and
- continued payment of certain employment benefits for 24 months after termination.

The terms of Andrew McLean's continued employment offered by CDH Genetech are otherwise materially the same as the terms his new employment contract with Sirtex Medical, Inc..

Other than as outlined above, there is no agreement or arrangement made between any Sirtex Director and any other person, including the Bidders and Bidco, in connection with or conditional on the outcome of the Scheme.

#### (c) Interests of Sirtex Directors in contracts with the Bidders

None of the Sirtex Directors has any interest in any contract entered into by the Bidders, Bidco or any other member of the Bidders' group, other than as set out in section 9.5(b) of this Scheme Booklet.

#### (d) Benefits from the Bidders

None of the Sirtex Directors has agreed to receive, or is entitled to receive, any benefit from the Bidders, Bidco or any other member of the Bidders' group which is conditional on, or is related to, the Scheme, other than as set out in section 9.5(b) of this Scheme Booklet.

#### (e) Other interests of Sirtex Directors

Other than as noted in this section 9.5, no Sirtex Director has any interest, whether as a director, member or creditor of Sirtex or otherwise, which is material to the Scheme, other than in their capacity as a holder of Sirtex shares.

### 9.6 ASX AND ASIC RELIEF

#### (a) ASX waiver

Sirtex has applied for, and ASX has granted, a waiver of Listing Rule 6.23.3 to permit the treatment of Sirtex Rights as set out in section 9.2 of this Scheme Booklet.

#### (b) ASIC relief

Regulation 5.1.01 of the Corporations Regulations requires that, unless ASIC allows otherwise, the Scheme Booklet must contain all of the matters set out in Part 3 of Schedule 8 to the Corporations Regulations. As some of these requirements are not applicable or appropriate in respect of the Scheme, ASIC has allowed the following variations in this Scheme Booklet.

Clause 8302(h) of Part 3 of Schedule 8 to the Corporations Regulations requires this Scheme Booklet to set out whether, within the knowledge of the Sirtex Directors, the financial position of Sirtex has materially changed since the date of the last balance sheet laid before Sirtex Shareholders in accordance with sections 314 or 317 of the Corporations Act, being its financial statements for the year ended 30 June 2017.

ASIC has allowed Sirtex to confine its disclosure in this Scheme Booklet to all material changes to Sirtex's financial position between 31 December 2017 (being the date of the latest financial statements for Sirtex in the half yearly accounts lodged with the ASX) and the date of this Scheme Booklet on the basis that:

- Sirtex has complied with Division 2 of Part 2M.3 of the Act in respect of the half year ended 31 December 2017;
- Sirtex discloses all material changes to its financial position occurring after the half-year ended 31 December 2017 and prior to the date of this Scheme Booklet, in the Scheme Booklet;
- Sirtex discloses in announcements to the market operated by ASX any material changes to its financial position that occur after the date lodgement of the Scheme Booklet for registration with ASIC but prior to the Scheme being approved by the Court;
- the Scheme Booklet states that Sirtex will give a copy of the financial reports for the financial year ended 30 June 2017 and half-year ended 31 December 2017 free of charge to anyone who requests a copy before the Scheme to which the Scheme Booklet relates is approved by order of the Court; and
- the Scheme Booklet sent to Scheme Shareholders is substantially in the form given to ASIC on 31 July 2018.

### 9.7 CONSENTS

- The following parties have given, and have not withdrawn before the date of this Scheme Booklet, their consent to be named in this Scheme Booklet in the form and context in which they are named:
  - UBS AG, Australia Branch as financial adviser to Sirtex;
  - Watson Mangioni Lawyers Pty Limited as legal adviser to Sirtex in relation to the Scheme;
  - Link Market Services Limited as the manager of the Sirtex Share Register; and
  - PricewaterhouseCoopers Securities Limited as tax adviser in relation to the Scheme.
- The Independent Expert has given and has not withdrawn its consent to be named in this Scheme Booklet and to the inclusion of the Independent Expert's Report in Annexure A to this Scheme Booklet and to the references to the Independent Expert's Report in this Scheme Booklet being made in the form and context in which each such reference is included.
- Each of the Bidders and Bidco has given and has not withdrawn its consent to be named in this Scheme Booklet and in relation to the inclusion of the Bidder Information in this Scheme Booklet in the form and context in which that information is included.
- Each person named in this section 9.7:
  - has not authorised or caused the issue of this Scheme Booklet;
  - does not make, or purport to make, any statement in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based, other than as specified in this section 9.7; and
  - to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes no responsibility for, any part of this Scheme Booklet, other than a reference to its name and the statement (if any) included in this Scheme Booklet with the consent of that party as specified in this section 9.7.

### 9.8 DOCUMENTS AVAILABLE

An electronic version of this Scheme Booklet including the Independent Expert's Report and the Scheme Implementation Deed are available for viewing and downloading online at Sirtex's website at [www.sirtex.com](http://www.sirtex.com) and on the ASX website at [www.asx.com.au](http://www.asx.com.au).

### 9.9 NO UNACCEPTABLE CIRCUMSTANCES

The Sirtex Directors believe that the Scheme does not involve any circumstances in relation to the affairs of Sirtex that could reasonably be characterised as constituting "unacceptable circumstances" for the purposes of section 657A of the Corporations Act.

### 9.10 FEES

The fees set out in this section relate to fees payable by Sirtex in connection with the Scheme. Those fees include payments to:

- UBS AG, Australia Branch for acting as financial advisers;
- Watson Mangioni Lawyers Pty Limited for acting as legal adviser;
- Deloitte for acting as Independent Expert and for providing the Independent Expert's Report;
- PricewaterhouseCoopers Securities Limited for acting as Sirtex's taxation adviser; and
- Link Market Services Limited for acting as the Sirtex Registry and providing various other services.

In aggregate, if the Scheme is implemented Sirtex expects to pay approximately \$43 million (excluding GST) in transaction costs related to the Scheme and the Varian Scheme. In aggregate, if the Scheme is not implemented Sirtex expects to pay approximately \$22 million (excluding GST) in transaction costs related to the Scheme and the Varian Scheme. In either case, these amounts include the reimbursement fee of approximately \$16 million paid by Sirtex to Varian, in respect of which the Bidders have reimbursed Sirtex.

## 9 ADDITIONAL INFORMATION

### 9.11 NO OTHER MATERIAL INFORMATION

Except as disclosed elsewhere in this Scheme Booklet, so far as the Sirtex Directors are aware, there is no other information that is:

- material to the making of a decision by a Sirtex Shareholder whether or not to vote in favour of the Scheme; and
- known to any Sirtex Director at the date of lodging this Scheme Booklet with ASIC for registration,

which has not previously been disclosed to Sirtex Shareholders.

### 9.12 SUPPLEMENTARY DISCLOSURE

Sirtex will issue a supplementary document to this Scheme Booklet if it becomes aware of any of the following between the date of lodgement of this Scheme Booklet for registration with ASIC and the Second Court Date:

- a material statement in this Scheme Booklet is or becomes false or misleading;
- a material omission from this Scheme Booklet;
- a significant change affecting a matter in this Scheme Booklet; or
- a significant new matter has arisen and it would have been required to be included in this Scheme Booklet if known about at the date of lodgement with ASIC.

Depending on the nature and timing of the changed circumstances, and subject to obtaining any relevant approvals, Sirtex may circulate and publish any supplementary document by:

- making an announcement to ASX;
- placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
- posting the supplementary document to Sirtex Shareholders at their address shown on the Sirtex Share Register; or
- posting a statement on Sirtex's website at [www.sirtex.com](http://www.sirtex.com),

as Sirtex, in its absolute discretion, considers appropriate.

# 10

## GLOSSARY AND INTERPRETATION

## 10 GLOSSARY AND INTERPRETATION

### 10.1 GLOSSARY

In this Scheme Booklet, unless the context otherwise appears, the following terms have the meanings shown below:

Term	Meaning
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASX</b>	ASX Limited (ABN 98 008 624 691) or the financial market operated by it, as the context requires.
<b>Bidco</b>	Grand Pharma Sphere (Australia Bidco) Pty Ltd (ACN 627 686 953)
<b>Bidder Facilitation / Break Fee</b>	\$200 million (plus GST).
<b>Bidder Information</b>	the information contained in section 6, and under the headings “Who are CDH, CDH Genetech, CGP and Bidco?” on page 19 and “How are the Bidders and Bidco funding the Scheme Consideration?” on page 23, of this Scheme Booklet.
<b>Bidder Parties</b>	the Bidders, their subsidiaries and their respective officers, employees and advisers.
<b>Bidders</b>	CDH Genetech and CGP.
<b>Business Day</b>	a business day as defined in the Listing Rules.
<b>CDH</b>	CDH Investments.
<b>CDH Genetech</b>	CDH Genetech Limited, an exempted company incorporated in the Cayman Islands.
<b>CGP</b>	China Grand Pharmaceutical and Healthcare Holdings Limited, a company incorporated in Bermuda and whose shares are listed on the Main Board of the Stock Exchange of Hong Kong Limited (stock code: 512).
<b>CHESS</b>	the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.
<b>China Commercialisation Agreement</b>	an agreement between Sirtex and the Bidders entered into in accordance with clause 12(a) (i) of the Scheme Implementation Deed under which Sirtex grants the Bidders exclusive commercialisation rights in the China market as described in section 9.1(j) of this Scheme Booklet.
<b>China Commercialisation Rights</b>	<p>the rights granted by Sirtex to the Bidders under:</p> <ul style="list-style-type: none"> <li>• if a China Commercialisation Agreement is entered into, that China Commercialisation Agreement; and</li> <li>• if a China Commercialisation Agreement is not entered into on or before 9 August 2018 (or such later date as Sirtex and the Bidders may agree), the first right of refusal granted by Sirtex to the Bidders under clause 12(a)(iii) of the Scheme Implementation Deed as described in section 9.1(j) of this Scheme Booklet.</li> </ul>
<b>CFIUS</b>	the Committee on Foreign Investment in the United States.
<b>Class Action</b>	the representative proceedings brought against Sirtex as referred to in section 5.12 of this Scheme Booklet.
<b>Competing Proposal</b>	<p>any proposal or transaction which, if completed, would mean a person other than the Bidder Parties and their associates (either alone or together with any associate) would:</p> <ul style="list-style-type: none"> <li>• (other than as custodian, nominee or bare trustee) acquire an interest in, or a Relevant Interest in, 20% or more of the Sirtex Shares or the shares of any material subsidiary of Sirtex (other than pursuant to the exception in item 9 of section 611 of the Corporations Act);</li> <li>• directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire, an economic interest in assets of the Sirtex Group with an aggregate book value representing 20% or more of the total assets of the Sirtex Group as set out in Sirtex’s consolidated balance sheet as at 30 June 2017;</li> <li>• acquire control of Sirtex or any material Subsidiary of Sirtex; or</li> <li>• otherwise acquire or merge with Sirtex or any material Subsidiary of Sirtex,</li> </ul> <p>whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, buy-back, sale or purchase of shares, securities or assets, global assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger) or other transaction or arrangement.</p>



Term	Meaning
<b>Conditions Precedent</b>	each of the conditions set out at clause 3.1 of the Scheme Implementation Deed.
<b>Corporations Act</b>	the <i>Corporations Act</i> 2001 (Cth).
<b>Corporations Regulations</b>	the <i>Corporations Regulations</i> 2001 (Cth).
<b>Court</b>	the Federal Court of Australia, New South Wales Registry, or such other court of competent jurisdiction under the Corporations Act as Sirtex and the Bidders agree.
<b>Deed Poll</b>	the deed poll provided by the Bidders and Bidco attached as Annexure D.
<b>Deloitte</b>	Deloitte Corporate Finance Pty Limited.
<b>Deposit</b>	the deposit of \$220 million paid by the Bidders into the Deposit Account prior to the date of this Scheme Booklet.
<b>Deposit Account</b>	an A\$ denominated bank account with a major Australian Bank opened in the name of that Bank as escrow agent for Sirtex and the Bidders.
<b>EBITDA</b>	earnings before interest, tax, depreciation and amortisation.
<b>Effective</b>	the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to the Scheme.
<b>Effective Date</b>	the date on which the Scheme becomes Effective.
<b>End Date</b>	14 June 2019 or such other date as Sirtex and the Bidders agree.
<b>Exclusivity Period</b>	the period from and including 14 June 2018 to the earlier of: <ol style="list-style-type: none"> <li>1 the date of termination of the Scheme Implementation Deed; and</li> <li>2 the End Date.</li> </ol>
<b>FY2017</b>	the financial year ending 30 June 2017.
<b>Government Agency</b>	any government or any governmental, semi-governmental, statutory or judicial entity, agency or authority, whether in Australia, the United States of America or elsewhere, including any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and the ASX or any other stock exchange.
<b>GST</b>	has the meaning given to that term under the <i>A New Tax System (Goods and Services Tax) Act</i> 1999 (Cth).
<b>HKEX</b>	The Stock Exchange of Hong Kong.
<b>Implementation Date</b>	the fifth Business Day after the Scheme Record Date or such other date as Sirtex and the Bidders agree.
<b>Independent Expert</b>	the independent expert appointed by Sirtex, being Deloitte.
<b>Independent Expert's Report</b>	means the report prepared by the Independent Expert, a copy of which is attached at Annexure A.

Term	Meaning
<b>Insolvency Event</b>	<p>means, in relation to an entity:</p> <ol style="list-style-type: none"> <li>1 it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;</li> <li>2 it stops or suspends or threatens to stop or suspend payment of all or a class of its debts;</li> <li>3 it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or claim the subject of a good faith dispute);</li> <li>4 it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;</li> <li>5 an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court or other steps are taken for: (i) its winding up, dissolution or administration; or (ii) it entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them, (other than frivolous or vexatious applications, orders, proceedings, notices or steps);</li> <li>6 any of: (i) a receiver, receiver and manager, administrative receiver or similar officer is appointed to; (ii) a security interest becomes enforceable or is enforced over; or (iii) a distress, attachment or other execution is levied or enforced or applied for over, all or a substantial part of its assets; or</li> <li>7 anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any foreign law.</li> </ol>
<b>Last Practicable Trading Date</b>	27 July 2018, being the last practicable trading date before the date of this Scheme Booklet.
<b>Listing Rules</b>	the official listing rules of ASX.
<b>Notice of Scheme Meeting</b>	the notice of meeting relating to the Scheme Meeting attached as Annexure E.
<b>Permitted Dividends</b>	one or more dividends declared or determined by the Board in respect of the period 1 July 2017 to 30 June 2018, provided that the maximum aggregate amount paid or payable by Sirtex in respect of all such dividends is \$0.30 per Sirtex Share.

Term	Meaning
<b>Prescribed Occurrence</b>	<p>the occurrence of any of the following:</p> <ol style="list-style-type: none"> <li>1 Sirtex converts all or any of its shares into a larger or smaller number of shares;</li> <li>2 a member of the Sirtex Group resolves to reduce its share capital in any way;</li> <li>3 a member of the Sirtex Group: <ul style="list-style-type: none"> <li>• enters into a buy-back agreement; or</li> <li>• resolves to approve the terms of a buy-back agreement under the Corporations Act;</li> </ul> </li> <li>4 a member of the Sirtex Group issues shares or grants an option over its shares, or agrees to make such an issue or grant such an option, other than the issue of up to 780,657 fully paid ordinary shares to the holders as at the date of the Scheme Implementation Deed of Sirtex Rights in accordance with the terms of those Sirtex Rights (including as a result of an exercise of a discretion vested in Sirtex or the Sirtex Board in those terms);</li> <li>5 a member of the Sirtex Group issues, or agrees to issue, convertible notes;</li> <li>6 a member of the Sirtex Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;</li> <li>7 a member of the Sirtex Group grants, or agrees to grant, a security interest in the whole, or a substantial part, of its business or property;</li> <li>8 a member of the Sirtex Group pays, or agrees to pay, any of its directors, officers, employees or contractors a termination or retention payment (other than in accordance with contractual arrangements in effect on the date of the Scheme Implementation Deed which have been fairly disclosed in the documents and information contained in the data room to which the Bidders and its representatives were given access before entry into the Scheme Implementation Deed);</li> <li>9 a member of the Sirtex Group resolves to be wound up;</li> <li>10 a liquidator or provisional liquidator of a member of a member of the Sirtex Group is appointed;</li> <li>11 a court makes an order for the winding up of a member of the Sirtex Group;</li> <li>12 an administrator of a member of the Sirtex Group is appointed under sections 436A, 436B or 436C of the Corporations Act;</li> <li>13 a member of the Sirtex Group executes a deed of company arrangement; or</li> <li>14 a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of a member of the Sirtex Group,</li> </ol> <p>other than any such occurrence required under the Scheme Implementation Deed or the Scheme, or that has been consented to in writing by the Bidders (and the Bidders must not unreasonably withhold or delay their respective consent to any request for consent from Sirtex where Sirtex has provided reasonable details of the matter (including any material terms) in writing to the Bidders).</p>
<b>Proxy Form</b>	the proxy form for the Scheme Meeting which accompanies this Scheme Booklet.
<b>Relevant Interest</b>	has the meaning given in sections 608 and 609 of the Corporations Act.

Term	Meaning
<b>Requisite Majorities</b>	in relation to the Scheme Resolution, a resolution passed by: <ol style="list-style-type: none"> <li>1 a majority in number (more than 50%) of Sirtex Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate Sirtex Shareholders, body corporate representative); and</li> <li>2 at least 75% of the total number of votes cast on the Scheme Resolution at the Scheme Meeting.</li> </ol>
<b>Scheme</b>	the scheme of arrangement under Part 5.1 of the Corporations Act between Sirtex and the Scheme Shareholders, the form of which is attached as Annexure C, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Sirtex and the Bidders.
<b>Scheme Consideration</b>	the consideration to be provided to each Scheme Shareholder for the transfer to Bidco of each Scheme Share being, for each Sirtex Share held by a Scheme Shareholder as at the Scheme Record Date, \$33.60 cash less the amount of any Permitted Dividend paid in respect of the Scheme Share.
<b>Scheme Implementation Deed</b>	the scheme implementation deed dated 14 June 2018 between Sirtex and the Bidders relating to the implementation of the Scheme. A copy of the scheme implementation deed is attached as Annexure B.
<b>Scheme Meeting</b>	the meeting of Sirtex Shareholders ordered by the Court to be convened pursuant to subsection 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.
<b>Scheme Record Date</b>	7:00pm (Sydney time) on the second Business Day after the Effective Date or such other time and date as Sirtex and the Bidders agree.
<b>Scheme Resolution</b>	the resolution set out in the Notice of Scheme Meeting in Annexure E to agree to the terms of the Scheme.
<b>Scheme Shares</b>	all Sirtex Shares held by the Scheme Shareholders as at the Scheme Record Date.
<b>Scheme Shareholder</b>	a holder of Sirtex Shares recorded in the Sirtex Share Register as at the Scheme Record Date.
<b>Second Court Date</b>	the first day on which an application made to the Court for an order under paragraph 411(4) (b) of the Corporations Act approving the Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard, with such hearing the <b>Second Court Hearing</b> .
<b>Sirtex</b>	Sirtex Medical Limited (ABN 35 078 166 122).
<b>Sirtex Board</b>	the board of directors of Sirtex.
<b>Sirtex Directors</b>	the directors of Sirtex.
<b>Sirtex Group</b>	Sirtex and each of its subsidiaries.
<b>Sirtex Incentive Plan</b>	the "Sirtex Executive Rights Plan" operated by Sirtex and approved by Sirtex Shareholders at the 2015 annual general meeting held on 27 October 2015 (as amended from time to time).
<b>Sirtex Reimbursement Fee</b>	an amount equal to 1% of the total Scheme Consideration payable for all the Scheme Shares under the Scheme (excluding for the purposes only of this calculation the reducing impact of any Permitted Dividend).
<b>Sirtex Registry</b>	Link Market Services Limited (ABN 54 083 214 537).
<b>Sirtex Rights</b>	rights to receive Sirtex Shares issued under the Sirtex Incentive Plan.
<b>Sirtex Share</b>	a fully paid ordinary share in the capital of Sirtex.
<b>Sirtex Share Register</b>	the register of members of Sirtex maintained by the Sirtex Registry in accordance with the Corporations Act.
<b>Sirtex Shareholder</b>	each person who is registered as the holder of a Sirtex Share in the Sirtex Share Register.

Term	Meaning
<b>Superior Proposal</b>	<p>a bona fide Competing Proposal which the Sirtex Board determines, acting in good faith and in order to satisfy what the Sirtex Board considers to be its fiduciary or statutory duties (having taken advice from its external financial and legal advisers):</p> <ul style="list-style-type: none"> <li>• is reasonably capable of being valued and implemented, taking into account all aspects of the Competing Proposal; and</li> <li>• would, if completed substantially in accordance with its terms, be more favourable to Sirtex Shareholders (as a whole) than the Scheme, taking into account all terms and conditions of the Competing Proposal.</li> </ul>
<b>Varian</b>	Varian Medical Systems, Inc., a company incorporated under the laws of Delaware, United States of America.
<b>VWAP</b>	volume weighted average price, calculated based on cumulative value traded on ASX and CHI-X divided by cumulative volume traded on ASX and CHI-X to 29 January 2018.

## 10.2 INTERPRETATION

In this Scheme Booklet, unless the context otherwise appears:

- (a) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (b) words importing a gender include any gender;
- (c) words importing the singular include the plural and vice versa;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- (e) a reference to a section or annexure is a reference to a section of and an annexure to this Scheme Booklet as relevant;
- (f) a reference to any statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances, or by laws amending, varying, consolidating or replacing it and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) headings and bold type are for convenience only and do not affect the interpretation of this Scheme Booklet;
- (h) a reference to time is a reference to time in Sydney, Australia;
- (i) a reference to writing includes facsimile transmissions; and
- (j) a reference to dollars, \$, cents, ¢ and currency is a reference to the lawful currency of the Commonwealth of Australia.

# ANNEXURE A

## INDEPENDENT EXPERT'S REPORT



## **Sirtex Medical Limited**

Independent expert's report and Financial Services Guide

30 July 2018

## Financial Services Guide (FSG)

### What is an FSG?

An FSG is designed to provide information about the supply of financial services to you.

### Why are we providing this FSG to you?

Deloitte Corporate Finance Pty Limited (Deloitte Corporate Finance) (AFSL 241457) has been engaged by Sirtex Medical Limited to prepare an independent expert's report (our Report) in connection with the proposed scheme of arrangement between Sirtex Medical Limited, CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited. Sirtex Medical Limited will provide our Report to you.

Our Report provides you with general financial product advice. This FSG informs you about the use of general financial product advice, the financial services we offer, our dispute resolution process and our remuneration.

### What financial services are we licensed to provide?

We are authorised to provide financial product advice and to arrange for another person to deal in financial products in relation to securities, interests in managed investment schemes, government debentures, stocks or bonds, to retail and wholesale clients. We are also authorised to provide personal and general financial product advice and deal by arranging in derivatives and regulated emissions units to wholesale clients, and general financial product advice relating to derivatives to retail clients.

### We are providing general financial product advice

In our Report, we provide general financial product advice as we have not taken into account your personal objectives, financial situation or needs, and you would not expect us to have done so. You should consider whether our general advice is appropriate for you, having regard to your own personal objectives, financial situation or needs.

If our advice is in connection with the acquisition of a financial product, you should read the relevant offer document carefully before making any decision about whether to acquire that product.

### How are we remunerated?

Our fees are usually determined on a fixed fee or time cost basis plus reimbursement of any expenses incurred in providing the services. Our fees are agreed with, and paid by, those who engage us. You are not responsible for our fees.

We will receive a fee of AUD 60,000 exclusive of GST in relation to the preparation of our Report. This fee is not contingent on the outcome of proposed scheme of arrangement between Sirtex Medical Limited, CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited.

Apart from these fees, Deloitte Corporate Finance, our directors and officers, and any related bodies corporate, affiliates or associates, and their directors and officers, do not receive any commissions or other benefits.

All employees receive a salary, and, while eligible for annual salary increases and bonuses based on overall performance,

they do not receive any commissions or other benefits as a result of the services provided to you.

The remuneration paid to our directors reflects their individual contribution to the organisation and covers all aspects of performance.

We do not pay commissions or provide other benefits to anyone who refers prospective clients to us.

### Associations and relationships

The Deloitte member firm in Australia (Deloitte Touche Tohmatsu) controls Deloitte Corporate Finance. Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu.

We, and other entities related to Deloitte Touche Tohmatsu, do not have any formal associations or relationships with any entities that are issuers of financial products. However, we may provide professional services to issuers of financial products in the ordinary course of business.

Deloitte Corporate Finance Pty Limited (and other entities related to Deloitte Touche Tohmatsu) have provided other services, excluding this Report, over the past two years to Sirtex Medical Limited. None of these relate to the Proposed CDH-CGP Scheme or the Prior Varian Scheme (in respect of which we prepared an Independent Expert Report and received fees of AUD 275,000).

### What should you do if you have a complaint?

If you have a concern about our Report, please contact us:

The Complaints Officer  
PO Box N250  
Grosvenor Place  
Sydney NSW 1220  
[complaints@deloitte.com.au](mailto:complaints@deloitte.com.au)  
Phone: +61 2 9322 7000

If an issue is not resolved to your satisfaction, you can lodge a dispute with the Financial Ombudsman Service (FOS).

FOS provides fair and independent financial services dispute resolution free to consumers.  
[www.fos.org.au](http://www.fos.org.au)  
1800 367 287 (free call)  
Financial Ombudsman Service

GPO Box 3 Melbourne VIC 3001

### What compensation arrangements do we have?

Deloitte Australia holds professional indemnity insurance that covers the financial services we provide. This insurance satisfies the compensation requirements of the Corporations Act 2001 (Cth).

30 July 2018

Deloitte Corporate Finance Pty Limited, ABN 19 003 833 127, AFSL 241457 of Level 1 Grosvenor Place, 225 George Street, Sydney NSW 2000

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Member of Deloitte Touche Tohmatsu Limited





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The Directors  
Sirtex Medical Limited  
Level 33, 101 Miller Street  
North Sydney  
NSW, 2060

30 July 2018

Dear Directors

## Re: Independent expert's report

### Introduction

On 14 June 2018 (the Announcement Date), Sirtex Medical Limited (Sirtex or the Company) announced a proposal under which CDH Genetech Limited, an entity wholly-owned by funds advised by CDH Investments (CDH) and China Grand Pharmaceutical and Healthcare Holdings Limited (CGP) (and collectively, the Bidders) will acquire 100% of the issued shares in Sirtex via a scheme of arrangement (the Proposed CDH-CGP Scheme). If the Proposed CDH-CGP Scheme is approved, holders of shares in Sirtex will receive cash consideration of Australian Dollar (AUD) 33.60 per share (Consideration)<sup>1</sup>. Sirtex also announced that the previously proposed scheme with entities associated with Varian Medical System, Inc. (Varian) (the Prior Varian Scheme) had been terminated.

Sirtex has developed a treatment for a specific form of liver cancer called SIR-Spheres® (SIR-Spheres, the Product). The Product has regulatory approval in various markets including Australia, the United States (US) and the European Union and is available through more than 1,160 treatment centres in over 40 countries. Listed on the Australian Securities Exchange (ASX) since 2000, Sirtex had a market capitalisation of AUD 1.05 billion (b) immediately prior to the announcement of the Prior Varian Scheme<sup>2</sup>.

Upon completion of the Proposed CDH-CGP Scheme, Sirtex would become a wholly owned subsidiary of an entity associated with the Bidders and would be subsequently delisted from the ASX. The board of directors of Sirtex (Board) has prepared a scheme booklet containing the detailed terms of the Proposed CDH-CGP Scheme (the Scheme Booklet) and an overview of the Proposed CDH-CGP Scheme is provided in Section 1 of our detailed report.

### Purpose of the report

Section 411 of the Corporation Act 2001 (Section 411) regulates schemes of arrangement between companies and their shareholders. Part 3 prescribes the information to be provided to shareholders in relation to schemes of arrangement.

Whilst an independent expert's report is not required in respect of the Proposed CDH-CGP Scheme, the directors of Sirtex (the Directors) have requested that Deloitte Corporate Finance Pty Limited (Deloitte

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<sup>1</sup> Less any dividends paid by Sirtex up to a maximum amount of \$0.30 per share

<sup>2</sup> Based on the closing price of AUD 18.83 and 55.8 million (m) ordinary shares outstanding on 29 January 2018, the last trading day prior to the announcement of the Prior Varian Scheme.

Corporate Finance) provide an independent expert's report advising whether, in our opinion, the Proposed CDH-CGP Scheme is in the best interests of the shareholders of Sirtex (Shareholders).

This report is to be included in the Scheme Booklet to be sent to Shareholders and has been prepared for the exclusive purpose of assisting Shareholders in their consideration of the Proposed CDH-CGP Scheme. Neither Deloitte Corporate Finance, Deloitte Touche Tohmatsu, nor any member or employee thereof, undertakes responsibility to any person, other than the Shareholders and Sirtex, in respect of this report, including any errors or omissions however caused.

## Basis of evaluation

This independent expert's report has been prepared in a manner consistent with Part 3 of Schedule 8 of the Corporations Regulations 2001 (Cth) (Part 3) to assist Shareholders in their consideration of the Proposed CDH-CGP Scheme. Part 3 prescribes the information to be provided to shareholders in relation to schemes of arrangement. We have prepared this report having regard to Part 3 and Australian Securities and Investments Commission (ASIC) Regulatory Guide 111: Contents of expert reports and ASIC Regulatory Guide 112: Independence of experts.

According to ASIC Regulatory Guide 111, where the scheme of arrangement has the same effect as a takeover, the form of analysis used by the expert should be substantially the same as for a takeover bid. Accordingly, if an expert were to conclude that a proposal was 'fair and reasonable' if it was in the form of a takeover bid, it will also be able to conclude that the proposal is in the best interests of the members of the company.

To assess whether the Proposed CDH-CGP Scheme is in the best interests of Shareholders, we have adopted the test of whether the Proposed CDH-CGP Scheme is either fair and reasonable, not fair but reasonable, or neither fair nor reasonable, as set out in ASIC Regulatory Guide 111.

## Definition of value

For the purpose of our opinion, we have referred to the concept of market value. Market value is defined as the amount at which the shares in the entity valued would be expected to change hands in a hypothetical transaction between a knowledgeable willing, but not anxious, buyer and a knowledgeable willing, but not anxious, seller acting at arm's length.

Special purchasers may be willing to pay higher prices to reduce or eliminate competition, to ensure a source of material supply or sales, or to achieve cost savings or other synergies arising on business combinations, which could only be enjoyed by the special purchaser. Our valuation has not been premised on the existence of a special purchaser.

## Summary and conclusion

In our opinion the Proposed CDH-CGP Scheme is fair and reasonable and therefore in the best interests of Shareholders. In arriving at this opinion, we have had regard to the following factors.

### **The Proposed CDH-CGP Scheme is fair**

According to ASIC Regulatory Guide 111, in order to assess whether the Proposed CDH-CGP Scheme is fair, the independent expert is required to compare the market value of a share in Sirtex on a control basis with the market value of the consideration under the Proposed CDH-CGP Scheme. The Proposed CDH-CGP Scheme is fair if the value of the consideration is equal to or greater than the value of the securities subject to the offer.

Set out in the table below is a comparison of our assessment of the market value of a Sirtex share with the Consideration offered by the Bidders under the Proposed CDH-CGP Scheme.

**Table 1: Assessment of offer price**

	Low (AUD)	High (AUD)
Offer price	33.60	33.60
Estimated market value of a share in Sirtex (on a control basis)	25.16	31.36
<b>Premium of offer price over estimated fair market value</b>	<b>8.44</b>	<b>2.24</b>
<b>% Premium</b>	<b>33.6%</b>	<b>7.2%</b>

Source: Deloitte Corporate Finance analysis

The figures presented above are on a cum-dividend basis. If the Board determine to pay a dividend to Shareholders prior to the implementation date, the offer price and the market value of a share in Sirtex will reduce by the amount of the dividend.

The Consideration offered by the Bidders is above our estimate of the market value of a Sirtex share. Accordingly, it is our opinion that the Proposed CDH-CGP Scheme is fair.

Our valuation has not had explicit regard to any potential compensation payable by Sirtex as a result of the securities class action which relates to alleged breaches of continuous disclosure obligations and misleading and deceptive statements made by Sirtex in 2016 (refer Section 3.6). Given the significant uncertainty in the outcome of any compensation, we do not consider the liability associated with the class action can be reliably quantified and accordingly have not adjusted our valuation. However, attributing a value for such compensation would only result in the value of the shares decreasing and as such, the Proposed CDH-CGP Scheme being assessed as more fair. Additional consideration of the impact of the class action is provided in the reasonableness assessment.

### Valuation of Sirtex

We have estimated the market value of Sirtex by applying the market multiples method, which involves capitalising a proxy of earnings with an appropriate earnings multiple. Key assumptions adopted under this methodology are outlined in the following table.

**Table 2: Summary of our valuation of Sirtex**

	Section	Unit	Low	High
Maintainable EBITDA	4.3.1	AUD m	80.0	90.0
EBITDA multiple (on a control basis)	4.3.4	times	16.0	18.0
<b>Enterprise value (on a control basis)</b>		<b>AUD m</b>	<b>1,280.0</b>	<b>1,620.0</b>
Add: net cash	4.3.5	AUD m	135.0	140.0
Add: surplus assets	4.3.6	AUD m	5.0	10.0
<b>Equity value</b>		<b>AUD m</b>	<b>1,420.0</b>	<b>1,770.0</b>
Number of shares on issue	4.3.8	m	56.4	56.4
<b>Value per share in Sirtex</b>		<b>AUD</b>	<b>25.16</b>	<b>31.36</b>

Note:

EBITDA = earnings before interest, tax, depreciation and amortisation

Source: Deloitte Corporate Finance analysis

In selecting the most appropriate approach to value Sirtex, we had regard to the fact that the business generates revenue and is profitable, and that it is at a reasonably mature stage in the product lifecycle. Further details of the selection of valuation approach are set out in Section 4.2.

We have assessed Sirtex's EBITDA to be in the range of AUD 80.0m to AUD 90.0m, based on our consideration of management revised guidance for FY18 reported EBITDA, historical earnings for FY16 and FY17 and the year to date performance to 31 December 2017, earnings projections from equity research analysts and various normalisation adjustments applicable to Sirtex historical financial performance. Our EBITDA range has been selected having regard to the impact of one-off costs incurred by the business recently, along with the costs of maintaining an ASX listing.

The earnings multiple of 16.0 times to 18.0 times (on a control basis) was selected based on consideration of the multiples of listed comparable companies and previous mergers and acquisitions in

the oncology and cancer treatment industry. This resulted in a value of the enterprise of Sirtex. We then made adjustments for net cash and surplus assets to derive the value of 100% of the equity in Sirtex on a control basis.

Our selected multiple is slightly higher than that selected in our assessment of the Prior Varian Scheme. This reflects that over the intervening period the outlook for the life sciences sector, and in particular a number of the entities considered comparable to Sirtex, has improved. In contrast and whilst the long term outlook for Sirtex remains positive, Sirtex management now expects FY18 EBITDA will be at the lower end of the guidance it previously provided.

We have cross-checked our valuation under the capitalisation of maintainable earnings using a high level discounted cash flow approach. The discounted cash flow method requires the projection of future cash flows, which are subsequently discounted to a present value using an appropriate discount rate.

Ungeared, nominal cash flow projections were prepared based on the current five-year plan developed by Sirtex management. We adopted a nominal, post tax discount rate of 11.5% to discount the estimated future cash flows attributed to the current business, with additional premiums applied to higher risk growth initiatives not included in the base plan. Further details of the assumptions underlying the cash flow projections are set out in Section 4.4.

Based on our analysis, we consider the high level discounted cash flow analysis supports our valuation of Sirtex derived under our primary methodology.

Our valuation range is wider than would normally be the case. However, we do not consider this unreasonable given the current position of the business and the uncertainty as to its ability to grow.

#### **Valuation of cash consideration**

The Bidders' offer is a 100% cash offer. If the Scheme is implemented, Sirtex shareholders will receive AUD 33.60 per share and therefore this amount represents the market value of the Consideration offered.

#### **The Proposed CDH-CGP Scheme is reasonable**

In accordance with ASIC Regulatory Guide 111, an offer is reasonable if it is fair. On this basis, in our opinion the Proposed CDH-CGP Scheme is reasonable.

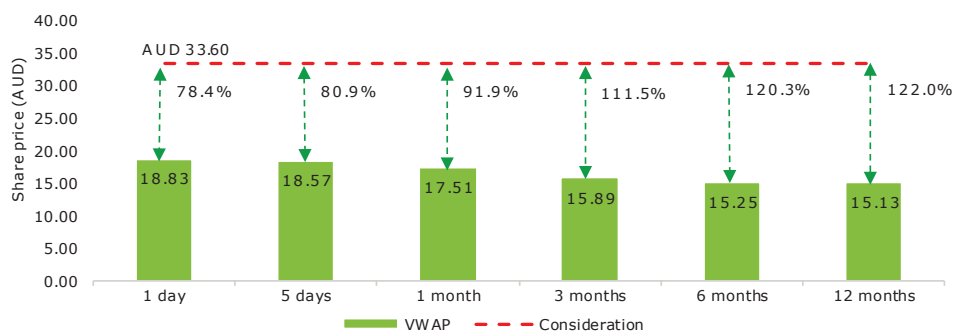
Notwithstanding, we have set out a number of reasonableness considerations below.

#### **Shareholders are receiving a substantial premium to the share price of Sirtex prior to the announcement of the Proposed CDH-CGP Scheme**

The Consideration of AUD 33.60 per share<sup>3</sup> offered to Shareholders under the Proposed CDH-CGP Scheme represents a significant premium to Sirtex's share trading prices throughout the 12-month period prior to the announcement of the Prior Varian Scheme, as highlighted below.

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<sup>3</sup> Less any dividends paid by Sirtex up to a maximum amount of \$0.30 per share

**Figure 1: Implied premium of the Consideration to Sirtex's undisturbed trading prices**

Note:

These figures differ slightly to the VWAPs and premiums set out in other ASX announcements made by Sirtex and the Scheme Booklet due to the different sources used

VWAP = volume weighted average price

Source: CapitalIQ, Deloitte Corporate Finance analysis

The premium implied by the Consideration to recent share trading prices is significant and higher than the range of premiums observed in the Australian marketplace (refer to Appendix 5). Such premium is reflective of a number of factors, in particular:

- the depressed share price resulting from the downgrade to dosage volumes in December 2016, followed by the subsequent and uncertain impact of the class actions and business restructure, combined with;
- the offer price from the Bidders which resulted from a competitive process undertaken by the Board and likely to have included a certain level of synergies
- the public disclosure of the well advanced status of the Prior Varian Scheme and some of the perceived risks with the Proposed CDH-CGP Scheme, which are likely to have required the Bidders to put forward a very compelling value proposition for Shareholders.

We also note that the Consideration represents a premium to the median broker share price target prior to announcement of the Prior Varian Scheme.

#### **The Proposed CDH-CGP Scheme provides the opportunity to realise certainty of value**

Consideration under the Proposed CDH-CGP Scheme is in the form of cash which provides certainty in crystallising the value of Shareholders' investment in Sirtex. It is fixed and unaffected by the outcome of the class actions or actual growth outcomes for the business (it also includes the value of synergies, which Sirtex as a standalone business enterprise could not realise). In the event the Proposed CDH-CGP Scheme is not approved, Shareholders will continue to hold shares in Sirtex, the value of which will be impacted by the uncertain outcome of the class actions along with growth outcomes as well as the investment risks relevant to Sirtex. Given these circumstances we consider there is a risk that Sirtex shares could continue to face substantial volatility in the absence of the Proposed CDH-CGP Scheme.

#### **The likelihood of a superior proposal emerging is low**

Since the Prior Varian Scheme was announced, CDH is the only party to come forward with an alternative proposal. Varian has confirmed that it will not submit a matching or superior proposal. As such, we consider the likelihood of another more superior proposal emerging to be low.

#### **Sirtex's share price may fall if the Proposed CDH-CGP Scheme is not implemented and no superior proposal emerges**

It is common for the share price of a target company that is subject to a takeover offer to trade at or around the price of the takeover offer during the offer period, particularly if the market has formed the view that the takeover will proceed at that price. Since the announcement of the Prior Varian Scheme, Sirtex's shares have traded at a small discount to the prices being offered under the Prior Varian Scheme or under the Proposed CDH-CGP Scheme.

In the absence of an alternative offer and in the event that the Proposed CDH-CGP Scheme is unsuccessful, Sirtex's share price is likely to decline to the levels achieved prior to the announcement date of the Prior Varian Scheme in the short term. Based on Sirtex management's forecasts and the Company's pre announcement trading multiple, it could take more than three years to reach a share price of AUD 33.60. Even in this case, it would require Sirtex to successfully execute on all initiatives, a number of aspects of which are outside its control.

**If the Proposed CDH-CGP Scheme does not proceed, Shareholders will continue to be subject to the risks and uncertainties associated with Sirtex's business and general market risks**

In the event the Proposed CDH-CGP Scheme does not proceed, Sirtex will continue to pursue a number of initiatives which carry execution risks caused by internal (time for implementation, requirement for additional capital, etc) and external (regulatory/reimbursement, demand risk, increased competition and new technologies) factors. In addition, Sirtex will remain a listed entity which will expose Shareholders to general investment risks such as market volatility, general economic conditions and the demand for listed securities. Such risks can be higher for single product focus companies like Sirtex. There is also the risk that the securities class action is not resolved which is likely to create additional volatility in the share price.

The Proposed CDH-CGP Scheme eliminates these risks for Shareholders by allowing them to exit their investment in Sirtex at a significant premium.

**The Proposed CDH-CGP Scheme does not allow Shareholders to maintain your current investment profile and participate in the future upside of the Sirtex business**

Implementation of the Proposed CDH-CGP Scheme is disadvantageous to those who wish to maintain their current investment profile, as these Shareholders may find it difficult to find an alternative investment with a similar profile to that of Sirtex (which, in the Australian market, is limited), let alone the transaction costs that they may incur in acquiring such investment.

**The board has negotiated various protections to reduce the risk of the Proposed CDH-CGP Scheme not proceeding**

The Proposed CDH-CGP Scheme has fewer conditions than the Prior Varian Scheme and typical transactions of this type:

1. the Proposed CDH-CGP Scheme does not have any "material adverse change" clauses
2. the conditions required to implement the scheme (which for the most part should be resolved before Shareholders are required to vote on the Proposed CDH-CGP Scheme) are largely procedural in nature or relate to no regulatory intervention in certain jurisdictions including the US. Approval by the Committee for Foreign Investment in the US (CFIUS) is not required in order for the scheme to be implemented, however the Board has negotiated a requirement on the part of the Bidders to accept certain mitigating actions if required by the CFIUS. An order issued by CFIUS pursuant to an ongoing investigation may result in a legal restraint being imposed that could delay or prevent the Proposed CDH-CGP Scheme from completing
3. the Bidders have deposited AUD 220m (representing more than 10% of the purchase consideration) with a major Australian Bank. In certain circumstances, including regulatory intervention (including CFIUS), Sirtex will be entitled to retain the AUD 200m (plus GST).

### Opinion

In our opinion, the Proposed CDH-CGP Scheme is fair and reasonable, and therefore in the best interests of Shareholders. An individual shareholder's decision in relation to the Proposed CDH-CGP Scheme may be influenced by his or her particular circumstances. If in doubt, the shareholder should consult an independent adviser, who should have regard to their individual circumstances.

This opinion should be read in conjunction with our detailed report which sets out our scope and findings.

Yours faithfully



**Tapan Parekh**  
Authorised Representative  
AR Number: 461009

## Glossary

Reference	Definition
Announcement Date	Date on which the Proposed CDH-CGP Scheme was announced, 14 June 2018
APAC	Asia Pacific
ASIC	The Australian Securities and Investments Commission
ASX	Australian Securities Exchange
AUD	Australian dollars
b	Billion
Bidders	CDH and CGP
Board	Board of directors of Sirtex
CAGR	Compound annual growth rate
CDH	CDH Genetech Limited, an entity wholly-owned by funds advised by CDH Investments (CDH)
CFIUS	Committee for Foreign Investment in the US
CGP	China Grand Pharmaceutical and Healthcare Holdings Limited (CGP)
Consideration	AUD 33.60 per share to be paid to the Shareholders if the Proposed CDH-CGP Scheme is approved, less any dividends paid by Sirtex up to a maximum amount of \$0.30 per share
Corporations Act	Corporations Act 2001 (Cth)
CY	Calendar year
Deloitte	Deloitte Touche Tohmatsu
Deloitte Corporate Finance	Deloitte Corporate Finance Pty Limited
Directors	Directors of Sirtex
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
EMEA	Europe, Middle East, Africa
EPS	Earnings per share
EUR	Euro
EV	Enterprise value
FDA	Food and Drug Administration
FIRB	Foreign Investment Review Board
FOS	Financial Ombudsman Service
FSG	Financial Services Guide
FY	Financial year
HBV	Hepatitis B virus
HCV	Hepatitis C virus
HCC	Hepatocellular Carcinoma
Healthcare Index	S&P/ASX 200 Healthcare Index
LHS	Left hand side



Reference	Definition
LATAM	Latin America
LTM	Last twelve months
m	Million
mCRC	Metastatic colorectal cancer
n/a	Not available
n/d	Not disclosed
n/m	Not meaningful
NPAT	Net profit after tax
Part 3	Part 3 of Schedule 8 of the Corporations Regulations 2001 (Cth)
pcp	Prior corresponding period
Performance Rights	Performance rights issued by Sirtex
Prior Varian Scheme	Proposal under which Varian (through a wholly owned subsidiary) would acquire 100% of the issued shares in Sirtex via a scheme of arrangement. This scheme has now been terminated
Proposed CDH-CGP Scheme	Proposal under which CDH and CGP will acquire 100% of the issued shares in Sirtex via a scheme of arrangement
R&D	Research and development
Report, our	Independent expert's report in connection with the proposed scheme of arrangement between Sirtex and the Bidders
RHS	Right hand side
S&P	Standard & Poor's
Scheme Booklet	A scheme booklet prepared by the board of Sirtex, containing the detailed terms of the Proposed CDH-CGP Scheme
Section 411	Section 411 of the Corporations Act 2001
Section 640	Section 640 of the Corporations Act 2001
Shareholders	Existing shareholders of Sirtex
SIR-Spheres/the Product	SIR-Spheres®
SIRT	Selective Internal Radiation Therapy
Sirtex/the Company	Sirtex Medical Limited
TACE	Transcatheter arterial chemoembolisation
UK	United Kingdom
US	United States
USD	United States Dollars
Varian	Varian Medical Systems, Inc.
VWAP	Volume weighted average price
Y-90	Yttrium-90

## Contents

1	Overview of the Proposed CDH-CGP Scheme	11
2	Basis of evaluation	14
3	Profile of Sirtex	16
4	Valuation of Sirtex	28
	Appendix 1: Global Interventional Oncology industry	39
	Appendix 2: Valuation methodologies	44
	Appendix 3: Comparable entities	45
	Appendix 4: Comparable transactions	49
	Appendix 5: Control premium studies	51
	Appendix 6: Context to the report	54

# 1 Overview of the Proposed CDH-CGP Scheme

## 1.1 Background to the Proposed CDH-CGP Scheme

In late 2017 Sirtex received a number of unsolicited, non-binding acquisition proposals. The Board elected to engage with these parties to explore the potential for an offer that could be in the best interests of Shareholders. In conjunction with this, Sirtex's advisers contacted a number of additional parties to test interest in submitting alternative proposals to acquire Sirtex.

A number of parties were provided with access to due diligence information and Sirtex senior management to facilitate proposals that took appropriate account of the long term potential of Sirtex and the synergies that might be available to potential acquirers.

On completion of this process, the Board of Sirtex received a number of proposals.

On 30 January 2018, the Directors of Sirtex and Varian announced a proposal under which Varian (through a wholly owned subsidiary) would acquire 100% of the shares in Sirtex by way of a scheme of arrangement for cash consideration of AUD 28.00 per share (the Prior Varian Scheme).

At that time the Board concluded that the Prior Varian Scheme was in the best interests of Shareholders on the basis of the price offered, the certainty of the consideration and having regard to the potential prospects and risks associated with an investment in Sirtex.

On 4 May 2018, Sirtex announced that it received an unsolicited non-binding, indicative and conditional proposal from CDH to acquire 100% of Sirtex for a cash price of AUD 33.60 per share.<sup>4</sup> Sirtex requested an adjournment of the shareholder meeting to vote on the Prior Varian Scheme and CDH was allowed to undertake confirmatory due diligence. CDH was not a party that had participated in the above mentioned process (neither was CGP).

On 22 May 2018, following completion of confirmatory due diligence by CDH, Sirtex announced that it had received an offer from CDH that was capable of acceptance. Sirtex notified Varian of the material terms and conditions of the CDH Proposal and Varian was given the opportunity to submit a counter proposal (as Varian was entitled under the scheme implementation deed that the two companies had previously entered into). The Board of Directors of Sirtex also continued to consider the relative merits and risks of the proposal from CDH.

On 14 June 2018, Sirtex announced that the proposal from CDH had been amended such that it was now being made jointly by CDH and CGP. It also announced that Varian had confirmed that it would not submit a matching or superior proposal and that the Board had assessed the proposal from CDH and CGP as against the proposal from Varian and having regard to a number of considerations, including specialist advice obtained by the Board, decided to terminate the Prior Varian Scheme and enter into a binding scheme implementation deed with CDH and CGP.

The offer price of AUD 33.60 per share<sup>4</sup> implies an enterprise value of AUD 1.8 billion. Based on FY17 adjusted EBITDA (set out in Table 9) it implies an EBITDA multiple of 28 times.

<sup>4</sup> Less any dividends paid by Sirtex up to a maximum amount of \$0.30 per share

## 1.2 Background to CDH and CGP

CDH is wholly owned by funds associated with CDH Investments. CDH Investments along with its affiliates is a dedicated alternative asset fund manager with approximately USD 20b of committed capital under management. CDH was established in 2002 and is managed by a team of private equity professionals who have worked together for more than 20 years. CDH managed funds are anchored by institutional investors, including sovereign wealth funds, pension funds, endowments, and family offices. Sponsored by Government of Singapore Investment Corporation and Capital Z, an investment fund backed by Zurich Insurance, CDH is headquartered in Singapore and maintains offices in Mainland China, Hong Kong, and Vietnam. CDH seeks to partner with management teams to foster growth and build successful companies. As at the date of this Scheme Booklet, CDH has invested in more than 190 companies, including more than 60 companies which have listed publicly in the US, Hong Kong, and China. CDH has invested in a number of healthcare businesses with a focus on investing in global companies with growth potential in China.

In the context of the above, CDH has previously sought and obtained US anti-trust approvals and/or CFIUS approvals.

CGP is a Hong Kong Stock Exchange listed entity that is engaged in the development, manufacture and sale of pharmaceutical preparations, medical devices, pharmaceutical intermediaries, specialised raw materials and healthcare products. For the year ended 31 December 2017, CGP generated revenues of HKD 4.8b (AUD 782m) and net profit after tax of HKD 486m (AUD 80m). CGP has a market capitalisation of HKD 12b (approximately AUD 1.97b). CGP is approximately 59% owned indirectly by China Grand Enterprises, Inc, a Chinese conglomerate whose core business includes the research, manufacture and sale of pharmaceutical products in China, including oncology therapies.

## 1.3 Key conditions of the Proposed CDH-CGP Scheme

The Proposed CDH-CGP Scheme is subject to various conditions, including:

1. court approval in accordance with section 411(4)(b) of the Corporations Act
2. no prescribed occurrences as defined under the Scheme Implementation Deed
3. Shareholder approval at the scheme meeting by the requisite majorities
4. no court or government agency in Australia, the US, Germany, Italy, Belgium, The UK or Ireland issuing a temporary or permanent restraint on the Proposed CDH-CGP Scheme.

It is important to note that there are no 'material adverse change' conditions, including in particular those connected with the financial performance or financial position of Sirtex.

The first three in the above list could be viewed as largely procedural. With respect to the final item, the Bidders and Sirtex have voluntarily notified CFIUS of the Proposed CDH-CGP Scheme. While CFIUS approval is not a condition to the Proposed CDH-CGP Scheme, CFIUS has the power to prevent parties from completing an acquisition or direct them to take steps to mitigate any potential concerns. For a variety of reasons which are set out in Section 3 of the Scheme Booklet, the board of Sirtex considers the overall risk of CFIUS not approving the Proposed CDH-CGP Scheme is low.

CGP is required to obtain shareholder approval in respect of its participation in the Proposed CDH-CGP Scheme. This is not a condition precedent to the Proposed CDH-CGP Scheme.

The Bidders have obtained debt and equity commitments in order to fund the purchase consideration. Whilst the debt commitments are conditional on the successful implementation of the Proposed CDH-CGP Scheme and could be withdrawn prior to this, funds associated with CDH have provided a commitment that if CGP is unable to fund its equity share, CDH will fund 100% of the equity consideration.

Sirtex is subject to a 12 month exclusivity period, with a break fee (1% of equity value) payable by Sirtex to the Bidders in customary circumstances particularly including the announcement of a competing proposal that completes or a majority of the Sirtex Directors changing their recommendation or voting intentions in relation to the Proposed CDH-CGP Scheme.

CGP, on behalf of the Bidders, has agreed to pay a break fee of AUD 200m (plus GST) in certain circumstances including if the Proposed CDH-CGP Scheme is not effected by 14 June 2019 where a restraint on the Proposed CDH-CGP Scheme is imposed by CFIUS. This amount has already been deposited with a major Australian bank.

In certain circumstances where Sirtex is entitled to the above-mentioned fee, Sirtex and the Bidders have agreed to use their best endeavours to enter into a formal agreement that governs the grant by Sirtex to the Bidders of exclusive commercialisation rights in favour of the China market in respect of Sirtex's intellectual property.

As a result of terminating the Prior Varian Scheme, Sirtex has paid a break fee of AUD 16m. The Bidders have indemnified Sirtex against this fee.

Full details of the Proposed CDH-CGP Scheme are provided in Section 4 of the Scheme Booklet.

## 2 Basis of evaluation

### 2.1 Guidance

In undertaking the work associated with this report, we have had regard to ASIC Regulatory Guide 111 in relation to the content of expert's report and ASIC Regulatory Guide 112 in respect of the independence of experts.

Schemes of arrangement can include many different types of transactions, including being used as an alternative to a Chapter 6 takeover bid. The basis of evaluation selected by the expert must be appropriate for the nature of each specific transaction.

Section 640 of the Corporations Act 2001 (Section 640) requires an independent expert's report in connection with a takeover offer to state whether, in the expert's opinion, the takeover offer is fair and reasonable. Where the scheme of arrangement has the same effect as a takeover, the form of analysis used by the expert should be substantially the same as for a takeover bid, however, the opinion reached should be whether the proposed scheme is 'in the best interests of the members of the company'. Accordingly, if an expert were to conclude that a proposal was 'reasonable' if it was in the form of a takeover bid, it will also be able to conclude that the proposed scheme is in the best interests of the members of the company.

#### ASIC Regulatory Guide 111

This regulatory guide provides guidance in relation to the content of independent expert's reports prepared for a range of transactions.

ASIC Regulatory Guide 111 refers to a 'control transaction' as being the acquisition (or increase) of a controlling stake in a company that could be achieved, for example, by way of a takeover offer, scheme of arrangement, approval of an issue of shares using item 7 of s611, a selective capital reduction or selective buy back under Chapter 2J.

In respect of control transactions, under ASIC Regulatory Guide 111 an offer is:

- fair, when the value of the consideration is equal to or greater than the value of the shares subject to the proposed scheme. The comparison must be made assuming 100% ownership of the target company.
- reasonable, if it is fair, or, despite not being fair, after considering other significant factors, shareholders should accept the offer under the proposed scheme, in the absence of any higher bids before the close of the offer.

To assess whether the Proposed CDH-CGP Scheme is in the best interests of Shareholders, we have adopted the tests of whether the Proposed CDH-CGP Scheme is either fair and reasonable, not fair but reasonable, or neither fair nor reasonable, as set out in ASIC Regulatory Guide 111.

### 2.2 Fairness

ASIC Regulatory Guide 111 defines an offer as being fair if the value of the offer price is equal to or greater than the value of the securities subject to the offer. The comparison must be made assuming 100% ownership of the target company.

Accordingly, we have assessed whether the Proposed CDH-CGP Scheme is fair by comparing the Consideration offered with the value of a share in Sirtex on a control basis.

The Sirtex shares have been valued at market value, which we have defined as the amount at which the shares would be expected to change hands between a knowledgeable and willing but not anxious buyer and a knowledgeable and willing but not anxious seller, neither of whom is under any compulsion to buy or sell.

Special purchasers may be willing to pay higher prices to reduce or eliminate competition, to ensure a source of material supply or sales, or to achieve cost savings or other synergies arising on business

combinations, which could only be enjoyed by the special purchaser. Our valuation of a Sirtex share has not been premised on the existence of a special purchaser.

We have assessed whether the Proposed CDH-CGP Scheme is fair by comparing the value of a Sirtex share to the value of the Consideration to be received from the Bidders. We have assessed the value of each Sirtex share by estimating the current value of Sirtex on a control basis and dividing this value by the number of shares on issue.

## 2.3 Reasonableness

ASIC Regulatory Guide 111 considers an offer in respect of a control transaction, to be reasonable if either:

- the offer is fair
- despite not being fair, but considering other significant factors, shareholders should accept the offer in the absence of any higher bid before the close of the offer.

To assess the reasonableness of the Proposed CDH-CGP Scheme we considered the following factors in addition to determining whether the Proposed CDH-CGP Scheme is fair:

- the extent to which Shareholders are receiving a premium for control
- the likely price of Sirtex shares in the absence of the Proposed CDH-CGP Scheme
- the fact that the Proposed CDH-CGP Scheme allows shareholders to realise their investment in Sirtex
- the value to an alternative bidder and the likelihood of an alternative offer being made
- other implications associated with Sirtex shareholders rejecting the Proposed CDH-CGP Scheme.

## 2.4 Limitations

This report should be read in conjunction with Appendix 6.


### 3 Profile of Sirtex

#### 3.1 Introduction and company history

Sirtex is primarily engaged in the design, manufacture and distribution of a specific form of liver cancer treatment called Selective Internal Radiation Therapy (SIRT) across approved markets in Asia-Pacific, Europe, Middle East, Africa, North America and South America. The Company is headquartered in North Sydney, Australia and has been listed on the ASX since August 2000.

Key milestones in the Company's history are outlined in the figure below.

**Figure 2: Key events in corporate history**



1997	Formation of the company in Australia, to acquire and commercialise a portfolio of three technologies developed by Dr. Bruce Gray and the Cancer Research Institute Inc. (CRI)
1998	First commercial sale of SIR-Spheres in Australia
2000	Listed on ASX on 24 August 2000, with an initial market capitalisation of AUD 15m
2002	Sales and marketing office for Americas was established in Illinois Gained US Food and Drug Administration (FDA) and European CE Mark approval for pre-market approval application for SIR-Spheres
2003	Sales and marketing office for Europe was established in Germany
2008	Manufacturing facility in Wilmington, Massachusetts received FDA approval for production
2011	Manufacturing facility in Singapore established
2015	Results of SIRFLOX study announced
2017	Manufacturing facility in Frankfurt established Results of SARAH, SIRveNIB and combined SIRFLOX/ FOXFIRE/ FOXFIRE Global studies announced

Source: Sirtex Annual Reports

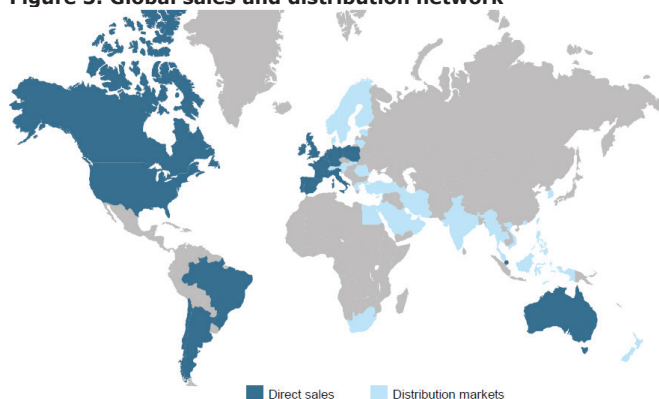
#### 3.2 Products, markets and operations

##### 3.2.1 Overview of the business

The Company's core product, SIR-Spheres, provides high dose radiation directly to a tumour, minimising damage to surrounding normal cells. It is a treatment that forms part of the interventional oncology sector. Further information on this sector is provided in Appendix 1. The Product is currently provided to salvage patients (patients with inoperable cancers who are intolerant to, or where their disease has progressed on, chemotherapy treatments) with primary liver cancer (hepatocellular carcinoma (HCC)) and secondary liver cancer (metastatic colorectal cancer (mCRC)) at over 1,160 treatment centres in over 40 countries.

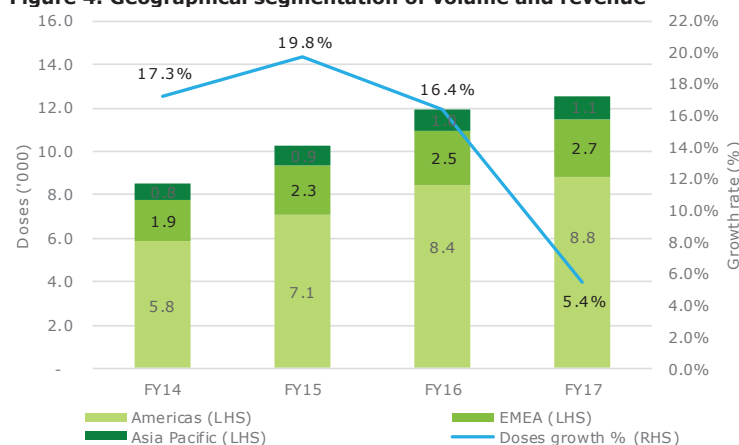
Although Sirtex originated in Australia, it has expanded via the establishment of manufacturing capabilities in Singapore, US and Germany. The Company has a mix of direct and indirect sales distribution models servicing numerous countries globally, as outlined in the figure below.



**Figure 3: Global sales and distribution network**

Source: Sirtex

For reporting and management purposes, these markets are classified in three segments namely Americas, EMEA (Europe, Middle East and Africa) and Asia Pacific. The Americas segment is the most developed and generates approximately 70% of total dosage volumes and 80% of total revenue of the Company.

**Figure 4: Geographical segmentation of volume and revenue**

Note:  
LHS = left hand side  
RHS = right hand side  
Source: Sirtex Annual Report

Sirtex markets the product and related technology by educating medical practitioners and reimbursement institutions, including government healthcare institutions and private insurance providers.

### 3.2.2 Core product

SIR-Spheres are small resin microspheres bound with the tumour killing radioisotope, Yttrium-90 (Y-90). They are administered to patients using minimally invasive techniques and are lodged into the blood vessels supplying the tumour with the aim of destroying it. The anti-cancer spheres concentrate within the tumour, minimising the effect on surrounding tissue hence reducing side effects to the patient. SIR-Spheres is the only therapy to achieve a Pre-Market Approval (PMA) by the US FDA for mCRC<sup>5</sup>.

SIRT is a relatively new therapy alternative when compared to conventional liver cancer treatments such as surgery, transplantation, ablation and chemotherapy. However, it is most commonly used as a

<sup>5</sup> The competing Therasphere has humanitarian device exemption (HDE) with the FDA

salvage level treatment. Salvage level treatments are typically only used when all other treatment options (referred to as first and second line) have been exhausted or are not capable of being used on the patient. This factor coupled with the very low survival rates for liver cancer reduce the addressable market for SIRT.

In recent years, Sirtex undertook a series of clinical studies to validate the effectiveness of SIR-Spheres as a first or second line liver cancer treatment option and thereby increase its addressable market. This included the SIRFLOX/FOXfire/FOXfire Global studies on patients with mCRC, and SARAH and SIRveNIB studies on the patients with HCC. The results of the SIRFLOX study were announced (on a preliminary basis) in March 2015 whereas the results of other studies were released in 2017. They are summarised below:

- mCRC related studies did not indicate any statistically significant variance in:
  - overall survival – between (i) combined use of SIR-Spheres and Chemotherapy and (ii) Chemotherapy alone;
  - overall progression free survival - between (i) combined use of SIR-Spheres and Chemotherapy and (ii) Chemotherapy alone; and
  - Overall survival – between liver-only and liver dominant disease sub-groups.

These studies did not reach their primary endpoint and therefore failed to show a statistically significant OS benefit. Whilst, there were indications of a statistically significant survival benefit for patients with a right sided primary colon cancer, the incidence of this form of colon cancer is approximately 25% and much harder to treat

- HCC related studies also did not indicate any statistically significant variance in overall survival when compared to patients receiving Sorafenib medication. However, on a positive note, the results of:
  - SARAH study indicated improvement in the quality of life of patients treated with SIR-Spheres; and
  - SIRveNIB study indicated better tumour response rates, with patients treated with SIR-Spheres facing significantly fewer and less severe adverse effects

These studies also did not reach their primary endpoint and therefore did not provide sufficient supporting evidence for SIR-Spheres to be used as the primary treatment. However, the Company is planning to utilise the findings of the SARAH and SIRveNIB studies for filing an FDA approval for the treatment of patients with HCC in 2018 and has also commenced sales and marketing efforts in EMEA and Asia-Pacific to promote the benefits of SIR-Spheres. The FDA approval is likely to take a few years.

### 3.2.3 Operations

Sirtex currently has manufacturing facilities in the US (Wilmington), Singapore and Germany (Frankfurt). The facilities have a total manufacturing capacity of 72,000 doses per annum, with current average capacity utilisation of approximately 20% to 40%.

As the radioactive element Y-90 has a short half-life of 64.1 hours, Sirtex has invested significantly to optimise distribution logistics. Partnerships with reliable third party logistics coupled with manufacturing facilities being located close to large airfreight hubs and integrated software, help to ensure timely delivery.

Product pricing varies across regions and is largely dependent upon the reimbursements made available to the patient under either government operated healthcare systems or from private insurance providers. Sirtex has a designated Global Pricing, Reimbursement and Market Access team which works with these institutions to obtain reimbursement for the cost of the treatment.

To drive increased dosage sales, Sirtex has been able to increase the number of treatment centres which administer SIR-Spheres to patients. The following table shows the increase in the number of treatment centres in each region since FY14.

**Table 3: SIR-Spheres treatment centres**

	FY14	FY15	FY16	FY17
Americas	419	493	564	639
EMEA	261	291	306	308
Asia Pacific	115	135	133	146
<b>Total treatment centres</b>	<b>795</b>	<b>919</b>	<b>1,003</b>	<b>1,093</b>

Source: Sirtex Investor Presentations

The Americas has seen the greatest increase in the number of treatment centres with 220 new centres at a CAGR of 15.1% from FY14 to FY17. EMEA and Asia Pacific treatment centres increased at lower CAGR rates (5.7% and 8.3% CAGR respectively), resulting in the total number of treatment centres increasing by 298 centres at a CAGR of 11.2% from FY14 to FY17. SIR-Spheres are currently administered to patients at over 1,160 treatment centres.

### 3.2.4 Regulatory approvals and reimbursement

SIR-Spheres have regulatory approval for treatment of inoperable liver cancer with the Therapeutic Goods Administration (TGA) in Australia and the CE Mark in the European Union. In the US, they have FDA approval for mCRC (but not HCC, which Sirtex intends to seek regulatory approval for soon).

Outlined in the table below is a summary of the reimbursement coverage held by Sirtex.

**Table 4: Reimbursement coverage in key markets**

Country	Reimbursement
US	Medicare, Medicaid and Commercial Insurance programs (mCRC only)
UK	Local funding and private insurers (mCRC, HCC and intrahepatic cholangiocarcinoma) only
Australia	Product Specific Temporary MBS code for mCRC
France	Ministry of Health for Sirtex Brand Specific for mCRC
Singapore	Public reimbursement approved by Ministry of Health
Germany	National Generic Y-90 for pan liver licence
Belgium	National reimbursement for pan liver
Spain	National reimbursement for Sirtex Brand for mCRC
Italy	Local funding
Canada	Local funding

Source: Sirtex Investor Presentations, reimbursement body websites

### 3.2.5 Non-core clinical research

The Company is in the early stages of exploring the possibility of using the technology for the treatment of cancers in other organs in collaboration with various academic and research institutions and has also been undertaking a number of research and development programs. Some of these programs have however, been discontinued as part of the strategy reset announced in June 2017.

## 3.3 Capital structure and shareholders

### 3.3.1 Equity shareholders

As at the Announcement Date, Sirtex had 55.8m ordinary shares on issue.

The following table summarises the substantial shareholders and their shareholding interest in the Company as at 25 July 2018.

**Table 5: Sirtex's substantial shareholders as at 25 July 2018**

Investor	Number of shares (m)	% of shares issued
UBS Group AG and its related bodies corporate	4.2	7.5%
OMNI Partners LLP	4.0	7.1%
Mitsubishi UFJ Financial Group, Inc.	3.8	6.8%
Morgan Stanley and its subsidiaries	3.8	6.8%
Macquarie Group Limited and its controlled bodies corporate	3.5	6.3%
Hanate Pty Ltd	2.8	5.0%
Other shareholders	33.7	60.4%
<b>Total share capital</b>	<b>55.8</b>	<b>100.0%</b>

Source: Orient Capital - Sirtex Medical Limited Top 100 Share Register Analysis

The current Directors of Sirtex collectively own 35,777 ordinary shares of Sirtex, representing 0.06% of the total shares on issue.

As at the Announcement Date, Sirtex also had 780,657 Performance Rights on issue across four tranches as outlined below.

**Table 6: Performance rights**

Tranche	Vesting date	Number on issue as at Announcement Date
Rights issued in FY16	1 July 2018	124,744
Rights issued in FY17	1 July 2019	148,546
Rights issued in FY18	1 July 2020	454,027
Sirtex Equity Plan issued in FY17	1 July 2019	53,340
<b>Total</b>		<b>780,657</b>

Source: Sirtex

The Board have determined that 16,467 of the FY16 rights will vest and as a result, the balance being 108,277 have lapsed. Additionally, 300 of the Sirtex Equity Plan rights issued in FY17 have lapsed.

In the event of a change in control of Sirtex, vested Performance Rights may be exercised and, unless the Sirtex Board determines in its discretion that a larger number will vest, a proportion of unvested Performance Rights may be exercised by the holder (with that proportion calculated based on the movement in Sirtex's share price (based on 10 day VWAP) since the beginning of the measurement period or at the discretion of the Sirtex Board, as stipulated). The Sirtex Board has exercised its discretion and allowed all outstanding Performance Rights to vest in the event the Proposed CDH-CGP Scheme becomes effective.

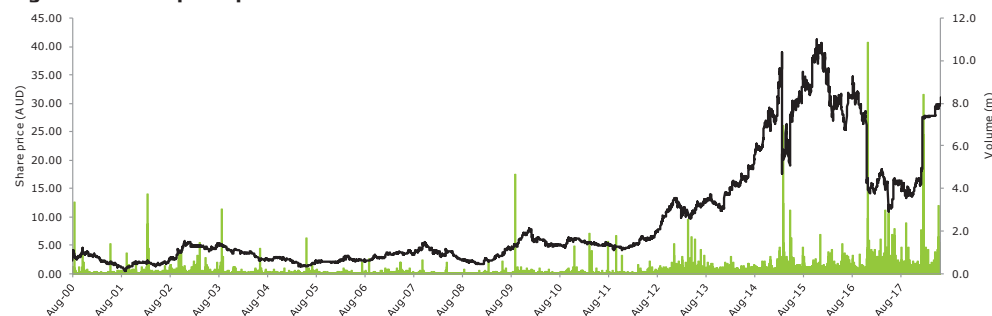
### 3.3.2 Debt

Sirtex currently has no debt and had AUD 92.8m cash on hand as at 31 December 2017.

### 3.4 Share price performance

In August 2000, Sirtex listed on the ASX with approximately 15 million ordinary shares, at an offer price of AUD 1.00 per share.

**Figure 5: Share price performance**

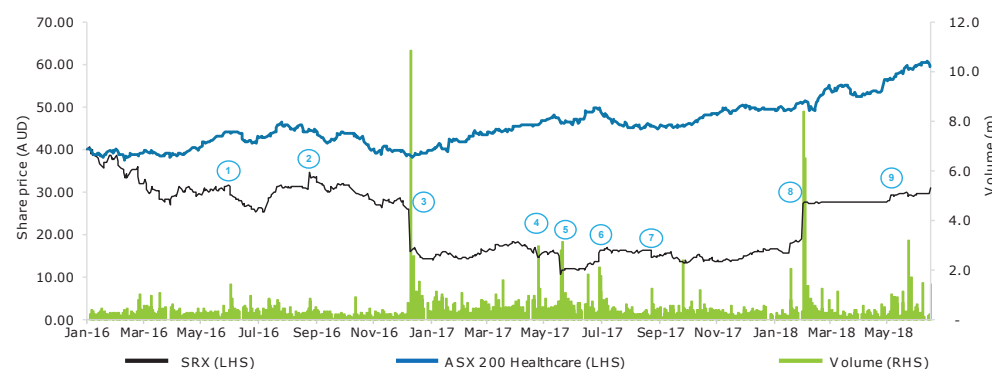


Source: CapitalIQ

After listing, the share price of Sirtex fluctuated between AUD 0.47 and AUD 7.99 until October 2012 when the Singapore manufacturing facility became operational. The annual volume of doses sold grew from approximately 6,000 doses in 2012 to over 10,000 doses in 2015 driving a significant uplift in the Sirtex share price over the same period. In March 2015, the share price then fell 44% due to the announcement of the SIRFLOX trial results, which did not indicate any statistically significant improvement in overall progression free survival.

Sirtex's daily share price history, trading volumes and performance against the S&P/ASX 200 Healthcare Index since 1 January 2016 are presented in the chart below, along with potentially price-sensitive ASX announcements and other events over the period.

**Figure 6: Sirtex share price relative to ASX 200 Healthcare Index**



Note:

The line representing ASX 200 Healthcare Index has been rebased to the share price of Sirtex as at 1 January 2016

Source: CapitalIQ

From January 2016, the share price of Sirtex fell from AUD 40.05 to a low of AUD 10.75 in May 2017 before trading within the range of AUD 11.54 to AUD 27.65 prior to the announcement of the Prior Varian Scheme. Prior to the announcement of the Proposed CDH-CGP Scheme, the Sirtex share price traded in the range of AUD 27.32 to AUD 27.92.

In January 2016, Sirtex's share price was trading at all-time highs of approximately AUD 40.00 per share. This was possibly a reflection of:

- Sirtex's dose sales growth over the last five years to 30 June 2015 at a CAGR of 19.7%

- market perception of the clinical trials around the adoption of SIR-Spheres in earlier stages of liver cancer
- research being undertaken for use of SIR-Spheres in other indications.

The key price movements in Sirtex's share price and trading volumes, as identified by the numbers in the figure above, can be attributed to the following events and announcements.

**Table 7: Key events/announcements**

Reference	Date	Comments
1	01-Jun-16	The number of orders in Asia Pacific and EMEA were expected to fall due to temporary supply disruptions in Asia and tighter funding environments in Europe
2	24-Aug-16	Announcement of strong growth in FY16 and guidance of double digit dose sales growth for FY17
3	09-Dec-16	Expected dosage growth in FY17 reduced to between 5% to 11% in light of year-to-date performance
4	24-April-17	Announcement of results of SARAH clinical study which did not meet its primary endpoint
5	18-May-17	Announcement of the combined results of SIRFLOX /FOXFIRE /FOXFIRE Global studies which also do not meet primary endpoint, resulting in 28% share price decrease
6	28-June-17	Announcement of cost base restructuring with 15% cut in workforce
7	23-Aug-17	The share price decreases by 10% on release of the FY17 Annual Report
8	31-Jan-18	46% share price increase as the market aligns to the offer price under the Prior Varian Scheme
9	04-May-18	Share price increases to slightly above the offer price under the Prior Varian Scheme as a result of the announcement of the non-binding indicative offer from CDH at AUD 33.60 per share

Source: ASX announcements, other public disclosures, Deloitte Corporate Finance analysis

Sirtex has traded at an average discount of 48% to the S&P/ASX 200 Healthcare Index (Healthcare Index) since January 2016. This discount appears to be largely driven by the announcement of the SIRFLOX study in early 2016, which produced unfavourable results, and the downgrade in expected dosage growth rates in December 2016.

### 3.5 Financial performance

Recent reported financial performance of Sirtex for the financial years ended 30 June 2014 to 30 June 2017, and the six months ended 31 December 2017, is summarised below.

**Table 8: Historical financial performance**

AUD m	Audited FY14	Audited FY15	Audited FY16	Audited FY17	Reviewed H1FY18 <sup>1</sup>
Sales revenue	129.4	176.1	232.5	234.3	109.4
Cost of Sales	(20.4)	(27.7)	(35.3)	(36.2)	(17.7)
<b>Gross profit</b>	<b>109.0</b>	<b>148.4</b>	<b>197.2</b>	<b>198.1</b>	<b>91.7</b>
Other income	0.1	2.1	2.1	0.2	0.3
Operating expenses	(78.2)	(97.3)	(125.0)	(144.4)	(57.8)
<b>EBITDA</b>	<b>30.8</b>	<b>53.3</b>	<b>74.3</b>	<b>53.9</b>	<b>34.1</b>
EBIT	29.2	50.9	67.8	46.9	32.5
Impairment of intangible assets	-	-	-	(90.5)	-
Net finance income	1.9	1.9	2.2	2.6	0.8
Tax paid	(7.2)	(12.4)	(16.4)	14.7	(9.6)
<b>NPAT</b>	<b>23.9</b>	<b>40.3</b>	<b>53.6</b>	<b>(26.3)</b>	<b>23.6</b>
Dosage volumes (number)	8,561	10,252	11,931	12,578	6,023
Revenue per dose (AUD'000)	15.1	17.2	19.5	18.6	18.2
Treatment centres (number)	795	919	1,003	1,093	n/d
Dosage per treatment centre (number)	11.3	12.0	12.4	12.0	n/a
Revenue growth	33.7%	36.1%	32.0%	0.8%	n/a
Cost of sales (% of revenue)	15.7%	15.7%	15.2%	15.4%	16.2%
Gross profit margin	84.3%	84.3%	84.8%	84.6%	83.8%
Operating costs (% of revenue)	60.5%	55.2%	53.8%	61.6%	52.5%
EBITDA margin	23.8%	30.2%	32.0%	23.0%	31.3%
NPAT margin	18.5%	22.9%	23.1%	(11.2)%	21.5%

Note:

1. Cost of sales, gross profit and operating expenses (along with related metrics) may not be entirely comparable to prior periods due to the reclassification of quality assurance expenses from operating expenses to cost of sales.

EBIT = earnings before interest and tax

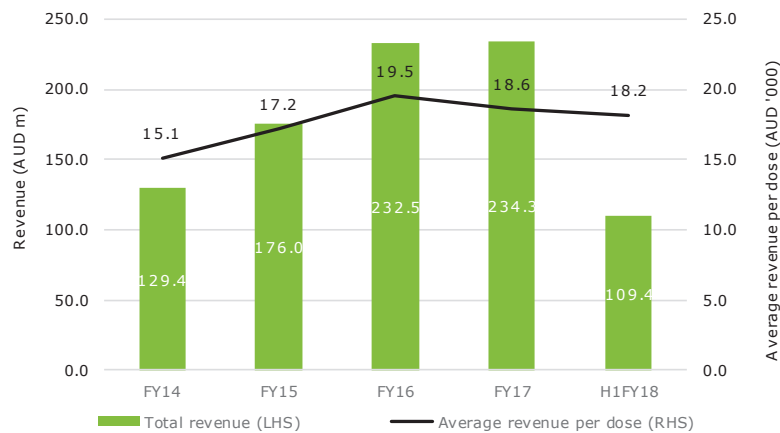
n/d = not disclosed

n/a = not available

NPAT = net profit after tax

Source: Sirtex Annual Reports and half year report, other press releases, Deloitte Corporate Finance analysis

Revenue increased at a compound annual growth rate (CAGR) of 34% between FY14 and FY16. This was driven by a 18% CAGR in dosage sales underpinned by an 18% growth in treatment centres using the product in the Americas during FY15, and a 14% CAGR in revenue per dosage as the number of government health institutions and private insurers offering reimbursements grew across the approved territories. The pace of growth slowed in FY17 with only a 5% increase in dosage volumes driven by increased challenges from competing therapies (US) and funding restrictions amongst reimbursement in certain countries (Germany and UK). This is also indicated by the number of doses per treatment centre dropping in FY17. This trend continued in H1FY18 with dosage volumes declining in comparison to the prior corresponding period (pcp) by 0.4%, with the impact on revenue (3.0% decrease over pcp) being further impacted by currency headwinds in the US and increased weighting towards lower priced markets across APAC.

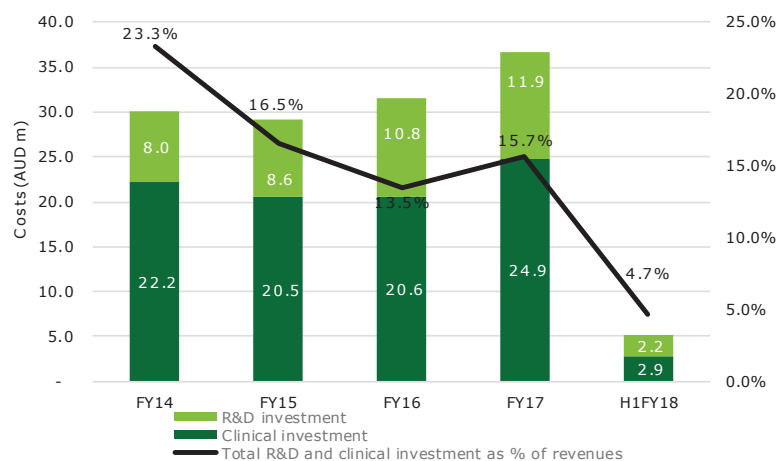
**Figure 7: Revenue and average revenue per dose**

Source: Sirtex Annual Report

Gross margins have remained relatively stable over the observed period as costs to manufacture SIR-Spheres have not changed significantly over the period.

EBITDA margin improved to 32% in FY16 due to efficiencies from increased scale, however declined in FY17 as the lower than expected dosage sales and revenues were insufficient relative to the investment in the cost base made to drive growth on the anticipation of favourable clinical results. The improvement in EBITDA margins in H1FY18 was driven by reduced costs achieved under the restructure announced in June 2017.

R&D is a significant cash outflow for Sirtex, with certain development costs being capitalised whilst research and clinical trials costs are expensed. The following graph illustrates total research and development expenditure, and as a percentage of revenue from FY14 to H1FY18.

**Figure 8: R&D expenditure (including clinical trials)**

Note:  
Research related expenses include costs related to clinical trials, along with research expenses  
Source: Sirtex Annual Report

Research related expenses increased considerably in FY16 and FY17 as additional focus was placed on identifying new revenue streams on the expectation of successful clinical trials. However, the results of the major clinical studies did not support the extensive usage of SIR-Spheres Y-90 micro sphere resins as an alternative to other therapies, which resulted in the decision to not only impair the entire carrying value of those related development expenditures (AUD 90.5m in FY17), but significantly reduce R&D expenditure as part of the business reset.



As noted above, Sirtex's reported financial performance includes a number of costs that are considered to be non-recurring and need to be adjusted from Sirtex's reported earnings in order to calculate a normalised EBITDA. These adjustments are summarised in the table below.

**Table 9: Adjusted historical financial performance**

AUD m	Audited FY14	Audited FY15	Audited FY16	Audited FY17	Reviewed H1FY18
<b>Reported EBITDA</b>	<b>30.8</b>	<b>53.3</b>	<b>74.3</b>	<b>53.9</b>	<b>34.1</b>
<b>Adjustments</b>					
Write-off of receivable				3.6	0.4
Restructuring costs				4.1	
Legal settlement			1.4		
Class action costs				0.8	1.0
<b>Adjusted EBITDA</b>	<b>30.8</b>	<b>53.3</b>	<b>75.7</b>	<b>62.3</b>	<b>35.5</b>
<i>Adjusted EBITDA margin</i>	<i>23.8%</i>	<i>30.2%</i>	<i>32.6%</i>	<i>26.6%</i>	<i>32.4%</i>

Source: Sirtex Annual Reports, Deloitte Corporate Finance analysis

These normalisation adjustments comprise:

- write-off of receivable: relates to an EMEA distributor and a US hospital entering bankruptcy in FY17
- restructuring costs: relate to employee redundancy payments associated with the reduction in the global workforce in FY17, predominately in the clinical, R&D and global marketing functions of the business
- legal settlement: litigation relating to a dispute with a distributor whose agreement had been terminated. This reflected management's best estimate of the liability at 30 June 2016 relating to this dispute which arose in FY15
- class action costs: legal fees associated with responding to two class actions raised against the Company in 2017. Further information on these class actions is provided in Section 3.6.

In addition, FY17 EBITDA as indicated through lower margins was also impacted by the higher sales and marketing costs as an investment for future growth.

### 3.6 Financial position

Sirtex's financial position as at 30 June 2014, 30 June 2015, 30 June 2016, 30 June 2017 and 31 December 2017 is set out below.

**Table 10: Historical financial position**

AUD m	Audited 30-Jun-14	Audited 30-Jun-15	Audited 30-Jun-16	Audited 30-Jun-17	Reviewed 31-Dec-17
Cash and cash equivalents	22.5	21.9	21.0	50.3	42.8
Other short-term deposits	30.0	52.0	86.0	68.0	50.0
<b>Total cash</b>	<b>52.5</b>	<b>73.9</b>	<b>107.0</b>	<b>118.3</b>	<b>92.8</b>
Trade and other receivables	25.7	35.0	42.3	37.0	34.9
Other assets	3.9	4.4	5.9	5.2	5.1
Inventories	1.7	1.8	1.9	2.0	2.4
Trade and other payables	(14.7)	(24.3)	(28.1)	(26.4)	(16.4)
Tax liabilities	-	(4.7)	(7.2)	(8.4)	(6.4)
Provisions	(10.9)	(7.8)	(8.2)	(8.9)	(10.3)
<b>Net working capital</b>	<b>5.7</b>	<b>4.5</b>	<b>6.6</b>	<b>0.4</b>	<b>9.3</b>
Property, plant and equipment	13.6	13.2	14.0	12.0	11.1
Intangible assets	47.4	68.0	82.8	9.4	9.1
<b>Total non-current assets</b>	<b>61.0</b>	<b>81.2</b>	<b>96.8</b>	<b>21.5</b>	<b>20.3</b>
Deferred tax assets	4.0	5.1	7.8	10.2	9.4
Deferred tax liabilities	(15.5)	(20.0)	(24.7)	(0.9)	(0.7)
<b>Net tax assets/(liabilities)</b>	<b>(11.5)</b>	<b>(14.9)</b>	<b>(16.9)</b>	<b>9.2</b>	<b>8.8</b>
<b>Net assets</b>	<b>107.6</b>	<b>144.6</b>	<b>193.5</b>	<b>149.5</b>	<b>131.1</b>

Source: Annual reports and half yearly report

Sirtex's tangible asset base largely comprises cash and liquid assets which is common in the industry given the nature of life science businesses, and the intangible nature of its core asset which is not conducive to debt financing. The reduction in the cash balance across H1FY18 was driven principally by the share buy-back and dividend payment.

Working capital is relatively limited and has remained stable over the historical period given the credit worthy nature of its counterparties (i.e. governments, private health providers, etc.), low workforce levels and the half-life of its main ingredient (which results in low inventory levels).

R&D is an important investment for the Company with development costs capitalised in accordance with relevant accounting standards. As highlighted in Section 3.5, the results of the major clinical studies in FY17 did not meet their primary endpoint and hence the intangible asset could no longer be supported, resulting in a AUD 90.5m impairment of the intangibles in FY17. Further, Sirtex has elected to no longer capitalise its R&D and clinical expenditure, resulting in no new internally generated intangibles assets during H1FY18.

The deferred tax liabilities for Sirtex arise from the capitalisation of the development expenditure, different tax treatment of certain fixed assets, tax losses on overseas entities and unrealised foreign currency gains. During FY17, the impairment of AUD 90.5m relating to intangible asset resulted in a net deferred tax asset balance.

The Company is a respondent to two class action proceedings in the Federal Court of Australia. The class actions largely overlap and relate to alleged breach of continuous disclosure obligations by Sirtex in the period prior to 9 December 2016, and misleading and deceptive statements made by Sirtex on 24 August 2016 and 25 October 2016.

The first class action was filed on 13 February 2017 and is said to concern all persons who acquired ordinary shares in Sirtex on or after 24 August 2016 and where holders of any of those shares at the commencement of trading on 9 December 2016. It makes a number of allegations against Sirtex including misleading and deceptive conduct and breach of continuous disclosure obligations. The applicant group's total claim is in the range of approximately AUD 277m to AUD 283m.

The second class action largely overlaps the first class action and was filed on 19 December 2017. It concerns all persons who acquired ordinary shares in Sirtex during the period from 24 August 2016 to 16 December 2016. It also alleges misleading and deceptive conduct and breach of continuous disclosure obligations, among other allegations. On 4 May 2018 Sirtex announced that these class actions had been consolidated into one class action.

Sirtex continues to defend itself against this action and believes that any liability potentially arising out of the proceedings cannot be reliably assessed or estimated. Consequently, no contingent liability has been recorded in the financial statements.

### 3.7 Outlook

In order to improve the dosage sales in the future, Sirtex management is focusing on:

- geographic expansion – into Latin America (LATAM), France and Spain. Improving awareness of the treatment in these densely populated countries is expected to offer significant increase in dose sales;
- maintaining and working with additional reimbursement providers to improve accessibility of the treatment to a wider patient base; and
- filing for additional approvals with FDA for utilisation of SIR-Spheres for treatment of diseases outside mCRC. This particularly includes treatments for HCC.

Sirtex originally provided guidance for FY18 (on 17 January 2018 and reconfirmed in the H1FY18 interim results released on 21 February 2018), with EBITDA expected to be in the range of AUD 75m to AUD 85m. Then on 22 May 2018, Sirtex provided a trading update in which it announced that dose sales had not met internal expectations and as a result FY18 reported EBITDA was now expected to be at the lower end of the AUD 75m to AUD 85m range.

Equity research analysts, or brokers, provide commentary on the financial and trading performance of Sirtex, and periodically release profit estimates as part of their research. Outlined in the following table are the median of broker estimates for FY18, FY19 and FY20 published prior to the announcement of the Prior Varian Scheme.

**Table 11: Broker consensus (median)**

AUD m	FY18	FY19	FY20
Revenue	240	253	268
Revenue growth	2.4%	5.5%	5.9%
Gross profit	207	214	224
GP margin	86.3%	84.6%	83.6%
EBITDA	77	83	88
EBITDA margin	31.9%	32.7%	32.9%
NPAT	57	62	68
NPAT margin	23.8%	24.4%	25.4%
EPS (AUD)	1.0	1.1	1.2

Note:

FY20 excludes significant outlier data

EPS = earnings per share

Source: Broker reports, Deloitte Corporate Finance analysis

The broker consensus is for Sirtex to generate minimal revenue growth in FY18 (reflecting low dose growth) before increasing in FY19 and FY20, albeit at lower rates relative to prior years. The brokers consider an expansion into the HCC in the US, following FDA approval, may have significant positive impact on sales.

In consideration of management's cost out plans, brokers also expect slight improvements in EBITDA margins for Sirtex, which in turn is expected to result in higher net profit after tax and EPS.

## 4 Valuation of Sirtex

### 4.1 Valuation summary

Deloitte Corporate Finance has estimated the current market value of the equity in Sirtex (on a control basis) to be in the range of AUD 1,420.0m to AUD 1,770.0m. This implies a value per share of AUD 25.16 to AUD 31.36 on a control basis.

We have valued Sirtex by applying the EBITDA multiple approach, as set out in the table below.

**Table 12: Summary of our valuation of Sirtex**

	Section	Unit	Low	High
Maintainable EBITDA	4.3.1	AUD m	80.0	90.0
EBITDA multiple	4.3.4	times	16.0	18.0
<b>Enterprise value</b>		<b>AUD m</b>	<b>1,280.0</b>	<b>1,620.0</b>
Add: net cash	4.3.5	AUD m	135.0	140.0
Add: surplus assets	4.3.6	AUD m	5.0	10.0
<b>Equity value</b>		<b>AUD m</b>	<b>1,420.0</b>	<b>1,770.0</b>
Number of shares on issue	4.3.8	AUD m	56.4	56.4
<b>Value per share</b>		<b>AUD</b>	<b>25.16</b>	<b>31.36</b>

Source: Deloitte Corporate Finance analysis

Our valuation has not had explicit regard to any potential compensation payable by Sirtex as a result of the now combined securities class action given the significant uncertainty in the outcome and the difficulty in reliably quantifying such amount. Further details of this are provided in Section 4.3.7.

Details of the analysis underpinning the valuation parameters adopted are set out in the following sections.

### 4.2 Selection of valuation approach and other considerations

For the purpose of our opinion, current market value is defined as the amount at which the shares would be expected to change hands in a hypothetical transaction between a knowledgeable willing, but not anxious, buyer and a knowledgeable willing, but not anxious, seller acting at arm's length. We have not considered special value in this assessment.

We have assessed the equity value of Sirtex using the capitalisation of earnings method before adding/subtracting the value of surplus assets and liabilities and deducting net debt.

Refer to Appendix 2 for a detailed discussion on the various valuation methodologies which can be adopted in valuing corporate entities and businesses.

The capitalisation of earnings method is typically applied to businesses which generate a stable level of earnings growth. This method involves applying a multiple to a proxy of maintainable earnings. In this regard, we note:

- earnings growth is stable
  - dosage volumes have flatlined and therefore the business has reached a mature level of earnings
  - although capital, R&D and marketing expenditure is important to Sirtex, there is no current or projected requirement for the Company to incur significant or unusual capital, R&D and marketing expenditure, which would result in significant volatility in the underlying earnings of the business

- there is an adequate number of publicly listed companies and global transactions involving companies with operations and growth sufficiently comparable to Sirtex from which a meaningful comparison can be undertaken and an appropriate multiple can be applied.

Future maintainable earnings represent the level of maintainable earnings that the existing operations could reasonably be expected to generate. We have selected EBITDA as an appropriate measure of earnings because earnings multiples based on EBITDA are less sensitive to different financing structures, depreciation and amortisation accounting policies and effective tax rates than multiples based on EBIT or NPAT. This allows a better comparison with earnings multiples of other companies.

As a cross-check to our valuation derived under our primary methodology, we undertook a high level discounted cash flow analysis (under the Income approach) having regard to the current five-year business plan developed by Sirtex management. More details on the valuation methodologies is set out in Appendix 2.

Whilst revenue is predominately generated overseas in foreign currency, these earnings are ultimately converted back into AUD for reporting purposes with dividends paid to shareholders also in Australian dollars. Further, our selection of earnings has had regard to more recent earnings performance and the impact of currency fluctuations.

Our valuation of Sirtex has been undertaken on a control basis, consistent with the requirements of ASIC RG111.

## 4.3 Application of EBITDA multiple approach

### 4.3.1 EBITDA assessment

In selecting a maintainable EBITDA for Sirtex, we considered the following:

- the recent restructure of the business which implies greater relevance to a forward estimate as compared to a historical earnings measure
- management has revised guidance for FY18 reported EBITDA to the lower end of the previous guidance range between AUD 75m to AUD 85m. Given the reported EBITDA for the first half was AUD 34.1m, the full year guidance at the low end implies an expected EBITDA performance of between AUD 40.9m and AUD 45.9m for H2FY18. Since H1FY18 was impacted by one-off costs, we consider H2FY18 to be a better basis from which to assess EBITDA. This suggests an annualised EBITDA of approximately AUD 80m to AUD 90m. Whilst, the top end of this range could be viewed as carrying risk given the dosage growth experienced from 1 July 2017 to 30 April 2018 was down 4.6% on the pc, based on discussions with Sirtex management we consider this lack of growth to be due to timing with an expectation of improvements into FY19
- an assessment of the normalised EBITDA of Sirtex as outlined in Section 3.5. Normalised EBITDA was AUD 75.7m for FY16, AUD 62.3m for FY17 and AUD 35.5m for H1FY18 based on adjusting reported EBITDA for the impact of one-off expenses such as write-off of receivables due to bad debt, restructuring costs, legal settlement costs and class action costs. Further, costs relating to clinical trials, sales and marketing, and research and administrative expenses are not expected to be incurred at the same level going forward, as the business has been reset to align with the current outlook implied by the unfavourable clinical trial results and refocus of the business on core activities
- consensus broker estimates prior to the announcement of the Prior Varian Scheme of AUD 77m for FY18 and AUD 83m for FY19 as outlined in Section 3.7. As mentioned previously, Sirtex has since revised its FY18 reported EBITDA guidance down to the lower end of the previous guidance range of AUD 75m to AUD 85m.

Based on the considerations outlined above, we have adopted EBITDA based on FY18 to be in the range of AUD 80m to AUD 90m for the purpose of our analysis. Whilst our selected range is higher than Sirtex management's revised guidance, we do not consider this unreasonable noting Sirtex management's estimate includes a degree of restructuring and other one-off costs along with costs of being a listed entity.

## 4.3.2 Selection of EBITDA multiple

In selecting an earnings multiple for Sirtex we have considered earnings multiples derived from share market prices of listed companies with comparable operations to its businesses and the implied earnings multiples paid to acquire companies with operations comparable to its operations.

Earnings multiples derived from share market trading (which we refer to as 'listed company multiples' in this section) do not reflect the market value for control of a company as they are based on portfolio holdings in the subject companies. The difference between the market value of a controlling interest and a minority interest is referred to as the premium for control.

The owner of a controlling interest has the ability to do many things that the owner of a minority interest does not. These include:

- control the cash flows of the company, such as dividends, capital expenditure and compensation for directors and managers
- determine and change the strategy and policies of the company
- make acquisitions, restructure the business or divest operations
- control the composition of the board of directors.

Australian studies indicate the premiums required to obtain control of companies range between 20% and 40% of the portfolio holding values. Further details of control premiums are provided in Appendix 5.

In comparison, the acquisition price achieved in mergers or acquisitions of companies (particularly which control is transferred) represents the market value of a controlling interest in that company.

## 4.3.3 Selection of comparable companies and transactions

We have conducted a global search for companies comparable to Sirtex. As most of the comparable companies have diversified operations and manufacture a wide variety of medical products, there is a limited number of companies directly comparable to Sirtex on a standalone basis. We have therefore categorised the comparable companies into two groups, being those operating in the interventional oncology device market and high growth ASX-listed healthcare companies (refer to Appendix 3).

With respect to comparable transactions, we referred to the acquisition of businesses involved in radioactive microspheres oncology treatments, and oncology and cancer treatments (refer to Appendix 4). We have only considered transactions that occurred over the past five years given the more recent transactions are more likely to reflect the relative values being paid in the current business and market environment.

Transaction multiples are calculated with reference to historical earnings and, as a result, all things being equal, we would expect the transaction multiples (particularly where control is transferred) to be higher than the unadjusted current or forecast trading multiples observed for listed comparable companies.

### Market trading multiples

Outlined in the table below are the implied EBITDA multiples and relevant metrics of the comparable companies.

**Table 13: Summarised comparable companies' financial and valuation metrics**

Company	LTM EBITDA (AUD m)	EBITDA margin (current)	Revenue growth <sup>1</sup>	EBITDA growth <sup>1</sup>	EBITDA times (current)
<b>Interventional oncology device market</b>					
Medtronic	11,836	30.8%	6.0%	9.4%	14.7x
Boston Scientific	3,399	28.5%	10.9%	13.4%	19.5x
Terumo Corporation	1,756	25.7%	8.5%	10.0%	17.2x
BTG	275	26.5%	1.9%	10.9%	11.3x
Merit Medical Systems	164	16.9%	13.6%	19.2%	21.5x
AngioDynamics	58	14.2%	4.0%	37.2%	17.5x
<b>High growth ASX-listed healthcare companies</b>					
CSL	2,958	33.9%	8.6%	19.4%	25.7x
ResMed	840	29.1%	13.4%	17.4%	22.3x
Cochlear	335	27.8%	11.3%	18.1%	29.1x

Note:

1. CAGR implied by revenue and EBITDA forecasts for the year ending 30 June 2019 compared to the LTM reported revenue and EBITDA.

LTM = last twelve months

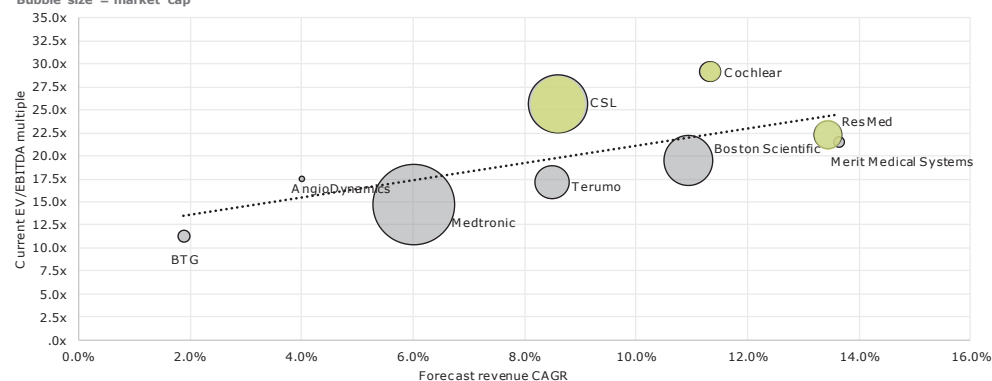
Source: CapitalIQ, Annual Reports, Company Announcements, Deloitte Corporate Finance analysis

A full list containing the description and details of the comparable companies considered in our analysis is provided in Appendix 3. In assessing the comparability of these companies, we have had regard to the following key factors:

- **Business model:** whilst there are no comparable companies solely focused on SIRT treatments, a number of these companies have operations in the interventional oncology market covering ablation and/or SIRT based treatments. We also had regard to its industry peer group that are locally listed as these companies provide a guide on investor sentiment impacting the sector
- **Growth prospects:** companies with higher growth outlook generally trade at higher multiples than those with lower growth prospects. We have observed that the comparable multiples are particularly correlated with revenue growth as this is reflective of the expectation of increased product demand, increased market share and a development pipeline. Other drivers of growth include cost reduction which leads to earnings growth

**Figure 9: Correlation of EBITDA multiple to forecast revenue CAGR**

Size (market cap), growth and trading multiples  
Bubble size = market cap



Source: CapitalIQ, Annual Reports, Company Announcements, Deloitte Corporate Finance analysis

- **Diversification and scale:** Companies with greater product/geographic diversification tend to be larger and trade on higher multiples than their smaller peers. Medical and healthcare

companies can gain a significant advantage from scale and diversification, as it enables companies to better utilise the capacity of their manufacturing facilities and distribution processes, reduce earnings volatility and the risk of exposure to single changes in regulatory approvals/reimbursement, unfavourable clinical trials, and gain greater influence and terms of trade from their supply chain partners and financiers

- **EBITDA margin:** companies with higher margins tend to trade at higher multiples as such companies tend to offer products with pricing power in the market, and/or have greater capacity to absorb higher costs which may be imposed on the business. We note that the companies focusing on specialised oncology treatments such as ablation or radioembolisation generally generate a higher EBITDA margin than those companies which also sell lower-margin general healthcare supplies such as needles, syringes or catheters.

Of the comparable companies identified, we consider Medtronic and BTG to be most comparable to Sirtex as they offer interventional oncology treatments such as ablation or SIRT. More specifically:

- Medtronic is one of the largest players in the ablation device market and trades on a FY18 EBITDA multiple of 14.7 times. Ablation-based treatments are currently a more preferred treatment than SIRT. Medtronic is significantly larger than Sirtex with LTM revenues of AUD 38.6b compared to Sirtex LTM which is AUD 230.9m, and has exposure to higher growth regions such as China, which Sirtex has yet to penetrate. Medtronic also has a more diverse product offering and it has similar growth prospects (forecast revenue CAGR of 6.0% and forecast EBITDA CAGR of 9.4%). Its EBITDA margins are similar to Sirtex (c. 32%)
- BTG is a key player in the SIRT treatment market and produces the competing TheraSphere product. BTG trades on a FY18 EBITDA multiple of 11.3 times. BTG has a more diverse product offering than Sirtex, as it has operations in the pharmaceuticals sector and other income streams such as royalties from licensing agreements. These other business units are likely to be valued at lower multiples (and as such BTG's interventional oncology business would be valued at higher multiples). A significant portion (c. 90%) of its revenues are geographically concentrated in the US. BTG is also larger than Sirtex with LTM revenues of AUD 1.1b. However, more recently projected declines in its pharmaceuticals segment (which constitutes c. 30% of revenues) as well as issues with its interventional vascular segment (driven by slower than expected market development of its PneumRx product, and associated impairments), have led management to issue downward revisions to growth prospects (forecast revenue CAGR of 1.9% and EBITDA CAGR of 10.9%) which is now significantly lower than Sirtex. BTG also operates at a slightly lower EBITDA margin (c. 26%).

On balance, we consider the multiple of Medtronic to provide a better indication of an appropriate multiple for Sirtex, before adjusting for a control premium.

The other identified companies in the interventional oncology device market (Boston Scientific, Terumo, Merit Medical Systems and AngioDynamics) have either a different or significantly more diversified product mix than Sirtex. On this basis, we have observed but placed less reliance on their implied multiples in our assessment of an appropriate earnings multiple for Sirtex. In particular, we note:

- Boston Scientific (19.5 times), Terumo (17.2 times) and Merit Medical Systems (21.5 times) are significantly larger and have higher revenue growth expectations than Sirtex. We expect these larger companies to generally trade at higher earnings multiples than Sirtex, all else being equal
- AngioDynamics (17.5 times) has higher EBITDA growth expectations (c. 38%). Although, it has significantly lower margins and is smaller than Sirtex, the growth profile and more diversified product mix suggests a higher multiple than Sirtex, all else being equal.

We also had regard to its industry peer group whom are locally listed as these companies provide a guide on investor sentiment impacting the sector. CSL (25.7 times), ResMed (22.3 times) and Cochlear (29.1 times) are market leaders in their respective segments, and are much larger and have higher growth expectations than Sirtex. They also have a strong track record of delivering growth, are leaders in their market and operate globally. This suggests the multiple for Sirtex should be materially lower.

## Comparable transaction multiples

Outlined in the table below are the implied EBITDA multiples and relevant metrics of the comparable transactions. More detail is outlined in Appendix 4.



**Table 14: Summarised comparable transaction financial and valuation metrics**

Transaction announcement date	Target	Acquirer	Currency	Implied EV (m)	Implied EV/EBITDA
<b>Radioactive microspheres oncology treatment</b>					
23-May-13	Nordion Inc (Targeted Therapies Division i.e. TheraSphere)	BTG	USD	200.0	14.2x
<b>Oncology and cancer treatment</b>					
22-Aug-16	Medivation	Pfizer	USD	14,003.7	29.3
4-Mar-15	Pharmacyclics	AbbVie	USD	19,883.4	176.3
19-Nov-13	EOS	Clovis Oncology	EUR	144.3	n/m
5-Sep-13	Astex Pharmaceuticals	Otsuka Pharmaceutical	USD	673.5	n/m

Notes:

n/m = not meaningful

Source: Mergermarket, CapitalIQ, Annual Reports, Company Announcements, Deloitte Corporate Finance analysis

We make the following observations in relation to the selected comparable transactions:

- the acquisition price of a company represents the market value of a controlling interest in that company
- we consider BTG's acquisition of the Targeted Therapies Division of Nordion to be the most comparable transaction to Sirtex, having regard to the product offering (radioactive microspheres for SIRT) and underlying target market (patients with inoperable liver cancer). BTG was acquired at a 14.2 times historical EBITDA multiple, with an implied enterprise value of USD 200.0m. However, this transaction occurred almost five years ago and at that time Therasphere was still immature
- large players in the market, such as AbbVie and Pfizer, have been strengthening their portfolio of branded medicines and treatments in specialty subsectors, including oncology. Some of their transactions occurred at very high multiples especially for those companies with promising treatments in the pipeline, or newly approved products at the beginning of their growth cycle.

On the basis of the above, we consider the implied multiple of BTG's acquisition of Targeted Therapies Division of Nordion to be the most relevant transaction multiple reference point for our assessment of an appropriate multiple for Sirtex but note that this is quite dated.

#### 4.3.4 Selected multiple

Based on our analysis of the comparable companies and transactions outlined in Section 4.3.3 above, we have adopted an FY18 EBITDA multiple (on a control basis) in the range of 16.0 times to 18.0 times to apply to the FY18 normalised EBITDA of Sirtex for the following reasons:

- Sirtex is a leader in an oligopoly market targeting demand for salvage treatments of advanced liver cancers. Despite the unfavourable clinical trial results, there are opportunities to expand into other geographies, other incidence applications and streamlining of dosage logistics to grow base earnings for some time
- the business generates strong margins, which combined with the reduction in R&D and associated capital expenditure, and low working capital requirements results in high cash conversion
- notwithstanding the above, Sirtex is a single product company, where that product focuses on a particular type of cancer and has regulatory approval in certain markets and only as a salvage treatment. In addition, the threat of substitutes is strong with a number of alternative treatments in the process of being researched by competitors.

In the previous Independent Expert's Report in relation the Prior Varian Scheme, we selected an EBITDA multiple (on a control basis) in the range of 15.0 times to 17.0 times. We consider the increase in our selected multiple reasonable due to the following reasons:

- the overall average of FY18 EBITDA multiples for the identified companies in the interventional oncology device market and high growth ASX-listed healthcare companies (excluding outliers) have increased by approximately 20%. This increase is driven by two main factors:
  - overall improvement in the market reflected in the S&P ASX 200 index increasing by 4.4%, the S&P 500 index by 6.1% and the Dow Jones World Healthcare Index by 5.2%, driven by the improving economy in the US
  - company specific factors such encouraging result announcements, successful onboarding of recent acquisitions leading to the de-risking of cash flows, and earnings and broker upgrades reflecting positive investor sentiment
- the reduced implied multiples for BTG which seems to be connected with factors specific to BTG including reduced growth projections for its pharmaceutical and interventional vascular segments.

#### 4.3.5 Net cash

Our EBITDA multiples approach results in the determination of the enterprise value of Sirtex. To derive the equity value, we have adjusted this enterprise value for the net debt/cash position of Sirtex expected at the time of the shareholder vote of the Proposed CDH-CGP Scheme.

Management have advised that they expect the net cash position of Sirtex to be in the range of AUD 135.0m to 140.0m. This represents the value of cash, cash equivalents and short term deposits that are not restricted.

#### 4.3.6 Surplus assets

Sirtex holds a number of assets not captured by our valuation under the multiples method. These comprise:

- an AUD 4.0m R&D tax incentive, which is expected to be utilised in FY18
- tax losses of AUD 2.0m
- R&D slated for sale.

We have attributed a value of AUD 5.0m to AUD 10.0m to these other assets for the purposes of our analysis.

#### 4.3.7 Class action

As discussed in Section 3.6, the range of possible outcomes of the class action is expected to range between nil and AUD 283.0m depending on the methodology adopted. Applying the same methodology as adopted in court precedents in the US and the Supreme Court in NSW suggest the liability will be at the lower end of the range if it proceeded to trial.

Whilst the Board and management of Sirtex have indicated that they will vigorously defend the Company against this action, evidence suggests that such class actions which proceed to trial tend to settle prior to the trial commencing. Such settlements do not necessarily indicate an admission of guilt but rather an effort to avoid the complications, confidentiality risk and costs associated with going to court.

Despite this, there is significant uncertainty in the outcome of any compensation. On this basis, we do not consider the liability associated with the class actions can be reliably quantified. Should any compensation become payable by Sirtex, this would reduce the value of Sirtex and therefore improve the fairness of the Proposed CDH-CGP Scheme.

#### 4.3.8 Shares outstanding

As noted in Section 3.3.1, Sirtex has 55.8 million fully paid ordinary shares on issue.

By the Implementation Date, Sirtex will have 672,080 Performance Rights on issue or Performance Rights that have vested. The Directors have exercised their discretion and have deemed these rights to vest in the event the Proposed CDH-CGP Scheme is approved. On this basis, we have included these rights in the number of ordinary shares on issue for the purposes of the valuation.

**Table 15: Shares outstanding**

m	Number of shares
Fully paid ordinary shares on issue	55.8
Performance rights on issue	0.7
<b>Shares outstanding</b>	<b>56.4</b>

Source: Sirtex, Deloitte Corporate Finance analysis

#### 4.4 Cross-check: discounted cash flow analysis

We undertook a high level discounted cash flow analysis as a cross-check to our primary valuation under the EBITDA multiple approach. Whilst Sirtex management acknowledges the uncertainty concerning the preparation of cash flow projections beyond FY18, we note the market value of Sirtex is primarily driven by their ability to drive dosage sales growth, the timeframe in which the growth is able to be achieved and execution of cost out initiatives.

As such, we have prepared future cash flow projections based on forecasts provided by Sirtex management prepared as part of their five-year plan. These projections are a function of the key variables outlined above which have been sensitised to assess the net present value of Sirtex's future growth potential.

The key assumptions adopted in our high level discounted cash flow analysis are summarised below:

- based on Sirtex managements' forecasts we developed a long term cash flow model assuming a 10 year forecast period which we considered sufficient to capture the high confidence, new strategic initiatives identified by Sirtex management over the next five years followed by a reversion to a long term growth rate in the subsequent five year period
- pricing projections and cash flows have been developed in local currency and then converted to AUD at the current exchange rate which is also viewed as the expected rate over the long term
- we have created separate forecast cash flow profiles for the base business and each strategic initiative:
  - base case: the base case reflects the expected growth profile of the Company prior to the implementation of a number of new growth initiatives identified by Sirtex management

Under the base case, Sirtex management forecasted dosage volumes for each segment (Asia Pacific, EMEA and the Americas) using a bottom-up approach having regard to incidence rates and the hierarchy of treatments, resulting in a slight increase in market penetration in those markets. We have updated FY18 base case dose sales to reflect 10 months of actual performance from 1 July 2017 to 30 April 2018 and 2 months of forecast from 1 May 2018 to 30 June 2018. We also sensitised dosage sales growth by adjusting Sirtex management's forecasts post FY19 to be more consistent with recent history

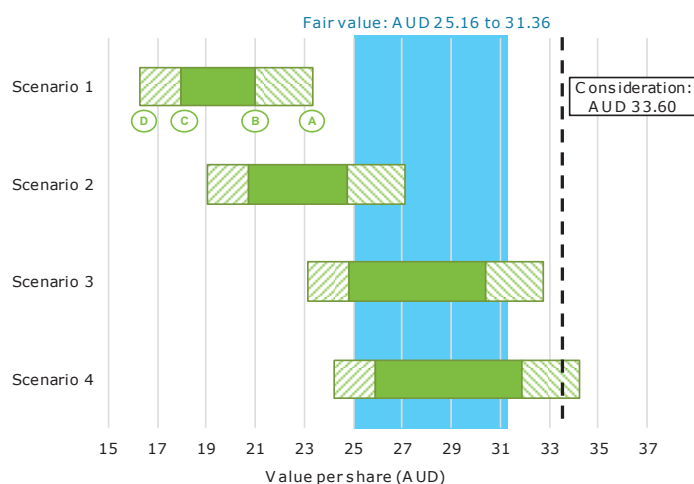
- new services: new services refer to initiatives focused on improving sales via dosage optimisation, ordering and marketing of current treatment indications in existing geographies. Such initiatives are expected to improve market share in existing markets
- geographic expansion: includes initiatives to increase global footprint via increasing the number of treatment centres in current markets and expanding into new markets particularly in Asia and LATAM where medical delivery is improving, combined with growing affluence and increased health spend. We have sensitised these assumptions by adjusting the commencement and quantum of forecast dosage sales in certain

jurisdictions having regard to the work undertaken to date, views on regulatory approval timeframes and third party reports on size of markets

- indication expansion: includes initiatives to expand the application of SIR-Spheres for HCC incidences in certain jurisdictions. Similar to geographic expansion, we have sensitised this initiative by adjusting the commencement and quantum of forecast dosage sales assumed, again having regard to work undertaken to date, views on regulatory approval timeframes and third party reports on size of markets
- we have assumed minimal real growth in pricing of SIR-Spheres in recognition of payor funding constraints, the threat of substitutes, and the margin improvements achieved from economies of scale over time which allow the business to absorb minimal growth in pricing
- the restructure of Sirtex is designed to reset the business on a more sustainable cost base to align with its refocus back towards its core product. In light of the economies of scale achievable as volumes grow over time, and the business reset, EBITDA margins are expected to improve over the forecast period. As a sensitivity, we have tapered the EBITDA margin expansion to reflect the possibility that the Company may not be able to operate as lean as Sirtex management expects
- other cash flow considerations:
  - no capital expenditure was assumed on the basis that Sirtex's manufacturing facilities are currently under-utilised (20-40% capacity) with sufficient capacity to manufacture the forecasted volumes without need for additional capital expenditure
  - we have assumed an effective tax rate of 25%, which is consistent with historical effective tax rate and aligns with the long term corporate tax rate in the US, its largest market
- we have estimated a terminal value at the end of the forecast period using the Gordon Growth model. A long term growth rate of 2.0% p.a. has been adopted having regard to long term inflation rates in Sirtex' key operating regions, the impact of increased competition and substitutes in the medical device/interventional oncology industry, and the obsolescence risk particularly for a single product business in the life science sector
- we adopted a base discount rate for Sirtex of 11.5% (nominal ungeared weighted average cost of capital), having regard to the Capital Asset Pricing Model (CAPM). Additional premiums of up to 4.0% have been applied to the cash flows of the different initiatives in recognition of the state of development of each initiative, the risk of execution and uncertainty of market timing.

The results of this analysis are illustrated in the figure below.

**Figure 10: Indicative discounted cash flow valuation cross-check**



Source: Deloitte Corporate Finance analysis

The value ranges outlined above reflect:

- Scenario 1 – base case
- Scenario 2 – Scenario 1 plus new initiatives
- Scenario 3 – Scenario 2 plus geographic expansion
- Scenario 4 – Scenario 3 plus indication expansion.

Points along the valuation range for each scenario are defined by four sensitivities:

- A – management's revenue and cost assumptions
- B – Deloitte Corporate Finance's revenue sensitivity
- C – Deloitte Corporate Finance's cost sensitivity
- D – Deloitte Corporate Finance's revenue and cost sensitivity.

When considering the value ranges presented above, we note the limitations in considering certain assumption changes in isolation or collectively. Further, the business is vulnerable to various risks that could severely affect its long term operations and resultant value, such as:

- Sirtex's core product, SIR-Spheres, faces increased competition and technological obsolescence caused by repositioning of existing competitors' products or development of new cancer treatments which may affect volumes and margins
- availability and extent of reimbursement of patients' medical expenses by third party payor organisations including government agencies, private healthcare insurers and other healthcare

payors. A reduction in reimbursement would significantly lower demand for SIR-Spheres as customers turn to cheaper alternative treatments

- potential product quality issues affecting brand reputation and brand equity resulting in the removal of regulatory approvals or a weakening in relationships with regulatory bodies
- adverse movements in foreign exchange rates considering the majority of Sirtex's revenues and inputs are denominated in foreign currency and there being no hedging in place.

Whilst we consider the above risks to be reflected in the discount rate we have selected, we note that any one of the risks identified could materially decrease the value of Sirtex. It may be the case that a trade purchaser is capable of realising the initiatives captured in scenarios 2 to 4 with greater confidence and lower risk (relative to our assessed risk premiums implied in the discount rate).

Having regard to the above, we consider the discounted cash flow analysis is supportive of our valuation derived under the EBITDA multiples approach but also suggests that the Consideration being paid includes synergies capable of being extracted by trade purchasers.

We also consider it worth noting that the above analysis does not reflect geographic expansion into the China market which we consider is likely to be of interest to the Bidders. Liver cancer in China is the third most prevalent cancer with 55% of patients diagnosed with advanced HCC. Whilst there are substantial regulatory and logistical hurdles to overcome for Sirtex's product to be introduced in China, the existing capabilities and experience of the Bidders, which is otherwise not necessarily available to Sirtex, could assist to grow revenue in that market.

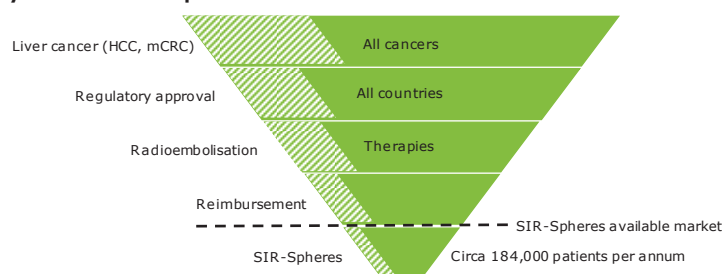
## Appendix 1: Global Interventional Oncology industry

### Overview

Sirtex provides a radioembolisation treatment which is a form of interventional oncology, involving the use of minimally invasive procedures to treat patients with cancer, other comorbidities and inoperable patients. Interventional oncology is one of the fastest growing forms of cancer treatments compared to the more traditional approaches of cancer care such as conventional surgery, radiotherapy and chemotherapy.

The addressable market of Sirtex is a function of a number of factors as illustrated in the figure below.

**Figure 11: Key drivers of SIR-Spheres addressable market**



Source: Deloitte Corporate Finance analysis

Essentially, the addressable market for SIR-Spheres is a function of the proportion of all cancers that are liver cancers for which Sirtex has regulatory approval to undertake radioembolisation as the preferred treatment which is reimbursable by either public or private subsidy.

More discussion on these drivers is provided below. At the end of this section, we outline the expected growth rates for liver cancer procedures in the global interventional oncology sector.

### Instances of liver cancer

Cancer can be broadly classified into two types, primary and secondary.

HCC is the most common type of primary liver cancer which is the sixth most common cancer overall and the second most common cause of cancer death globally. Whilst the majority of HCC cases occur in developing countries in the Asia-Pacific region, it results in approximately 800,000 deaths globally per annum<sup>6</sup>.

In the US alone, around 42,220 new cases of liver cancer are expected to be diagnosed in 2018, out of which approximately three quarters are expected to be HCC. It is estimated that around 30,200 deaths will occur in 2018 in the US due to liver cancer<sup>7</sup>.

Common causes of HCC include Hepatitis B virus (HBV) and Hepatitis C virus (HCV). Incidences from HBV are expected to reduce due to the introduction of a HBV vaccine. In Taiwan, a country wide vaccination program was undertaken over a 10-year period which reduced the incidence of HCC from 0.70 to 0.36 per 100,000 children<sup>8</sup>. Incidences of HCC from HCV are also expected to reduce as newer

<sup>6</sup> Global Burden of Disease Liver Cancer Collaboration. The Burden of Primary Liver Cancer and Underlying Etiologies from 1990 to 2015 at the Global, Regional, and National Level: Results From the Global Burden of Disease Study 2015. JAMA Oncol 2017; 3:1683

<sup>7</sup> American Cancer Society, Cancer Facts & Figures 2018

<sup>8</sup> Hepatocellular Carcinoma: From diagnosis to treatment by Abhijeet Waghray, Arvind R Murali, and KV Narayanan Menon

antiviral treatments are developed. Despite this, liver cancer is expected to rise over the long term due to increased obesity levels and its metabolic complications.

mCRC is the most common type of secondary liver cancer and generally originates in the colon or the rectum. In the US alone, around 140,250 new cases of colon and rectum cancer are expected to be diagnosed in 2018 and it is estimated that will lead to approximately 50,630 deaths<sup>9</sup>. Approximately 50% of patients will be diagnosed with liver metastases<sup>10</sup>.

Over a 10 year period in the US from 2005 to 2014, overall mCRC incidence declined largely as a consequence of better screening processes, with an annual decline of 3.8% (colon cancer) and 3.5% (rectal cancer) amongst adults older than 55 years of age offsetting the annual increases of 1.5% (colon cancer) and 2.4% (rectal cancer) which occurred to their younger cohort<sup>11</sup>.

## Availability of alternate therapies (regulatory)

There are a number of categories of treatments to liver cancer which can be classified as one of the following options: surgery, liver transplant, ablation, transcatheter arterial chemoembolisation (TACE), chemotherapy, targeted therapy, radio therapy, radioembolisation (also called as SIRT), and immunotherapy (also called biologic therapy).

Different treatments are used after considering the type of liver cancer, stage, associated diseases, etc. Surgery is a preferred option since it is likely to be the most successful treatment, however it can only be used in the very early stages where there is only a single tumour which has not spread to other blood cells and the liver is healthy.

Treatments like ablation, transplant or TACE are used in early or intermediate stages. Ablation uses heat to destroy a tumour. Liver transplant involves removing a patient's liver and replacing it with a healthy liver. TACE is a combination of chemotherapy and embolisation. It is usually used in cases where patients cannot have surgery.

In the later intermediate or advanced stage, palliative or targeted therapies are used. In chemotherapy, drugs are used to slow the growth, kill or shrink the tumour. Targeted therapies provide drugs which stops or slow down the growth of tumours or reduce their size by targeting specific molecules in the cancer cells. X-rays, electron beams, protons or gamma cells are used in radiotherapy to kill or stop the growth of cancer cells. Radioembolisation uses doses of radiotherapy which is placed in radioactive beads to target cancer in the liver. Immunotherapy activates certain parts of a person's immune system, or prevents its inhibition by the tumour, to fight cancer cells.

In comparison with traditional technologies, interventional oncology provides for a minimally invasive, targeted treatment of cancer. Interventional radiologists treat cancerous tumours without affecting other parts of the body by using image guidance techniques. As a result, interventional oncology is becoming more popular due to its shorter procedure time and hence shorter recovery times, and lower complications and chance of infection. Interventional oncology is also a good alternative for patients who cannot tolerate chemotherapy, while it is also being increasingly used in combination with other treatments such as ablation or chemotherapy. Sirtex's recent clinical trials have possibly improved outcomes through the use of chemotherapy treatment combined with SIR-Spheres. Unfortunately, the clinical evidence did not meet the primary endpoints and therefore there is limited evidence of success.

As technology has improved there has been an introduction of many new products and innovations which may affect the use of interventional oncology. Microwave ablation is an emerging technology in the ablation space, and is being increasingly adopted due to its efficacy and faster procedure times as compared to traditional ablation techniques. Opdivo® (nivolumab, Bristol-Myers Squibb) is a chemotherapy drug which has recently received regulatory approval in the US for use on HCC. Further clinical trials are also being undertaken on Keytruda® (pembrolizumab, Merck & Co) which is another chemotherapy drug used to treat HCC. Opdivo® and Keytruda® are known as immune checkpoint inhibitors and are emerging as alternative treatment options for many cancers. The radiopharmaceutical

<sup>9</sup> American Cancer Society, Cancer Facts & Figures 2018

<sup>10</sup> Van Cutsem E, et al. On behalf of the ESMO Guidelines Working Group. Advanced colorectal cancer: ESMO Clinical Practice Guidelines for treatment. Ann Oncol 21(Suppl 5):v93-v97, 2010

<sup>11</sup> American Cancer Society, Cancer Facts & Figures 2018



product, Lutathera® (lutetium Lu-177 dotate, Advanced Accelerator Applications) was approved in Europe in 2017 and in the US in January 2018<sup>12</sup>.

The introduction of these new technologies, procedures and drugs which are potentially less invasive or more beneficial for the patient, may adversely impact the demand for interventional oncology. In the near term, these new substitutes may lead to a delay in the use of SIR-Sphere's on HCC in the US because they will likely be trialed first. In addition, SIRT techniques are currently only approved as a salvage treatment. However, there is potential for combination treatment of SIR-Spheres and checkpoint inhibitors. Salvage level treatments generally can only be used when all other treatment options have been exhausted or other treatment options are not capable of being used on the patient. As a result, the global addressable market for SIR-Spheres is even further reduced to approximately 184,000 patients per annum in existing markets<sup>13</sup>.

### Health payor funding

Increased government or health insurance assistance helps reduce the cost of interventional oncology procedures making it more attractive for patients (and also more likely to be recommended by clinicians). Regulatory approvals from bodies such as the FDA do not guarantee approval for reimbursements. There are a number of factors that governments consider when determining the amount of reimbursement for a particular drug or treatment, such as the relative effectiveness of the treatment, actual results, the cost of the treatment, the impact on budget and reference pricing (what are the other countries doing and how much they are reimbursing). The process of getting reimbursement approval is unique to each market and payors within market and can take up to 3 years (if reimbursement approval is granted).

### Competitive landscape

Sirtex Medical and BTG dominate the radioembolisation sphere segment by revenue in the US with a market share in 2015 of around 59% and 37%, respectively<sup>14</sup>. Due to high costs compared to other segments of interventional oncology, radioembolisation accounts for a large proportion of overall interventional oncology revenue. Sirtex and BTG accounted for approximately 40% of the revenue of the interventional oncology market in the US in 2015.

Major leaders in the interventional oncology market such as Sirtex, BTG, Medtronic and NeuWave Medical have been traditionally focused on either ablation devices or embolisation particles. However, due to increasing focus on combination therapies, companies that offer ablation devices as well as embolisation are expected to be well-positioned. Further, companies which are dependent on one single product will be vulnerable to any technological changes or any negative clinical opinion for their procedures.

It should also be noted that newer treatments modalities, particularly immunotherapies such as checkpoint inhibitors and chimaeric antigen receptor-T (CAR-T), are showing considerable benefit in treating many cancers, including advanced CRC and HCC, and potentially compete with embolisation technologies or, as discussed, may find improved efficacy when used in combination with radioembolisation.

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<sup>12</sup> We note that this is not currently a treatment for HCC

<sup>13</sup> Sirtex FY17 Investor Presentation

<sup>14</sup> Medtech 360 Interventional Oncology Devices, Market Analysis US 2016

### Alternative uses

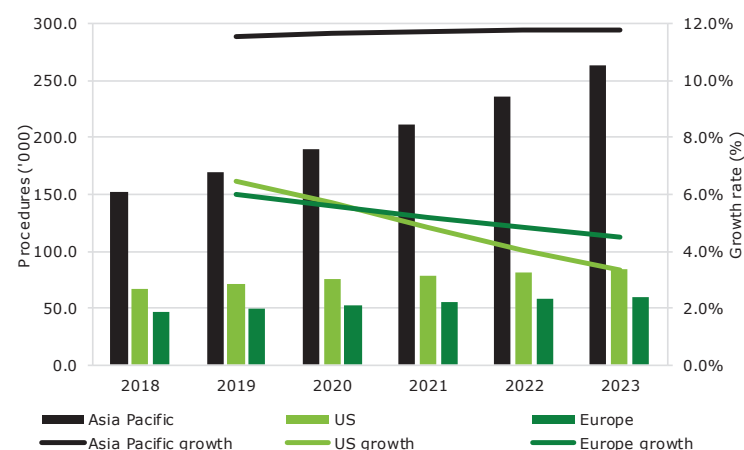
Whilst interventional oncology has been traditionally focused on liver cancer, investigations are being undertaken to determine its application for other cancers such as kidney, lung, bone, breast and pancreatic cancer. The growing incidence of kidney cancer has led to increased interest in clinical trials for embolisation treatments. There has also been interest in using interventional oncology on lung cancer, however, further innovation is required due to the lung's small blood cells making it difficult to undertake embolisation procedures.

### Growth prospects for the interventional oncology sector

The global radioembolisation industry is currently USD 300m in size<sup>15</sup> (Sirtex's market share is approximately 60%) and is expected to grow at approximately 5% to 8% per annum<sup>16</sup>, while the global interventional oncology market is forecast to grow at a CAGR of 11.7% from 2017 to 2021<sup>17</sup> to become a USD 1,000m industry by 2022<sup>18</sup>.

Considering the industry drivers outlined above, the number of interventional oncology procedures for liver cancer globally is expected to grow at a CAGR of 9.1% from FY18 to FY23, as outlined in the figure below.

**Figure 12: Forecast interventional oncology growth**



Source: Medtech 360 Interventional Oncology Devices, Market Analysis US 2016, Asia Pacific 2015 and Europe 2015

The growth is largely attributable to the APAC region given the prevalence of HBV and HCV.

<sup>15</sup> J.P. Morgan, Varian Medical Broker Report 30 January 2018

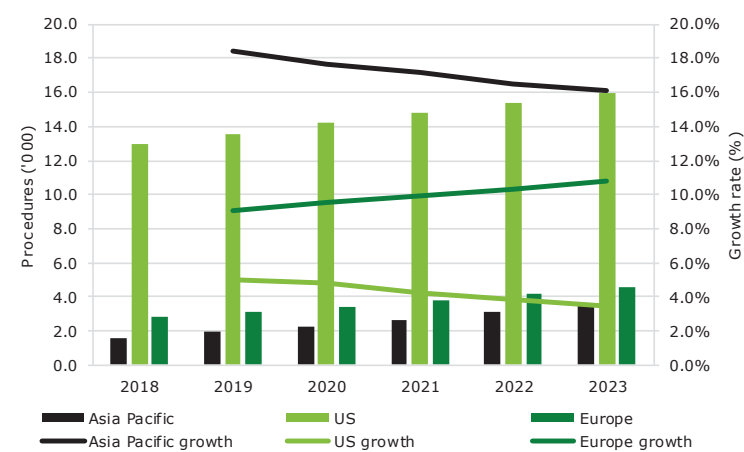
<sup>16</sup> J.P. Morgan, Varian Medical Broker Report 30 January 2018

<sup>17</sup> BusinessWire, Global Interventional Oncology Market to Grow at a CAGR of 11.17% by 2021  
<<https://www.businesswire.com/news/home/20170331005487/en/Global-Interventional-Oncology-Market-Grow-CAGR-11.17>>

<sup>18</sup> J.P. Morgan, Varian Medical Broker Report 30 January 2018

This also translates to similar global growth rates for radioembolisation procedures (6.7% CAGR) as illustrated below.

**Figure 13: Forecast radioembolisation growth**



Source: Medtech 360 Interventional Oncology Devices, Market Analysis US 2016, Asia Pacific 2015 and Europe 2015

## Appendix 2: Valuation methodologies

To estimate the market value of Sirtex's shares we have considered common market practice and the valuation methodologies recommended by ASIC Regulatory Guide 111, which provides guidance in respect of the content of independent expert's reports. These are discussed below.

### Market based methods

Market based methods estimate an entity's fair market value by considering the market price of transactions in its shares or the fair market value of comparable companies. Market based methods include:

- market multiples
- analysis of an entity's recent share trading history
- industry specific methods.

The market multiples approach estimates fair market value based on an entity's financial measure (such as revenue, EBITDA, NPAT, dividends or net tangible assets) and an appropriate multiple (or capitalisation rate/yield). An appropriate multiple is derived from market transactions involving comparable companies.

The most recent share trading history provides evidence of the fair market value of the shares in an entity where they are publicly traded in an informed and liquid market. However, it may not always reflect the control value of a company.

Industry specific methods estimate market value using rules of thumb for a particular industry. General rules of thumb provide less persuasive evidence of the market value of an entity than other valuation methods because they may not account for entity specific factors.

### Income based methods

Income based methods such as the discounted cash flow approach estimate market value by discounting an entity's future cash flows to a net present value. These methods are appropriate where a projection of future cash flows can be made with a reasonable degree of confidence. Discounted cash flow methods are commonly used to value businesses experiencing or expected to experience substantial growth in cash flows such as early stage companies or projects with a finite life.

### Cost based methods

Cost based methods estimate the market value of an entity's shares based on the cost of recreation or replication of the assets. Such methods include:

- orderly realisation of assets
- liquidation of assets
- historical cost (going concern).

The orderly realisation of assets approach estimates fair market value by determining the amount that would be distributed to shareholders, after payment of all liabilities including realisation costs and taxation charges that arise, assuming the entity is wound up in an orderly manner.

The liquidation approach is similar to the orderly realisation of assets approach except the liquidation approach assumes the assets are sold in a shorter time frame. Since wind up or liquidation of the entity may not be contemplated, these methods in their strictest form may not necessarily be appropriate.

Historical cost based approach considers the cost of recreating or replicating the individual assets of the business enterprise on a going concern basis. Such approaches work on the principle that a buyer of the business enterprise in question would consider what it would cost to build the enterprise as opposed to buying the enterprise. Such approaches, whilst considered reasonable for businesses with substantial tangible assets, are usually not considered appropriate for businesses with substantial intangible assets as quantification of the value associated with recreating or replicating intangible assets can be fraught with issues. In addition, consideration should be given to cost associated with operating the assets on a going concern basis.

## Appendix 3: Comparable entities

The following table outlines the listed companies we consider comparable.

**Table 16: Comparable companies' financial and valuation metrics**

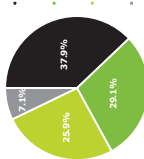
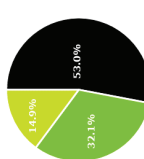
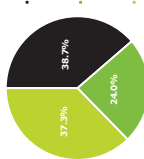
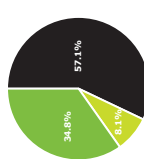
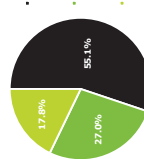
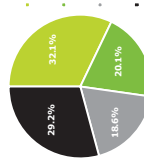
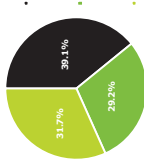
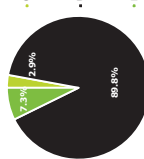
Company Name	Revenue multiples			EBITDA multiples			EBITDA margin (%)			Revenue growth <sup>4</sup>	EBITDA growth <sup>4</sup>
	LTM <sup>1</sup>	Current <sup>3</sup>	Forward <sup>3</sup>	LTM <sup>1,2</sup>	Current <sup>3</sup>	Forward <sup>3</sup>	LTM <sup>1,2</sup>	Current <sup>3</sup>	Forward <sup>3</sup>		
Interventional oncology device market											
Medtronic plc	4.6x	4.5x	4.3x	15.0x	14.7x	13.5x	30.6%	30.8%	31.8%	6.0%	9.4%
Boston Scientific Corporation	5.7x	5.6x	5.0x	20.1x	19.5x	17.1x	28.4%	28.5%	29.2%	10.9%	13.4%
Terumo Corporation	4.5x	4.4x	4.1x	17.6x	17.2x	15.6x	25.6%	25.7%	26.1%	8.5%	10.0%
BTG plc	3.0x	3.0x	2.9x	11.6x	11.3x	10.2x	25.8%	26.5%	28.7%	1.9%	10.9%
Merit Medical Systems, Inc.	3.9x	3.6x	3.2x	23.5x	21.5x	18.1x	16.7%	16.9%	17.9%	13.6%	19.2%
AngioDynamics, Inc.	2.5x	2.5x	2.4x	19.4x	17.5x	12.7x	13.0%	14.2%	18.8%	4.0%	37.2%
High growth ASX-listed healthcare companies											
CSL Limited	9.1x	8.7x	8.1x	29.8x	25.7x	22.8x	30.7%	33.9%	35.4%	8.6%	19.4%
ResMed Inc.	6.9x	6.5x	5.9x	24.3x	22.3x	19.9x	28.6%	29.1%	29.8%	13.4%	17.4%
Cochlear Limited	8.6x	8.1x	7.3x	33.3x	29.1x	25.9x	25.9%	27.8%	28.3%	11.3%	18.1%

Notes:


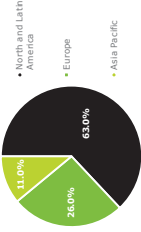

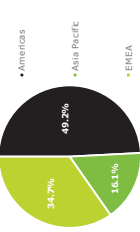
1. Historical revenue and EBITDA multiples are based on the last twelve months reported revenue and EBITDA, respectively, based on the most recent quarterly or half yearly reports available
2. For comparability purposes, historical EBITDA has been adjusted to include development costs which may have otherwise be capitalised according to relevant accounting standards
3. Current and forecast revenue and EBITDA multiples based on a year end of 30 June 2018 and 30 June 2019, respectively. In calculating the current and forecast multiples for the comparable companies with financial year end different to that of 30 June, we have adjusted the revenue and EBITDA forecasts on a pro-rata basis, deriving last twelve months' revenue and EBITDA as at 30 June
4. CAGR implied by revenue and EBITDA forecasts for the year ending 30 June 2019 compared to the LTM reported revenue and EBITDA.

Source: CapitalIQ, Annual Reports, Company Announcements, Deloitte Corporate Finance analysis

Table 17: Description of comparable companies

Company Name	Historical revenue (AUD m)	Historical EBITDA (AUD m)	Business segments	Geographical segments	Business description
<b>Interventional oncology device market</b>					
Medtronic plc	38,649.0	11,836.1	 <ul style="list-style-type: none"> <li>Cardiac &amp; Vascular Group</li> <li>Minimally Invasive Therapies Group</li> <li>Restorative Therapies Group (Cardio, Diabetes Group)</li> <li>Diabetes Group</li> </ul>	 <ul style="list-style-type: none"> <li>United States</li> <li>Non-U.S.</li> <li>Emerging Markets</li> </ul>	Medtronic manufactures and sells device-based medical therapy products. The minimally invasive therapies segment includes ablation system products utilising thermal, microwave and radiofrequency ablation technologies used in interventional oncology.
Boston Scientific Corporation	11,975.2	3,398.6	 <ul style="list-style-type: none"> <li>Cardiovascular</li> <li>Rhythm Management</li> <li>MedSurge</li> </ul>	 <ul style="list-style-type: none"> <li>United States</li> <li>Japan</li> <li>Other Countries</li> </ul>	Boston Scientific develops, manufactures and markets medical devices and a range of interventional medicine products across cardiovascular, cardio rhythm management and MedSurge (endoscopy, urology and pelvic health, neuromodulation).
Terumo Corporation	6,852.7	1,755.7	 <ul style="list-style-type: none"> <li>Cardiac and Vascular Company</li> <li>General Hospital Company</li> <li>Blood Management Company</li> </ul>	 <ul style="list-style-type: none"> <li>Japan</li> <li>Europe</li> <li>Asia and Others</li> <li>America</li> </ul>	Terumo manufactures and sells products for use in cardiothoracic surgery, interventional procedure, and medicine transfusion. Within the cardiac and vascular company segment, Terumo focuses on coronary, peripheral and neurovascular interventions, and interventional oncology in the form of chemo-embolisation of liver cancer.
BTG plc	1,063.1	274.6	 <ul style="list-style-type: none"> <li>Interventional Medicine</li> <li>Pharmaceuticals</li> <li>Licensing</li> </ul>	 <ul style="list-style-type: none"> <li>Other Regions</li> <li>USA</li> <li>Europe</li> </ul>	BTG acquires, develops and manufactures a portfolio of interventional medicine products designed to advance the treatment of cancer, vascular conditions and severe emphysema. Its interventional medicine product portfolio includes beads and TheraSphere® yttrium-90 glass microspheres for the treatment of liver cancer, which is the main competitor product of Sirtex.

Company Name	Historical revenue (AUD m)	Historical EBITDA (AUD m)	Business segments	Geographical segments	Business description
Merit Medical Systems, Inc.	981.9	164.0			Merit Medical Systems designs, manufactures and markets interventional and diagnostic products across cardiac intervention, peripheral intervention and interventional oncology segments. Its primary products include inflation devices, diagnostic and hydrophilic products, thrombolytic catheter and fluid dispensing systems, and embolotherapeutic products for the treatment of uterine fibroids, hypervascularised tumours and arteriovenous malformations. The interventional oncology segment produces the HepaSphere and QuadraSphere microspheres for treatment of hepatic oncology, and Embosphere and EmboGold microspheres to treat arteriovenous malformations and hypervascular tumours.
AngioDynamics, Inc.	443.8	57.5			AngioDynamics designs, manufactures and sells various medical, surgical and diagnostic devices for the treatment of peripheral vascular disease, vascular access and for use in oncology and surgical settings in the US and globally. It owns a diverse product line including radiofrequency ablation and products for dialysis, angioplasty, drainage, thrombolytic therapy, embolisation, venous and targeted renal therapies.
<b>High growth ASX-listed healthcare companies</b>					
CSL Limited	9,640.5	2,957.6			CSL is an Australian company which operates in two main segments being CSL Behring which manufactures, markets and develops plasma therapies for the treatment of bleeding disorders, and Seqirus which manufactures and distributes non-plasma biotherapeutic products and develops influenza related products.
<b>Sirtex Medical Limited</b> – Independent expert's report and Financial Services Guide					

Company Name	Historical revenue (AUD m)	Historical EBITDA (AUD m)	Business segments	Geographical segments	Business description
ResMed Inc.	2,937.6	839.5	 <ul style="list-style-type: none"><li>• Sleep and Respiratory The Medical Device Industry</li></ul>	 <ul style="list-style-type: none"><li>• North and Latin America</li><li>• Europe</li><li>• Asia Pacific</li></ul>	ResMed develops, manufactures and distributes medical devices and cloud-based applications that diagnose, treat and manage respiratory disorders comprising sleep disordered breathing, chronic obstructive pulmonary disease, neuromuscular disease and other chronic diseases. The company is dual-listed on stock exchanges in US and Australia.
Cochlear Limited	1,294.2	334.6	 <ul style="list-style-type: none"><li>• Implantable Hearing Device</li></ul>	 <ul style="list-style-type: none"><li>• Americas</li><li>• Asia Pacific</li><li>• EMEA</li></ul>	Cochlear develops and produces implantable hearing solutions to treat hearing loss. The company's product portfolio includes cochlear implants, middle-ear implants, Baha bone conduction implants, electro-acoustic implants, as well as other sound processors and wireless accessories.



## Appendix 4: Comparable transactions

The following table outlines acquisitions of companies we consider comparable.

**Table 18: Comparable transactions**

Transaction announcement date	Target	Acquirer	Currency	Implied EV (m)	Revenue (m)	Implied EV/Revenue	EBITDA (m)	Implied EV/EBITDA
<b>Radioactive microspheres oncology treatment</b>								
23-May-13	Nordion, Inc (Targeted Therapies Division i.e. TheraSphere)	BTG plc	USD	200.0	48.0	4.2x	14.1	14.2x
<b>Oncology and cancer treatment</b>								
22-Aug-16	Medivation, Inc.	Pfizer Inc	USD	14,003.7	1,027.1	13.6x	477.7	29.3x
4-Mar-15	Pharmacyclics LLC	AbbVie Inc	USD	19,883.4	816.1	24.4x	112.8	n/m
19-Nov-13	EOS (Ethical Oncology Science) S.p.A.	Clovis Oncology Inc.	EUR	144.3 <sup>3</sup>	3.0 <sup>1</sup>	47.5x <sup>1</sup>	(2.6) <sup>1</sup>	n/m <sup>1</sup>
5-Sep-13	Astex Pharmaceuticals, Inc.	Otsuka Pharmaceutical Co., Ltd.	USD	673.5	80.0 <sup>2</sup>	8.4x <sup>2</sup>	(0.5) <sup>2</sup>	n/m <sup>2</sup>

Notes:

1. Based on normalised EBITDA for last 12 months to 30 September 2013. The normalised EBITDA for the last financial year prior to transaction (year ended 31 December 2012) was EUR 24.1m, which would imply an EV/EBITDA multiple of 6.0x. Revenue for the last financial year was EUR 46.1m, which implies an EV/revenue multiple of 3.1x
2. Based on normalised EBITDA for last 12 months to 30 June 2013. The normalised EBITDA for the last financial year prior to transaction (year ended 31 December 2012) was USD 9.6m, which would imply an EV/EBITDA multiple of 70.5x. Revenue for the last financial year was USD 80.0m, which implies an EV/revenue multiple of 8.1x
3. Excluding earnouts.

Source: Mergermarket, CapitalIQ, Annual Reports, Company Announcements, Deloitte Corporate Finance analysis

**Table 19: Description of comparable transactions**

Target name	Target description
<b>Radioactive microspheres oncology treatment</b>	
Nordion, Inc (Targeted Therapies Division i.e. TheraSphere)	Nordion's Targeted Therapies Division consists of a sole product, TheraSphere. TheraSphere is a targeted liver cancer therapy consisting of millions of small glass beads (microspheres) containing a radioactive yttrium-90 radioisotope. TheraSphere was approved by the US FDA in 2000 as a humanitarian use device for patients with a unresectable HCC condition.
<b>Oncology and cancer treatment</b>	
Medivation, Inc.	Medivation is a US-based biopharmaceutical company focused on the rapid development of novel therapies to treat serious diseases for which there are limited treatment options. At the time of acquisition, Medivation's products included Xtandi, the leading prostate cancer drug, and two experimental drugs in later-stage development. Xtandi is an oral prescription medicine and helps slow cancer cell growth by interfering with androgen or hormone receptors. Xtandi received FDA approval in August 2012. The two experimental drugs included Talazoparib, a poly ADP ribose polymerase inhibitor which disrupts enzymatic activity for the treatment of breast cancer, and Pidilizumab which is a monoclonal antibody for blood cancer lymphoma.
Pharmacyclics LLC	Pharmacyclics is a company that develops and commercialises novel therapies for the treatment of cancer and immune-mediated diseases in the US. Pharmacyclics' product portfolio included a leading hematological oncology drug, Imbruvica, the Bruton's tyrosine kinase inhibitor which received FDA approval to treat mantle cell lymphoma (2013), chronic lymphocytic leukaemia (2014) and Waldenstrom's Macroglobulinemia (2015), and approved in more than 40 countries.
EOS (Ethical Oncology Science) S.p.A.	Ethical Oncology Science is a privately held Italian biopharmaceutical company developing lucitanib, an oral, dual-selective inhibitor of tyrosine kinase enzyme activity. Lucitanib is a targeted therapy for tumours in patients with certain types of cancer, notably breast cancer, and was involved in an ongoing clinical study since 2010.
Astex Pharmaceuticals, Inc.	Astex Pharmaceuticals is a company specialising in the development of oncology drugs, including Dacogen, which treats myelodysplastic syndromes and elderly acute myeloid leukaemia. Dacogen received FDA approval in 2006. The company also owns the fragment-based drug discovery platform and technology, PYRAMID, which enables the more rapid discovery and development of compounds for target proteins.

Source: Company websites, Mergermarket, CapitalIQ and other announcements

## Appendix 5: Control premium studies

Set out in this appendix are a number of studies and analyses that we have identified in order to inform our assessment of the appropriate range of control premiums to apply. In particular, this includes our own database of transactions in the Australian market of which we maintain on a regular basis.

### Deloitte database of Australian public company M&A activity

We conducted a study of premiums paid in Australian transactions completed between 1 January 2000 and 31 March 2018. Our merger and acquisition data was sourced from Mergermarket, CapitalIQ and Thomson Reuters along with publicly available news and information sources. This identified 619 transactions that were completed during the period under review<sup>19</sup>.

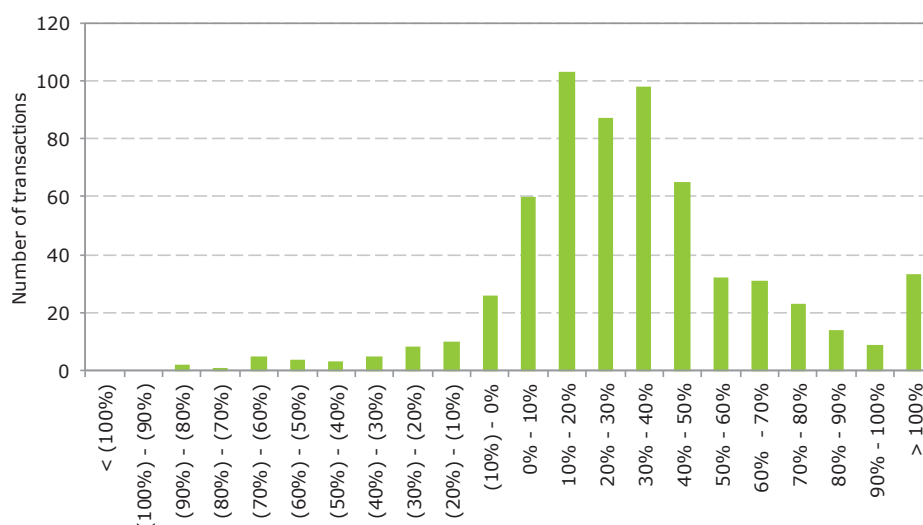
Our data set consisted of transactions where an acquiring company increased its shareholding in a target company from a minority interest to a majority stake or acquired a majority stake in the target company.

We assessed the premiums by comparing the offer price to the closing trading price of the target company one month prior to the date of the announcement of the offer. Where the consideration included shares in the acquiring company, we used the closing share price of the acquiring company on the day prior to the date of the offer.

### Summary of findings

As the following figure shows, premiums paid in Australian transactions between 1 January 2000 and 31 March 2018 are widely distributed with a long 'tail' of transactions with high premiums.

**Figure 14: Control premium analysis - distribution of transactions**



Source: Deloitte Corporate Finance analysis

<sup>19</sup> Excluding transactions where inadequate data was available.

The following table details our findings.

**Table 20: Control premium analysis – overall market findings**

	Control premium
Upper quartile	48%
Average	35%
Median	30%
Lower quartile	13%

Source: Deloitte Corporate Finance analysis

Set out in the table below are the control premiums for transactions in the Health and Life Sciences sector:

**Table 21: Control premium analysis – Health and Life Sciences sector findings**

	Control premium
Upper quartile	49%
Average	35%
Median	36%
Lower quartile	23%

Source: Deloitte Corporate Finance analysis

Many of the observed control premiums below 20% are likely to have been instances where the market has either been provided with information or anticipated a takeover offer in advance of the offer being announced. Accordingly, the pre-bid share trading price may already reflect some price appreciation in advance of a bid being received, which creates a downward bias on some of the observed control premiums in our study.

Many of the observed control premiums above 40% are likely to have been influenced by the following factors which create an upward bias on some of the observed control premiums in our study:

- some acquirers are prepared to pay above market value to realise 'special purchaser' value which is typically only available to very few buyers. Such 'special purchaser' value would include the ability to access very high levels of synergistic benefits in the form of cost and revenue synergies or the ability to gain a significant strategic benefit
- abnormally high control premiums are often paid in contested takeovers where there are multiple bidders for a target company. In such cases, bidders may be prepared to pay away a greater proportion of their synergy benefits from a transaction than in a non-contested situation
- some of the observations of very high premiums are for relatively small listed companies where there is typically less trading liquidity in their shares and they are not closely followed by major broking analysts. In these situations, the traded price is more likely to trade at a deeper discount to market value on a control basis.

Accordingly, the observed control premiums to share trading prices for such stocks will tend to be higher.

## Other studies

In addition to our own analysis as set out above, we have also had regard to the following:

- a study conducted by S.Rossi and P.Volpin of London Business School dated September 2003, 'Cross Country Determinants of Mergers and Acquisitions', on acquisitions of a control block of shares for listed companies in Australia announced and completed from 1990 to 2002. This study included 212 transactions over this period and indicated a mean control premium of 29.5% using the bid price of the target four weeks prior to the announcement
- 'Valuation of Businesses, Shares and Equity' (4th edition, 2003) by W.Lonergan states at pages 55-56 that: "Experience indicates that the minimum premium that has to be paid to mount a successful takeover bid was generally in the order of at least 25 to 40 per cent above the market price prior to the announcement of an offer in the 1980s and early 1990s. Since then, takeover premiums appear to have fallen slightly."
- a study conducted by P.Brown and R.da Silva dated 1997, 'Takeovers: Who wins?', JASSA: The Journal of the Securities Institute of Australia, v4 (Summer):2-5. The study found that the average control premium paid in Australian takeovers was 29.7% between the period January 1974 and June 1985. For the ten year period to November 1995, the study found the average control premium declined to 19.7% (however, we note that during this period, the Australian economy went through a period of unusually weak economic growth, including a recession)
- a study conducted by A. Gilmore, G. Yates and I. Douglas of RSM dated 2017, 'Control Premium Study 2017 – Insights into market dynamics, financial dynamics and other factors', on successful takeovers and schemes of arrangement completed between 1 July 2005 and 30 June 2016 for companies listed on the Australian Stock Exchange. The study included 463 transactions (for which meaningful data was available) and indicated an average implied control premium at 20 days pre-bid of 34.5% and a median implied control premium of 27.0%.

## Appendix 6: Context to the report

### Individual circumstances

We have evaluated the Proposed CDH-CGP Scheme for Shareholders as a whole and have not considered the effect of the Proposed CDH-CGP Scheme on the particular circumstances of individual investors. Due to their particular circumstances, individual investors may place a different emphasis on various aspects of the Proposed CDH-CGP Scheme from the one adopted in this report. Accordingly, individuals may reach different conclusions to ours on whether the Proposed CDH-CGP Scheme is fair and reasonable and therefore in the best interests of Shareholders. If in doubt, investors should consult an independent adviser, who should have regard to their individual circumstances.

### Limitations, qualifications, declarations and consents

This report has been prepared at the request of the Directors of Sirtex and is to be included in the Scheme Booklet to be given to Shareholders to assist them in deciding whether to approve the Proposed CDH-CGP Scheme. Accordingly, it has been prepared only for the benefit of the Directors and those persons entitled to receive the Scheme Booklet in their assessment of the Proposed CDH-CGP Scheme and should not be used for any other purpose. Neither Deloitte Corporate Finance, Deloitte Touche Tohmatsu, nor any member or employee thereof, undertakes responsibility to any person, other than the Shareholders and Sirtex, in respect of this report, including any errors or omissions however caused.

This engagement has been conducted in accordance with professional standard APES 225 Valuation Services issued by the Accounting Professional and Ethical Standards Board Limited.

The report represents solely the expression by Deloitte Corporate Finance of its opinion as to whether the Proposed CDH-CGP Scheme is in the best interests of the Shareholders as a whole.

Statements and opinions contained in this report are given in good faith but, in the preparation of this report, Deloitte Corporate Finance has relied upon the completeness of the information provided by Sirtex and its officers, employees, agents or advisors (as set out below in 'Sources of Information'). Deloitte does not imply, nor should it be construed, that it has carried out any form of audit or verification on the information and records supplied to us.

In recognition that Deloitte Corporate Finance may rely on information provided by Sirtex and its officers, employees, agents or advisors, Sirtex has agreed that it will not make any claim against Deloitte Corporate Finance to recover any loss or damage which Sirtex may suffer as a result of that reliance and that it will indemnify Deloitte Corporate Finance against any liability that arises out of either Deloitte Corporate Finance's reliance on the information provided by Sirtex and its officers, employees, agents or advisors or the failure by Sirtex and its officers, employees, agents or advisors to provide Deloitte Corporate Finance with any material information relating to the Proposed CDH-CGP Scheme.

Drafts of our report were issued to Sirtex management for confirmation of factual accuracy. We may not have become aware of all information that may be relevant to our work and opinion.

To the extent that this report refers to prospective financial information we have considered the prospective financial information and the basis of the underlying assumptions. The procedures involved in Deloitte's consideration of this information consisted of enquiries of Sirtex personnel and analytical procedures applied to the financial data. These procedures and enquiries did not include verification work nor constitute an audit or a review engagement in accordance with standards issued by the Auditing and Assurance Standards Board (AUASB) or equivalent body and therefore the information used in undertaking our work may not be entirely reliable.

Based on these procedures and enquiries, Deloitte considers that there are reasonable grounds to believe that the prospective financial information for Sirtex included in this report has been prepared on a reasonable basis in accordance with ASIC Regulatory Guide 111. In relation to the prospective financial information, actual results may be different from the prospective financial information of Sirtex referred to in this report since anticipated events frequently do not occur as expected and the variation may be material. The achievement of the prospective financial information is dependent on the outcome of the assumptions. Accordingly, we express no opinion as to whether the prospective financial information will be achieved.

Deloitte Corporate Finance holds the appropriate Australian Financial Services licence to issue this report and is owned by the Australian Partnership Deloitte Touche Tohmatsu. The employee of Deloitte Corporate Finance principally involved in the preparation of this report was Tapan Parekh, Partner, M.Com, B.Bus, F.Fin, CA (BV Specialist). He has many years' experience in the provision of corporate financial advice, including specific advice on valuations, mergers and acquisitions, as well as the preparation of expert reports.

Deloitte prepared an Independent Expert's Report in respect of the Prior Varian Scheme, which has now been terminated.

Deloitte member firms provide audit and non-audit services to entities associated with the Bidder.

## **Consent to being named in disclosure document**

Deloitte Corporate Finance Pty Limited (ACN 003 833 127) of 225 George Street, Sydney, NSW, 2000 acknowledges that:

- Sirtex proposes to issue a disclosure document in respect of the Proposed CDH-CGP Scheme between the Shareholders and the Bidders (the Scheme Booklet)
- the Scheme Booklet will be issued in hard copy and be available in electronic format
- it has previously received a copy of the draft Scheme Booklet for review
- it is named in the Scheme Booklet as the 'independent expert' and the Scheme Booklet includes its independent expert's report as Annexure A.

On the basis that the Scheme Booklet is consistent in all material respects with the draft Scheme Booklet received, Deloitte Corporate Finance Pty Limited consents to it being named in the Scheme Booklet in the form and context in which it is so named, to the inclusion of its independent expert's report as Annexure A of the Scheme Booklet and to all references to its independent expert's report in the form and context in which they are included, whether the Scheme Booklet is issued in hard copy or electronic format or both.

Deloitte Corporate Finance Pty Limited has not authorised or caused the issue of the Scheme Booklet and takes no responsibility for any part of the Scheme Booklet, other than any references to its name and the independent expert's report as included as Annexure A.

## **Sources of information**

In preparing this report we have had access to the following principal sources of information:

- the scheme implementation deed between Sirtex Medical Limited and Varian Medical Systems, Inc. dated 30 January 2018
- the scheme implantation deed between Sirtex Medical Limited, CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited dated 14 June 2018
- audited financial statements of Sirtex for the years ending 30 June 2015 to 30 June 2017
- Sirtex annual reports and investor presentations for the years ending 30 June 2015 to 30 June 2017 and the half year report for the period ending 31 December 2017
- management presentations and company strategy documents, including documents prepared for prospective bidders
- legal advice provided by Watson Mangioni
- minutes of the meetings of the board of Directors
- Sirtex company website
- publicly available information on comparable companies and market transactions published by ASIC, CapitalIQ, Thomson Research, Thomson Reuters Financial markets and Mergermarket
- industry reports other publicly available information, media releases and brokers reports on Sirtex and the global interventional oncology industry.

In addition, we have had discussions and correspondence with certain directors and executives of Sirtex, along with advisors to Sirtex, including:

- Andrew McLean, Chief Executive Officer

- Darren Smith, Chief Financial Officer
- Dr John Eady, Interim Chairman
- Dr Katherine Woodthorpe, Non-executive Director
- Neville Mitchell, Non-Executive Director
- Grant Boyce, Non-Executive Director
- Helen Kurincic, Non-Executive Director
- Watson Mangioni, legal advisors to Sirtex
- UBS AG – Australian Branch, financial advisors to Sirtex.





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In Australia, the member firm is the Australian partnership of Deloitte Touche Tohmatsu. As one of Australia's leading professional services firms, Deloitte Touche Tohmatsu and its affiliates provide audit, tax, consulting, and financial advisory services through approximately 6,000 people across the country. Focused on the creation of value and growth, and known as an employer of choice for innovative human resources programs, we are dedicated to helping our clients and our people excel. For more information, please visit Deloitte's web site at [www.deloitte.com.au](http://www.deloitte.com.au).

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# ANNEXURE B

## SCHEME IMPLEMENTATION DEED



**Scheme Implementation Deed**

**Sirtex Medical Limited**

(ABN 35 078 166 122)

**CDH Genetech Limited**

**China Grand Pharmaceutical and Healthcare  
Holdings Limited**

**Watson Mangioni Lawyers Pty Limited**  
Corporate and Commercial Lawyers  
Level 23, 85 Castlereagh Street  
SYDNEY NSW 2000  
Tel: (02) 9262 6666  
Fax: (02) 9262 2626  
Email: [mail@wmlaw.com.au](mailto:mail@wmlaw.com.au)  
Ref: CSC 217 7345

### Table of Contents

1.	Definitions and Interpretation .....	1
2.	Agreement to Proceed with the Transaction .....	11
3.	Conditions Precedent and Pre-implementation Steps .....	12
4.	Transaction Steps .....	19
5.	Implementation .....	20
6.	Representations and Warranties .....	28
7.	Releases .....	29
8.	Public Announcements .....	31
9.	Exclusivity .....	31
10.	Sirtex Reimbursement Fee and Bidder Facilitation / Break Fee .....	34
11.	Termination .....	40
12.	Exclusive China Commercialisation Rights .....	41
13.	Confidentiality .....	42
14.	GST .....	43
15.	Duty, Costs and Expenses .....	44
16.	Notices .....	44
17.	General .....	46

**This Scheme Implementation Deed** is made on

14 June 2018.

**Parties:**

1. **Sirtex Medical Limited** (ABN 35 078 166 122) of Level 33, 101 Miller Street, North Sydney NSW 2060, Australia (**Sirtex**);
2. **CDH Genetech Limited**, an exempted company incorporated in the Cayman Islands of 1503 International Commerce Center, 1 Austin Road West, Kowloon, Hong Kong (**CDH Genetech**); and
3. **China Grand Pharmaceutical and Healthcare Holdings Limited**, a company incorporated in Bermuda and whose shares are listed on the Main Board of the Stock Exchange of Hong Kong Limited (stock code: 512), of Units 3302, 33/F, The Center, 99 Queen's Road Central, Hong Kong (**China Grand**).

**Recitals:**

- A. Sirtex and the Bidders have agreed to propose and implement a scheme of arrangement under Part 5.1 of the Corporations Act between Sirtex and its shareholders.
- B. At the request of the Bidders, Sirtex has agreed to propose the Scheme and issue the Scheme Booklet.
- C. The parties are entering into this deed to record their respective rights and obligations in connection with proposing and implementing the Scheme.

**1. Definitions and Interpretation**

**1.1. Definitions**

In this deed:

**Action** means any action, suit, claim, demand, legal proceeding, investigation, inquiry, prosecution, litigation, proceeding, arbitration, mediation or dispute resolution.

**Adviser** means, in relation to an entity:

- (a) a financier to the entity in connection with the Transaction; or
- (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Transaction by the entity.

**Agreed SPV** means a company in which:

- (a) CDH Genetech owns (directly or indirectly) not less than 51%, and not more than 54%, of the issued share capital; and
- (b) China Grand owns (directly or indirectly) not less than 46%, and not more than 49%, of the issued share capital; and
- (c) no other person has any direct or indirect ownership of the issued share capital, except to the extent that such ownership arises as a result of ownership of securities of, or other interests in, CDH Genetech or China Grand.

**Antitrust Laws** means:

- (a) the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (US), the Sherman Act of 1890 (US), the Clayton Act of 1914 (US), the Federal Trade Commission Act (US), and any other United States federal or state statutes, rules, regulations, orders, decrees, administrative or judicial doctrines or other laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolisation or restraint of trade;
- (b) the *Australian Competition and Consumer Act 2010* (Cth); and
- (c) any other federal, state or foreign statutes, rules, regulations, orders, decrees, administrative or judicial doctrines or other laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolisation or restraint of trade.

**ASIC** means the Australian Securities and Investments Commission.

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

**ASX Listing Rules** means the official listing rules of the ASX.

**Bidders** means CDH Genetech and China Grand, subject to the rules of interpretation in clause 1.6.

**Bidder Entities** has the meaning given in clause 3.3(d)(i).

**Bidder Facilitation / Break Fee** means \$200 million (plus GST).

**Bidder Facility Agreements** means the debt facility agreements and the related security documents and guarantees to be entered into pursuant to the Debt Commitment Letters.

**Bidder Group** means each Bidder and each of its respective subsidiaries (excluding, at any time, Sirtex and its subsidiaries to the extent that Sirtex and its subsidiaries are subsidiaries of either Bidder at that time) and a reference to a **member of the Bidder Group** is to each Bidder or any of its respective subsidiaries (excluding, at any time, Sirtex and its subsidiaries to the extent that Sirtex and its subsidiaries are subsidiaries of either Bidder at that time).

**Bidder Information** means information about the Bidder Group provided or approved by each Bidder or any of its Advisers for inclusion in the Scheme Booklet.

**Bidder Parties** means the members of the Bidder Group and their respective officers, employees and Advisers.

**Bidders' Nominee** means any Agreed SPV nominated by the Bidders to acquire Scheme Shares under the Scheme in accordance with clause 2.2(a).

**Bidders' Representations and Warranties** means the representations and warranties set out in Schedule 1.

**Board** means the board of directors of Sirtex.

**Business Day** means a business day as defined in the ASX Listing Rules.

**CFIUS** has the meaning given in clause 3.3(d)(i).

**CFIUS Clearance** means any of the following:

- (a) a thirty (30)-day review period under the Defense Production Act has expired and the parties have received notice from CFIUS that such review has been concluded and that either the Transaction does not constitute a "covered transaction" under the Defense Production Act

or there are no unresolved national security concerns, and all action under the Defense Production Act is concluded with respect to the Transaction;

- (b) an investigation has been commenced after such thirty (30)-day review period and CFIUS has determined to conclude all action under the Defense Production Act without sending a report to the President of the United States, and the parties have received notice from CFIUS that there are no unresolved national security concerns, and all action under the Defense Production Act is concluded with respect to the Transaction;
- (c) CFIUS has sent a report to the President of the United States requesting the President's decision and the President has announced a decision not to take any action to suspend, prohibit or place any limitations on the Transaction, or the time permitted by law for such action shall have lapsed; or
- (d) any of the foregoing which occur after the parties withdraw a CFIUS Notice filed in connection with the Transaction and subsequently file one or more additional CFIUS Notices in connection with the Transaction.

**CFIUS Notice** has the meaning given in clause 3.3(d)(i).

**China Grand Announcement(s)** means the announcement(s) to be prepared and issued by China Grand in connection with seeking the China Grand Shareholder Approvals;

**China Grand Board** means the board of directors of China Grand.

**China Grand Debt Commitment Letter** means the credit-approved, executed facility letter and accompanying term sheet and fee letter from Sun Hung Kai Investment Services Limited addressed to China Grand and dated on or about 29 May 2018, as amended by letter from Sun Hung Kai Investment Services Limited addressed to China Grand and dated on or about 7 June 2018.

**China Grand Facility Agreements** means the debt facility agreements and the related security documents and guarantees to be entered into pursuant to the China Grand Debt Commitment Letter.

**China Grand Shareholder Approvals** means the approvals of the shareholders of China Grand which are required under the HKEX Listing Rules in respect of the resolutions regarding China Grand's formation of the Bidders' Nominee with CDH Genetech and the transactions contemplated by this deed.

**China Grand Shareholder Meeting** means the special general meeting of shareholders of China Grand at which the China Grand Shareholder Approvals will be sought.

**China Grand Shareholders' Circular** means the shareholders' circular to be prepared by China Grand in connection with seeking the China Grand Shareholder Approvals, including the notice of the China Grand Shareholder Meeting.

**Claim** includes, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

**Class Action** means Federal Court of Australia Proceeding No VID1375/2017 (*Pawel Kuterba & Todd Hayward v Sirtex Medical Limited*), and/or any other proceedings in any way related to those proceedings or their subject matter.

**Commitment Letters** means the Equity Commitment Letter and the Debt Commitment Letters.

**Competing Proposal** means any proposal or transaction which, if completed, would mean a Third Party, whether alone or together with any associate, would:

- (a) (other than as custodian, nominee or bare trustee) acquire an interest in, or a relevant interest in, 20% or more of the Sirtex Shares or the shares of any material subsidiary of Sirtex other than pursuant to the exception in item 9 of section 611 of the Corporations Act;
- (b) acquire (whether directly or indirectly) or become the holder of, or otherwise acquire, have a right to acquire or have an economic interest in assets of the Sirtex Group with an aggregate book value representing 20% or more of the total assets of the Sirtex Group as set out in Sirtex's consolidated balance sheet as at 30 June 2017;
- (c) acquire control of Sirtex or any material subsidiary of Sirtex; or
- (d) otherwise acquire or merge or amalgamate with Sirtex or any material subsidiary of Sirtex,

whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction or share buy-back, sale or purchase of shares, securities or assets, global assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), or other transaction or arrangement. For the purposes of paragraphs (a) and (c) above, a subsidiary of Sirtex will be a material subsidiary if:

- (1) the business or property of the subsidiary contributes more than 20% of the consolidated net profit after tax of Sirtex; or
- (2) the business or property of the subsidiary represents more than 20% of the total consolidated assets of Sirtex.

**Competition Approvals** means any Regulatory Approval required in relation to the Transaction under any Antitrust Law.

**Competition Authority** means any Government Agency having responsibility for any Antitrust Law.

**Conditions Precedent** means the conditions precedent set out in clause 3.1.

**Confidentiality Deeds** means:

- (a) the confidentiality deed between Sirtex and CDH Investments Management (Hong Kong) Ltd. dated on or about 8 May 2018; and
- (b) the confidentiality deed between Sirtex and China Grand dated on or about 29 May 2018.

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

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

**Court** means the Federal Court of Australia (NSW registry) or such other court of competent jurisdiction under the Corporations Act agreed to in writing between the parties.

**Debt Commitment Letters** means:

- (a) the credit-approved, executed commitment letter and accompanying term sheet and fee letter from Bank of China Limited Macau Branch addressed to CDH Genetech and dated on or about 18 May 2018, as amended and clarified by emails from Nancy Tian of Bank of China Limited Macau Branch sent 21 May 2018 at 6:05pm, 21 May 2018 at 7:24pm, 7 June 2018 at 9:25pm and 8 June 2018 at 12:09pm; and
- (b) the China Grand Debt Commitment Letter.

**Deed Poll** means a deed poll in favour of all Scheme Shareholders in the form of Annexure C (however with the outstanding information relating to the Bidders' Nominee and the date of this deed



as indicated in square brackets duly completed) or such other form agreed to in writing between the parties.

**Deeds of Undertaking** means:

- (a) each of the irrevocable and unconditional deeds of undertaking given by Outwit Investments Limited, Shanghai China Grand Asset Finance Investment Management Co., Limited, East Ocean Capital (Hong Kong) Company Limited and China Grand Enterprises, Inc. in favour of each of China Grand, CDH Genetech and Sirtex dated on or about the date of this deed to, among other things, vote in favour of the resolutions in connection with the China Grand Shareholder Approvals; and
- (b) the deed of undertaking given by the Bidders in favour of Sirtex dated on or about the date of this deed titled "CFIUS Related Matters".

**Deposit** means:

- (a) the Initial Deposit payable in accordance with clause 5.2(b);
- (b) the Second Deposit payable in accordance with clause 5.2(c); and
- (c) from the date that the Bidders are required to pay any further amount to the Deposit Account in accordance with clause 5.2(l)(i), also includes that further amount.

**Deposit Account** means an interest bearing A\$ denominated bank account with an Australian Bank opened in the name of the Deposit Holder as trustee for Sirtex and the Bidders.

**Deposit Agreement** means the deposit agreement between Sirtex, the Bidders, Bank of China Limited Macau Branch and the person therein designated as the "Deposit Holder" entered into on or about the date of this deed.

**Deposit Holder** means the person so designated in the Deposit Agreement.

**Deposit Interest** means, as at any date, all amounts standing to the credit of the Deposit Account in excess of the Deposit as at that date, after deduction of all bank fees and other charges payable in respect of the investment of the Deposit, and after taking account of any withholding tax payable in respect of those amounts.

**Disclosed** means fairly disclosed:

- (a) in the Disclosure Materials; or
- (b) in any announcement made by Sirtex on ASX in the 2 years before entry into this deed.

**Disclosure Materials** means:

- (a) the documents and information contained in the Ansarada online data room to which the Bidders and their Representatives were given access before entry into this deed; and
- (b) any written answers to requests for further information made by Bidders and their Representatives as contained in that online data room before entry into this deed.

**Divestiture Action** has the meaning given in clause 3.3(c).

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

**Effective Date** means the date on which the Scheme becomes Effective.

**End Date** means the date that is 12 months after the date of this deed or such other date as is agreed in writing between the parties.

**Equity Commitment Letter** means the binding, executed commitment letter dated on or about the date of this deed addressed to the Bidders from CDH Fund V, L.P. and CDH Investments and accepted by the Bidders.

**Exclusivity Period** means the period from and including the date of this deed to the earlier of:

- (a) the termination of this deed; and
- (b) the End Date.

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

**First Court Date** means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act that the Scheme Meeting be convened is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

**Government Actor** has the meaning given in paragraph (v) of Schedule 1.

**Government Agency** means any government or any governmental, semi-governmental, statutory or judicial entity, agency or authority, whether in Australia, the United States of America or elsewhere, including any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and the ASX, HKEX or any other stock exchange.

**HKEX** means The Stock Exchange of Hong Kong Limited.

**HKEX Listing Rules** means the Rules Governing the Listing of Securities on HKEX.

**Implementation Date** means the fifth Business Day after the Record Date or such other date after the Record Date as agreed in writing between the parties.

**Incoming Directors** means the persons nominated in writing to Sirtex by the Bidders no later than 5 Business Days before the Implementation Date.

**Independent Expert** means the independent expert in respect of the Scheme appointed by Sirtex.

**Independent Expert's Report** means the report (including any updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interests of Sirtex Shareholders.

**Initial Deposit** means \$165 million, or such larger amount as may be determined by the Bidders up to a maximum amount of \$220 million.

**Insolvency Event** means, in the case of any entity:

- (a) it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;
- (b) it stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (c) it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or claim the subject of a good faith dispute);
- (d) it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;

- (e) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court or other steps are taken for:
  - (i) its winding up, dissolution or administration; or
  - (ii) it entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them,
 (other than frivolous or vexatious applications, orders, proceedings, notices or steps);
- (f) any of:
  - (i) a receiver, receiver and manager, administrative receiver or similar officer is appointed to;
  - (ii) a security interest becomes enforceable or is enforced over; or
  - (iii) a distress, attachment or other execution is levied or enforced or applied for over, all or a substantial part of its assets; or
- (g) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any foreign law.

**Mitigation Arrangements** has the meaning given in clause 3.3(d)(ii).

**Order** means any decree, judgment, injunction, direction, writ or other order, whether temporary, preliminary or permanent.

**Outgoing Directors** means the directors of Sirtex advised in writing to Sirtex by the Bidders no later than 5 Business Days before the Implementation Date.

**Permitted Dividend** means one or more dividends declared or determined by the Board in respect of the period 1 July 2017 to 30 June 2018, provided that the maximum aggregate amount paid or payable by Sirtex in respect of all such dividends is \$0.30 per Sirtex Share.

**Prescribed Occurrence** means any of the occurrences set out in Schedule 3, other than any such occurrence:

- (a) required under this deed or the Scheme; or
- (b) that has been consented to in writing by the Bidders (and the Bidders must not unreasonably withhold or delay their respective consent to any request for consent from Sirtex where Sirtex has provided reasonable details of the matter (including any material terms) in writing to the Bidders).

**Record Date** means 7pm on the fifth Business Day following the Effective Date or such other date after the Effective Date as Sirtex and the Bidders agree.

**Regulator's Draft** means the draft of the Scheme Booklet in a form acceptable to Sirtex and the Bidders which is provided to ASIC for its review pursuant to section 411(2) of the Corporations Act.

**Regulatory Approvals** means:

- (a) any approval, clearance, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority or exemption from, by or with a Government Agency; and

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

**Regulatory Review Period** means the period from the date on which the Regulator's Draft is submitted to ASIC to the date on which ASIC confirms that it does not intend to make any submissions at the Court hearing on the First Court Date or otherwise object to the Scheme.

**Representative** means, in relation to the Bidders or Sirtex:

- (a) each other member of the Bidder Group or the Sirtex Group (as applicable);
- (b) an officer of a member of the Bidder Group or the Sirtex Group (as applicable); or
- (c) an Adviser to a member of the Bidder Group or the Sirtex Group (as applicable).

**RG 60** means Regulatory Guide 60 issued by ASIC.

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Sirtex and the Scheme Shareholders in the form attached as Annexure B (or such other form agreed to in writing by the parties).

**Scheme Booklet** means the information described in clause 5.1(b) to be approved by the Court and despatched to the Sirtex Shareholders and which must include the Scheme, an explanatory statement (complying with the requirements of the Corporations Act, the Corporations Regulations, RG 60 and the ASX Listing Rules), the Independent Expert's Report, the notice of Scheme Meeting and a proxy form for the Scheme Meeting.

**Scheme Consideration** means the consideration per Scheme Share to be provided by the Bidders (or the Bidders' Nominee) in consideration for the transfer of the Scheme Share to the Bidders (or the Bidders' Nominee), being, in respect of each Scheme Share, \$33.60 less the amount of any Permitted Dividend paid in respect of the Scheme Share in accordance with clause 4.4(e).

**Scheme Meeting** means the meeting of Sirtex Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

**Scheme Share** means a Sirtex Share held by a Scheme Shareholder.

**Scheme Shareholders** means Sirtex Shareholders as at the Record Date.

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

**Second Deposit** means an amount equal to \$220 million less the amount of the Initial Deposit paid by the Bidders in accordance with clause 5.2(b).

**Share Register** means the register of members of Sirtex maintained in accordance with the Corporations Act.

**Sirtex Group** means Sirtex and each of its subsidiaries and a reference to a **Sirtex Group Member** or a **member of the Sirtex Group** is to Sirtex or any of its subsidiaries.

**Sirtex Parties** means members of the Sirtex Group and their respective officers, employees and Advisers.

**Sirtex Reimbursement Fee** means the amount equal to 1% of the total Scheme Consideration payable for all the Scheme Shares under the Scheme (excluding for the purposes only of this calculation the reducing impact of any Permitted Dividend).

**Sirtex Right** means a performance right or a contractual right to be granted a performance right, which performance right confers the right to acquire one unissued Sirtex Share pursuant to the Sirtex Rights Plan.

**Sirtex Rights Plan** means the Sirtex Executive Rights Plan approved by Sirtex Shareholders at the 2015 annual general meeting held on 27 October 2015 (as amended).

**Sirtex Registry** means Link Market Services Limited (ABN 54 083 214 537).

**Sirtex Representations and Warranties** means the representations and warranties of Sirtex set out in Schedule 2.

**Sirtex Share** means a fully paid ordinary share in the capital of Sirtex.

**Sirtex Shareholder** means each person who is registered in the Share Register as the holder of Sirtex Shares.

**Sirtex US Business** has the meaning given in clause 3.3(d)(ii)(C).

**Superior Proposal** means a bona fide Competing Proposal received after the date of this deed that the Board determines, acting in good faith and in order to satisfy what the Board considers to be its fiduciary or statutory duties (having taken advice from its external financial and legal advisers):

- (a) is reasonably capable of being valued and implemented, taking into account all aspects of the Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be more favourable to Sirtex Shareholders (as a whole) than the Scheme, taking into account all terms and conditions of the Competing Proposal.

**Third Party** means a person other than the Bidder Parties and their associates.

**Timetable** means the indicative timetable for the implementation of the Transaction set out in Annexure A (as may be varied by agreement between the parties).

**Transaction** means the acquisition of Sirtex by the Bidders (or, if applicable, the Bidders' Nominee) through implementation of the Scheme in accordance with the terms of this deed.

**Trust Account** has the meaning given in the Scheme.

**Varian Transaction** means the proposed acquisition of Sirtex by Varian Medical Systems, Inc. (or a wholly owned subsidiary nominated by it) pursuant to the Scheme Implementation Deed between Sirtex and Varian Medical Systems, Inc. dated 30 January 2018.

## 1.2. Interpretation

In this deed, headings are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;

- (d) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture, a partnership, a trust and any Government Agency;
- (e) a reference to a clause, party, attachment, exhibit or schedule is a reference to a clause of, and a party, attachment, exhibit and schedule to this deed, and a reference to this deed includes any attachment, exhibit and schedule;
- (f) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) a reference to any document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (h) the word "includes" in any form is not a word of limitation;
- (i) a reference to "\$", "A\$" or "dollar" is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to the time in Sydney, New South Wales, Australia;
- (k) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (l) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (m) a reference to "associate", "control" (by an entity of another entity), "officer", "related body corporate", "subsidiary", "relevant interest" or "voting power" is to that term as defined in the Corporations Act;
- (n) a reference to the ASX Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

### 1.3. Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

### 1.4. Listing requirements included as law

A listing rule or business rule of a securities exchange 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.

### 1.5. Statements on the basis of knowledge

Any statement made by Sirtex on the basis of its knowledge is made on the basis that its knowledge is limited to the knowledge which any of Andrew McLean, Darren Smith and any member of the Board has or would have if they had made all reasonable enquiries of the officers and employees of any member of the Sirtex Group with responsibility for the matters to which the statement relates.

**1.6. References to Bidders**

- (a) All references to 'the Bidders' in this deed are references to each of CDH Genetech and China Grand jointly and severally, other than in respect of:
  - (i) the obligation in respect of clause 10.3 (Payment by China Grand to Sirtex) for which China Grand is solely responsible; and
  - (ii) the rights of the Bidders under this deed, as to which clause 1.6(b)(iii) applies.
- (b) Without limiting clause 1.6(a), despite any other provision of this deed, the Scheme and the Deed Poll:
  - (i) other than the obligation in respect of clause 10.3 (Payment by China Grand to Sirtex) for which China Grand is solely responsible, each of CDH Genetech and China Grand are jointly and severally responsible and liable for all obligations attributed to the Bidders under this deed, the Scheme and the Deed Poll;
  - (ii) all of the representations and warranties given by the Bidders in Schedule 1 are given jointly and severally; and
  - (iii) all of the rights exercisable by the Bidders under this deed, the Scheme and the Deed Poll are exercisable severally by CDH Genetech and China Grand and any failure by either of them to exercise its rights under this deed, the Scheme and the Deed Poll does not constitute a waiver by the other of its rights.

**2. Agreement to Proceed with the Transaction****2.1. Sirtex to propose Scheme**

Sirtex agrees to propose the Scheme on and subject to the terms of this deed.

**2.2. Nomination of acquirer subsidiary**

- (a) Prior to the Business Day before the First Court Date the Bidders must nominate an Agreed SPV to acquire Scheme Shares under the Scheme by providing a written notice which sets out the details of Bidders' Nominee to Sirtex.
- (b) From when the Bidders nominate a Bidders' Nominee to acquire Scheme Shares:
  - (i) the parties must procure that the Scheme Shares transferred under the Scheme are transferred to the Bidders' Nominee rather than the Bidders;
  - (ii) the Bidders must procure that the Bidders' Nominee complies with all of the relevant obligations of the Bidders under this deed and the Deed Poll; and
  - (iii) any such nomination will not relieve the Bidders of their obligations under this deed, including the obligation to pay (or procure the payment by the Bidders' Nominee of) the Scheme Consideration in accordance with the terms of the Scheme.

**2.3. Agreement to implement the Scheme**

The parties agree to implement the Scheme on and subject to the terms of this deed.

### 3. Conditions Precedent and Pre-implementation Steps

#### 3.1. Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of the Bidders under clause 4.3 will not become binding, unless each of the following Conditions Precedent is satisfied or waived (to the extent and in the manner set out in clause 3.6):

##### Conditions Precedent for benefit of all parties

- (a) **termination of Varian Transaction:** the scheme implementation deed in respect of the Varian Transaction is terminated by Sirtex in accordance with clause 11.1(e) of that deed and in accordance with clause 3.5(a) of this deed, or that scheme implementation deed is otherwise terminated;
- (b) **Shareholder approval:** Sirtex Shareholders approve the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act at the Scheme Meeting;
- (c) **FIRB approval:** before 8am on the Second Court Date, the Treasurer of the Commonwealth of Australia (or his delegate) either:
  - (i) gives the Bidders written advice, which is unconditional or subject only to conditions that are acceptable to the Bidders acting reasonably, that the Commonwealth Government does not object under FATA or its foreign investment policy to the Transaction; or
  - (ii) is or, by passage of time, becomes precluded from making an order under FATA in respect of the Transaction, and remains so precluded until that time;
- (d) **US anti-trust clearance:** all applicable waiting periods (and any extensions thereof) under the Hart Scott Rodino Antitrust Improvements Act of 1976 expire or are otherwise terminated;
- (e) **no restraints:** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction in, or Government Agency of, Australia, the United States of America, Germany, Italy, Belgium, the United Kingdom or Ireland, preventing or imposing any legal restraint on the Transaction is in effect in each case as at 8am on the Second Court Date;
- (f) **Court approval:** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;

##### Condition Precedent for benefit of the Bidders only

- (g) **no Prescribed Occurrence:** no Prescribed Occurrence occurs between the date of this deed and 8am on the Second Court Date;

##### Conditions Precedent for benefit of Sirtex only

- (h) **Independent Expert:** the Independent Expert issues a report which concludes that the Scheme is in the best interests of Sirtex Shareholders before the time when the Scheme Booklet is registered with ASIC and the Independent Expert has not publicly withdrawn or qualified this conclusion before 8am on the Second Court Date; and
- (i) **no Bidder Insolvency Event:** neither Bidder suffers an Insolvency Event between the date of this deed and 8am on the Second Court Date.

#### 3.2. Reasonable endeavours

- (a) The Bidders and Sirtex must:



- (i) use reasonable endeavours to procure that the Conditions Precedent in clauses 3.1(b) (shareholder approval), 3.1(e) (no restraints) and 3.1(f) (Court approval) are satisfied; and
  - (ii) provide reasonable assistance in satisfying the other Conditions Precedent and ensure that there is no occurrence within the control of a member of the Bidder Group or the Sirtex Group (as the context requires) that would prevent any Condition Precedent being satisfied.
- (b) The Bidders must use reasonable endeavours to procure that the Conditions Precedent in clauses 3.1(c) (FIRB approval), 3.1(d) (US anti-trust clearance) and 3.1(i) (no Bidder Insolvency Event) are satisfied.
- (c) Sirtex must use reasonable endeavours to procure that the Conditions Precedent in clauses 3.1(a) (termination of Varian transaction), 3.1(g) (no Prescribed Occurrence) and 3.1(h) (Independent Expert) are satisfied.
- (d) The Bidders and Sirtex must:
  - (i) consult and co-operate fully with the other parties in relation to the satisfaction of the Conditions Precedent, including in relation to all material communications with Government Agencies in relation to Regulatory Approvals;
  - (ii) promptly provide to the other parties all material communications with Government Agencies in relation to Regulatory Approvals;
  - (iii) promptly notify the other if it becomes aware that any Condition Precedent has been satisfied; and
  - (iv) promptly notify the other of any failure to satisfy a Condition Precedent or of any fact or circumstance that will result in a Condition Precedent becoming incapable of being satisfied or that may result in a Condition Precedent not being satisfied in accordance with its terms (having regard to the obligations of the parties under this clause).
- (e) Without limiting this clause:
  - (i) Sirtex must provide the Bidders with all information reasonably requested in connection with the Bidders' applications for the Regulatory Approvals referred to in clause 3.1(c) (FIRB approval) and clause 3.1(d) (US anti-trust clearance); and
  - (ii) the Bidders must consult with Sirtex in relation to the submission of and progress of obtaining the Regulatory Approvals referred to in clause 3.1(c) (FIRB approval) and clause 3.1(d) (US anti-trust clearance).
- (f) The Bidders and Sirtex must:
  - (i) give the Court on the Second Court Date a certificate confirming (in respect of matters within their respective knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(f)) (Court approval) have been satisfied or waived; and
  - (ii) give the other a draft of its certificate by 5pm on the Business Day before the Second Court Date.

### 3.3. Regulatory matters

- (a) Without limiting clause 3.2:

- (i) the Bidders must promptly apply for the Regulatory Approvals contemplated by the Conditions Precedent in clause 3.1(c) (FIRB approval) and clause 3.1(d) (US anti-trust clearance) and promptly provide a copy of all such applications and associated correspondence to Sirtex (provided that any commercially sensitive information may be redacted from the copies provided) and, if relevant, must procure each member of the Bidder Group to promptly apply for all such Regulatory Approvals and provide copies of all such applications and correspondence to Sirtex;
  - (ii) each party must take all steps it is responsible for as part of the applicable approval or consent process in respect of those Regulatory Approvals, including responding to requests for information at the earliest practicable time;
  - (iii) each party (on its own behalf and, in the case of the Bidders, on behalf of each member of the Bidder Group) acknowledges and agrees that each other party has the right to be represented and make submissions at any meeting with any Regulatory Authority relating to the Regulatory Approvals;
  - (iv) each party must consult with each other party in advance in relation to all material communications (whether written or oral, and whether direct or via a Representative) with any Government Agency relating to those Regulatory Approvals and, without limitation:
    - (A) provide each other party with drafts of any material written communications to be sent to a Government Agency and take any reasonable comments made by each other party into account in good faith when making any amendments; and
    - (B) provide copies of any material written communications sent to or received from a Government Agency to each other party promptly upon despatch or receipt (as the case may be),

in each case to the extent it is reasonable, and not in breach of any law or requirement of the relevant Government Agency, to do so;
  - (v) without limiting clause 3.3(a)(iv), the Bidders must consult with Sirtex in advance in relation to all material communications (whether written or oral, and whether direct or via a Representative) between any member of the Bidder Group and any Government Agency relating to those Regulatory Approvals and, without limitation:
    - (A) provide Sirtex with drafts of any material written communications to be sent to a Government Agency and take any reasonable comments made by Sirtex into account in good faith when making any amendments; and
    - (B) provide copies of any material written communications sent to or received from a Government Agency to Sirtex promptly upon despatch or receipt (as the case may be),

in each case to the extent it is reasonable, and not in breach of any law or requirement of the relevant Government Agency, to do so; and
  - (vi) subject to the terms of the applicable Condition Precedent, each party must, and the Bidders must procure each member of the Bidder Group to, promptly offer to the relevant Government Agency, and agree or accept, all undertakings, commitments and conditions reasonably necessary or appropriate in order to obtain the approval, confirmation or consent (as the case may be) as soon as possible, unless it would be unreasonable to do so.
- (b) Without limiting clause 3.2, if any Action which may result in a temporary restraining order, preliminary or permanent injunction or other order being issued by any court of competent jurisdiction in, or Government Agency of, Australia, the United States of America, Germany,

Italy, Belgium, the United Kingdom or Ireland preventing or imposing any legal restraint on the Transaction is instituted (or threatened to be instituted), each party must, and the Bidders must procure each member of the Bidder Group to, vigorously contest and resist any such Action (through negotiation, litigation or otherwise), including any Order that is in effect and that prohibits, prevents, delays or restricts the consummation of the Transaction including by pursuing all available avenues of administrative and judicial appeal, so as to enable the consummation of the Transaction as promptly as practicable (and in any event no later than the End Date).

- (c) Notwithstanding anything to the contrary in this deed, the Bidders agree to take (and to cause each member of the Bidder Group to take) as promptly as practicable any and all steps that are necessary or advisable to avoid or eliminate each and every impediment, or that may be required by any Competition Authority, and obtain all Competition Approvals, so as to enable the consummation of the Transaction as promptly as practicable (and in any event no later than the End Date), including, as promptly as practicable, proposing, negotiating, accepting, committing to and effecting, by consent decrees, hold separate orders, trusts, or otherwise (and the entry into agreements with, and submission to orders of, the relevant Competition Authority):

- (i) the sale, divestiture, licence or disposition of such businesses, service lines and assets of Sirtex, the Bidders and their respective subsidiaries, and
- (ii) operational or other restrictions or limitations on Sirtex, the Bidders and their respective subsidiaries, including with respect to its or their ability to retain one or more of the businesses, service lines or assets of Sirtex, the Bidders or any of their respective subsidiaries,

(any such sale, divestiture, licence or disposition or operational or other restriction or limitation set forth in clause 3.3(c)(i) or 3.3(c)(ii) being hereinafter referred to as a **Divestiture Action**), in each case as may be required in order to avoid the commencement or entry of, or to effect the dissolution of or vacate or lift, any Order that would otherwise have the effect of preventing or unreasonably delaying (having regard to the End Date) the consummation of the Transaction, provided that nothing contained in this deed shall require the Bidders to agree to or effect any Divestiture Action with respect to Sirtex or the Bidders, to the extent that such Divestiture Action is not conditioned upon the occurrence of the implementation of the Scheme or is effective prior to the implementation of the Scheme.

- (d) Without limiting clause 3.2:
- (i) the parties shall use their respective reasonable endeavours, and the Bidders must procure each member of the Bidder Group, CDH China Management Company Limited, CDH V Holdings Company Limited, Outwit Investments Ltd., Grand (Hong Kong) International Investments Holdings Limited, China Grand Enterprises Inc., Mr. Kaijun Hu and Ms. Tung Chau, and the parents, intermediate parents and ultimate parents thereof, and any other individuals or entities that control any of the foregoing (using the definitions of such terms set forth in 31 C.F.R. § 800 et seq) (together, **Bidder Entities**), to use their reasonable endeavours, to take, or cause to be taken, all actions necessary, proper or advisable to submit to the Committee on Foreign Investment in the United States (**CFIUS**) a joint (from the Bidders and Sirtex) voluntary notice of the Transaction (**CFIUS Notice**), including:
    - (A) within 15 Business Days after the date of this deed, make the draft filing with CFIUS contemplated under 31 C.F.R. § 800.401(f);
    - (B) engage in the pre-notice consultation process with CFIUS and following such pre-notice consultation, as promptly as practicable and, in any event, within five Business Days of CFIUS providing comments on the draft filing, file with CFIUS a voluntary notice as contemplated by 31 C.F.R. § 800.401(a);

- (C) submit as part of the CFIUS Notice, among other things:
  - (1) the personal identifier information (to be transmitted separately to CFIUS) of a type contemplated by 31 C.F.R. § 800.402(c)(6)(vi)(B), for each officer and director or the equivalent of the Bidder Entities, and for other entities and individuals specifically requested by CFIUS;
  - (2) any shareholder agreements and or other understandings or commitments, informal or formal, between and among any of the Bidder Entities with one another or any third parties with respect to the Transaction or the ownership, governance and control of Sirtex thereafter;
  - (3) all loan and other financing agreements or arrangements with financial institutions contemplated by any of the Bidder Entities that support the Transaction, including without limitation, any such agreements or arrangements between any of the Bidder Entities and the Bank of China, the Sun Hung Kai Investment Services Limited or any affiliates thereof;
- (D) promptly and, in all events, consistent with any deadline imposed under CFIUS or other applicable law, comply with any request received by any of them or any of their respective subsidiaries (or, in the case of either Bidder, any of the Bidder Entities) from any Government Agency for any certification, additional information, documents or other materials in respect of such notice or such transactions or such other matters as CFIUS may request concerning the Bidder Entities and their business operations, sales, activities and conduct (and the Bidders must procure each of the Bidder Entities to comply, promptly with such requests and, in all events, consistent with any deadline imposed under CFIUS or other applicable law);
- (E) ensure that any information furnished in respect of this clause 3.2(d) is true, complete and correct in all material respects; and
- (F) cooperate with each other (and the Bidders must procure each of the Bidder Entities to cooperate with the parties) in connection with any such filing (including, to the extent permitted by applicable law, providing copies, or portions thereof, of all such documents to the non-filing parties (including, where the non-filing party is Sirtex, all such documents from, to or relating to, any of the Bidder Entities) prior to filing and considering all reasonable additions, deletions or changes suggested in connection therewith) and in connection with resolving any investigation or other inquiry of any Government Agency under Exon-Florio with respect to any such filing or any such transaction;
- (ii) without limiting clauses 3.3(a), 3.3(c) or 3.3(d)(i), notwithstanding anything to the contrary in this deed:
  - (A) Sirtex agrees to take (and to cause the members of the Sirtex Group to take) and the Bidders agree to take (and to cause each Bidder Entity to take) as promptly as practicable any and all steps that are necessary or advisable to avoid or eliminate each and every impediment, or that may be requested or required by CFIUS or any other Government Agency of the United States of America; and
  - (B) the Bidders agree, at a time and in a form reasonably determined by Sirtex, to (and to cause each Bidder Entity to agree to) propose, offer, negotiate, accept, commit to, consent to and effect, by any consent decrees, mitigation agreements, letters of assurance, hold separate orders, trusts, or otherwise (and the entry into agreements with, and submission to orders of, CFIUS or

the relevant Government Agency), that are necessary, advisable, or requested by CFIUS, in connection with obtaining CFIUS Clearance,

so as to enable the consummation of the Transaction as promptly as practicable (and in any event no later than the End Date), (with all such actions set forth in clauses 3.3(d)(ii)(A) and 3.3(d)(ii)(B) above considered **Mitigation Arrangements**), including any Mitigation Arrangements which require:

- (C) the sale, divestiture, licence or disposition of any constituent element of the U.S. businesses, service lines and or assets of the Sirtex Group (**Sirtex US Business**);
- (D) operational or other restrictions or limitations on the Sirtex US Business;
- (E) operational or other restrictions on the rights and ability of any of the Bidder Entities to have access to, or participate in the management of, the Sirtex US Business;
- (F) the holding of the Sirtex US Business or a constituent element thereof in a proxy agreement, voting trust, or other arrangement, under a structure acceptable to CFIUS and or the relevant Government Agency of the United States, that effectively delegates control thereof to a third party while the Bidders retain ownership; and
- (G) the outsourcing to a third party of any U.S. operations of the Sirtex US Business involving (i) U.S. patient data collection, management or retention and/or (ii) the U.S. manufacturing and any other U.S. activities involving the handling of radioactive materials by the Sirtex US Business,

provided that nothing contained in this deed shall require any member of the Sirtex Group or the Bidder Entities to agree to or effect any Mitigation Arrangement with respect to Sirtex or the Bidders, to the extent that:

- (H) such Mitigation Arrangement is not conditioned upon the occurrence of the implementation of the Scheme or is effective prior to the implementation of the Scheme; or
  - (I) the Mitigation Arrangement requires a matter set out in clauses 3.3(d)(ii)(C) to 3.3(d)(ii)(F) above and such Mitigation Arrangement would or would be reasonably likely to result, individually or in the aggregate with all other such Mitigation Arrangements, in a reduction of the consolidated sales of Sirtex during the 12 month period commencing on the proposed implementation of such Mitigation Arrangement of US\$50 million or more. For avoidance of doubt, any Mitigation Arrangement which requires any matter set out in clause 3.3(d)(ii)(G) above will not fall within the exclusion set out in this clause 3.3(d)(ii)(I); and
- (iii) the parties must not participate independently in any meeting or oral communication relating to the transactions contemplated by this deed and involving any substantive conversation, with any Government Agency in respect to the CFIUS Notice or any other filings referred to in clause 3.3(d)(i) without giving the other parties prior notice of the meeting or oral communication and, unless prohibited by such Government Agency, the opportunity to attend or participate (and each Bidder must procure that none of the Bidder Entities participate in any such meeting or communication without giving Sirtex prior notice of the meeting or oral communication and, unless prohibited by such Government Agency, the opportunity to attend or participate).
- (e) The Bidders indemnify Sirtex against, and must pay to Sirtex on demand the amount of, any reasonable third party cost or expense incurred by Sirtex arising out of or in connection with any action taken by Sirtex under clauses 3.2(a), 3.3(a)(ii) and 3.3(b), in so far as it relates to

the Conditions Precedent in clause 3.1(c) (FIRB approval), clause 3.1(d) (US anti-trust clearance) and clause 3.1(e) (no restraints) and any action taken by Sirtex under clause 3.3(d).

#### **3.4. FIRB conditions**

The parties acknowledge that the standard tax conditions issued by the Foreign Investment Review Board from time to time are acceptable if included in the “no objections” notifications.

#### **3.5. Termination of Varian Transaction**

- (a) Without limiting clause 3.2:
  - (i) Sirtex must promptly take the actions set out in clause 3.1(a) and provide a copy of all associated correspondence to the Bidders; and
  - (ii) Sirtex must consult with the Bidders in advance in relation to all material written communications (whether direct or via a Representative) with Varian Medical Systems, Inc. and its representatives relating to the termination of the Varian Transaction and, without limitation:
    - (A) provide the Bidders with drafts of any material written communications to be sent to Varian Medical Systems, Inc. or its representatives and take any reasonable comments made by the Bidders into account in good faith when making any amendments; and
    - (B) provide copies of any material written communications sent to or received from Varian Medical Systems, Inc. or its representatives to the Bidders promptly upon despatch or receipt (as the case may be).
- (b) The Bidders indemnify Sirtex against, and must pay to Sirtex on demand, the amount of any reimbursement or break fee payable by Sirtex to Varian Medical Systems, Inc. under the scheme implementation deed in respect of the Varian Transaction.

#### **3.6. Waiver of Conditions Precedent**

- (a) The Conditions Precedent in clauses 3.1(a) (termination of Varian Transaction), 3.1(b) (Shareholder approval), 3.1(c) (FIRB approval), 3.1(d) (US anti-trust clearance) and 3.1(f) (Court approval) cannot be waived.
- (b) The Condition Precedent in clause 3.1(e) (no restraints) is for the joint benefit of the Bidders and Sirtex and may only be waived by both of them in writing.
- (c) The Condition Precedent in clause 3.1(g) (no Prescribed Occurrence) is for the sole benefit of the Bidders and may only be waived by the Bidders in writing.
- (d) The Conditions Precedent in clauses 3.1(h) (Independent Expert) and 3.1(i) (no Bidder Insolvency Event) are for the sole benefit of Sirtex and may only be waived by Sirtex in writing.
- (e) A party entitled to waive a Condition Precedent may do so conditionally or unconditionally in its absolute discretion.
- (f) If a party waives the breach or non-fulfilment of any of the Conditions Precedent that waiver precludes that party from suing the other party for any breach of this deed arising as a result of the non-fulfilment of the Condition Precedent that was waived or arising from the same event which gave rise to the non-fulfilment of the Condition Precedent.

**3.7. If a Condition Precedent is not fulfilled or waived**

- (a) If a Condition Precedent cannot be fulfilled (or has not been fulfilled or waived) by the time or date specified in this deed for satisfaction of the Condition Precedent, or the Scheme has not become Effective by the End Date, Sirtex and the Bidders must consult in good faith to determine whether:
- (i) the Scheme may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods;
  - (ii) to extend the relevant time for satisfaction of the Condition Precedent;
  - (iii) to adjourn or change the date of the Scheme Meeting; or
  - (iv) to extend the End Date.
- (b) Without limiting clause 3.7(a), if a Condition Precedent is not satisfied or waived by the date contemplated in the Timetable as the Second Court Date (including if there is a temporary restraining order, preliminary or permanent injunction or other order of the type referred to in clause 3.1(e) as at that date), Sirtex and the Bidders agree (unless there is no reasonable prospect that the Condition Precedent will be satisfied or waived by the End Date) that the Second Court Date be deferred until such date (not later than the Business Day before the End Date) as reasonably required to enable more time to satisfy the Condition Precedent.

**3.8. Termination on failure of Condition Precedent**

- (a) If:
- (i) the Scheme has not become Effective by the End Date; or
  - (ii) any event occurs which would, or in fact does, prevent a Condition Precedent being satisfied and that Condition Precedent is not waived by Sirtex or the Bidders or all of them (as applicable) in accordance with clause 3.6,
- then, subject to clause 3.8(b), the Bidders or Sirtex may terminate this deed without any liability to the other parties because of that termination (except for any obligation of a party to pay the Bidder Facilitation / Break Fee or the Sirtex Reimbursement Fee (as applicable) in accordance with clause 10).
- (b) A party will not be entitled to terminate this deed pursuant to clause 3.8(a) if the relevant occurrence, or the failure of the satisfaction of a Condition Precedent, or of the Scheme becoming Effective, arises out of, or is caused by:
- (i) a breach of this deed (including clauses 3.2 and 3.3) by that party; or
  - (ii) a deliberate act or omission of that party or its Representatives (or, in the case of either Bidder, a deliberate act or omission of any member of the Bidder Group or its Representatives).
- (c) Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination of this deed, on termination of this deed no party will have any rights against or obligations to any other party under this deed except for those rights and obligations which accrued before termination.

**4. Transaction Steps****4.1. Scheme**

Sirtex must propose a scheme of arrangement under which:

- (a) all of the Scheme Shares will be transferred to the Bidders (or, if applicable, the Bidders' Nominee); and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration.

#### **4.2. Scheme Consideration**

Subject to and in accordance with this deed and the Scheme, each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder.

#### **4.3. Payment of Scheme Consideration**

The Bidders undertake to Sirtex (in their own right and as trustee on behalf of the Scheme Shareholders) that, in consideration for the transfer to the Bidders (or, if applicable, the Bidders' Nominee) of each Scheme Share, on the Implementation Date they will:

- (a) accept (or, if applicable, procure the Bidders' Nominee to accept) that transfer; and
- (b) before 12 noon, pay or procure the payment of the Scheme Consideration for each Scheme Share to or at the direction of Sirtex as trustee for the Scheme Shareholders for payment to Scheme Shareholders in accordance with the Scheme.

#### **4.4. Dividends**

- (a) From the date of this deed up until and including the Implementation Date, Sirtex must not declare or pay a dividend other than a Permitted Dividend.
- (b) The Bidder acknowledges and agrees that, at any time on or before the Implementation Date, Sirtex may announce, declare and pay a Permitted Dividend.
- (c) Sirtex may frank a Permitted Dividend but only to the extent that it does not cause Sirtex's franking account to be in deficit (as defined in section 204-40(2) of the *Income Tax Assessment Act 1997* (Cth)).
- (d) Sirtex must provide the Bidders with any information pertaining to the franking position of Sirtex that is reasonably requested by the Bidders at any time.
- (e) If Sirtex announces, declares and/or pays a Permitted Dividend in accordance with clause 4.4(b), the Scheme Consideration per Scheme Share will be reduced by the aggregate amount per Scheme Share of the Permitted Dividend.

#### **4.5. No amendment to the Scheme without consent**

Sirtex must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of the Bidders (not to be unreasonably withheld or delayed in relation to procedural or administrative matters that do not relate to the value of the Scheme Consideration or the Scheme Shares).

### **5. Implementation**

#### **5.1. Sirtex's obligations**

Sirtex must take all necessary steps to propose and implement the Scheme as soon as is reasonably practicable, including by doing any acts it is authorised and able to do on behalf of Sirtex Shareholders and each of the following:

- (a) **Timetable:** use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with the Bidders on a regular basis about



its progress in that regard), subject to clauses 3.7 and 9.5. For the avoidance of doubt, nothing in this clause 5.1(a) restricts the ability of Sirtex to respond to a Competing Proposal in accordance with clause 9;

- (b) **preparation of Scheme Booklet:** subject to clause 5.1(c), prepare the Scheme Booklet in accordance with all applicable laws and in particular with the Corporations Act, the Corporations Regulations, RG 60 and the ASX Listing Rules. The Scheme Booklet must include a statement that:
- (i) other than the Bidder Information, the Independent Expert's Report and any section on Tax considerations prepared by a Third Party, the Scheme Booklet has been prepared by Sirtex and is the responsibility of Sirtex, and that no Bidder Party assumes any responsibility for the accuracy or completeness of the Scheme Booklet (other than the Bidder Information); and
  - (ii) the Bidder Information has been provided by Bidder and is the responsibility of Bidder, and that no Sirtex Party assumes any responsibility for the accuracy or completeness of the Bidder Information.

The Scheme Booklet must also include the recommendation and statement required under clause 5.6;

- (c) **consultation with Bidders:** consult with the Bidders as to the content and presentation of the Scheme Booklet including:
- (i) providing to the Bidders successive drafts of the Scheme Booklet and allowing the Bidders a reasonable opportunity to review and comment on those draft documents before lodgement of the Scheme Booklet with ASIC;
  - (ii) considering in good faith all comments made by the Bidders and their Representatives for the purpose of amending the Scheme Booklet; and
  - (iii) obtaining each Bidder's consent to the inclusion of the Bidder Information (including in respect of the form and context in which the Bidder Information appears in the Scheme Booklet);
- (d) **information:** prepare and promptly provide to the Bidders any information regarding the Sirtex Group that the Bidders reasonably require to prepare the Bidder Information for inclusion in the Scheme Booklet;
- (e) **Independent Expert:** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare the Independent Expert's Report as soon as practicable;
- (f) **ASIC and ASX review:** during the Regulatory Review Period, promptly provide to the Bidders, and include in the Scheme Booklet, any new information not included in the Regulator's Draft which is required by the Corporations Act, Corporations Regulations, RG 60 or the ASX Listing Rules to be included and keep the Bidders informed of any material matters raised by ASIC or ASX in relation to the Scheme Booklet or the Transaction, and use reasonable endeavours to take into consideration in resolving such matters any issues raised by the Bidders;
- (g) **application for no appearance letter and section 411(17)(b) statement:** apply to ASIC for the production of:
- (i) an indication of intent letter stating that it does not intend to make any submissions at the Court hearing on the First Court Date or otherwise object to the Scheme; and

- (ii) a statement under section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme;
- (h) **Court direction:** apply to the Court for orders pursuant to section 411(1) of the Corporations Act directing Sirtex to convene the Scheme Meeting and consult with the Bidders as to the content of all relevant originating process, affidavits, submissions and draft minutes of Court orders;
- (i) **ASIC registration:** 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) **despatch Scheme Booklet:** send the Scheme Booklet to Sirtex Shareholders as soon as practicable after the Court orders Sirtex to convene the Scheme Meeting;
- (k) **Sirtex Rights:** procure that all outstanding Sirtex Rights are vested or lapsed and the relevant resultant Sirtex Shares are issued or agreed to be issued before the Record Date;
- (l) **update Scheme Booklet:** if it becomes aware of information after the Scheme Booklet has been sent to Sirtex Shareholders that is material for disclosure to Sirtex Shareholders in deciding whether to approve the Scheme or that is required to be disclosed to Sirtex Shareholders under any applicable law, inform Sirtex Shareholders of the information in an appropriate and timely manner, in accordance with applicable law, after consulting with the Bidders as to the content and presentation of that information;
- (m) **Share Registry information:** provide all information, or procure that the Sirtex Registry provides all information, in each case in a form reasonably requested by the Bidders, about the Scheme, the Scheme Shareholders, the Sirtex Shareholders and the Share Register (including any sub register) to the Bidders and their Representatives which the Bidders reasonably request in order to solicit votes at the Scheme Meeting and facilitate the provision by, or on behalf of, the Bidders (or, if applicable, the Bidders' Nominee) of the Scheme Consideration;
- (n) **Scheme Meeting:** convene the Scheme Meeting to agree to the Scheme in accordance with the orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (o) **Court approval:** (subject to all Conditions Precedent in clause 3.1, other than the condition in clause 3.1(f) (Court approval) being satisfied or waived in accordance with this deed) apply to the Court for orders approving the Scheme and consult with the Bidders as to the content of all relevant affidavits, submissions and draft minutes of Court orders;
- (p) **lodge copy of Court order:** lodge with ASIC an office copy of the Court order in accordance with section 411(10) of the Corporations Act approving the Scheme as soon as possible after the Court approves the Scheme, and in any event by 5.00pm on the first Business Day after the day on which the Court approves the Scheme;
- (q) **Scheme Consideration:** close the Share Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
- (r) **registration:** subject to the Bidders satisfying their obligations under clause 4.3, register all transfers of Sirtex Shares held by Scheme Shareholders to the Bidders (or, if applicable, the Bidders' Nominee) on the Implementation Date; and
- (s) **ASX listing:** take all reasonable steps to maintain Sirtex's listing on the ASX notwithstanding any suspension of the quotation of Sirtex Shares up to and including the Implementation Date, including making appropriate applications to ASX.

## 5.2. Bidders' obligations

The Bidders must take (or, if applicable, cause the Bidders' Nominee to take) all necessary steps to implement the Scheme as soon as is reasonably practicable, including by doing each of the following:

- (a) **Timetable:** use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and consult with Sirtex on a regular basis about its progress in that regard), subject to clauses 3.7 and 9.5;
- (b) **Initial Deposit:** immediately after execution of this deed, pay the Initial Deposit to the Deposit Holder, to be held by the Deposit Holder as independent stakeholder in accordance with the Deposit Agreement;
- (c) **Second Deposit:** within 10 Business Days of the date of this deed, pay the Second Deposit to the Deposit Holder, to be held by the Deposit Holder as independent stakeholder in accordance with the Deposit Agreement;
- (d) **Bidder Information:** prepare and promptly provide to Sirtex the Bidder Information for inclusion in the Scheme Booklet to comply with all applicable laws, including the Corporations Act, the Corporations Regulations, RG 60 and the ASX Listing Rules and consult with Sirtex as to the content and presentation of the Bidder Information in the Scheme Booklet, such consultation to include allowing Sirtex a reasonable opportunity to review and make comments on successive drafts of the Bidder Information before lodgement of the Scheme Booklet with ASIC;
- (e) **review of Scheme Booklet:** review the drafts of the Scheme Booklet prepared by Sirtex and provide comments, if any, as soon as practicable;
- (f) **confirmation of Bidder Information:** before the Scheme Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, either:
  - (i) confirm in writing to Sirtex that the Bidder Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
  - (ii) provide to Sirtex the changes required to ensure that the Bidder Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission;
- (g) **assist Independent Expert:** provide all assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare the Independent Expert's Report as soon as practicable;
- (h) **update Bidder Information:** if at any time after the despatch of the Scheme Booklet, a Bidder becomes aware:
  - (i) of new information which, were it known at the time of despatch, should have been included in any Bidder Information provided previously to Sirtex; or
  - (ii) that any part of the Bidder Information provided previously to Sirtex is misleading or deceptive in any material respect (whether by omission or otherwise),
 it must advise Sirtex so that Sirtex can determine whether supplementary disclosure to Sirtex Shareholders is required;
- (i) **Deed Poll:** by not later than the Business Day prior to the First Court Date, enter into (and, if applicable, procure that the Bidders' Nominee enters into) the Deed Poll in favour of the Scheme Shareholders to perform their obligations under the Scheme and deliver it to Sirtex;

- (j) **Court representation:** procure that they are represented by counsel at the Court hearings referred to in clauses 5.1(h) and 5.1(o), at which, through their counsel, the Bidders will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (k) **Share transfer:** if the Scheme becomes Effective, accept (or, if applicable, procure the Bidders' Nominee to accept) a transfer of the Sirtex Shares as contemplated by clause 4.3(a); and
- (l) **Scheme Consideration:**
  - (i) by no later than the Business Day prior to the date of the Scheme Meeting, pay or procure the payment of an amount equal to the Scheme Consideration less the sum of the Initial Deposit plus the Second Deposit paid by them in accordance with clauses 5.2(b) and 5.2(c), to the Deposit Holder, to be held by the Deposit Holder as independent stakeholder in accordance with the Deposit Agreement; and
  - (ii) if the Scheme becomes Effective:
    - (A) give or join in giving all instructions and take all other steps as may be necessary to procure the payment of the Deposit from the Deposit Account in accordance with clause 5.3(b); and
    - (B) otherwise pay or procure the payment of the Scheme Consideration in the manner and amount contemplated by clause 4.3(b) and the terms of the Scheme.

### 5.3. Deposit

- (a) The Bidders and Sirtex must promptly give or join in giving all instructions and take all other steps as may be necessary to procure that the Deposit Account is operated, and the Deposit and Deposit Interest are applied, in accordance with this clause 5.3.
- (b) Subject to the Scheme becoming Effective, on the Business Day immediately prior to the Implementation Date:
  - (i) the Deposit must be paid out of the Deposit Account in cleared funds into the Trust Account in payment of the aggregate amount of the Scheme Consideration in accordance with clause 6.1 of the Scheme; and
  - (ii) the Deposit Interest must be paid out of the Deposit Account to the Bidders.
- (c) If this deed is terminated and China Grand is required to pay the Bidder Facilitation / Break Fee to Sirtex in accordance with clause 10.3, within 5 Business Days of the date of termination:
  - (i) the Initial Deposit and the Second Deposit must be paid out of the Deposit Account to Sirtex in satisfaction of the obligation of China Grand to pay the Bidder Facilitation / Break Fee to Sirtex; and
  - (ii) the balance of the Deposit and the Deposit Interest must be paid out of the Deposit Account to the Bidders.
- (d) If this deed is terminated and China Grand is not required to pay the Bidder Facilitation / Break Fee to Sirtex in accordance with clause 10.3, within 5 Business Days of the date of termination the Deposit and the Deposit Interest must be paid out of the Deposit Account to the Bidders.

- (e) The obligations of the parties in this clause 5.3 survive the termination of this deed.
- (f) Without derogating from clauses 5.3(c) or 10.3, the parties acknowledge and agree that the primary purpose and intention of the Initial Deposit and the Second Deposit are to act as part payment of the Scheme Consideration and to evince the Bidders' intention and commitment to consummate the Transaction.

#### **5.4. Conduct of business pre-implementation**

- (a) From the date of this deed up until and including the Implementation Date, Sirtex must ensure that, except for any action which:
  - (i) is required or permitted by this deed or the Scheme;
  - (ii) has been Disclosed;
  - (iii) is required by law or a Government Agency;
  - (iv) has been consented to in writing by the Bidders (and the Bidders will consider in good faith, acting reasonably, any request for consent from Sirtex where Sirtex has provided reasonable details of the matter (including any material terms) in writing to the Bidders and must not unreasonably withhold or delay their consent to any such request); or

Sirtex and the other members of the Sirtex Group:

- (v) conduct their businesses in the ordinary course consistent with business plans and budgets Disclosed and otherwise in a manner generally consistent with the manner in which such businesses have been conducted in the 12 months prior to the date of this deed;
- (vi) use all reasonable endeavours to maintain and preserve their relationships with customers, suppliers, Government Agencies, landlords, licensors, licensees and others having business dealings with them, including by using reasonable endeavours to obtain their consent to the Transaction to the extent required under any material agreement with such third parties; and
- (vii) do not enter any lines of business or other activities in which members of the Sirtex Group are not engaged at the date of this deed;
- (viii) conduct their businesses and operations substantially in accordance with all applicable laws and regulations;
- (ix) where reasonably requested, consult with the Bidders and provide updates as to the progress of their business and operations;
- (x) do not settle the Class Action, or any part of it or take any other step that compromises the members of the Sirtex Group's rights in respect of the Class Action;
- (xi) do not incur any additional financial indebtedness by way of borrowings and other financial facilities including operating and finance leases (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the Sirtex Group, other than in the usual and ordinary course of business and consistent with past practice; and
- (xii) do not make any material change to the terms of employment of any director, executive or senior manager (except as required by law, publicly disclosed prior to

the date of this deed or as provided in an existing contract in place as at the date of this deed).

- (b) For the avoidance of doubt, nothing in this clause 5.4 restricts the ability of Sirtex to respond to a Competing Proposal in accordance with clause 9.

#### **5.5. Appointment and resignation of directors**

On the Implementation Date, but subject to the Bidders having paid the Scheme Consideration in accordance with clause 4.3(b) and receipt by Sirtex of signed consents to act, Sirtex must use its reasonable endeavours to:

- (a) cause the appointment of each Incoming Director to the Board; and
- (b) procure that each of the Outgoing Directors retires from the Board and provides written notice to the effect that they have no claim outstanding for loss of office, remuneration or otherwise against Sirtex (provided that nothing in this clause 5.5 requires any Outgoing Director to forego any rights they may have under any deed of access and indemnity or policy of insurance),

in each case, in accordance with Sirtex's constitution, the Corporations Act and the ASX Listing Rules.

#### **5.6. Board recommendation**

- (a) Subject to clause 5.6(b), Sirtex must use its reasonable endeavours to procure that:
  - (i) the Board unanimously recommends (including in the Scheme Booklet) that, in the absence of a superior proposal and subject to the Independent Expert concluding that the Transaction is in the best interests of Sirtex Shareholders, Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting; and
  - (ii) the Scheme Booklet will include a statement by the Board to that effect and to the effect that each director of Sirtex will, in the absence of a superior proposal and subject to the Independent Expert concluding that the Transaction is in the best interests of Sirtex Shareholders, vote (or procure the voting) of all Sirtex Shares held or controlled by them in favour of the Scheme at the Scheme Meeting.
- (b) Sirtex must use its reasonable endeavours to procure that no director of Sirtex changes, withdraws or modifies their recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting or their statement that they will vote (or procure the voting) of all Sirtex Shares held or controlled by them in favour of the Scheme at the Scheme Meeting or make a recommendation or statement that is inconsistent with such recommendation or statement, unless:
  - (i) the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Sirtex Shareholders, or adversely changes its previously given opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Sirtex Shareholders;
  - (ii) Sirtex receives a Competing Proposal and the Board, acting in good faith, determines (after consultation with its financial advisers) that the Competing Proposal constitutes a Superior Proposal; or
  - (iii) that director, acting in good faith, determines (after taking written advice from Sirtex's or their own external financial and legal advisers) that a failure by them or the Board to change, withdraw or modify such recommendation or make a recommendation or

statement that is inconsistent with it would be reasonably likely to constitute a breach of their fiduciary or statutory obligations.

#### **5.7. Promotion of Scheme**

During the Exclusivity Period, provided that the Board has not changed its recommendation in accordance with clause 5.6, Sirtex must use reasonable endeavours to procure that the senior executives of the Sirtex Group participate in efforts to promote the merits of the Scheme, including (as determined by Sirtex):

- (a) meeting with key Sirtex Shareholders;
- (b) communicating with Sirtex Group employees, customers, and suppliers; and
- (c) communicating with the public to promote the merits of the Scheme.

#### **5.8. Conduct of Court proceedings**

- (a) Sirtex and the Bidders (or, if applicable, the Bidders' Nominee) are entitled to separate representation at all Court proceedings affecting the Transaction.
- (b) This deed does not give:
  - (i) Sirtex any right or power to give undertakings to the Court for or on behalf of the Bidders (or, if applicable, the Bidders' Nominee); or
  - (ii) the Bidders (or, if applicable, the Bidders' Nominee) any right or power to give undertakings to the Court for or on behalf of Sirtex,

in each case, without the relevant party's written consent.

#### **5.9. China Grand Shareholder Approvals**

China Grand must:

- (a) as soon as reasonably practicable after the date of this deed, issue the China Grand Announcement(s) in accordance with the requirements of the HKEX;
- (b) as soon as reasonably practicable after the date of this deed, prepare and file the draft China Grand Shareholders' Circular with the HKEX in accordance with the requirements of the HKEX Listing Rules;
- (c) include in the China Grand Shareholders' Circular a statement by the China Grand Board:
  - (i) unanimously recommending that China Grand Shareholders vote in favour of the resolutions to obtain the China Grand Shareholder Approvals;
  - (ii) that each China Grand Board member will, at the China Grand Shareholder Meeting, vote, or procure the voting of any China Grand Shares (as applicable) held by or on behalf of the China Grand Board Member at the time of the China Grand Shareholder Meeting in favour of the China Grand Resolutions;
- (d) consult with Sirtex, and consider and accept the reasonable comments of Sirtex, as to the content and presentation of the China Grand Shareholders' Circular and the China Grand Announcement(s), including:
  - (i) providing to Sirtex drafts of the China Grand Shareholders' Circular and the China Grand Announcement(s) for the purpose of enabling Sirtex to review and comment on the draft documents;

- (ii) providing to Sirtex a revised draft of the China Grand Shareholders' Circular within a reasonable time before the final draft to be lodged with the HKEX is finalised and to enable Sirtex to review that draft before the date of its submission; and
- (iii) obtaining written approval from Sirtex for the form and content in which any information provided by Sirtex appears in the China Grand Shareholders' Circular and the China Grand Announcement(s);
- (e) promptly respond to requests for information or comments from the HKEX in relation to the China Grand Shareholders' Circular, the China Grand Announcement(s) (if applicable) or the Transaction at the earliest practicable time;
- (f) use all reasonable endeavours to ensure that Sirtex's Representatives have the right to be represented and make submissions if the HKEX raises any comments or queries regarding Sirtex or the Transaction in the China Grand Shareholders' Circular;
- (g) keep Sirtex promptly informed of any comments and/or matters (including but not limited to providing a copy of the HKEX's letters in connection with the China Grand Shareholders' Circular and the China Grand Announcement(s) (if applicable) which have been raised by the HKEX in relation to the China Grand Shareholders' Circular, the China Grand Announcement(s) or the Transaction, and uses reasonable endeavours to take into consideration in resolving such matters any issues raised by Sirtex;
- (h) use its best endeavours to have the China Grand Shareholders' Circular approved by the HKEX within 3 weeks after the date of filing of the initial draft China Grand Shareholders' Circular with the HKEX;
- (i) promptly prepare and file with the HKEX any amendment or supplement to the China Grand Shareholders' Circular so that any of the information contained therein would not include any misstatement of material fact or omit to state any material fact necessary to make the statements therein not misleading;
- (j) despatch the China Grand Shareholders' Circular to holders of China Grand Shares as soon as reasonably practicable and in accordance with the HKEX Listing Rules following the approval of the China Grand Shareholders' Circular by the HKEX; and
- (k) convene and hold the China Grand Shareholder Meeting to obtain the China Grand Shareholder Approvals as soon as reasonably practicable after the date of this deed, and in any event holds the China Grand Shareholder Meeting at least 10 Business Days prior to the scheduled date for the Scheme Meeting.

## **6. Representations and Warranties**

### **6.1. Bidder representations**

- (a) Each Bidder represents and warrants to Sirtex (in its own right and separately as trustee or nominee for each of the other Sirtex Parties) that each of the Bidder Representations and Warranties is true and correct.
- (a) Each Bidder Representation and Warranty is to be treated as a separate representation and warranty and is not limited by reference to any other representation or warranty or any other provision of this deed.

### **6.2. Sirtex's representations**

- (a) Subject to clause 6.2(c), Sirtex represents and warrants to each Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Parties) that each of the Sirtex Representations and Warranties is true and correct.



- (b) Each Sirtex Representation and Warranty is to be treated as a separate representation and warranty and is not limited by reference to any other representation or warranty or any other provision of this deed.
- (c) Each Sirtex Representation and Warranty is subject to matters that:
  - (i) are required to be done under this deed or the Scheme;
  - (ii) took place with the prior written consent of the Bidders;
  - (iii) have been Disclosed; or
  - (iv) as at the date of this deed are within the actual knowledge of the Bidders or the Bidders' Representatives.
- (d) The Bidders acknowledge that prior to the execution of this deed they conducted due diligence investigations in relation to the Sirtex Group and that as at the date of this deed they are not aware, as a consequence of having conducted those due diligence investigations, of any information or matter that would give them a right to terminate this deed or would constitute a breach of any Sirtex Representation and Warranty.

### **6.3. Timing of representations and warranties**

Unless expressed to be given at a particular time (in which case it is given at that time), each Bidder Representation and Warranty and each Sirtex Representation and Warranty is given:

- (a) at the date of this deed; and
- (b) at all times up until 8am on the Second Court Date.

### **6.4. Survival of representations and warranties**

Each Bidder Representation and Warranty and Sirtex Representation and Warranty:

- (a) is severable; and
- (b) survives the termination of this deed (but does not survive, and will be taken to have no further force or effect following, implementation of the Scheme).

## **7. Releases**

### **7.1. Sirtex Parties**

- (a) Each Bidder releases, and shall procure that each member of the Bidder Group releases, its rights against, and agrees with Sirtex that it will not make a Claim against, any Sirtex Party (other than Sirtex) in connection with:
  - (i) any breach of any representation, covenant or warranty of Sirtex in this deed;
  - (ii) any disclosure made by any Sirtex Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant Sirtex Party has not acted in good faith or has engaged in wilful misconduct.
- (b) Clause 7.1(a) is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.

- (c) Sirtex receives and holds the benefit of this clause 7.1 as agent and trustee on behalf of each other Sirtex Party.

## **7.2. Bidder Parties**

- (a) Sirtex releases, and shall procure that each member of the Sirtex Group releases, its rights against, and agrees with the Bidders that it will not make a Claim against, any Bidder Party (other than the Bidders and the Bidders' Nominee (if any)) in connection with:

- (i) any breach of any representation, covenant or warranty of a Bidder in this deed;
- (ii) any disclosure made by any Bidder Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant Bidder Party has not acted in good faith or has engaged in wilful misconduct.

- (b) Clause 7.2(a) is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.
- (c) The Bidders receive and hold the benefit of this clause 7.2 as agent and trustee on behalf of each other Bidder Party.

## **7.3. Deeds of indemnity and insurance**

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

- (i) for a period of not less than 7 years from the Implementation Date, ensure that the constitutions of Sirtex and each other member of the Sirtex Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its current and former directors and officers against any liability incurred by that person in their capacity as a director or officer of the company to any person other than a member of the Sirtex Group; and
- (ii) procure that Sirtex and each other member of the Sirtex 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 those directors and officers is maintained (with the same level of cover, and on the same terms, as maintained by the Sirtex Group at the date of this deed or with a higher level of cover or on terms more favourable to those directors and officers) for a period of not less than 7 years from the retirement date of each director and officer.

- (b) The undertakings contained in clause 7.3(a) are subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.
- (c) Sirtex receives and holds the benefit of clause 7.3(a) to the extent it relates to each director and officer of a member of the Sirtex Group as agent and trustee on behalf of each of them.
- (d) Each Bidder acknowledges that, notwithstanding any other provision of this deed, Sirtex may, prior to the Implementation Date, enter into arrangements to secure directors and officers run-off insurance for up to 7 years after the Implementation Date, and that any actions to facilitate that insurance or in connection therewith will not be a Prescribed Occurrence or breach any provision of this deed.

## **8. Public Announcements**

### **8.1. Announcement of the Transaction**

Immediately after the execution of this deed, Sirtex and the Bidders must issue public announcements in a form previously agreed to in writing between them. The Sirtex announcement must include:

- (a) a unanimous recommendation by the directors of Sirtex to Sirtex Shareholders consistent with that set out in clause 5.6(a)(i); and
- (b) a statement consistent with that set out in clause 5.6(a)(ii).

### **8.2. Other public announcements**

Subject to clauses 8.3 and 8.4, any further public announcement or disclosure of or in relation to the Transaction or any other transaction the subject of this deed or the Scheme may only be made with the approval by writing by each party (each party acting reasonably and in good faith) to the timing, form and content of that announcement or disclosure. Subject to any applicable law or rules of a relevant stock exchange, the parties agree to make all public announcements in relation to the Transaction outside the trading hours of ASX.

### **8.3. Required disclosure**

Subject to clause 8.4, where a party is required by applicable law, the ASX Listing Rules or the HKEX Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other parties to the fullest extent possible before making the relevant disclosure and must give the other parties as much notice as reasonably practical.

### **8.4. Exclusions**

The provisions of clauses 8.2 and 8.3 do not apply to:

- (a) any announcement, document or publication in connection with a Competing Proposal, Superior Proposal or withdrawal or modification of the Directors' recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting or their statement that they will vote (or procure the voting) of all Sirtex Shares held or controlled by them in favour of the Scheme at the Scheme Meeting (or making of a recommendation or statement that is inconsistent with such recommendation or statement); or
- (b) any disclosure by the parties of any information concerning this deed or the transactions contemplated hereby in connection with any dispute between the parties regarding this deed, the Scheme or the transactions contemplated by this deed.

### **8.5. Statements on termination**

The parties must act in good faith and use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clauses 8.2 and 8.3 apply to any such statements or disclosures (subject to clause 8.4).

## **9. Exclusivity**

### **9.1. Termination of existing discussions**

- (a) Sirtex warrants that, as at the time of execution of this deed, it is not, and must ensure that none of its Representatives are, in any negotiations or discussions, and that it has, and its Representatives have, ceased any existing negotiations or discussions, in respect of any

Competing Proposal (or which may reasonably be expected to lead to a Competing Proposal) with any person other than Varian Medical Systems, Inc. (in respect of which clause 3.5(a) applies).

- (b) Sirtex agrees that if, in the six months before the date of this deed, it has provided any confidential information to a Third Party (or to any current or former adviser to Sirtex or a Third Party, other than Sirtex's advisers in relation to the Transaction) in relation to a possible Competing Proposal (including the Varian Transaction), Sirtex has requested or will promptly request in writing the immediate return or destruction by the Third Party (and any relevant adviser) of such confidential information.

#### **9.2. No shop restriction**

During the Exclusivity Period, except with the prior written consent of the Bidders, Sirtex must ensure that neither it nor any of its Representatives directly or indirectly solicits, invites, encourages or initiates any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

#### **9.3. No talk restriction**

During the Exclusivity Period, except with the prior written consent of the Bidders, Sirtex must ensure that neither it nor any of its Representatives directly or indirectly enters into, continues or participates in negotiations or discussions with, or enters into any agreement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:

- (a) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Sirtex; or
- (b) the Competing Proposal has been publicly announced.

#### **9.4. No due diligence**

Without limiting the general nature of clause 9.3, during the Exclusivity Period Sirtex must ensure that neither it nor any of its Representatives make available to any Third Party, or permit any Third Party, to receive any non public information relating to any member of the Sirtex Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

#### **9.5. Exceptions**

Clauses 5.1(a), 9.3 and 9.4 do not apply to the extent that they restrict Sirtex or the Board from taking or refusing to take any action with respect to a genuine Competing Proposal (which was not solicited, invited, encouraged or initiated by Sirtex or its Representatives in contravention of clause 9.2) if the Board, acting in good faith, determines:

- (a) after consultation with its financial advisers, that the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal having regard to the steps which the Board proposes to take; and
- (b) after receiving written advice from its legal advisers, that failing to respond to that Competing Proposal would be reasonably likely to constitute a breach of the Board's fiduciary or statutory obligations.

#### **9.6. Normal provision of information**

Nothing in this deed prevents Sirtex from:

- (a) providing information to its Representatives;

- (b) providing information to any Government Agency;
- (c) providing information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure under the ASX Listing Rules or to any Government Agency; or
- (e) making presentations to, and to responding to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme or its business generally.

#### **9.7. Notice of unsolicited approach**

During the Exclusivity Period, Sirtex must inform the Bidders if:

- (a) it is approached, directly or indirectly, by any Third Party to take any action of a kind referred to in clauses 9.3 or 9.4, and must disclose to the Bidders:
  - (i) the fact that such an approach has been made;
  - (ii) the identity of the Third Party who has made the approach, and the identity of the person making or proposing any Competing Proposal; and
  - (iii) all material terms of any Competing Proposal (to the extent known by Sirtex),
 as soon as reasonably practicable, and in any event by no later than 24 hours after such approach was received; or
- (b) it proposes to take any action of a kind referred to in clauses 9.3 or 9.4 (for the avoidance of doubt, such notice being given before the taking of the relevant action).

#### **9.8. Matching right**

Without limiting clauses 9.2 and 9.3, during the Exclusivity Period, Sirtex:

- (a) must not enter into any legally binding agreement, arrangement or understanding pursuant to which a Third Party, Sirtex or both proposes or propose to undertake or give effect to a Competing Proposal; and
- (b) must use its reasonable endeavours to procure that none of its directors changes, withdraws or modifies their recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting or otherwise makes a public statement to endorse or recommend a Competing Proposal,

unless:

- (c) the Competing Proposal is a Superior Proposal;
- (d) Sirtex has provided the Bidders with the material terms and conditions of the Competing Proposal;
- (e) Sirtex has given the Bidders at least 5 Business Days after the date of the provision of the information referred to in clause 9.8(d) to provide a matching or superior proposal to the terms of the Competing Proposal; and
- (f) the Bidders have not provided a matching or superior proposal to the terms of the Competing Proposal to the Board by the expiry of the 5 Business Day period referred to in clause 9.8(e).

Sirtex acknowledges and agrees that each successive modification of the material terms and conditions of any Competing Proposal will constitute a new Competing Proposal for the purposes of the requirements under clause 9.8 and accordingly Sirtex must comply with clauses 9.8(a) and 9.8(b) in respect of any new Competing Proposal unless clauses 9.8(c) to 9.8(f) (inclusive) apply.

#### **9.9. Bidder counterproposal**

If the Bidders propose to Sirtex, or announce amendments to the Scheme or a new proposal that constitute a matching or superior proposal to the terms of the Competing Proposal (**Bidder Counterproposal**) by the expiry of the 5 Business Day period referred to in clause 9.8(e), Sirtex must procure that the Board considers the Bidder Counterproposal and if the Board, acting in good faith, determines that the Bidder Counterproposal would provide an equivalent or superior outcome for Sirtex Shareholders as a whole compared with the Competing Proposal, taking into account the material terms and conditions of the Bidder Counterproposal, then:

- (a) Sirtex and the Bidders must use their reasonable endeavours to agree the amendments to this deed and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable; and
- (b) Sirtex must use its reasonable endeavours to procure that each of the directors of Sirtex recommends the Scheme (as modified by the Bidder Counterproposal) to Sirtex Shareholders in the absence of a superior proposal.

#### **9.10. Legal advice**

Sirtex and the Bidders acknowledge that they each have received legal advice on this deed and the operation of this clause 9.

### **10. Sirtex Reimbursement Fee and Bidder Facilitation / Break Fee**

#### **10.1. Background**

This clause has been agreed in circumstances where:

- (a) the Bidders and Sirtex believe that the Scheme will provide significant benefits to the Bidders, Sirtex and their respective shareholders, and the Bidders and Sirtex acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, the Bidders and Sirtex will incur significant costs, including those set out in clause 10.6;
- (b) Sirtex will, at the request of the Bidders, terminate the Varian Transaction to allow the Bidders to pursue the Transaction;
- (c) had the Varian Transaction been implemented, Sirtex Shareholders would have received, in aggregate, an amount of cash consideration in consideration for the sale of their Sirtex Shares under the Varian Transaction that exceeded that market capitalisation of Sirtex, calculated by reference to each of the:
  - (i) closing price of Sirtex Shares on the last trading day prior to the announcement of the Varian Transaction;
  - (ii) volume weighted average price (calculated based on cumulative value traded on ASX and CHI-X divided by cumulative volume traded on ASX and CHI-X) over each of the periods of:
    - (A) 1 month ending on the last trading day prior to the announcement of the Varian Transaction;

- (B) 3 months ending on the last trading day prior to the announcement of the Varian Transaction; and
- (C) 6 months ending on the last trading day prior to the announcement of the Varian Transaction,

by not less than \$533 million, in each circumstance;

- (d) all conditions precedent to the Varian Transaction relating to Regulatory Approvals had been satisfied prior to the date of this deed;
- (e) had the Varian Transaction been implemented, it would have been completed, and Sirtex Shareholders would have been paid their consideration, no later than 31 July 2018;
- (f) this deed contains a number of Conditions Precedent requiring Regulatory Approvals to be obtained and no restraints being imposed that need to be satisfied for the Transaction to proceed;
- (g) the Bidders have advised Sirtex that they expect to be able to satisfy the Conditions Precedent;
- (h) Sirtex has requested that provision be made for the Bidder Facilitation / Break Fee to be payable to it as consideration for Sirtex entering into this deed (for the benefit of it and, indirectly, the Sirtex Shareholders), without which Sirtex would not have entered into this deed;
- (i) the Bidders have requested that provision be made for the Sirtex Reimbursement Fee to be payable to them, without which the Bidders would not have entered into this deed;
- (j) the boards of each party believe that it is appropriate and reasonable for each party to agree to the payments referred to in this clause to secure the other parties' entry into this deed and participation in the Scheme;
- (k) the parties consider that the payment of break fees is common in large global acquisitions;
- (l) each Bidder is a sophisticated investor, experienced in transactions of the nature of the Transaction;
- (m) the Bidder and its legal advisers are familiar with the payment of break fees in large global acquisitions and have previously been involved in acquisitions where a break fee has been agreed to be paid (including the acquisition of Smithfield Foods Inc. in the United States in 2013, where a break fee of US\$275 million was payable);
- (n) the Bidders agree that:
  - (i) Sirtex has a legitimate interest in receiving the Bidder Facilitation / Break Fee for the benefit of it and, indirectly, the Sirtex Shareholders on the express terms set out in this deed;
  - (ii) it is fair and reasonable for Sirtex to receive the Bidder Facilitation / Break Fee for the benefit of it and, indirectly, the Sirtex Shareholders on the express terms set out in this deed; and
  - (iii) it is appropriate for China Grand to agree to the payment of the Bidder Facilitation / Break Fee to secure Sirtex's entry into this deed and participation in the Scheme; and
- (o) each party has received legal advice on this deed and the operation of this clause.

**10.2. Payments by Sirtex to the Bidders**

Subject to clauses 10.4, 10.5, 10.7 and 10.8, Sirtex agrees to pay the Sirtex Reimbursement Fee to the Bidders without withholding or set off if the Scheme does not proceed because:

- (a) **Competing Proposal:** during the Exclusivity Period a Competing Proposal is announced by a Third Party and, within 12 months of such announcement, the Third Party or an associate of the Third Party:

- (i) completes in all material respects a transaction of the kind referred to in paragraph (b), (c) or (d) of the definition of Competing Proposal; or
- (ii) without limiting clause 10.2(a)(i) above, has a relevant interest in at least 50% of Sirtex Shares,

except where the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Sirtex Shareholders, or adversely changes its previously given opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Sirtex Shareholders (except in circumstances where the Independent Expert reaches that conclusion or makes that change as a result of a Competing Proposal having been announced or made public);

- (b) **change of recommendation:** at any time on or before the Scheme Meeting:

- (i) a majority of the members of the Board make a public statement withdrawing or adversely changing or modifying their recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting or their statement that they will vote (or procure the voting) of all Sirtex Shares held or controlled by them in favour of the Scheme at the Scheme Meeting (including by attaching qualifications to such recommendation or statement) or make a recommendation or statement that is inconsistent with such recommendation or statement; or
- (ii) without limiting the foregoing, a majority of members of the Board make a public statement indicating that they no longer support the Scheme or that they support a Competing Proposal,

excluding any member of the Board who withdraws their recommendation:

- (iii) due to the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Sirtex Shareholders, or adversely changing its previously given opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Sirtex Shareholders (except in circumstances where the Independent Expert reaches that conclusion or makes that change as a result of a Competing Proposal having been announced or made public); or
  - (iv) in circumstances where Sirtex is entitled to terminate this deed in accordance with clause 11.1(a) or clause 11.1(c);
- (c) **Independent Expert:** Sirtex validly terminates this deed in accordance with clause 11.1(g) due to the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Sirtex Shareholders, or adversely changing its previously given opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Sirtex Shareholders, where the reason for that conclusion or change is a Competing Proposal; or
- (d) **termination by the Bidders:** the Bidders validly terminate this deed in accordance with clause 11.1(b) or clause 11.1(d).



**10.3. Payment by China Grand to Sirtex**

Subject to clauses 10.4, 10.5 and 10.8, China Grand agrees to pay the Bidder Facilitation / Break Fee to Sirtex (for the benefit of Sirtex and, indirectly, the Sirtex Shareholders) without withholding or set off if:

- (a) **Scheme not Effective by End Date due to failure to satisfy certain Conditions Precedent:** each of the following occur:
- (i) the Scheme has not become Effective by the End Date; and
  - (ii) any of the Conditions Precedent in clause 3.1(c) (FIRB approval), clause 3.1(d) (US anti-trust clearance), clause 3.1(e) (no restraints) and clause 3.1(i) (no Bidder Insolvency Event) has not been satisfied or waived in accordance with clause 3.6 by the End Date; or
- (b) **termination due to failure to satisfy certain Conditions Precedent:** any event occurs which would, or in fact does, prevent any of the Conditions Precedent in clause 3.1(c) (FIRB approval), clause 3.1(d) (US anti-trust clearance), clause 3.1(e) (no restraints) and clause 3.1(i) (no Bidder Insolvency Event) being satisfied and that Condition Precedent is not waived by Sirtex or the Bidder or both (as applicable) in accordance with clause 3.6; or
- (c) **withdrawal of CFIUS Notice:** the parties agree in writing to voluntarily withdraw the CFIUS Notice and this deed is terminated; or
- (d) **termination by Sirtex:** Sirtex validly terminates this deed in accordance with clause 11.1(a) or clause 11.1(c).

**10.4. No amount payable if Scheme becomes Effective**

- (a) Notwithstanding the occurrence of any event in clause 10.2 or clause 10.3, if the Scheme becomes Effective:
- (i) no amount is payable by any party under those clauses; and
  - (ii) if any amount has already been paid under those clauses it must be refunded by the recipient within 20 Business Days after the Scheme becomes Effective.
- (b) China Grand can only ever be liable to pay the Bidder Facilitation / Break Fee once.
- (c) Sirtex can only ever be liable to pay the Sirtex Reimbursement Fee once.

**10.5. Timing of payment**

- (a) If the Sirtex Reimbursement Fee is payable under clause 10.2, Sirtex must pay the Sirtex Reimbursement Fee to the Bidders without withholding or set off within 20 Business Days of receipt of a demand for payment from the Bidders.
- (b) If the Bidder Facilitation / Break Fee is payable under clause 10.3, China Grand must pay the Bidder Facilitation / Break Fee to Sirtex without withholding or set off within 5 Business Days of the date of termination of this deed.

**10.6. Nature of payment**

The amount payable by a party to another party under clause 10.2 or clause 10.3 is an amount payable to that other party (and indirectly for the benefit of that other party's shareholders) for, among other matters:

- (a) advisory costs;

- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of that other party's management from conducting that other party's business as usual caused by pursuing the Scheme;
- (e) reasonable opportunity costs incurred in pursuing the Transaction or in not pursuing alternative acquisitions or strategic initiatives which could have developed to further that other party's business and objectives;
- (f) damage to that other party's reputation associated with a failed transaction and the implications of that damage to that other party's business; and
- (g) in the case of Sirtex and the Sirtex Shareholders:
  - (i) agreeing to propose and implement the Scheme on and subject to the terms of this deed (including by terminating the Varian Transaction in accordance with clause 3.1(a));
  - (ii) the loss of the opportunity to implement the Varian Transaction; and
  - (iii) the obligations of Sirtex set out in clause 12.

The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under clause 10.2 or clause 10.3 (as applicable).

#### **10.7. Limitation of liability**

- (a) Notwithstanding any other provision of this deed but subject to clauses 10.7(b) and 10.8:
  - (i) the maximum liability of:
    - (A) Sirtex to the Bidders under or in connection with this deed including in respect of any breach of this deed will be the Sirtex Reimbursement Fee and in no event will the aggregate liability of Sirtex under or in connection with a breach of this deed exceed an amount equal to the Sirtex Reimbursement Fee;
    - (B) the Bidders to Sirtex under or in connection with this deed including in respect of any breach of this deed will be the Bidder Facilitation / Break Fee and any amounts payable by them in accordance with clauses 3.3(e) and 3.5(b) and in no event will the aggregate liability of the Bidders under or in connection with a breach of this deed exceed an amount equal to the Bidder Facilitation / Break Fee and any amounts payable by them in accordance with clauses 3.3(e) and 3.5(b); and
  - (ii) the payment by:
    - (A) Sirtex to the Bidders of the Sirtex Reimbursement Fee represents the sole and absolute amount of liability of Sirtex to the Bidders under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Sirtex to the Bidders in connection with this deed; and
    - (B) China Grand to Sirtex of the Bidder Facilitation / Break Fee and any amounts payable by the Bidders in accordance with clauses 3.3(e) and 3.5(b) represents the sole and absolute amount of liability of the Bidders to Sirtex

under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by the Bidders to Sirtex in connection with this deed.

- (b) Nothing in clause 10.7(a) in any way:
  - (i) prevents a party (in its own right or as agent or trustee on behalf of any person contemplated by this deed) from seeking orders from a court of competent jurisdiction for the specific performance by another party of any obligations under this deed;
  - (ii) extinguishes or limits the liability of a party for any breach of this deed arising from criminal acts or fraud by that party or a Representative of that party; or
  - (iii) limits the liability of the Bidders to Sirtex under or in connection with clauses 3.3(e) and 3.5(b) of this deed.

#### **10.8. Compliance with law**

- (a) If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court that all or any part of the amount payable under clause 10.2 or clause 10.3:
  - (i) is unlawful or would if performed be, unlawful;
  - (ii) involves a breach of the duties of the Board; or
  - (iii) constitutes unacceptable circumstances within the meaning of the Corporations Act,

then the relevant party's obligation to pay the applicable amount or part of the amount payable under clause 10.2 or clause 10.3 (as relevant) does not apply and if another party has received any such part of the payment due under clause 10.2 or clause 10.3 (as relevant) it must refund it within 20 Business Days of such final determination.

- (b) The parties must:
  - (i) not make or cause or permit to be made any application to a court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in this clause 10.8; and
  - (ii) use their best endeavours to defend the enforceability of the obligations of the parties to pay the applicable amount or part of the amount payable under clause 10.2 or clause 10.3 (as relevant) in any application to a court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in clause 10.8(a) and appeal any determination referred to in clause 10.8(a), to the fullest extent possible except to the extent that:
    - (A) the parties otherwise agree in writing; or
    - (B) Queen's Counsel or Senior Counsel representing that party in relation to the Scheme indicates in writing that, in their opinion, defending those obligations or restrictions, or appealing such determination, would likely have less than a reasonable prospect of success.

#### **10.9. Survival**

The obligations of the parties in this clause 10 survive the termination of this deed.

## 11. Termination

### 11.1. Termination events

This deed may be terminated:

- (a) **material breach of deed by Bidders:** by Sirtex at any time prior to 8am on the Second Court Date, if any Bidder is in material breach of a term of this deed (other than a breach of representation and warranty, which is dealt with in clause 11.1(c)), taken in the context of the Scheme as a whole, provided that Sirtex has, if practicable, given notice to the Bidders setting out the relevant circumstances and the relevant circumstances continue to exist 10 Business Days (or any shorter period ending at 8am on the Second Court Date) after the time such notice is given. For the purposes of this clause 11.1(a) and without limitation, any breach by the Bidders of clauses 3.2, 3.3, 5.2(b), 5.2(c) or 5.9 will be considered to be a material breach by the Bidders of a term of this deed taken in the context of the Scheme as a whole;
- (b) **material breach of deed by Sirtex:** by the Bidders at any time prior to 8am on the Second Court Date, if Sirtex is in material breach of a term of this deed (other than a breach of representation and warranty, which is dealt with in clause 11.1(d)), taken in the context of the Scheme as a whole, provided that the Bidders have, if practicable, given notice to Sirtex setting out the relevant circumstances and the relevant circumstances continue to exist 10 Business Days (or any shorter period ending at 8am on the Second Court Date) after the time such notice is given;
- (c) **material breach of Bidder Representations and Warranties:** by Sirtex at any time prior to 8am on the Second Court Date if the Bidder Representations and Warranties are not true and accurate in all material respects, provided that:
  - (i) Sirtex has given written notice to the Bidders setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
  - (ii) the relevant breach or circumstances have not been remedied within 10 Business Days after such notice is given (or any shorter period ending at 8am on the Second Court Date); and
  - (iii) the relevant breach of the Bidder Representations and Warranties is material in the context of the Scheme taken as a whole (and for these purposes and without limitation any breach of the Bidder Representation and Warranty set out in paragraphs (o) and (w) of Schedule 1 will be deemed to be material in the context of the Scheme taken as a whole);
- (d) **material breach of Sirtex Representations and Warranties:** by the Bidders at any time prior to 8am on the Second Court Date if the Sirtex Representations and Warranties are not true and accurate in all material respects, provided that:
  - (i) the Bidders have given written notice to Sirtex setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
  - (ii) the relevant breach or circumstances have not been remedied within 10 Business Days after such notice is given (or any shorter period ending at 8am on the Second Court Date); and
  - (iii) the relevant breach of the Sirtex Representations and Warranties is material in the context of the Scheme taken as a whole;
- (e) **change of recommendation of Board:** by the Bidders if a majority of the members of the Board have changed, withdrawn or modified their recommendation that Sirtex Shareholders vote in favour of the Scheme at the Scheme Meeting as permitted under clause 5.6;

- (f) **recommendation of Competing Proposal:** by Sirtex if, at any time before 8am on the Second Court Date, a majority of the Board publicly recommends a Competing Proposal that is a Superior Proposal, and provided that the Competing Proposal was not connected with a breach of Sirtex's obligations in clause 9;
- (g) **Independent Expert:** by Sirtex if the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Sirtex Shareholders, or adversely changes its previously given opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Sirtex Shareholders;
- (h) **failure of Conditions Precedent:** in accordance with and pursuant to clause 3.8(a); and
- (i) **by agreement:** if agreed to in writing by Sirtex and the Bidders.

#### 11.2. Termination

Where a party has a right to terminate this deed, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other parties stating that it terminates this deed.

#### 11.3. Effect of termination

If this deed is terminated by any party, or if this deed otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this deed, other than the obligations set out in this clause and in clauses 7, 8, 10 and 12 to 17 (inclusive) will immediately cease to be of further force and effect without further liability of any party to the other parties, provided that nothing in this clause releases any party from liability for any pre-termination breach of this deed.

### 12. Exclusive China Commercialisation Rights

- (a) If this deed is validly terminated in circumstances where Sirtex is entitled to payment of the Bidder Facilitation / Break Fee pursuant to clause 10.3(a) or clause 10.3(b) (other than as a result of the Condition Precedent in clause 3.1(i) (No Bidder Insolvency Event) not being satisfied or waived in accordance with clause 3.6) or clause 10.3(c) and Sirtex has received payment of the Bidder Facilitation / Break Fee the parties acknowledge and agree as follows:
  - (i) the parties agree to use their respective best endeavours to finalise the entry into a formal legal agreement that governs the grant by Sirtex of exclusive commercialisation rights in favour of the Bidders for the China market including but not limited to any one or more of distribution rights, cooperation rights and licensing rights in respect of intellectual property; and
  - (ii) the formal legal agreement will:
    - (A) subject to agreement on terms, be entered into as soon as practicable after the date of this deed, with each party undertaking to act in good faith with respect to those negotiations but recognising that it is entitled to pursue its own best interests;
    - (B) be conditional only on this deed being validly terminated in circumstances where Sirtex is entitled to payment of the Bidder Facilitation / Break Fee pursuant to clause 10.3(a) or clause 10.3(b) (other than as a result of the Condition Precedent in clause 3.1(i) not being satisfied or waived in accordance with clause 3.6) or clause 10.3(c) and Sirtex has received payment of the Bidder Facilitation / Break Fee; and
    - (C) otherwise be on terms agreed between the parties; and

- (iii) if, despite the parties' respective best endeavours and good faith approach to the negotiations, they cannot reach agreement on terms for the formal legal agreement contemplated by clause 12(a)(i) within 40 Business Days after the date of this deed, Sirtex agrees that it will not enter into any agreement (whether formal or informal) with a Third Party with respect to the grant by Sirtex of commercialisation rights for the China market at any time during the period of 3 years following the date of termination of this deed in the circumstances set out in clause 12(a)(ii)(B) without first offering to enter into an agreement with either or both Bidders on terms no less favourable to it or them (as applicable) than those proposed to be entered into with the Third Party (**China Right of First Refusal**). The China Right of First Refusal must be accepted by either or both Bidders within 20 Business Days of being notified by Sirtex in writing of the material terms of its proposed agreement with the Third Party, failing which the offer lapses.
- (b) If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court that all or any of the obligations of, or restrictions applying to, any party under clause 12(a):
  - (i) is unlawful or would if performed be, unlawful;
  - (ii) involves a breach of the duties of the Board; or
  - (iii) constitutes unacceptable circumstances within the meaning of the Corporations Act,
 then the relevant party's obligation to perform that obligation or restriction under clause 12(a) (as relevant) does not apply.
- (c) The parties must:
  - (i) not make or cause or permit to be made any application to a court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in clause 12(b);
  - (ii) use their best endeavours to defend the enforceability of the obligations of, and restrictions applying to, the parties under clause 12(a) in any application to a court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in clause 12(b), and appeal any determination referred to in clause 12(b), to the fullest extent possible except to the extent that:
    - (A) the parties otherwise agree in writing; or
    - (B) Queen's Counsel or Senior Counsel representing that party in relation to the Scheme indicates in writing that, in their opinion, defending those obligations or restrictions, or appealing such determination, would likely have less than a reasonable prospect of success.
- (d) This clause 12 survives the termination of this deed.

### 13. Confidentiality

#### 13.1. Confidentiality Deed

Sirtex and the Bidders acknowledge and agree that they continue to be bound by the Confidentiality Deeds after the date of this deed.

#### 13.2. Survival of obligations

The rights and obligations of the parties under the Confidentiality Deeds survive termination of this deed.

**13.3. Undertaking and acknowledgement**

Each Bidder:

- (a) undertakes to Sirtex that, during the Exclusivity Period, it will not give Sirtex a notification in accordance with clause 6.4(a)(ii) of its Confidentiality Deed; and
- (b) acknowledges and agrees that any such notification given during the Exclusivity Period will be deemed not to have been given until the expiry of the Exclusivity Period.

**14. GST****14.1. Definitions and interpretation**

For the purposes of this clause:

- (a) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause, unless the contrary intention appears; and
- (c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

**14.2. GST exclusive**

Unless this deed expressly states otherwise, all consideration to be provided under this deed is exclusive of GST.

**14.3. Payment of GST**

- (a) If GST is payable, or notionally payable, on a supply in connection with this deed, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply (**GST Amount**).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

**14.4. Adjustment events**

If an adjustment event arises for a supply made in connection with this deed, the GST Amount must be recalculated to reflect that adjustment. The supplier or the recipient (as the case may be) agrees to make any payments necessary to reflect the adjustment and the supplier agrees to issue an adjustment note.

**14.5. Reimbursements**

Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this deed which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 14.3 will apply to the reduced payment.

**14.6. No merger**

This clause 14 will not merge on termination of this deed.

**15. Duty, Costs and Expenses****15.1. Stamp duty and registration fees**

The Bidders:

- (a) must pay all stamp duties, registration fees and similar taxes payable or assessed as being payable in connection with this deed or the Scheme or the steps to be taken under this deed or the Scheme (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnify Sirtex against any liability incurred by Sirtex arising from a failure to comply with clause 15.1(a).

**15.2. Costs and expenses**

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

**16. Notices****16.1. Form**

- (a) Unless this deed expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing and signed by the sender (if an individual) or a person duly authorised by the sender.
- (b) All communications (other than email communications) must also be marked for the attention of the person referred to in clause 16.3 (or, if the recipient has notified otherwise, then marked for attention in the way last notified).
- (c) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

**16.2. Delivery**

- (a) Communications must be:
  - (i) delivered by hand to the address of the party referred to in clause 16.3;
  - (ii) sent by regular ordinary post (airmail if sent from one country to another) to the address of the party referred to in clause 16.3; or
  - (iii) sent by email to the email address of the party referred to in clause 16.3.
- (b) If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

**16.3. Notice details**

The notice details of:

- (a) Sirtex are:



Name: Sirtex Medical Limited  
 Address: Level 33, 101 Miller Street, North Sydney NSW 2060, Australia  
 Attention: Andrew McLean  
 Email: andrew.mclean@sirtex.com

With a copy (for information purposes only) to:

Name: Watson Mangioni  
 Address: Level 23, 85 Castlereagh Street, Sydney NSW 2000, Australia  
 Attention: Chris Clarke  
 Email: cclarke@wmlaw.com.au

(b) CDH Genetech are:

Name: CDH Genetech Limited  
 Address: 1503 International Commerce Center, 1 Austin Road West, Kowloon, Hong Kong  
 Attention: Alex Minfeng WU  
 Email: wuminfeng@cdhfund.com

With a copy (for information purposes only) to:

Name: MinterEllison  
 Address: Level 23, Rialto Towers, 525 Collins Street, Melbourne VIC 3000, Australia  
 Attention: Alberto Colla  
 Email: alberto.colla@minterellison.com

(c) China Grand are:

Name: China Grand Pharmaceutical and Healthcare Holdings Limited  
 Address: Units 3302, 33/F, The Center, 99 Queen's Road Central, Hong Kong  
 Attention: Rocky Shao  
 Email: rocky.shao@chinagrandpharm.com

With a copy (for information purposes only) to:

Name: MinterEllison  
 Address: Level 23, Rialto Towers, 525 Collins Street, Melbourne VIC 3000, Australia  
 Attention: Alberto Colla  
 Email: alberto.colla@minterellison.com

or as specified to the sender by the relevant party by notice.

**16.4. When effective**

Communications take effect from the time they are received or taken to be received under clause 16.5 (whichever happens first) unless a later time is specified in the communication.

**16.5. When taken to be received**

Subject to clause 16.6, communications are taken to be received:

- (a) if delivered by hand, when delivered;
- (b) if sent by post, 5 Business Days after posting (if posted to an address in the same country) or 10 Business Days after posting (if posted to an address in a different country);
- (c) if sent by email:
  - (i) when the sender receives an automated message confirming delivery; or
  - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

**16.6. Receipt outside business hours**

Despite anything else in this clause 16, if communications are received or taken to be received under clause 16.5 after 5pm on a working day or on a day that is not a working day, they are taken to be received at 9am on the next working day. For the purposes of this clause, "working day" means a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

**17. General****17.1. Variation**

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

**17.2. Assignment**

Subject to clause 2.2, a party may not assign, novate, charge, encumber or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other parties.

**17.3. Entire agreement**

This deed and the Confidentiality Deed contain the entire agreement between the parties with respect to their subject matter. They set out the only conduct relied on by the parties and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their subject matter.

**17.4. Counterparts**

- (a) This deed may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the deed.
- (b) This deed may be executed on the basis of an exchange of facsimile copies or electronic images (such as scanned copies or digital photos), and execution of this deed by such means is a valid and sufficient execution.

**17.5. Further action**

Each party will do all things and execute all further documents necessary to give full effect to this deed.

**17.6. No merger**

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

**17.7. Severability**

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

**17.8. No third party beneficiary**

This deed shall be binding on and inure solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed, express or implied, is intended to or shall confer on any other person, other than the Bidder Parties and the Sirtex Parties (including, for the avoidance of doubt, each member of the Board), to the extent set forth in clause 6 and clause 7, any third party beneficiary rights.

**17.9. Waivers**

- (a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by any party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

**17.10. Consents**

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless expressly provided otherwise.

**17.11. No representation or reliance**

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges that it has performed its own searches, enquiries, investigations and evaluations prior to entering into this deed and has formed its own views on the

Transaction, with no targets, projections, forecasts or other forward looking statements having been relied on by that party.

- (c) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed.

**17.12. Rules of construction**

No term or condition of this deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or a provision of it.

**17.13. Governing law and jurisdiction**

- (a) This deed is governed by the laws of New South Wales, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts.

**17.14. Service of process**

- (a) Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under clause 16.
- (b) Each Bidder irrevocably appoints MinterEllison of Level 23, Rialto Towers, 525 Collins St, Melbourne VIC 3000 Australia (attention: Alberto Colla) as its process agent to receive any document in any action in connection with this deed and agrees that failure by a process agent to notify the Bidder of any document in an action in connection with this deed does not invalidate the action concerned.
- (c) If MinterEllison ceases to be able to act as such, each Bidder agrees to appoint a new process agent in Australia and deliver to Sirtex within 1 Business Day a copy of a written acceptance of appointment by the process agent, upon receipt of which the new appointment becomes effective for the purpose of this deed. Each Bidder must inform Sirtex in writing of any change in the address of its process agent within 1 Business Day of the change.

## Schedule 1

### Bidder Representations and Warranties

- (a) **status:** each Bidder and the Bidders' Nominee (if any) has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **power:** each Bidder has power to enter into this deed, to comply with its obligations under it and exercise its rights under it;
- (c) **corporate authorisations:** each Bidder has taken all necessary corporate action to authorise its entry into and its performance of this deed and to carry out the transactions contemplated by this deed;
- (d) **no contravention:** the entry by each Bidder into, its compliance with its obligations and the exercise of its rights under, this deed do not and will not conflict with:
  - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
  - (ii) any law binding on it;
- (e) **authorisations:** each Bidder has in full force and effect each authorisation necessary for it to enter into this deed, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (f) **validity of obligations:** the obligations of each Bidder under this deed are valid and binding and are enforceable against it in accordance with its terms;
- (g) **reliance:** the Bidder Information provided to Sirtex for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that Sirtex and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (h) **Bidder Information:** the Bidder Information provided in accordance with this deed and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any statement which is misleading or deceptive in any material respect nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (i) **information provided to the Independent Expert:** all information provided by each Bidder to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- (j) **opinions:** any statement of opinion or belief contained in the Bidder Information or provided by any Bidder to the Independent Expert is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) **insolvency event:** no member of the Bidder Group is subject to, or has suffered, an Insolvency Event;
- (l) **Sirtex Shareholding:** neither Bidder nor any of its respective associates has a relevant interest in any Sirtex Shares;
- (m) **no dealing with Sirtex Shareholders:** neither Bidder nor any of its respective associates has any agreement, arrangement or understanding with any Sirtex Shareholder under which

that Sirtex Shareholder (or an associate of that Sirtex Shareholder) would be entitled to receive consideration for their Sirtex Shares different from the Scheme Consideration or under which the Sirtex Shareholder agrees to vote in favour of the Scheme or against any Competing Proposal;

- (n) **reasonable basis:** each Bidder has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy the Bidders' obligations to pay the Scheme Consideration in accordance with their obligations under this deed, the Scheme and the Deed Poll;
- (o) **Regulatory Approvals:**
  - (i) no Regulatory Approval is required to be obtained by either Bidder or the Bidders' Nominee in order for any of them to execute, deliver and perform this deed, the Deed Poll, the Scheme, the Commitment Letters and the Bidder Facility Agreements other than those Regulatory Approvals set out in clauses 3.1(c) and 3.1(d), and no regulatory action of any nature has been taken that would prevent or restrict their ability to fulfil their obligations under this deed, the Deed Poll, the Scheme, the Commitment Letters and the Bidder Facility Agreements;
  - (ii) no Regulatory Approval is required to be obtained by China Grand Enterprises, Inc. in order for it to execute, deliver and perform its obligations as a guarantor under the China Grand Debt Commitment Letter or the China Grand Facility Agreements and no regulatory action of any nature has been taken that would prevent or restrict its ability to fulfil its obligations under the China Grand Debt Commitment Letter or the China Grand Facility Agreements;
  - (iii) no Regulatory Approval is required to be obtained by Outwit Investments Limited in order for it to execute, deliver and perform its obligations as a guarantor under the China Grand Debt Commitment Letter or the China Grand Facility Agreements and no regulatory action of any nature has been taken that would prevent or restrict its ability to fulfil its obligations under the China Grand Debt Commitment Letter or the China Grand Facility Agreements;
  - (iv) no Regulatory Approval is required to be obtained by any other party to the China Grand Debt Commitment Letter in order for that party to execute, deliver and perform the China Grand Debt Commitment Letter or the China Grand Facility Agreements; and
  - (v) without prejudice to the warranties set out in paragraph (o)(i) to (o)(iv) of this Schedule 1, each Bidder has undertaken an analysis of all relevant information, including obtaining legal advice from reputable international law firms experienced in transactions of the nature of the Transaction, in order to duly consider and confirm the accuracy of the warranties set out in paragraphs (o)(i) to (o)(iv) of this Schedule 1 before entering into this deed;
- (p) **Bidders' Nominee:** the Bidders' Nominee is or will be an Agreed SPV;
- (q) **validity of Commitment Letters:** each Commitment Letter has been duly executed by the parties to it and constitutes legally binding obligations of those parties that are enforceable in accordance with its terms and no Commitment Letter has been terminated;
- (r) **accuracy of Commitment Letters:** the statements, confirmations, representations and warranties given by the Bidder Parties in the Commitment Letters are true and accurate and not misleading or deceptive;
- (s) **no amendment of Commitment Letters:** as a continuing obligation, without the prior written consent of Sirtex:

- (i) no Bidder Party will amend any Commitment Letter in any respect which will, or is reasonably likely to, prejudice the Bidders' ability to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll; and
  - (ii) neither Bidder will waive any of its rights under the Equity Commitment Letter in any respect which will, or is reasonably likely to, prejudice the Bidders' ability to pay the Scheme Consideration in accordance with their obligations under this deed, the Scheme and the Deed Poll;
- (t) **conditions of Commitment Letters:** other than conditions relating to the satisfaction or waiver of the Conditions Precedent, all conditions to the payment of funds to each Bidder under the Commitment Letters applicable to it are fully satisfied, or will be fully satisfied or waived by the date on which the Bidders are required to satisfy their obligations to pay the Scheme Consideration in accordance with their obligations under this deed, the Scheme and the Deed Poll;
- (u) **Bidder Facility Agreements:** on each date from the date on which each Bidder Facility Agreement is entered into until 8:00am on the Implementation Date:
  - (i) that Bidder Facility Agreement has been duly executed by the parties to it and constitutes legally valid and enforceable obligations on, and rights of, those parties that are enforceable in accordance with its terms; and
  - (ii) without the prior written consent of Sirtex, no Bidder Party will amend or waive any of its rights under, or agree to amend or waive any of its rights under, that Bidder Facility Agreement in any respect which will, or is reasonably likely to, prejudice the Bidder's ability to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- (v) **no government ownership:** other than as disclosed in writing by the Bidder to Sirtex at least 5 Business Days prior to the date of this deed in a notice expressly referring to this paragraph (v) of this Schedule 1, no Government Agency nor any corporation or other entity owned or controlled, in whole or in part by a Government Agency, nor any other person controlled by or acting on behalf of a Government Agency (collectively, **Government Actors**):
  - (i) owns, either directly or indirectly, any interest in any of the Bidder Entities;
  - (ii) has contingent interests therein (for example, without limitation, through lending transactions or convertible voting instruments, etc.);
  - (iii) has the ability, whether or not exercised, and whether or not acting alone or in concert with one or more other such Government Actors, to exercise control over any Bidder Entity, or to appoint principal officers or members of the board of directors or management of any Bidder Entities; or
  - (iv) has any other rights or powers with respect to the control of any Bidder Entity (for example, without limitation, a "golden share" or otherwise) whether pursuant to a contract, shareholders agreement, statute, regulation or otherwise.
- (w) **approvals and consents:**
  - (i) other than the China Grand Shareholder Approvals, neither the Bidders nor the Bidders' Nominee are required by any law, regulation, rule or otherwise to obtain the approval or consent of its shareholders, governmental authority or regulatory authority to authorise or permit it to execute, deliver and perform this deed, the Deed Poll, the Scheme and the Commitment Letters; and

- (ii) the China Grand Shareholder Approvals will be obtained prior to the Scheme Meeting;
- (x) **validity of Deeds of Undertaking:** each Deed of Undertaking has been duly executed by the party to it and constitutes legally binding obligations of that party that are enforceable in accordance with its terms and no Deed of Undertaking has been terminated;
- (y) **accuracy of Deeds of Undertaking:** the statements, confirmations, representations and warranties given in each Deed of Undertaking by the party to it are true and accurate and are not misleading or deceptive;
- (z) **no amendment of Deeds of Undertaking:** as a continuing obligation, without the prior written consent of Sirtex, no party to a Deed of Undertaking will amend, or waive any of its rights or obligations under, or agree to amend or waive any of its rights or obligations under, any Deed of Undertaking in any respect;
- (aa) **no approvals or consents for Deeds of Undertaking:** none of the parties giving the Deeds of Undertaking are required by any law, regulation, rule or otherwise to obtain the approval or consent of its shareholders, Government Agency or other regulatory authority to authorise or permit it to execute, deliver and perform the Deed of Undertaking;
- (bb) **no voting exclusions:** none of the parties giving the Deeds of Undertaking is, or will be, required to abstain from voting on, or otherwise excluded from voting on, the China Grand Shareholder Approvals; and
- (cc) **disclosure:** the documents and information provided by each Bidders and its Representatives to Sirtex and its Representatives prior to the date of this deed in relation to the Bidder Entities and the proposed funding structure for the Transaction (including the Commitment Letters and the Deeds of Undertaking) are true and accurate and are not misleading or deceptive.



## Schedule 2

### Sirtex Representations and Warranties

- (a) **status:** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **power:** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **corporate authorisations:** Sirtex has taken all necessary corporate action to authorise the entry into and the performance of this deed and to carry out the transactions contemplated by this deed;
- (d) **no contravention:** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
  - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
  - (ii) any law binding on it;
- (e) **authorisations:** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (f) **validity of obligations:** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (g) **reliance:** the Sirtex Information contained in the Scheme Booklet will be included in good faith and on the understanding that Bidder and its directors will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (h) **Sirtex Information:** the Sirtex Information provided in accordance with this document and included in the Scheme Booklet as at the date of the Scheme Booklet will not contain any statement which is misleading or deceptive in any material respect nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (i) **information provided to the Independent Expert:** all information provided by Sirtex to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- (j) **opinions:** any statement of opinion or belief contained in the Sirtex Information or provided by Sirtex to the Independent Expert is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) **compliance:** the Sirtex Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licenses, permits and franchises necessary for it to conduct its businesses as presently being conducted;
- (l) **insolvency event:** no member of the Sirtex Group is subject to, or has suffered, an Insolvency Event;

- (m) **capital structure:** Sirtex's capital structure (including all issued securities) as at the date of this deed is as set out in Schedule 4 and, as at the date of this deed, it has not issued or agreed to issue any other securities, options, performance rights or instruments which are still outstanding or which may convert into Sirtex Shares other than as set out in Schedule 4;
- (n) **continuous disclosure:** Sirtex has complied in all material respects with its continuous disclosure obligations under ASX Listing Rule 3.1. There is no information that Sirtex is withholding pursuant to a carve-out under ASX Listing Rule 3.1 that has not been disclosed to the Bidder or its Representatives; and
- (o) **disclosure:** the Disclosure Materials were prepared, compiled and made available to Bidder and its Representatives in good faith and to the best of Sirtex's knowledge the Disclosure Materials are not misleading or deceptive in any material respect (whether by way of omission or otherwise).

### Schedule 3

#### Prescribed Occurrences

- (a) Sirtex converts all or any of its shares into a larger or smaller number of shares;
- (b) a member of the Sirtex Group resolves to reduce its share capital in any way;
- (c) a member of the Sirtex Group:
  - (i) enters into a buy-back agreement; or
  - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) a member of the Sirtex Group issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option, other than the issue of up to 780,657 fully paid ordinary shares to the holders as at the date of this deed of Sirtex Rights in accordance with the terms of those Sirtex Rights (including as a result of an exercise of a discretion vested in Sirtex or the Board in those terms);
- (e) a member of the Sirtex Group issues, or agrees to issue, convertible notes;
- (f) a member of the Sirtex Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) a member of the Sirtex Group grants, or agrees to grant, a security interest in the whole, or a substantial part, of its business or property;
- (h) a member of the Sirtex Group pays, or agrees to pay, any of its directors, officers, employees or contractors a termination or retention payment (other than in accordance with contractual arrangements in effect on the date of this deed which have been Disclosed);
- (i) a member of the Sirtex Group resolves to be wound up;
- (j) a liquidator or provisional liquidator of a member of a member of the Sirtex Group is appointed;
- (k) a court makes an order for the winding up of a member of the Sirtex Group;
- (l) an administrator of a member of the Sirtex Group is appointed under sections 436A, 436B or 436C of the Corporations Act;
- (m) a member of the Sirtex Group executes a deed of company arrangement; or
- (n) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of a member of the Sirtex Group.

56

**Schedule 4****Sirtex Capital Structure**

<b>Security</b>	<b>Number on issue at date of this deed</b>
Sirtex Shares	55,773,045
Sirtex Rights	780,657

EXECUTED by the parties as a deed:

SIGNED, SEALED & DELIVERED by )  
Sirtex Medical Limited )  
(ABN 35 078 166 122) )  
in accordance with section 127 of the )  
Corporations Act: )



Director/Secretary

ANDREW McLEAN

Name (please print)

SIGNED, SEALED & DELIVERED by )  
CDH Genetech Limited )  
by being signed, sealed and delivered by )  
its duly authorised representative in the )  
presence of: )

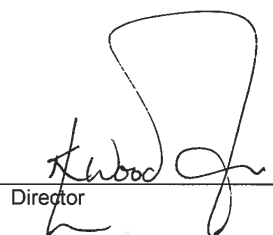
Witness

Name (please print)

SIGNED, SEALED & DELIVERED by )  
China Grand Pharmaceutical and )  
Healthcare Holdings Limited )  
by being signed, sealed and delivered by )  
its duly authorised representative in the )  
presence of: )

Witness

Name (please print)



Director

KATHERINE WOODTHORPE

Name (please print)

Authorised Representative

Name (please print)

Authorised Representative

Name (please print)

EXECUTED by the parties as a deed:

SIGNED, SEALED & DELIVERED by )  
Sirtex Medical Limited )  
(ABN 35 078 166 122) )  
in accordance with section 127 of the )  
Corporations Act: )

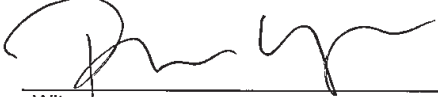
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Director/Secretary

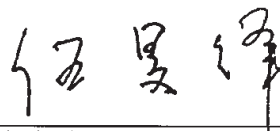
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Director

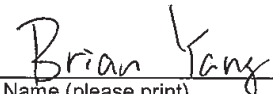
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Name (please print)

\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
CDH Genetech Limited )  
by being signed, sealed and delivered by )  
its duly authorised representative in the )  
presence of: )

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Authorised Representative

  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
China Grand Pharmaceutical and )  
Healthcare Holdings Limited )  
by being signed, sealed and delivered by )  
its duly authorised representative in the )  
presence of: )

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorised Representative

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

EXECUTED by the parties as a deed:

SIGNED, SEALED & DELIVERED by )  
Sirtex Medical Limited )  
(ABN 35 078 166 122) )  
in accordance with section 127 of the )  
Corporations Act: )

\_\_\_\_\_  
Director/Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
CDH Genetech Limited )  
by being signed, sealed and delivered by )  
its duly authorised representative in the )  
presence of: )

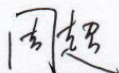
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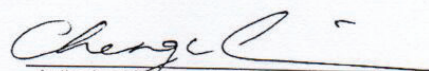
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Authorised Representative

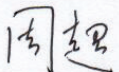
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Name (please print)

\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
China Grand Pharmaceutical and )  
Healthcare Holdings Limited )  
by being signed, sealed and delivered by )  
its duly authorised representative in the )  
presence of: )

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Authorised Representative

  
\_\_\_\_\_  
Name (please print)

CHENGWEI LIU  
\_\_\_\_\_  
Name (please print)

**Annexure A**  
**Indicative Timetable**

<b>Event</b>	<b>Target date</b>
Announcement	Date of this deed
First complete draft of Scheme Booklet (including expert's report)	10 Business Days after Announcement
Scheme Booklet complete and provided to ASIC	12 Business Days after Announcement
First Court hearing	13 Business Days after Scheme Booklet provided to ASIC
Mailing of Scheme Booklet complete	4 Business Days after First Court hearing
Scheme Meeting	1 Business Day for deemed service after completion of mailing of Scheme Booklet plus 28 days' notice
Second Court hearing	2 Business Days after Scheme Meeting
Effective Date	1 Business Day after Second Court hearing
Record Date	5 Business Days after Effective Date
Implementation Date	5 Business Days after Record Date



### **Annexure B**

#### **Scheme of Arrangement**

Not reproduced here. See Annexure C of the Scheme Booklet.

### **Annexure C**

#### **Deed Poll**

Not reproduced here. See Annexure D of the Scheme Booklet.

# ANNEXURE C

SCHEME OF  
ARRANGEMENT



## **Scheme of Arrangement**

Dated

## **Sirtex Medical Limited**

(ABN 35 078 166 122)

## **Scheme Shareholders**

### **Watson Mangioni Lawyers Pty Limited**

Corporate and Commercial Lawyers

Level 23, 85 Castlereagh Street

SYDNEY NSW 2000

Tel: (02) 9262 6666

Fax: (02) 9262 2626

Email: [mail@wmlaw.com.au](mailto:mail@wmlaw.com.au)

Ref: CSC 217 7345

**Table of Contents**

1.	Definitions and Interpretation .....	1
2.	Preliminary .....	4
3.	Conditions Precedent.....	5
4.	Scheme .....	6
5.	Implementation of Scheme .....	6
6.	Scheme Consideration .....	8
7.	Dealings in Scheme Shares.....	9
8.	Quotation of Sirtex Shares .....	10
9.	General Scheme Provisions .....	11

**Scheme of Arrangement** under Part 5.1 of the *Corporations Act* 2001 (Cth).

## Parties:

1. **Sirtex Medical Limited** (ABN 35 078 166 122) of Level 33, 101 Miller Street, North Sydney NSW 2060, Australia (**Sirtex**);
2. Each person registered as a holder of fully paid ordinary shares in Sirtex as at the Record Date (**Scheme Shareholders**).

## 1. Definitions and Interpretation

### 1.1. Definitions

In this Scheme:

**ASIC** means the Australian Securities and Investments Commission.

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

**ASX Listing Rules** means the official listing rules of the ASX.

**Bidders** means each of:

- (a) CDH Genetech Limited, an exempted company incorporated in the Cayman Islands of 1503 International Commerce Center, 1 Austin Road West, Kowloon, Hong Kong; and
- (b) China Grand Pharmaceutical and Healthcare Holdings Limited, a company incorporated in Bermuda and whose shares are listed on the Main Board of the Stock Exchange of Hong Kong Limited (stock code: 512), of Units 3302, 33/F, The Center, 99 Queen's Road Central, Hong Kong,

jointly and severally.

**Bidders' Nominee** means Grand Pharma Sphere (Australia Bidco) Pty Limited (ACN 627 686 953).

**Business Day** means a business day as defined in the ASX Listing Rules.

**CHESS** means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

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

**Court** means the Federal Court of Australia (NSW registry) or such other court of competent jurisdiction under the Corporations Act agreed to in writing between Sirtex and the Bidders.

**Deed Poll** means the deed poll dated 1 August 2018 executed by the Bidders and the Bidders' Nominee substantially in the form of Annexure C of the Scheme Implementation Deed or as otherwise agreed by Sirtex and the Bidders under which the Bidders and the Bidders' Nominee each covenants in favour of each Scheme Shareholder to perform its obligations under this Scheme.

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

**Effective Date** means the date on which the Scheme becomes Effective.

**Encumbrance** means any security for payment of money or performance of obligations, including a mortgage, lien, charge, pledge, trust, power or title retention or flawed deposit arrangement and any “security interest” as defined in sections 12(1) or 12(2) of the *Personal Property Securities Act 2009* (Cth) or any agreement to create any of them or allow them to exist.

**End Date** means the date that is 12 months after the date of the Scheme Implementation Deed or such other date as is agreed in writing between Sirtex and the Bidders.

**Government Agency** means any government or any governmental, semi-governmental, statutory or judicial entity, agency or authority, whether in Australia, the United States of America or elsewhere, including any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and the ASX or any other stock exchange.

**Implementation Date** means the fifth Business Day after the Record Date or such other date as agreed in writing between Sirtex and the Bidders.

**Permitted Dividend** means one or more dividends declared or determined by the board of directors of Sirtex in respect of the period 1 July 2017 to 30 June 2018, provided that the maximum aggregate amount paid or payable by Sirtex in respect of all such dividends is \$0.30 per Sirtex Share.

**Record Date** means 7pm on the fifth Business Day following the Effective Date or such other date as Sirtex and the Bidders agree.

**Registered Address** means, in relation to a Sirtex Shareholder, the address shown in the Share Register.

**Scheme** means this scheme of arrangement between Sirtex and the Scheme Shareholders under which all of the Scheme Shares will be transferred to the Bidders' Nominee under Part 5.1 of the Corporations Act as described in clause 6 of this Scheme, in consideration for the Scheme Consideration, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Sirtex, the Bidders and the Bidders' Nominee in accordance with clause 9.2 of this Scheme.

**Scheme Consideration** means the consideration per Scheme Share to be provided by the Bidders (or the Bidders' Nominee) in consideration for the transfer of the Scheme Share to the Bidders (or the Bidders' Nominee), being, in respect of each Scheme Share, \$33.60 less the amount of any Permitted Dividend paid in respect of the Scheme Share in accordance with clause 4.4(e) of the Scheme Implementation Deed.

**Scheme Implementation Deed** means the scheme implementation deed dated 14 June 2018 between Sirtex and the Bidders under which, amongst other things, Sirtex has agreed to propose this Scheme to Sirtex Shareholders and each of the Bidders and Sirtex has agreed to take certain steps to give effect to this Scheme.

**Scheme Meeting** means the meeting of Sirtex Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act at which Sirtex Shareholders will vote on this Scheme.

**Scheme Share** means a Sirtex Share held by a Scheme Shareholder at the Record Date.

**Scheme Share Transfer** means, for each Scheme Shareholder, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Shareholder for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares.

**Scheme Shareholders** means Sirtex Shareholders at the Record Date.

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

**Share Register** means the register of members of Sirtex maintained in accordance with the Corporations Act.

**Sirtex Registry** means Link Market Services Limited (ABN 54 083 214 537).

**Sirtex Share** means a fully paid ordinary share in the capital of Sirtex.

**Sirtex Shareholder** means each person who is registered in the Share Register as the holder of Sirtex Shares.

**Trust Account** means the trust account operated by or on behalf of Sirtex to hold the Scheme Consideration on trust for the purpose of paying the Scheme Consideration to the Scheme Shareholders in accordance with clause 6.1 of this Scheme.

## 1.2. Interpretation

In this Scheme, headings are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (d) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture, a partnership, a trust and any Government Agency;
- (e) a reference to a clause, party, attachment, exhibit or schedule is a reference to a clause of, and a party, attachment, exhibit and schedule to this Scheme, and a reference to this Scheme includes any attachment, exhibit and schedule;
- (f) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) a reference to any document (including this Scheme) is to that document as varied, novated, ratified or replaced from time to time;
- (h) the word "includes" in any form is not a word of limitation;
- (i) a reference to "\$", "A\$" or "dollar" is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to the time in Sydney, New South Wales, Australia;
- (k) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (l) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (m) a reference to "associate", "control" (by an entity of another entity), "officer", "related body corporate", "subsidiary", "relevant interest" or "voting power" is to that term as defined in the Corporations Act;



- (n) a reference to the ASX Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

### 1.3. Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

### 1.4. Listing requirements included as law

A listing rule or business rule of a securities exchange will be regarded as a "law", and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

## 2. Preliminary

### 2.1. Sirtex

- (a) Sirtex is:
  - (i) a public company limited by shares;
  - (ii) incorporated in Australia and registered in Western Australia; and
  - (iii) admitted to the official list of the ASX and Sirtex Shares are officially quoted on the stock market conducted by ASX.
- (b) As at [date] 2018, [insert] Sirtex Shares were on issue.

### 2.2. The Bidders

The Bidders are:

- (a) CDH Genetech Limited, which is an exempted company incorporated in the Cayman Islands; and
- (b) China Grand Pharmaceutical and Healthcare Holdings Limited, a company incorporated in Bermuda and whose shares are listed on the Main Board of the Stock Exchange of Hong Kong Limited (stock code: 512).

### 2.3. Bidders' Nominee

- (a) Pursuant to clause 2.2 of the Scheme Implementation Deed, the Bidders have nominated the Bidders' Nominee to pay the Scheme Consideration and to which the Scheme Shares are to be transferred in accordance with clause 5 of this Scheme.
- (b) Clause 2.2 of the Scheme Implementation Deed provides that:
  - (i) the Bidders must procure that the Bidders' Nominee complies with all of the relevant obligations of the Bidders under the Scheme Implementation Deed and the Deed Poll; and
  - (ii) any such nomination will not relieve the Bidders of their obligations under the Scheme Implementation Deed, including the obligation to pay (or procure the payment by Bidders' Nominee of) the Scheme Consideration as contemplated by the terms of this Scheme.

**2.4. If Scheme becomes Effective**

If this Scheme becomes Effective:

- (a) in consideration of the transfer of each Scheme Share to the Bidders' Nominee, the Bidders' Nominee will provide (or Bidders will provide on behalf of the Bidders' Nominee) the Scheme Consideration to Sirtex on behalf of each Scheme Shareholder in accordance with the terms of this Scheme;
- (b) all Scheme Shares will be transferred to the Bidders' Nominee on the Implementation Date; and
- (c) Sirtex will enter the name of the Bidders' Nominee in the Share Register in respect of all Scheme Shares transferred to the Bidders' Nominee in accordance with the terms of this Scheme.

**2.5. Scheme Implementation Deed**

Sirtex and the Bidders have agreed by executing the Scheme Implementation Deed to implement the terms of this Scheme.

**2.6. Deed Poll**

The Bidders and the Bidders' Nominee have executed the Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders to perform (or procure the performance of) its obligations as contemplated by this Scheme, including to provide (or procure the provision of) the Scheme Consideration.

**3. Conditions Precedent****3.1. Conditions precedent to Scheme**

This Scheme is conditional on, and will not become Effective until, the satisfaction of each of the following conditions precedent:

- (a) as at 8am on the Second Court Date, neither the Deed Poll nor the Scheme Implementation Deed have been terminated in accordance with their terms;
- (b) all of the conditions precedent in clause 3.1 of the Scheme Implementation Deed having been satisfied or waived (other than the condition precedent in clause 3.1(c) of this Scheme) in accordance with the terms of the Scheme Implementation Deed by 8am on the Second Court Date;
- (c) the Court having approved this Scheme, with or without any modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, Sirtex, the Bidders and the Bidders' Nominee having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act; and
- (d) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

**3.2. Conditions precedent and operation of clause 5**

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the operation of clauses 5.2 to 5.8 and 6 of this Scheme.

**3.3. Certificate in relation to conditions precedent**

- (a) Each of Sirtex and the Bidders must provide to the Court on the Second Court Date a certificate confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent set out in clause 3.1 of this Scheme (other than the conditions precedent in clause 3.1(c) and clause 3.1(d) of this Scheme) have been satisfied or waived as at 8am on the Second Court Date.
- (b) The certificates referred to in clause 3.3(a) will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 of this Scheme (other than the conditions precedent in clause 3.1(c) and 3.1(d) of this Scheme) have been satisfied or waived as at 8am on the Second Court Date.

**4. Scheme****4.1. Effective Date**

Subject to clause 4.2, this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

**4.2. Termination and End Date**

Without limiting any rights under the Scheme Implementation Deed, if:

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

then each of the Bidders, the Bidders' Nominee and Sirtex are released from any further obligation to take steps to implement the Scheme.

**5. Implementation of Scheme****5.1. Lodgement of Court orders with ASIC**

If the conditions precedent set out in clause 3.1 of this Scheme (other than the condition precedent in clause 3.1(d) of this Scheme) are satisfied, Sirtex must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as possible, and in any event by no later than 5pm on the first Business Day after the day on which the Court approves this Scheme or such later time as the Bidders, the Bidders' Nominee and Sirtex agree in writing.

**5.2. Transfer and registration of Sirtex Shares**

On the Implementation Date, but subject to the payment of the Scheme Consideration for the Scheme Shares into the Trust Account in accordance with clause 6.1(a) of this Scheme and the Bidders having provided Sirtex with written confirmation thereof:

- (a) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to the Bidders' Nominee without the need for any further act by any Scheme Shareholder (other than acts performed by Sirtex as attorney and agent for Scheme Shareholders under clause 9.1 of this Scheme) by:
  - (i) Sirtex delivering to the Bidders' Nominee a duly completed and executed Scheme Share Transfer executed on behalf of the Scheme Shareholders; and

- (ii) the Bidders' Nominee duly executing the Scheme Share Transfer, attending to the stamping of the Scheme Share Transfer (if required) and delivering it to Sirtex for registration; and
- (b) as soon as practicable after receipt of the duly executed Scheme Share Transfer, Sirtex must enter, or procure the entry of, the name of the Bidders' Nominee in the Share Register in respect of all Scheme Shares transferred to the Bidders' Nominee in accordance with the terms of this Scheme.

### **5.3. Entitlement to Scheme Consideration**

On the Implementation Date, in consideration for the transfer to the Bidders' Nominee of the Scheme Shares, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clause 6 of this Scheme.

### **5.4. Title and rights in Sirtex Shares**

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 6 of this Scheme, on and from the Implementation Date, the Bidders' Nominee will be beneficially entitled to the Scheme Shares transferred to it under the Scheme, pending registration by Sirtex of the Bidders' Nominee in the Share Register as the holder of the Scheme Shares.

### **5.5. Scheme Shareholders' agreements**

Under this Scheme, each Scheme Shareholder agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with the terms of this Scheme.

### **5.6. Warranty by Scheme Shareholders**

Each Scheme Shareholder warrants to the Bidders' Nominee, and is deemed to have authorised Sirtex to warrant to the Bidders' Nominee as agent and attorney for the Scheme Shareholder by virtue of this clause 5.6, that:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) transferred to the Bidders' Nominee under the Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to the Bidders' Nominee under the Scheme.

### **5.7. Transfer free of Encumbrances**

To the extent permitted by law, all Sirtex Shares (including any rights and entitlements attaching to those Scheme Shares) which are transferred to the Bidders' Nominee under this Scheme will, at the date of the transfer of them to the Bidders' Nominee, vest in the Bidders' Nominee free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind not referred to in this Scheme.

### **5.8. Appointment of the Bidders' Nominee as sole proxy**

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 6.1 of this Scheme, on and from the Implementation Date until Sirtex registers the Bidders' Nominee as the holder of all of the Sirtex Shares in the Share Register, each Scheme Shareholder:

- (a) irrevocably appoints Sirtex as attorney and agent (and directs Sirtex in such capacity) to appoint the Bidders' Nominee and each of its directors from time to time (jointly and each of them individually) as its sole proxy and where applicable, corporate representative, to attend

shareholders' meetings, exercise the votes attaching to Sirtex Shares registered in its name and sign any shareholders resolution, and no Scheme Shareholder may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.8(a));

- (b) must take all other actions in the capacity of the registered holder of Sirtex Shares as the Bidders' Nominee reasonably directs;
- (c) acknowledges and agrees that in exercising the powers referred to in this clause 5.8(a), the Bidders' Nominee and any director, officer or agent nominated under this clause 5.8(a) may act in the best interests of the Bidders' Nominee as the intended registered holder of the Scheme Shares.

Sirtex undertakes in favour of each Scheme Shareholder that it will appoint the Bidders' Nominee and each of its directors from time to time (jointly and each of them individually) as that Scheme Shareholder's proxy or, where applicable, corporate representative in accordance with clause 5.8(a) of this Scheme.

## **6. Scheme Consideration**

### **6.1. Payment of Scheme Consideration**

- (a) The Bidders and the Bidders' Nominee must (pursuant to their respective obligations under the Scheme Implementation Deed and the Deed Poll), by no later than the Business Day before the Implementation Date, deposit (or procure the deposit) in cleared funds the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders into the Trust Account.
- (b) On the Implementation Date, subject to receipt of the Scheme Consideration from or on behalf of the Bidders (or the Bidders' Nominee) in accordance with clause 6.1(a) of this Scheme, Sirtex must pay from the Trust Account to each Scheme Shareholder an amount equal to the Scheme Consideration for each Scheme Share transferred to the Bidders' Nominee on the Implementation Date by that Scheme Shareholder, which obligation will be satisfied by Sirtex:
  - (i) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of the Share Register to receive dividend payments from Sirtex by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (ii) whether or not a Scheme Shareholder has made an election referred to in clause 6.1(b)(i), dispatching, or procuring the dispatch of, a cheque drawn on an Australian bank in Australian currency for the relevant amount to the Scheme Shareholder by pre-paid ordinary post (or, if the address of the Scheme Shareholder in the Share Register is outside Australia, by pre-paid airmail post) to their Registered Address at the Record Date, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 6.5).
- (c) If there is any surplus in the amount held by Sirtex in the Trust Account, that surplus must be paid by Sirtex to the Bidders' Nominee following the satisfaction of Sirtex's obligations under this clause.
- (d) Any interest on the amount on the Trust Account will be to the Bidders' or Bidders' Nominee's account (less bank fees and other charges).

### **6.2. Cancellation and re-issue of cheques**

- (a) Sirtex may cancel a cheque issued under clause 6.1 of this Scheme if the cheque:

- (i) is returned to Sirtex; or
- (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request from a Scheme Shareholder (which request may not be made until the date which is 5 Business Days after the Implementation Date), Sirtex must reissue a cheque that was previously cancelled under this clause 6.2.
- (c) Sirtex must maintain appropriate records of all payments made in accordance with this clause 6 of this Scheme, including (amongst other things) the amounts paid (including the method of payment in accordance with clause 6.1(b)), the persons paid and any cancelled cheques pursuant to this clause 6.2.

### **6.3. Unclaimed monies**

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes "unclaimed money" (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of the Bidders' Nominee.

### **6.4. Orders of a court**

In the case of notice having been given to Sirtex (or the Sirtex Registry) of an order or direction made by a court of competent jurisdiction or by a Government Agency:

- (a) which requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder in accordance with clause 6.1 of this Scheme, then Sirtex shall procure that payment is made in accordance with that order; or
- (b) which would prevent Sirtex from dispatching payment to any particular Scheme Shareholder in accordance with clause 6.1 of this Scheme, or such payment is otherwise prohibited by applicable law, Sirtex will be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with clause 6.1 of this Scheme is permitted by law.

### **6.5. Joint holders**

In the case of Scheme Shares held in joint names, any bank cheque required to be paid to Scheme Shareholders under the Scheme must be payable to the joint holders and be forwarded to the holder whose name appears first in the Share Register as at the Record Date.

## **7. Dealings in Scheme Shares**

### **7.1. Determination of Scheme Shareholders**

To establish the identity of the Scheme Shareholders, dealings in Scheme Shares will only be recognised by Sirtex if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant Scheme Shares on or before the Record Date; and

- (b) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings are received on or before the Record Date at the place where the Share Register is kept.

#### **7.2. Share Register**

Sirtex must register any registrable transmission applications or transfers of the Scheme Shares received in accordance with clause 7.1(b) of this Scheme on or before the Record Date, provided that nothing in this clause 7.2 requires Sirtex to register a transfer that would result in a Sirtex Shareholder holding a parcel of Sirtex Shares that is less than a “marketable parcel” (as defined in the operating rules of ASX).

#### **7.3. No disposals after Record Date**

- (a) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Record Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever.
- (b) Sirtex will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Shares received after the Record Date (except a transfer to the Bidders' Nominee pursuant to this Scheme and any subsequent transfer by the Bidders' Nominee or its successors in title) or received prior to the Record Date but not in registrable or actionable form.

#### **7.4. Maintenance of Share Register**

For the purpose of determining entitlements to the Scheme Consideration, Sirtex will maintain the Share Register in accordance with the provisions of this clause 7 until the Scheme Consideration has been paid to the Scheme Shareholders and the Bidders' Nominee has been entered in the Share Register as the holder of all the Scheme Shares. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

#### **7.5. Effect of certificates and holding statements**

Subject to provision of the Scheme Consideration and registration of the transfer to the Bidders' Nominee contemplated in clauses 5.2 and 6.1 of this Scheme, any statements of holding in respect of Scheme Shares will cease to have effect after the Record Date as documents of title in respect of those Scheme Shares (other than statements of holding in favour of the Bidders' Nominee and its successors in title). After the Record Date, each entry current on the Share Register as at the Record Date (other than entries in respect of the Bidders' Nominee or its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration.

#### **7.6. Details of Scheme Shareholders**

Within 3 Business Days after the Record Date Sirtex will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Shareholder, as shown in the Share Register at the Record Date, are available to the Bidders and the Bidders' Nominee in such form as the Bidders and the Bidders' Nominee reasonably requires.

### **8. Quotation of Sirtex Shares**

- (a) Suspension of trading on ASX in Sirtex Shares will occur from the close of trading on ASX on the Effective Date.
- (b) After the Scheme has been fully implemented, Sirtex will apply:
  - (i) for termination of the official quotation of Sirtex Shares on the ASX; and

- (ii) to have itself removed from the official list of the ASX,

in each case with effect on and from the close of trading on the day immediately following, or shortly after, the Implementation Date, as determined by the Bidders' Nominee.

## **9. General Scheme Provisions**

### **9.1. Power of attorney**

Each Scheme Shareholder, without the need for any further act by any Scheme Shareholder, irrevocably appoints Sirtex and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of:

- (a) executing any document necessary or expedient to give effect to this Scheme including the Scheme Share Transfer;
- (b) enforcing the Deed Poll against the Bidders or the Bidders' Nominee,

and Sirtex accepts such appointment.

### **9.2. Variations, alterations and conditions**

Sirtex may, with the consent of the Bidders and the Bidders' Nominee (which cannot be unreasonably withheld), by its counsel or solicitor consent on behalf of all persons concerned to any variations, alterations or conditions to this Scheme which the Court thinks fit to impose.

### **9.3. Further action by Sirtex**

Sirtex will execute all documents and do all things (on its own behalf and on behalf of each Scheme Shareholder) necessary or expedient to implement, and perform its obligations under, this Scheme.

### **9.4. Authority and acknowledgement**

Each of the Scheme Shareholders:

- (a) irrevocably consents to Sirtex, the Bidders and the Bidders' Nominee doing all things necessary or expedient for or incidental to the implementation of this Scheme; and
- (b) acknowledges that this Scheme binds Sirtex and all Scheme Shareholders (including those who do not attend the Scheme Meeting or do not vote at that meeting or vote against the Scheme at the Scheme Meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Sirtex.

### **9.5. No liability when acting in good faith**

Neither Sirtex nor the Bidders and the Bidders' Nominee, nor any of their respective officers, will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.

### **9.6. Enforcement of Deed Poll**

Sirtex undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against the Bidders and the Bidders' Nominee on behalf of and as agent and attorney for the Scheme Shareholders.

### **9.7. Stamp duty and registration fees**

The Bidders' Nominee (or the Bidders on behalf of the Bidders' Nominee) will:



- (a) pay all stamp duties, registration fees and similar taxes payable or assessed as being payable in connection with this Scheme or the Deed Poll (including any fees, fines, penalties and interest in connection with those amounts); and
- (b) indemnify each Scheme Shareholder against any liability incurred by the Scheme Shareholder arising from its failure to comply with clause 9.7(a).

### **9.8. Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Sirtex, 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 Sirtex's registered office or at the office of the Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Sirtex Shareholder shall not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

### **9.9. Governing law and jurisdiction**

- (a) This Scheme is governed by the law in force in New South Wales.
- (b) Each party irrevocably and unconditionally:
  - (i) submits to the non-exclusive jurisdiction of the courts of that place; and
  - (ii) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

ANNEXURE D  
DEED POLL



**Deed Poll**

Dated 1 August 2018

Given by

**CDH Genetech Limited**

and

**China Grand Pharmaceutical and Healthcare  
Holdings Limited**

and

**Grand Pharma Sphere (Australia Bidco) Pty Limited**

In favour of

**Scheme Shareholders**

**Watson Mangioni Lawyers Pty Limited**  
Corporate and Commercial Lawyers  
Level 23, 85 Castlereagh Street  
SYDNEY NSW 2000  
Tel: (02) 9262 6666  
Fax: (02) 9262 2626  
Email: [mail@wmlaw.com.au](mailto:mail@wmlaw.com.au)  
Ref: CSC 217 7345

Table of Contents

1. Definitions and Interpretation ..... 1

2. Conditions Precedent and Termination..... 2

3. Performance of Obligations Generally ..... 2

4. Scheme Consideration..... 3

5. Representations and Warranties ..... 3

6. Continuing Obligations ..... 3

7. Notices ..... 4

8. General..... 5

**This Deed Poll** is made on

1 August 2018

**Made by:**

1. **CDH Genetech Limited**, an exempted company incorporated in the Cayman Islands of 1503 International Commerce Center, 1 Austin Road West, Kowloon, Hong Kong (**CDH Genetech**);
2. **China Grand Pharmaceutical and Healthcare Holdings Limited**, a company incorporated in Bermuda and whose shares are listed on the Main Board of the Stock Exchange of Hong Kong Limited (stock code: 512), of Units 3302, 33/F, The Center, 99 Queen's Road Central, Hong Kong (**China Grand**); and
3. **Grand Pharma Sphere (Australia Bidco) Pty Limited** (ACN 627 686 953), care of Minter Ellison Level 23 525 Collins Street Melbourne VIC 3000 (**Bidders' Nominee**)

**In favour of:**

Each person registered as a holder of fully paid ordinary shares in Sirtex as at the Record Date (**Scheme Shareholders**).

**Recitals:**

- A. The directors of Sirtex have resolved that Sirtex should propose the Scheme.
- B. The effect of the Scheme will be that all Scheme Shares will be transferred to the Bidders' Nominee.
- C. Sirtex and the Bidders have entered into the Scheme Implementation Deed.
- D. In the Scheme Implementation Deed, the Bidders have agreed (amongst other things) to provide (or procure the provision of) the Scheme Consideration to Sirtex on behalf of the Scheme Shareholders, subject to the satisfaction of certain conditions.
- E. Pursuant to clause 2.2 of the Scheme Implementation Deed, the Bidders have nominated the Bidders' Nominee as the entity to acquire the Scheme Shares under the Scheme.
- F. Each of the Bidders and the Bidders' Nominee is entering into this deed poll for the purpose of covenanting in favour of Scheme Shareholders to perform its respective obligations in relation to the Scheme.

**1. Definitions and Interpretation**

**1.1. Definitions**

In this deed poll:

- (a) **Bidders** means each of CDH Genetech and China Grand, jointly and severally;
- (b) **Scheme** means the proposed scheme of arrangement between Sirtex and the Scheme Shareholders under which all of the Scheme Shares will be transferred to the Bidders' Nominee under Part 5.1 of the Corporations Act, substantially in the form of Annexure A to this deed poll, or as otherwise agreed by Sirtex and the Bidders, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Sirtex, the Bidders and the Bidders' Nominee in accordance with clause 9.2 of the Scheme;
- (c) **Scheme Implementation Deed** means the scheme implementation deed dated 14 June 2018 between Sirtex and the Bidders under which, amongst other things, Sirtex has agreed to

propose the Scheme to Sirtex Shareholders and each of the Bidders and Sirtex has agreed to take certain steps to give effect to this Scheme; and

- (d) all other words and phrases used in this deed poll have the same meaning as given to them in the Scheme.

### **1.2. Interpretation**

Clauses 1.2, 1.3 and 1.4 of the Scheme apply to the interpretation of this deed poll except that references to “this Scheme” in that clause are to be read as references to “this deed poll” and any reference to “party” are taken to include the Scheme Shareholders.

### **1.3. Nature of deed poll**

Each of the Bidders and the Bidders’ Nominee acknowledges and agrees that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints Sirtex and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against the Bidders or the Bidders’ Nominee.

## **2. Conditions Precedent and Termination**

### **2.1. Conditions precedent**

Each of the Bidders’ and the Bidders’ Nominee’s obligations under clause 4 are subject to the Scheme becoming Effective.

### **2.2. Termination**

Each of the Bidders’ and the Bidders’ Nominee’s obligations under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Scheme has not become Effective on or before the End Date; or
- (b) the Scheme Implementation Deed is terminated in accordance with its terms.

### **2.3. Consequences of termination**

If this deed poll is terminated under clause 2.2, then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Shareholders:

- (a) each of the Bidders and the Bidders’ Nominee is released from its obligations to further perform this deed poll except those obligations contained in clause 8.1 and any other obligations which by their nature survive termination; and
- (b) each Scheme Shareholder retains the rights, powers or remedies they have against the Bidders and the Bidders’ Nominee (as applicable) in respect of any breach of this deed poll which occurs before it is terminated.

## **3. Performance of Obligations Generally**

Each of the Bidders and the Bidders’ Nominee must comply with its respective obligations under the Scheme Implementation Deed and do all acts and things necessary or desirable on its part to give full effect to the Scheme.

## 4. Scheme Consideration

### 4.1. Scheme Consideration

Subject to clause 2, each of the Bidders and the Bidders' Nominee undertakes in favour of each Scheme Shareholder to pay, or to procure the payment of, the Scheme Consideration to the Trust Account on behalf of each Scheme Shareholder subject to and in accordance with the terms of the Scheme.

### 4.2. Manner of payment

Subject to clause 4.3, the Bidders' and the Bidders' Nominee's respective obligation to provide, or procure the provision of, the Scheme Consideration to Sirtex on behalf of each Scheme Shareholder is satisfied by the Bidders (or if applicable, the Bidders' Nominee), no later than the Business Day before the Implementation Date, depositing in cleared funds the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders into the Trust Account (except that the amount of any interest (less bank fees and other charges) on the amount deposited will be to the Bidders' or the Bidders' Nominee's account).

### 4.3. Joint holders

In the case of Scheme Shares held in joint names, any bank cheque required to be paid to Scheme Shareholders under the Scheme must be payable to the joint holders and be forwarded to the holder whose name appears first in the Share Register as at the Record Date.

## 5. Representations and Warranties

Each of the Bidders and the Bidders' Nominee represents and warrants that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding upon it and enforceable against it in accordance with its terms;
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound; and
- (f) 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 or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

## 6. Continuing Obligations

Subject to clause 8.3, this deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) the Bidders and the Bidders' Nominee have fully performed their respective obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

## 7. Notices

### 7.1. Form

Unless this deed expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications to the Bidders or the Bidders' Nominee in connection with this deed must be in writing and signed by the sender (if an individual) or a person duly authorised by the sender.

### 7.2. Delivery

Communications to the Bidders or the Bidders' Nominee must be:

- (a) delivered by hand to the address of the Bidders or the Bidders' Nominee (as applicable) referred to in clause 7.3;
- (b) sent by regular ordinary post (airmail if sent from one country to another) to the address of the Bidder or the Bidders' Nominee (as applicable) referred to in clause 7.3; or
- (c) given in any other way permitted by law.

### 7.3. Notice details

The notice details of:

- (a) CDH Genetech are:

Name: CDH Genetech Limited  
 Address: 1503 International Commerce Center, 1 Austin Road West, Kowloon, Hong Kong  
 Attention: Alex Minfeng WU  
 Email: wuminfeng@cdhfund.com

- (b) China Grand are:

Name: China Grand Pharmaceutical and Healthcare Holdings Limited  
 Address: Units 3302, 33/F, The Center, 99 Queen's Road Central, Hong Kong  
 Attention: Rocky Shao  
 Email: rocky.shao@chinagrandpharm.com

- (c) the Bidders' Nominee are:

Name: Grand Pharma Sphere (Australia Bidco) Pty Limited  
 Address: Care of Minter Ellison Level 23 525 Collins Street Melbourne VIC 3000  
 Attention: Alex Minfeng WU  
 Email: wuminfeng@cdhfund.com

### 7.4. When effective

Communications take effect from the time they are received or taken to be received under clause 7.5 (whichever happens first) unless a later time is specified.



**7.5. When taken to be received**

Subject to clause 7.6, communications are taken to be received:

- (a) if delivered by hand, when delivered; or
- (b) if sent by post, 5 Business Days after posting (if posted to an address in the same country) or 10 Business Days after posting (if posted to an address in a different country).

**7.6. Receipt outside business hours**

Despite clauses 7.4 and 7.5, if communications are received or taken to be received under clause 7.5 after 5pm on a Business or on a non-Business Day, they are taken to be received at 9am on the next Business Day and take effect from that time unless a later time is specified.

**8. General****8.1. Stamp duty**

The Bidders (or if applicable, the Bidders' Nominee) must:

- (a) pay all stamp duty, registration fees and similar taxes payable or assessed as being payable on or in connection with this deed poll, the performance of this deed poll, or any instruments entered into under this deed poll and in respect of a transaction effected by or made under the Scheme and this deed poll (including any fees, fines, penalties and interest in connection with any of those amounts);
- (b) pay other costs in respect of the Scheme (including, in connection with the transfer of Scheme Shares to the Bidders (or if applicable, the Bidders' Nominee) in accordance with the terms of the Scheme); and
- (c) indemnify on demand each Scheme Shareholder against any liability arising from failure to comply with clauses 8.1(a) or 8.1(b).

**8.2. Waiver**

- (a) A waiver of any right arising from a breach of this deed poll or of any right, power, authority, discretion or remedy arising upon default under this deed poll must be in writing and signed by the party giving the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
  - (i) a right arising from a breach of this deed poll; or
  - (ii) a right, power, authority, discretion or remedy created or arising upon default under this deed poll,
 does not result in a waiver of that right, power, authority, discretion or remedy.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this deed poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right, power, authority, discretion or remedy by that other party.

**8.3. Variation**

A provision of this deed poll or any right created under it may not be varied, altered or otherwise amended unless:

- (a) if before the First Court Date (as defined in the Scheme Implementation Deed), the variation is agreed to by Sirtex, the Bidders and the Bidders' Nominee in writing; and
- (b) if on or after the First Court Date (as defined in the Scheme Implementation Deed), the variation is agreed to by Sirtex, the Bidders and the Bidders' Nominee in writing and the Court indicates that the variation, alteration or amendment would not itself preclude approval of the Scheme,

in which event the Bidders and the Bidders' Nominee must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation, alteration or amendment.

**8.4. Remedies cumulative**

The rights, powers and remedies of the Bidders, the Bidders' Nominee and the Scheme Shareholders under this deed poll are cumulative and are in addition to, and do not exclude any, other rights, powers and remedies given by law independently of this deed poll.

**8.5. Assignment**

The rights and obligations of the Bidders, the Bidders' Nominee and each Scheme Shareholder under this deed poll 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 the Bidders, the Bidders' Nominee and Sirtex.

**8.6. Governing law and jurisdiction**

This deed poll is governed by the law in force in New South Wales, Australia. The Bidders and the Bidders' Nominee irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that place.

**8.7. Further action**

The Bidders and the Bidders' Nominee must execute all deeds and other documents and do all things (on their own behalf or on behalf of each Scheme Shareholder) necessary or expedient to give full effect to this deed poll and the transactions contemplated by it.

**8.8. Service of process**

- (a) Without preventing any method of service allowed under any relevant law, each Bidder and the Bidders' Nominee:
  - (i) irrevocably appoints MinterEllison of Level 23, Rialto Towers, 525 Collins Street, Melbourne VIC 3000, Australia (attention: Alberto Colla) as its process agent to receive any document in an action in connection with this deed poll; and
  - (ii) agrees that failure by a process agent to notify the Bidders or the Bidders' Nominee (as applicable) of any document in an action in connection with this deed poll does not invalidate the action concerned.
- (b) If for any reason MinterEllison ceases to be able to act as process agent, each Bidder and the Bidders' Nominee agrees to appoint another person as its process agent in Australia and ensure that the replacement process agent accepts its appointment and confirms its appointment to the Bidders and the Bidders' Nominee.

- (c) Each Bidder and the Bidders' Nominee agrees that service of documents on its process agent at the following address is sufficient service on it:

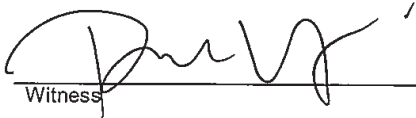
Name: MinterEllison  
Address: Level 23, Rialto Towers, 525 Collins Street, Melbourne VIC 3000  
Attention: Alberto Colla  
Email: Alberto.Colla@minterellison.com

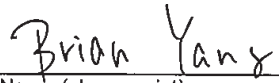
**8.9. Counterparts**


- (a) This deed poll may consist of a number of copies, each signed by one or more parties making this deed poll. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the deed poll.
- (b) This deed poll may be executed on the basis of an exchange of facsimile copies or electronic images (such as scanned copies or digital photos), and execution of this deed poll by such means is a valid and sufficient execution.

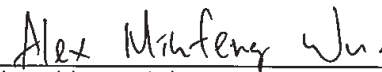
EXECUTED as a deed poll:

SIGNED, SEALED & DELIVERED by )  
CDH Genetech Limited )  
by its duly authorised representative in the )  
presence of: )

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Authorised Representative

  
\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
China Grand Pharmaceutical and )  
Healthcare Holdings Limited )  
by its duly authorised representative in the )  
presence of: )

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorised Representative

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
Grand Pharma Sphere (Australia Bidco) )  
Pty Limited )  
(ACN 627 686 953) )  
in accordance with section 127 of the )  
Corporations Act: )

\_\_\_\_\_  
Sole Director and Company Secretary

\_\_\_\_\_  
Name (please print)

EXECUTED as a deed poll:

SIGNED, SEALED & DELIVERED by )  
**CDH Genetech Limited** )  
 by its duly authorised representative in the )  
 presence of: )

\_\_\_\_\_  
 Witness

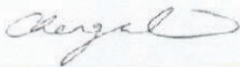
\_\_\_\_\_  
 Authorised Representative

\_\_\_\_\_  
 Name (please print)

\_\_\_\_\_  
 Name (please print)

SIGNED, SEALED & DELIVERED by )  
**China Grand Pharmaceutical and** )  
**Healthcare Holdings Limited** )  
 by its duly authorised representative in the )  
 presence of: )

  
 \_\_\_\_\_  
 Witness

  
 \_\_\_\_\_  
 Authorised Representative

**ZHOU Chao**  
 \_\_\_\_\_  
 Name (please print)

**LIU Chengwei**  
 \_\_\_\_\_  
 Name (please print)

SIGNED, SEALED & DELIVERED by )  
**Grand Pharma Sphere (Australia Bidco)** )  
**Pty Limited** )  
 (ACN 627 686 953) )  
 in accordance with section 127 of the )  
 Corporations Act: )

\_\_\_\_\_  
 Sole Director and Company Secretary

\_\_\_\_\_  
 Name (please print)

EXECUTED as a deed poll:

SIGNED, SEALED & DELIVERED by )  
CDH Genetech Limited )  
by its duly authorised representative in the )  
presence of: )

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorised Representative

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
China Grand Pharmaceutical and )  
Healthcare Holdings Limited )  
by its duly authorised representative in the )  
presence of: )


\_\_\_\_\_  
Witness

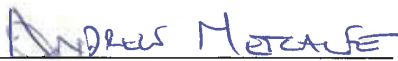
\_\_\_\_\_  
Authorised Representative

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

SIGNED, SEALED & DELIVERED by )  
Grand Pharma Sphere (Australia Bidco) )  
Pty Limited )  
(ACN 627 686 953) )  
in accordance with section 127 of the )  
Corporations Act: )

  
\_\_\_\_\_  
Sole Director and Company Secretary

  
\_\_\_\_\_  
Name (please print)

**Annexure A**  
**Scheme**

Not reproduced here. See Annexure C of the Scheme Booklet.

# ANNEXURE E

## NOTICE OF SCHEME MEETING



# ANNEXURE E NOTICE OF SCHEME MEETING

## SIRTEX MEDICAL LIMITED (ACN 078 166 122)

Notice is hereby given that, by an order of the Federal Court of Australia (the **Court**) made on 1 August 2018, pursuant to subsection 411(1) of the Corporations Act, a meeting of the holders of ordinary shares in Sirtex Medical Limited (ACN 078 166 122) (**Sirtex**) will be held at the Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000 on Monday, 10 September 2018, commencing 10:00am (Sydney time).

## PURPOSE OF THE MEETING

The purpose of the meeting is to consider and, if thought fit, to agree to a scheme of arrangement (with or without amendment or any alterations or conditions required by the Court to which Sirtex, CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited agree) proposed to be made between Sirtex and the holders of ordinary shares in Sirtex (the **Scheme**).

A copy of the Scheme and a copy of the explanatory statement required by section 412 of the Corporations Act in relation to the Scheme are contained in the Scheme Booklet, of which this notice forms part.

## RESOLUTION

The meeting will be asked to consider and, if thought fit, pass (with or without amendment) the following resolution:

*'That, pursuant to and in accordance with the provisions of section 411 of the Corporations Act 2001 (Cth), the scheme of arrangement proposed between Sirtex Medical Limited and the holders of its ordinary shares, as contained in and more particularly described in the scheme booklet of which the notice convening this meeting forms part, is approved, with or without alterations or conditions as approved by the Federal Court of Australia to which Sirtex Medical Limited, CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited agree.'*

## CHAIRMAN

The Court has directed that John Eady is to act as chairman of the meeting (and that, if John Eady is unable or unwilling to attend, Neville Mitchell is to act as chairman of the meeting) and has directed the chairman to report the result of the Scheme Resolution to the Court.

Dated 1 August 2018

By order of the Court and the Sirtex Medical Limited Board

sign here ►



Darren Smith  
Chief Financial Officer and Company Secretary

# ANNEXURE E NOTICE OF SCHEME MEETING

## EXPLANATORY NOTES

### (1) General

This notice of scheme meeting relates to the Scheme and should be read in conjunction with the Scheme Booklet of which this notice forms part. The Scheme Booklet contains important information to assist you in determining how to vote on the Scheme Resolution.

A copy of the Scheme is set out in Annexure C of the Scheme Booklet.

Capitalised terms used but not defined in this notice have the defined meanings set out in section 10.1 of the Scheme Booklet, unless the context otherwise requires.

### (2) Shareholder approval

For the proposed Scheme to be binding in accordance with section 411 of the Corporations Act, the Scheme Resolution must be agreed to by:

- unless the Court orders otherwise, a majority in number of Sirtex Shareholders present and voting (either in person or by proxy, attorney or, in the case of corporate Sirtex Shareholders, body corporate representative) at the Scheme Meeting; and
- at least 75% of the votes cast on the Scheme Resolution.

### (3) Entitlement to vote

The Court has ordered that, for the purposes of the Scheme Meeting, the time for determining eligibility to vote at the Scheme Meeting is 7:00pm (Sydney time) on Saturday, 8 September 2018. Only those Sirtex Shareholders entered on the Sirtex Share Register at that time will be entitled to attend and vote at the meeting, either in person, by proxy or attorney, or in the case of a corporate Sirtex Shareholder, by a body corporate representative. The remaining comments in these explanatory notes are addressed to Sirtex Shareholders entitled to attend and vote at the meeting.

### (4) How to vote

Voting will be conducted by poll.

If you are a Sirtex Shareholder entitled to vote at the meeting, you may vote by:

- attending and voting in person;
- appointing one or two proxies to attend and vote on your behalf, using the Proxy Form that accompanied this Scheme Booklet;
- appointing an attorney to attend and vote on your behalf, using a power of attorney; or
- in the case of a body corporate, appointing a body corporate representative to attend the meeting and vote on your behalf, using a certificate of appointment of body corporate representative.

### (5) Attendance

If you or your proxies, attorneys or representative(s) plan to attend the meeting, please arrive at the venue at least 30 minutes before the scheduled time for commencement of the meeting, so that your shareholding can be checked against the Sirtex Share Register, any power of attorney or certificate of appointment of body corporate representative verified, and your attendance noted.

### (6) Jointly held securities

If you hold Sirtex Shares jointly with one or more other persons, only one of you may vote. If more than one of you attempts to vote in person at the meeting, only the vote of the holder whose name appears first on the Sirtex Share Register will be counted.

### (7) Voting

#### (a) Voting in person

To vote in person, you must attend the meeting.

Eligible Sirtex Shareholders who wish to attend and vote at the meeting in person will be admitted and given a voting card at the point of entry to the meeting, once they have disclosed their name and address.

#### (b) Voting by proxy

You may appoint one or two proxies. Your proxy need not be another Sirtex Shareholder. Each proxy will have the right to vote on the poll and also to speak at the meeting.

To appoint a proxy, you should complete and return the proxy form that accompanied this Scheme Booklet in accordance with the instructions on that form. You must deliver the signed and completed proxy form to the Sirtex Registry by 10:00am (Sydney time) on Saturday, 8 September 2018 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

## ANNEXURE E NOTICE OF SCHEME MEETING

- **online:**

at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) using your SRN/HIN number (as applicable) noted on the front of the proxy form, and by following the instructions on that website

- **by post in the provided reply-paid envelope to the Sirtex Registry:**

Sirtex Medical Limited

c/- Link Market Services Limited

Locked Bag A14

Sydney South NSW 1235 Australia

- **by hand delivery to the Sirtex Registry during business hours (Monday to Friday, 9:00am – 5:00pm (Sydney time)):**

1A Homebush Bay Drive, Rhodes NSW 2138

- **by fax to the Sirtex Registry on:**

+61 2 9287 0309 (within and outside of Australia)

Proxy forms received after this time will be invalid.

If a proxy form is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed proxy form unless the power of attorney or other authority has previously been noted by the Sirtex Registry.

A vote given in accordance with the terms of a proxy appointment is valid despite the revocation of that appointment, unless notice in writing of the revocation has been received by the Sirtex Registry by 10:00am (Sydney time) on Saturday, 8 September 2018 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the ways described above.

If you wish to appoint a second proxy, a second proxy form should be used and you should clearly indicate on the second proxy form that it is a second proxy and not a revocation of your first proxy. You can obtain a second proxy form from the Sirtex Registry. Replacement proxy forms can also be obtained from the Sirtex Registry.

If you appoint two proxies, each proxy should be appointed to represent a specified proportion of your voting rights. If you do not specify the proportions in the proxy forms, each proxy may exercise half of your votes with any fractions of votes disregarded.

If you hold Sirtex Shares jointly with one or more other persons, in order for your proxy appointment to be valid, either shareholder may sign the proxy form.

You should consider how you wish your proxy to vote. That is, whether you want your proxy to vote 'for' or 'against', or abstain from voting on, the Scheme Resolution, or whether to leave the decision to the proxy after he or she has considered the matters discussed at the meeting.

If you do not direct your proxy how to vote on an item of business, the proxy may vote, or abstain from voting, as he or she thinks fit. If you instruct your proxy to abstain from voting on an item of business, he or she is directed not to vote on your behalf, and the shares the subject of the proxy appointment will not be counted in computing the required majority.

If you return your proxy form:

- without identifying a proxy on it, you will be taken to have appointed the chairman of the meeting as your proxy to vote on your behalf; or
- with a proxy identified on it but your proxy does not attend the meeting, the chairman of the meeting will act in place of your nominated proxy and vote in accordance with any directions on your proxy form.

The chairman of the meeting intends to vote all valid undirected proxies which appoint (or are taken to appoint) the chairman in favour of the Scheme Resolution, in the absence of a Superior Proposal and subject to the Independent Expert continuing to consider the Scheme to be in the best interests of Sirtex Shareholders.

Proxies of eligible Sirtex Shareholders will be admitted to the meeting and given a voting card on providing at the point of entry to the meeting written evidence of their name and address.

Your appointment of a proxy does not preclude you from attending in person, revoking the proxy and voting at the meeting.

(c) Voting by attorney

You may appoint an attorney to attend and vote at the meeting on your behalf. Your attorney need not be another Sirtex Shareholder. Each attorney will have the right to vote on the poll and also to speak at the meeting.

The power of attorney appointing your attorney to attend and vote at the meeting must be duly executed by you and specify your name, the company (that is, Sirtex), and the attorney, and also specify the meetings at which the appointment may be used. The appointment may be a standing one.

## ANNEXURE E NOTICE OF SCHEME MEETING

The power of attorney, or a certified copy of the power of attorney, must be lodged with the Sirtex Registry before 10:00am (Sydney time) on Saturday, 8 September 2018 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- **by post in the provided reply-paid envelope to the Sirtex Registry:**  
Sirtex Medical Limited  
c/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235 Australia
- **by hand delivery to the Sirtex Registry during business hours (Monday to Friday, 9:00am – 5:00pm (Sydney time)):**  
1A Homebush Bay Drive, Rhodes NSW 2138
- **by fax to the Sirtex Registry on:**  
+61 2 9287 0309 (within and outside of Australia)

Please note that the power of attorney or a certified copy of the power of attorney cannot be lodged online.

Attorneys of eligible Sirtex Shareholders will be admitted to the meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address, and the name of their appointors.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

### (d) Voting by corporate representative

If you are a body corporate, you may appoint an individual to act as your body corporate representative. The appointment must comply with the requirements of section 250D of the Corporations Act, meaning that Sirtex will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act. A form of certificate may be obtained from the Sirtex Registry by calling 1300 554 474 (within Australia) or +61 1300 554 474 (outside Australia). The certificate of appointment may set out restrictions on the representative's powers.

The certificate should be lodged at the registration desk on the day of the meeting or with the Sirtex Registry before 10:00am (Sydney time) on Saturday, 8 September 2018 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- **by post in the provided reply-paid envelope to the Sirtex Registry:**  
Sirtex Medical Limited  
c/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235 Australia
- **by hand delivery to the Sirtex Registry during business hours (Monday to Friday, 9:00am – 5:00pm (Sydney time)):**  
1A Homebush Bay Drive, Rhodes NSW 2138
- **by fax to the Sirtex Registry on:**  
+61 2 9287 0309 (within and outside of Australia)

If a certificate is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed certificate unless the power of attorney or other authority has previously been noted by the Sirtex Registry.

Body corporate representatives of eligible Sirtex Shareholders will be admitted to the meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address and the name of their appointors.

### (8) Advertisement

Where this notice of meeting is advertised unaccompanied by the Scheme Booklet, a copy of the Scheme Booklet can be obtained by anyone entitled to attend the meeting from Sirtex's website ([www.sirtex.com](http://www.sirtex.com)) or by contacting the Company Secretary of Sirtex or the Sirtex Registry.

## **Sirtex Medical Limited**

Level 33, 101 Miller Street  
North Sydney NSW 2060  
Tel: +61 2 9964 8400

### **Directors**

Grant Boyce, Non-Executive Director  
John Eady, Non-Executive Director (Interim Chairman)  
Helen Kurincic, Non-Executive Director  
Andrew McLean, Executive Director and Chief Executive Officer  
Neville Mitchell, Non-Executive Director  
Katherine Woodthorpe, Non-Executive Director

### **Company Secretary**

Darren Smith

### **Financial advisers**

UBS AG, Australia Branch  
Level 16 Chifley Tower  
2 Chifley Square  
Sydney NSW 2000  
Australia

### **Australian legal adviser**

Watson Mangioni Lawyers Pty Limited  
Level 23, 85 Castlereagh Street  
Sydney NSW 2000  
Australia

### **Sirtex's auditor**

Grant Thornton Audit Pty Ltd  
Level 17, 383 Kent Street  
Sydney NSW 2000  
Australia

### **Sirtex Registry**

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia  
Tel: 1300 554 474 (in Australia)  
Tel: +61 1300 554 474 (international)

### **Stock exchange listing**

Sirtex ordinary shares are quoted by the Australian Securities Exchange (ASX:SRX)





Sirtex Medical Limited  
ABN 35 078 166 122

MR SAM SAMPLE  
UNIT 123  
123 SAMPLE STREET  
SAMPLETOWN VIC 3333

## LODGE YOUR PROXY

 **ONLINE**  
[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

 **BY MAIL**  
Sirtex Medical Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235 Australia

 **BY FAX**  
+61 2 9287 0309

 **BY HAND**  
Link Market Services Limited  
1A Homebush Bay Drive, Rhodes NSW 2138

 **ALL ENQUIRIES TO**  
Telephone: +61 1300 794 682



X99999999999

## PROXY FORM

I/We being a member(s) of Sirtex Medical Limited and entitled to attend and vote hereby appoint:

### APPOINT A PROXY



the Chairman of the Meeting (mark box)

**OR** if you are **NOT** appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy

or failing the person or body corporate named, or if no person or body corporate is named, the Chairman of the Meeting, as my/our proxy to act on my/our behalf (including to vote in accordance with the following directions or, if no directions have been given and to the extent permitted by the law, as the proxy sees fit) at the Scheme Meeting of the Company to be held at **10:00am on Monday, 10 September 2018 at Royal Automobile Club of Australia, 89 Macquarie Street, Sydney NSW 2000** (the Meeting) and at any postponement or adjournment of the Meeting.

The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business.

### VOTING DIRECTIONS

Proxies will only be valid and accepted by the Company if they are signed and received no later than 48 hours before the Meeting. Please read the voting instructions overleaf before marking any boxes with an ☒

#### Resolutions

- 1 That, pursuant to and in accordance with the provisions of section 411 of the Corporations Act 2001 (Cth), the scheme of arrangement proposed between Sirtex Medical Limited and the holders of its ordinary shares, as contained in and more particularly described in the scheme booklet of which the notice convening this meeting forms part, is approved, with or without alterations or conditions as approved by the Federal Court of Australia to which Sirtex Medical Limited, CDH Genetech Limited and China Grand Pharmaceutical and Healthcare Holdings Limited agree.

For Against Abstain\*

☐ ☐ ☐

\* If you mark the Abstain box for a particular Item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.

### SIGNATURE OF SHAREHOLDERS – THIS MUST BE COMPLETED

Shareholder 1 (Individual)

Sole Director and Sole Company Secretary

Joint Shareholder 2 (Individual)

Director/Company Secretary (Delete one)

Joint Shareholder 3 (Individual)

Director

This form should be signed by the shareholder. If a joint holding, either shareholder may sign. If signed by the shareholder's attorney, the power of attorney must have been previously noted by the registry or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the company's constitution and the *Corporations Act 2001* (Cth).

SRX PRX1802N

## HOW TO COMPLETE THIS SHAREHOLDER PROXY FORM

### YOUR NAME AND ADDRESS

This is your name and address as it appears on the Company's share register. If this information is incorrect, please make the correction on the form. Shareholders sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your shares using this form.**

### APPOINTMENT OF PROXY

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Step 1. If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that individual or body corporate in Step 1. A proxy need not be a shareholder of the Company.

### DEFAULT TO CHAIRMAN OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chairman of the Meeting, who is required to vote those proxies as directed. Any undirected proxies that default to the Chairman of the Meeting will be voted according to the instructions set out in this Proxy Form.

### VOTES ON ITEM OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by placing a mark in one of the boxes opposite the item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the item of business, your proxy may vote as he or she chooses. If you mark item more than one box on an item your vote on that item will be invalid.

### APPOINTMENT OF A SECOND PROXY

You are entitled to appoint up to two persons as proxies to attend the Meeting and vote on a poll. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the Company's share registry or you may copy this form and return them both together.

To appoint a second proxy you must:

- on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- return both forms together.

### SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

**Individual:** where the holding is in one name, the holder must sign.

**Joint Holding:** where the holding is in more than one name, either shareholder may sign.

**Power of Attorney:** to sign under Power of Attorney, you must lodge the Power of Attorney with the registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001*) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place.

### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Corporate Representative" should be produced prior to admission in accordance with the Notice of Meeting. A form of the certificate may be obtained from the Company's share registry or online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

### LODGEMENT OF A PROXY FORM

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given below by **10:00am on Saturday, 8 September 2018**, being not later than 48 hours before the commencement of the Meeting. Any Proxy Form received after that time will not be valid for the scheduled Meeting.

Proxy Forms may be lodged using the reply paid envelope or:



#### ONLINE

[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

Login to the Link website using the holding details as shown on the Proxy Form. Select 'Voting' and follow the prompts to lodge your proxy. To use the online lodgement facility, shareholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the front of the Proxy Form).



#### BY MOBILE DEVICE

Our voting website is designed specifically for lodging your proxy online. You can now lodge your proxy by scanning the QR code adjacent or enter the voting link [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) into your mobile device. Log in using the Holder Identifier and postcode for your shareholding.

#### QR Code



To scan the code you will need a QR code reader application which can be downloaded for free on your mobile device.



#### BY MAIL

Sirtex Medical Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia



#### BY FAX

+61 2 9287 0309



#### BY HAND

delivering it to Link Market Services Limited\*  
1A Homebush Bay Drive  
Rhodes NSW 2138

\* During business hours (Monday to Friday, 9:00am–5:00pm)

**IF YOU WOULD LIKE TO ATTEND AND VOTE AT THE SCHEME MEETING, PLEASE BRING THIS FORM WITH YOU.  
THIS WILL ASSIST IN REGISTERING YOUR ATTENDANCE.**