



**ASX Release**  
**13 November 2018**

## **Century and WAM Leaders Agree Terms of Proposed Merger**

The independent directors of Century Australia Investments Limited (**Century**), Mr Robert Turner, Mr Ross Finley and Mr Stephen Menzies (**Independent Directors**), announce that Century has entered into a Scheme Implementation Agreement with WAM Leaders Limited (**WAM Leaders**) under which it is proposed that WAM Leaders will acquire 100% of Century shares by way of a scheme of arrangement (**Scheme**).

Century shareholders will be asked to vote to approve the Scheme at a meeting expected to be held in late January 2019 (**Scheme Meeting**). Following a successful vote, the Scheme would be completed in February 2019.

### **Scheme consideration**

The proposed Scheme is an exchange of all Century Shares for WAM Leaders on a pre-tax net tangible assets (**NTA**) basis. The number of new WAM Leaders shares to be issued to each Century shareholder will be calculated by reference to the relative pre-tax NTA backing per share of Century and WAM Leaders, determined in the same manner as per each company's monthly announcement to ASX in accordance with the ASX Listing Rules and the Australian Accounting Standards.

### **Key benefits to Century shareholders**

The Scheme will create a single listed investment company with a larger capital and shareholder base under the same investment manager with no substantive changes to existing management arrangements in place:

- The newly merged entity will have net assets of approximately over \$885 million and more than 18,000 shareholders and is expected to provide shareholders with access to greater liquidity in the trading of their shares.
- The merged entity is expected to benefit from:
  - a reduced management expense ratio of approximately at least 0.25% per annum as a result of the removal of duplicated expenses between the two companies as well as a larger pool of assets to spread the expenses across;



- a share price trading at or near the company's pre-tax NTA determined by trading on the ASX which has greater liquidity (and therefore minimises the likelihood of discounts due to illiquidity); and
- a history of paying fully franked dividends to shareholders.
- The management of the portfolio of Century will not substantially change as:
  - the merged entity will be managed by the same investment manager that currently manages Century (being MAM Pty Limited, a member of the Wilson Asset Management group);
  - the investment mandates of Century and WAM Leaders are substantially similar;
  - the management fees payable to Wilson Asset Management by each of Century and WAM Leaders are the same; and
  - the performance fees for the merged entity are more favourable as the WAM Leaders performance fee is payable annually rather than semi-annually under the Century performance fee structure.
- The value of the consideration is expected to deliver a premium to Century's historic share price.

If the Scheme is implemented, an Independent Director will be invited to join the WAM Leaders Board to ensure continuity for Century shareholders and to oversee the successful implementation of the transaction.

Shareholders may also benefit from scrip-for-scrip rollover relief in receiving WAM Leaders shares in consideration for their Century shares, subject to their own individual circumstances.

### **Board recommendation**

The Independent Directors believe the Scheme is in the best interests of Century shareholders and intend to vote their own Century shares in favour of the proposal.

The Independent Directors have engaged BDO Corporate Finance Pty Limited as independent expert to provide an opinion on whether the Scheme is in the best interests of Century shareholders.

Century will distribute a Scheme Booklet which will include details of the Scheme, including the independent experts report. Subject to the independent expert determining that the Scheme is in the best interests of Century shareholders, and in the absence of a superior proposal, the Independent Directors of Century will each recommend that Century shareholders vote in favour of the Scheme and intend to vote or procure the voting of shares held or controlled by them in favour of the proposed Scheme at the Scheme meeting.

## Conditions

The Scheme remains subject to other conditions, including the independent expert concluding that the Scheme is in the best interests of Century shareholders, no material adverse changes or prescribed occurrences for either of Century or WAM Leaders (as further defined in the Scheme Implementation Agreement) and Court approval.

A full copy of the Scheme Implementation Agreement, including all applicable conditions, is attached to this announcement.

## Indicative timetable

Century shareholders do not need to take any action at the present time. Century is preparing a Scheme Booklet which will contain information relating to the Scheme, including the reasons for the Independent Directors' recommendation and details of the Scheme Meeting. The Scheme Booklet will also include an independent expert's opinion on whether the Scheme is in the best interests of Century shareholders. The Scheme Booklet is expected to be sent to Century shareholders in December 2018.

It is currently anticipated that Century shareholders will be given the opportunity to vote on the Scheme at a Scheme Meeting expected to be held in January 2019. An indicative timetable for the Scheme is set out below<sup>1</sup>:

Event	Expected date
First Court date	early/mid December 2018
Dispatch of Scheme Booklet to Century shareholders	mid/late December 2018
Scheme Meeting	late January 2019
Second Court date	late January 2019
Effective Date	late January 2019
Implementation Date	early February 2019

Watson Mangioni is acting as legal adviser to Century.

**ENDS**

## For further enquiries contact:

<b>Robert Turner</b>	<b>Naomi Dolmatoff</b>
Century Australia	Company Matters Pty Ltd
Chairman	Company Secretary
(02) 8280 7100	(02) 8280 7355

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<sup>1</sup>The Independent Directors reserve the right to change the timetable at any time, and will announce any changes on the ASX Announcements Platform.

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# Scheme Implementation Agreement

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**WAM Leaders Limited**

(ACN 611 053 751)

**Century Australia Investments Limited**

(ACN 107 772 761)



**KARDOS • SCANLAN**

CORPORATE LAWYERS

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**THIS SCHEME IMPLEMENTATION AGREEMENT** is made on 13 November 2018.

**BETWEEN**      **WAM Leaders Limited** (ACN 611 053 751) of Level 26, Governor Phillip Tower, 1 Farrer Place, Sydney, NSW, 2000 (**WAM Leaders**);

**AND**            **Century Australia Investments Limited** (ACN 107 772 761) of Level 12, 680 George Street, Sydney, NSW, 2000 (**Century**).

## **RECITALS**

- A      Century and WAM Leaders have agreed that WAM Leaders will acquire Century by means of a scheme of arrangement under Part 5.1 of the Corporations Act between Century and Century Shareholders.
- B      The Scheme will involve Century Shareholders exchanging their Scheme Shares for shares in WAM Leaders on NTA-for-NTA valuation basis. A cash alternative may be offered to Century Shareholders.
- C      WAM Leaders and Century have agreed to implement the scheme of arrangement on the terms of this Agreement.

## **OPERATIVE PROVISIONS**

### **1.      DEFINITIONS AND INTERPRETATION**

#### **1.1.    Definitions**

In this Agreement:

**ASIC** means the Australian Securities & Investments Commission.

**ASIC Relief** means the relief contemplated by Clause 3.1(a).

**ASX** means ASX Limited (ACN 008 624 691) or, as the context requires, the financial market operated by it.

**Australian Accounting Standards** means the accounting standards promulgated by the Australian Accounting Standards Board.

**Business Day** means a weekday on which trading banks are open for business in Sydney, Australia, excluding any Saturday, Sunday or public holiday.

**Calculation Date** means:

- (a)      if the Second Court Date occurs within 10 Business Days of 31 January 2019, 5:00pm (Sydney time) on 31 January 2019; or
- (b)      otherwise, 5:00pm (Sydney time) on the Second Court Date,

or such other time and date as Century and WAM Leaders agree in writing.

**Century Board** means the board of directors of Century.

**Century Constitution** means the constitution of Century.

**Century Management Agreement** means the Investment Management Agreement between Century and the Manager dated 18 April 2017.

**Century Material Adverse Change** means one or more changes, events, occurrences or matters that occurs after the date of this Agreement which (whether individually or when aggregated with all such changes, events, occurrences or matters of a like kind) has had or will have:

- (a) a material adverse effect on the business, assets, liabilities, financial condition or results of operations of Century; or
- (b) an effect that will prevent, materially delay or materially impair Century's ability to consummate the Transaction,

excluding alone or in combination those changes, events, occurrences or matters:

- (a) required by this Agreement, the Transaction or transactions contemplated by them;
- (b) involving any change in the market price or trading volume of shares after the date of this Agreement;
- (c) which took place with the prior written consent of WAM Leaders;
- (d) relating to the global economy or securities markets in general; or
- (e) which took place as a result of anything done or omitted to be done by the Manager.

**Century NTA** means the NTA of Century as at the Calculation Date as certified by the Manager in accordance with Clause 4.3.

**Century Parties** means Century and its directors and officers and its advisers in connection with the Transaction.

**Century Prescribed Occurrence** means the occurrence of any of the following:

- (a) Century converting all or any of its securities into a larger or smaller number of securities;
- (b) Century resolving to reduce its capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its securities;
- (c) Century, directly or indirectly, declaring, paying or distributing any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise;
- (d) Century:
  - (i) entering into a buy-back agreement; or
  - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act,
- (e) Century:
  - (i) issuing securities, or granting an option over its securities, or agreeing to make such an issue or grant such an option to any person; or

- (ii) issuing or agreeing to issue, securities or other instruments convertible into securities to any persons,
- (f) Century making any change to the Century Constitution;
- (g) the appointment of a liquidator, provisional liquidator, administrator or other external controller to Century;
- (h) the appointment of a receiver, receiver and manager or other external controller in relation to the whole, or a substantial part, of the property of Century;
- (i) Century executing a deed of company arrangement;
- (j) any court of competent jurisdiction making an order for the winding up of Century;
- (k) Century ceasing, or threatening to cease, to carry on the business it conducted as at the date of this Agreement;
- (l) Century being or becoming unable to pay its debts when they fall due within the meaning of the Corporations Act (or under the relevant law of the jurisdiction in which it is incorporated) or being otherwise presumed to be insolvent under the Corporations Act (or under the relevant law of the jurisdiction in which the Century is incorporated);
- (m) Century acquiring or disposing of or agreeing to acquire or dispose of, or offering, proposing, or announcing a bid, or tendering, for, any business, assets, entity or undertaking, with a value in excess of \$50,000;
- (n) Century creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over a material asset;
- (o) Century entering into, or terminating, any contract or commitment requiring, or amending or agreeing to amend any contract such that the amendment would require, total payments in excess of \$50,000 or which would have a material adverse effect on Century;
- (p) Century entering into any new financing arrangement, agreement or instrument (irrespective of what form that accommodation takes), or amending the terms of, or terminating, any existing financing arrangement, agreement or instrument;
- (q) Century entering into, or terminating, any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges made in the ordinary course of business and in accordance with existing policy as at the date of this Agreement;
- (r) Century resolving that it be wound up, or the making of an application or order for its winding up or dissolution other than where the application or order (as the case may be) is set aside within 14 days but, in any event, prior to 8.00 am on the Second Court Date;
- (s) the Century Management Agreement is terminated, or notice of termination of, or intent to terminate, the Century Management Agreement has been given by either party to it;
- (t) Century amending the terms of the Century Management Agreement, waiving any material rights under the Century Management Agreement or executing any agreement,



arrangement or understanding with any party other than the Manager relating in any way to the management of the portfolio of investments of Century; or

- (u) Century authorising, committing or agreeing to take any of the actions referred to in paragraphs (a) to (t) above;

provided that a Century Prescribed Occurrence will not include a matter:

- (a) that is done in the ordinary course of business and consistent with past practice;
- (b) that is required to be done or procured by Century pursuant to the Transaction;
- (c) the undertaking of which has been the subject of prior approval in writing by WAM Leaders; or
- (d) that is done by the Manager in the ordinary course of fulfilling its obligations under the Century Management Agreement.

**Century Warranties** means the representations provided by Century under Clause 5.1.

**Competing Transaction** means any proposal by a Third Party in relation to a transaction or arrangement under which if the transaction or arrangement is completed:

- (a) a person would acquire (whether directly or indirectly) or become the holder of, or otherwise have a right to acquire or have an economic interest in, all or substantially all of the business conducted by Century, or the assets of Century;
- (b) a person would acquire (whether directly or indirectly) Control of Century;
- (c) a person would acquire a relevant interest in, or voting power of, 50% or more of the Century Shares;
- (d) a person would otherwise acquire, or merge or amalgamate with, Century (or any member of Century); or
- (e) Century would be required to abandon or otherwise fail to proceed with the Transaction.

**Condition Precedent** means a condition precedent set out in Clause 3.1.

**Confidentiality Agreement** means the agreement of that name dated 12 November 2018 executed by WAM Leaders and Century.

**Control** has the meaning given in section 50AA of the Corporations Act.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as WAM Leaders and Century agree in writing.

**Deed Poll** means the deed poll to be granted by WAM Leaders in substantially the form set out in Schedule 3.

**Director** means a director of Century from time to time.

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

**Effective Date** means the date on which the Scheme becomes Effective.

**End Date** means 1 April 2019.

**Explanatory Statement** means the statement pursuant to section 412 of the Corporations Act which has been, or will be, registered by ASIC in relation to the Scheme, which forms part of the Scheme Booklet.

**First Court Date** means the first day on which an application made to the Court for an order under section 411(1) of the Corporations Act convening the Scheme Meeting 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 Agency** means any Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state.

**Implementation Date** means the day 5 Business Days after the Record Date or such other date as Century and WAM Leaders agree in writing.

**Independent Board Committee** means a committee of the Century Board comprising all Directors other than Directors nominated by or associated with the Manager so that as at the date of this Agreement, the members of the committee are Robert Turner, Stephen Menzies and Ross Finley.

**Independent Director** means a member of the Independent Board Committee.

**Independent Director Share** means a Century Share held or controlled by an Independent Director.

**Independent Expert** means the independent expert in respect of the Scheme appointed by Century.

**Independent Expert's Report** means the report prepared by the Independent Expert to be provided to Century and Century Shareholders providing an opinion, among other things, as to whether the Scheme is in the best interests of Century Shareholders.

**Investment Entity** has the meaning given in the Listing Rules.

**Listing Rules** means the official listing rules of the ASX.

**Manager** means MAM Pty Limited (ACN 100 276 542).

**Material Contract** means any contract or commitment by Century involving an amount of not less than \$50,000 or which is for a period of not less than 60 days.

**No Shop Period** and **No Talk Period** means the period from and including the date of this Agreement to the earlier of the termination of this Agreement and the Effective Date.

**NTA** means the pre-tax net tangible asset backing of Century or WAM Leaders (as the context requires) per Century Share or WAM Leaders Share (as the case may be) after excluding all current and deferred tax assets and liabilities and calculated on the basis that an amount pertaining to each

of Century's and WAM Leader's proportion of the Transaction Costs calculated in accordance with Clause 12.1(a) remains unpaid as at the Calculation Date is treated as a liability of Century or WAM Leaders (as applicable), calculated in accordance with the Corporations Act, Australian Accounting Standards (including the Australian Accounting Interpretations), the Corporations Regulations and consistent with the requirements of the Listing Rules for an Investment Entity, rounded to the nearest one hundredth of a cent.

**Proceeding** means any suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, audit, examination or investigation commenced, brought, conducted or heard by or before or otherwise involving any court or other Government Agency or any arbitrator or arbitration panel.

**RG 60** means Regulatory Guide 60 issued by ASIC on 22 September 2011.

**Record Date** means 7.00pm on the fifth Business Day after the Effective Date or such other date as Century and WAM Leaders agree.

**Registered Address** means, in relation to a Century Shareholder, the address of the Century Shareholder as recorded in the Share Register.

**Registry** means Link Market Services Limited of Locked Bag A14 Sydney South, NSW 1235.

**Regulator's Draft** means the draft of the Scheme Booklet in a form acceptable to both Parties which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.

**Related Body Corporate** has the meaning set out in the Corporations Act.

**Relevant Interest** has the meaning given in Sections 608 and 609 of the Corporations Act.

**Representative** in respect of a Party, means each director, officer, employee, advisor, agent or representative of that Party or Subsidiary.

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Century and the Century Shareholders, the form of which is set out in Schedule 2 (or in such other form as may be agreed to in writing by Century and WAM Leaders).

**Scheme Booklet** means the information relating to the Transaction to be approved by the Court and dispatched to all Century Shareholders, including the Scheme, the Explanatory Statement, the Independent Expert's Report, the Deed Poll, the notice convening the Scheme Meeting and the proxy form for the Scheme Meeting.

**Scheme Consideration** means the consideration to be provided by WAM Leaders to each Scheme Participant for the transfer to WAM Leaders of each Scheme Share as set out in the Scheme.

**Scheme Meeting** means the meeting of Century Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

**Scheme Participant** means each Century Shareholder as at the Record Date.

**Scheme Participant Notice** means a notice setting out the name and Registered Address of each Scheme Participant and the number of Scheme Shares held by each Scheme Participant.

**Scheme Share** means a Century Share held by a Scheme Participant as at the Record Date.

**Scheme Transfer** means for each Scheme Participant, a duly completed and executed proper instrument of transfer of the Scheme Participant's Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all the Scheme Shares.

**Second Court Date** means the first day on which the application made to the Court for an order for the purposes of 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 Century.

**Subsidiary** has the meaning set out in the Corporations Act.

**Superior Competing Transaction** means a bona fide unsolicited Competing Transaction received by Century after the date of this Agreement which the Independent Board Committee has determined, acting in good faith and in accordance with their fiduciary duties, and after consultation with and the receipt of written advice from the Independent Board Committee's external legal advisors (including obtaining senior counsel's opinion) or financial advisers is:

- (a) reasonably capable of being completed, taking into account all aspects of the Competing Transaction and the person making it; and
- (b) more favourable to Century Shareholders (as a whole) than the Transaction, taking into account all the terms and conditions of the Competing Transaction.

**Transaction** means implementation of the Scheme.

**Transaction Costs** means the transaction costs of the Parties referred to in clause 12.1(a).

**Timetable** means the indicative timetable for the Transaction set out in Schedule 1.

**Third Party** means a person other than WAM Leaders and its Representatives.

**WAM Leaders Board** means the board of directors of WAM Leaders from time to time.

**WAM Leaders Constitution** means the constitution of WAM Leaders.

**WAM Leaders Counterproposal** has the meaning given in clause 4.6(d).

**WAM Leaders Information** means information regarding WAM Leaders, the Manager and other entities managed by the Manager and its Related Bodies Corporate, provided by WAM Leaders for inclusion in the Scheme Booklet.

**WAM Leaders Management Agreement** means the Investment Management Agreement between WAM Leaders and the Manager dated 4 April 2016.

**WAM Leaders Material Adverse Change** means one or more changes, events, occurrences or matters that occurs after the date of this Agreement which (whether individually or when aggregated with all such changes, events, occurrences or matters of a like kind) has had or will have:

- (a) a material adverse effect on the business, assets, liabilities, financial condition or results of operations of WAM Leaders; or

- (b) an effect that will prevent, materially delay or materially impair WAM Leaders' ability to consummate the Transaction,

excluding alone or in combination those changes, events, occurrences or matters:

- (a) required by this Agreement, the Transaction or transactions contemplated by them;
- (b) involving any change in the market price or trading volume of shares after the date of this Agreement;
- (c) which took place with the prior written consent of Century; or
- (d) relating to the global economy or securities markets in general.

**WAM Leaders NTA** means the NTA of WAM Leaders on the Calculation Date as certified by the Manager in accordance with Clause 4.3.

**WAM Leaders Parties** means WAM Leaders and its directors and officers and its advisers in connection with the Transaction, but for avoidance of doubt does not include the Manager.

**WAM Leaders Share** means a fully paid ordinary share in the capital of WAM Leaders.

**WAM Leaders Shareholder** means a person who is registered in the WAM Leaders share register as the holder of a WAM Leaders Share.

**WAM Leaders Warranties** means the representations provided by WAM Leaders under Clause 5.4.

**WAM Leaders Prescribed Occurrence** means the occurrence of any of the following:

- (a) WAM Leaders converting all or any of its securities into a larger or smaller number of securities;
- (b) WAM Leaders resolving to reduce its capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its securities;
- (c) WAM Leaders, directly or indirectly, declaring, paying or distributing any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise (where the record date for that dividend, bonus or other share of its profits or assets, falls prior to the Implementation Date);
- (d) WAM Leaders:
  - (i) entering into a buy-back agreement; or
  - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (e) WAM Leaders:
  - (i) issuing securities, or granting an option over its securities, or agreeing to make such an issue or grant such an option to any person; or
  - (ii) issuing or agreeing to issue, securities or other instruments convertible into securities to any person;

- (f) WAM Leaders making any change to the WAM Leaders Constitution;
- (g) the appointment of a liquidator, provisional liquidator, administrator or other external controller to WAM Leaders;
- (h) the appointment of a receiver, receiver and manager or other external controller in relation to the whole, or a substantial part, of the property of WAM Leaders;
- (i) WAM Leaders executing a deed of company arrangement;
- (j) any court of competent jurisdiction making an order for the winding up of WAM Leaders;
- (k) WAM Leaders ceasing, or threatening to cease, to carry on the business it conducted as at the date of this Agreement;
- (l) WAM Leaders being or becoming unable to pay its debts when they fall due within the meaning of the Corporations Act (or under the relevant law of the jurisdiction in which it is incorporated) or being otherwise presumed to be insolvent under the Corporations Act (or under the relevant law of the jurisdiction in which the WAM Leaders is incorporated);
- (m) WAM Leaders acquiring or disposing of or agreeing to acquire or dispose of, or offering, proposing, or announcing a bid, or tendering, for, any business, assets, entity or undertaking, with a value in excess of \$50,000;
- (n) WAM Leaders creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over a material asset;
- (o) WAM Leaders entering into, or terminating, any contract or commitment requiring, or amending or agreeing to amend any contract such that the amendment would require, total payments in excess of \$50,000 or which would have a material adverse effect on WAM Leaders;
- (p) WAM Leaders entering into any new financing arrangement, agreement or instrument (irrespective of what form that accommodation takes), or amending the terms of, or terminating, any existing financing arrangement, agreement or instrument;
- (q) WAM Leaders entering into, or terminating, any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges made in the ordinary course of business and in accordance with existing policy as at the date of this Agreement;
- (r) WAM Leaders resolving that it be wound up, or the making of an application or order for its winding up or dissolution other than where the application or order (as the case may be) is set aside within 14 days but, in any event, prior to 8.00 am on the Second Court Date;
- (s) the WAM Leaders Management Agreement is terminated, or notice of termination of, or intent to terminate, the WAM Leaders Management Agreement has been given by either party to it;
- (t) WAM Leaders amending the terms of the WAM Leaders Management Agreement, waiving any material rights under the WAM Leaders Management Agreement or executing any

agreement, arrangement or understanding with any party other than the Manager relating in any way to the management of the portfolio of investments of WAM Leaders; or

- (u) WAM Leaders authorising, committing or agreeing to take any of the actions referred to in paragraphs (a) to (t) above;

provided that a WAM Leaders Prescribed Occurrence will not include a matter:

- (a) that is done in the ordinary course of business and consistent with past practice;
- (b) that is required to be done or procured by WAM Leaders pursuant to the Transaction;
- (c) the undertaking of which has been the subject of prior approval in writing by Century; or
- (d) that is done by the Manager in the ordinary course of fulfilling its obligations under the WAM Leaders Management Agreement.

## 1.2. Interpretation

In this Agreement, headings and bold type 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 Agreement 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 or Schedule is a reference to a clause of, and a party, attachment and schedule to this Agreement, and a reference to this Agreement includes any Attachment 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 Agreement) 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 **\$** or **dollar** is to Australian currency;
- (j) a reference to any time, unless otherwise indicated, is a reference to the time in Sydney, Australia;

- (k) if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day;
- (l) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Agreement; and
- (m) a reference to the 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.

## **2. AGREEMENT TO PROCEED WITH THE TRANSACTION**

### **2.1. Proposal of Transaction**

Century agrees to propose the Transaction on and subject to the terms of this Agreement.

### **2.2. Assistance by WAM Leaders**

WAM Leaders agrees with Century to assist Century to propose the Transaction on and subject to the terms of this Agreement.

## **3. CONDITIONS PRECEDENT**

### **3.1. Conditions Precedent to the Scheme**

The Scheme will not become Effective, and the obligations of WAM Leaders under the Deed Poll and Clauses 4.2(j) and 4.2(k) are not binding, until each of the following conditions precedent is satisfied or waived in the manner set out in Clause 3.3:

- (a) **ASIC Relief:** if (and only if) the Second Court Date occurs more than ten weeks after the date of the Scheme Booklet, WAM Leaders obtaining relief from ASIC with respect to the operation of section 723(3)(b) of the Corporations Act to allow WAM Leaders to seek to have the Scheme Consideration issued on or before the date four months after the date of the Scheme Booklet;
- (b) **Scheme Meeting Approval:** Century Shareholders agree to the Scheme at the Scheme Meeting by the requisite majorities under the Corporations Act;
- (c) **Court Approval:** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;
- (d) **Restraints:** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency or other material legal restraint or prohibition preventing the Transaction from being implemented is in effect at 8.00 am on the Second Court Date;
- (e) **Century Material Adverse Change:** no Century Material Adverse Change occurs, is announced or is otherwise discovered by WAM Leaders (whether or not it becomes public) between the date of this Agreement and 8.00 am on the Second Court Date;
- (f) **WAM Leaders Material Adverse Change:** no WAM Leaders Material Adverse Change occurs, is announced or is otherwise discovered by Century (whether or not it becomes public) between the date of this Agreement and 8.00 am on the Second Court Date;



- (g) **Century Prescribed Occurrence:** no Century Prescribed Occurrence occurs between the date of this Agreement and 8.00 am on the Second Court Date;
- (h) **WAM Leaders Prescribed Occurrence:** no WAM Leaders Prescribed Occurrence occurs between the date of this Agreement and 8.00 am on the Second Court Date;
- (i) **No breach of Century Warranty:** none of the Century Warranties is or has become false, misleading or incorrect in a material respect by 8.00am on the Second Court Date;
- (j) **No breach of WAM Leaders Warranty:** none of the WAM Leaders Warranties is or has become false, misleading or incorrect in a material respect by 8.00am on the Second Court Date; and
- (k) **Independent Expert:** the Independent Expert issues a report which concludes that the Scheme is in the best interests of Century 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.

### 3.2. Reasonable endeavours

- (a) Century must use its reasonable endeavours to procure that:
  - (i) the Conditions Precedent in Clauses 3.1(e) and 3.1(g) are satisfied; and
  - (ii) there is no occurrence within the control of Century that would prevent the Conditions Precedent in Clauses 3.1(e), 3.1(g) and 3.1(i) being satisfied.
- (b) WAM Leaders must use its reasonable endeavours to procure that:
  - (i) the Conditions Precedent in Clauses 3.1(f) and 3.1(h) are satisfied; and
  - (ii) there is no occurrence within the control of WAM Leaders that would prevent the Conditions Precedent in Clauses 3.1(f), 3.1(h) and 3.1(j) being satisfied.
- (c) Century and WAM Leaders must each use its reasonable endeavours to procure that:
  - (i) each of the Conditions Precedent in Clauses 3.1(a) to 3.1(d) and 3.1(k) is satisfied as soon as practicable after the date of this Agreement; and
  - (ii) there is no occurrence within the control of Century or WAM Leaders (as the context requires) that would prevent the Conditions Precedent in Clauses 3.1(a) to 3.1(d) and 3.1(k) being satisfied.

### 3.3. Waiver of Conditions Precedent

- (a) The Conditions Precedent in Clauses 3.1(b) and 3.1(c) cannot be waived.
- (b) The Conditions Precedent in Clauses 3.1(a) and 3.1(d) are for the benefit of Century and WAM Leaders and any breach or non-fulfilment of those Conditions Precedent may only be waived with the written consent of both Century and WAM Leaders (each in its absolute discretion).

- (c) The Conditions Precedent in Clauses 3.1(e), 3.1(g) and 3.1(i) are for the sole benefit of WAM Leaders and any breach or non-fulfilment of any of those Conditions Precedent may be waived with the written consent of WAM Leaders (in its absolute discretion).
- (d) The Conditions Precedent in Clauses 3.1(f), 3.1(h), 3.1(j) and 3.1(k) are for the sole benefit of Century and any breach or non-fulfilment of any of those Conditions Precedent may be waived with the written consent of Century (in its absolute discretion).
- (e) Waiver of a breach or non-fulfilment in respect of one Condition Precedent does not constitute:
  - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
  - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

#### **3.4. Termination on failure of Condition Precedent**

- (a) If:
  - (i) a Condition Precedent is not satisfied or waived by the date specified for its satisfaction;
  - (ii) a Condition Precedent becomes incapable of being satisfied by the date specified for its satisfaction and is not waived; or
  - (iii) the Scheme has not become Effective by the End Date,

and the relevant occurrence or the failure of the Condition Precedent does not arise out of a breach of Clause 3.2 or 3.5, then Century and WAM Leaders must consult in good faith with a view to:

  - (iv) determining whether the Transaction may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods;
  - (v) changing the date of the application to be made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the Parties (being a date not later than 5 Business Days before the End Date);
  - (vi) adjourning, or changing the date of the Scheme Meeting; or
  - (vii) extending the End Date.
- (b) If:
  - (i) Century and WAM Leaders are unable to reach agreement under Clause 3.4(a) within 5 Business Days of the date on which they both become aware that the Condition Precedent is not satisfied or has become incapable of being satisfied (or, if earlier, by 8.00 am on the Second Court Date); or
  - (ii) the Scheme has not become Effective by the End Date,

then unless the Condition Precedent is waived (and subject to Clause 3.4(c)), either Party may terminate this Agreement at any time prior to 8.00 am on the Second Court Date with immediate effect by written notice to the other Party.

- (c) A Party may not terminate this Agreement under Clause 3.4(b), if the relevant Condition Precedent has not been satisfied, or is incapable of being satisfied, or there is an occurrence that will prevent the Condition Precedent being satisfied by the date specified in this Agreement for its satisfaction, as a result of:
  - (i) a deliberate act or omission by that Party or its Subsidiaries, or any of their Representatives; or
  - (ii) a breach of this Agreement by that Party.
- (d) Subject to any rights or obligations arising under or pursuant to Clauses that are expressed to survive termination, on termination of this Agreement, no Party has any rights against or obligations to any other Party under this Agreement except for those rights and obligations which accrued prior to termination.

### 3.5. Certain notices

- (a) If, before the time specified for satisfaction of a Condition Precedent, an event that will prevent that Condition Precedent being satisfied occurs, the Party with knowledge of that event must promptly give the other Party written notice of that event.
- (b) Century must promptly advise WAM Leaders orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause:
  - (i) a representation or warranty provided in this Agreement by Century (**Century Warranty**) to be false in a material respect;
  - (ii) a breach or non-fulfilment of any of the Conditions Precedent; or
  - (iii) a material breach of this Agreement by a member of Century or its Representatives.
- (c) WAM Leaders must promptly advise Century orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause:
  - (i) a representation or warranty provided in this Agreement by WAM Leaders (**WAM Leaders Warranty**) to be false in a material respect;
  - (ii) a breach or non-fulfilment of any of the Conditions Precedent; or
  - (iii) a material breach of this Agreement by WAM Leaders or its Representatives.

### 3.6. ASIC Relief

For the purposes of Clause 3.1(a), the ASIC Relief will be regarded as having been obtained even though a condition has been attached to the ASIC Relief.

## 4. IMPLEMENTATION

### 4.1. Century's obligations

Century must take all necessary steps to implement the Transaction as soon as is reasonably practicable, including doing any acts it is authorised and able to do, on behalf of Century Shareholders and including each of the following:

- (a) **Timetable:** use reasonable endeavours to ensure that each step in the Timetable is met by the relevant date set out beside that step (and must consult with WAM Leaders on a regular basis about its progress in that regard), subject to Clauses 3.4 and 9.3. For avoidance of doubt, nothing in this Clause 4.1(a) restricts the ability of Century to respond to an unsolicited Competing Transaction in accordance with Clause 9;
- (b) **preparation of Scheme Booklet:** subject to Clause 4.1(j), prepare and dispatch the Scheme Booklet in accordance with all applicable laws and in particular with the Corporations Act and RG 60. The Scheme Booklet must include a statement:
  - (i) by the Independent Board Committee as required by Clause 4.6(a);
  - (ii) that other than the WAM Leaders Information, the Independent Expert's Report and any section on tax considerations prepared by a Third Party, the Scheme Booklet has been prepared by Century and is the responsibility of Century or, to the extent it relates to the Manager or fees payable to the Manager, by the Manager, and that no WAM Leaders Party assumes any responsibility for the accuracy or completeness of the Scheme Booklet (other than the WAM Leaders Information); and
  - (iii) that the WAM Leaders Information has been provided by WAM Leaders and is the responsibility of WAM Leaders, and that no Century Party assumes any responsibility for the accuracy or completeness of the WAM Leaders Information;
- (c) **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 appear at Court on the First Court Date; and
  - (ii) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objections to the Scheme;
- (d) **Court direction:** apply to the Court for orders directing Century to convene the Scheme Meeting;
- (e) **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;
- (f) **Management certificate:** at 8.00am on the Second Court Date, give WAM Leaders a certificate signed by 2 Directors on behalf of Century (and solely in their capacity as officers of Century and not in their personal capacity) certifying that the Century Warranties are true and correct in all material respects and that Century has complied with all its obligations under this Agreement in all material respects (or setting out any circumstances in which such matters are not true and correct or where there has been non-compliance);

- (g) **Court approval:** subject to all Conditions Precedent in Clause 3.1 (other than Clause 3.1(c)) being satisfied or waived in accordance with this Agreement, apply to the Court for orders approving the Scheme as agreed to by the Century Shareholders at the Scheme Meeting;
- (h) **lodge copy of Court order:** lodge with ASIC an office copy of the Court orders approving the Scheme as agreed to by the Century Shareholders at the Scheme Meeting no later than one Business Day after the day such office copy is received (or such later date as agreed in writing by Century and WAM Leaders);
- (i) **registration:** subject to the Scheme becoming Effective and WAM Leaders satisfying its obligations under Clause 4.2(k), register all transfers of Century Shares held by Share Scheme Participants to WAM Leaders on or as soon as practicable after the Implementation Date;
- (j) **consultation with WAM Leaders:** consult with WAM Leaders as to the content and presentation of the application to the Court and the Scheme Booklet including:
  - (i) providing to WAM Leaders drafts of the Scheme Booklet for the purpose of enabling WAM Leaders to review and comment on those draft documents;
  - (ii) taking all comments made by WAM Leaders into account in good faith when producing a revised draft of the Scheme Booklet;
  - (iii) providing to WAM Leaders a revised draft of the Scheme Booklet within a reasonable time before the Regulator's Draft is finalised and to enable WAM Leaders to review the Regulator's Draft before its submission; and
  - (iv) obtaining written approval from WAM Leaders for the form and content in which the WAM Leaders Information appears in the Scheme Booklet which must not be unreasonably withheld or delayed;
- (k) **information:** provide all necessary information, or procure that the Registry provides all necessary information, in each case in a form reasonably requested by WAM Leaders, about the Transaction and Century Shareholders to WAM Leaders and its authorised Representatives which WAM Leaders reasonably requires in order to facilitate the provision by, or on behalf of, WAM Leaders of the Scheme Consideration;
- (l) **ASIC review:** keep WAM Leaders informed of any matters raised by ASIC in relation to the Scheme Booklet or the Scheme, and use reasonable endeavours to take into consideration in resolving such matters any issues raised by WAM Leaders;
- (m) **Independent Expert:** promptly appoint the Independent Expert and provide assistance and information reasonably requested by the Independent Expert to enable it to prepare its report for the Scheme Booklet as soon as practicable;
- (n) **payment of tax:** by no later than the Calculation Date, pay or procure the payment in full of the tax liabilities of Century for the 30 June 2018 income tax year and any current taxation due and payable by Century for the 30 June 2019 income tax year;
- (o) **Scheme Participant Notice:** subject to the Scheme becoming Effective, on or before the second Business Day after the Record Date, give WAM Leaders a Scheme Participant Notice;

(p) **delivery of documents:** subject to the Scheme becoming Effective and WAM Leaders satisfying its obligations under Clause 4.2(k), on the Implementation Date, give WAM Leaders:

- (i) a completed master transfer of all of the Scheme Shares executed by Century as attorney for the Scheme Participants;
- (ii) the written resignations and release of Century from any claims by all Directors, secretaries and public officers of Century to be effective on the Implementation Date (provided that nothing in this Clause 4.1(p)(ii) requires any Director to forego any rights they may have under any deed of access and indemnity or policy of insurance); and
- (iii) duly completed authorities for alteration of signatories of Century's bank accounts
- (iv) at the request of WAM Leaders, any forms of proxy required to give effect to clause 4.6 of the Scheme,

and make available to WAM Leaders:

- (v) ledgers, journals and books of account of each member of Century;
- (vi) cheque books of each member of Century and a list of all bank accounts maintained by the members of Century;
- (vii) documents in the possession of Century relating to the ownership and use of the assets and Century's business;

(q) **Directors meeting:** subject to the Scheme becoming Effective , on or before the Implementation Date, the Directors convening and holding a meeting to conduct the following business:

- (i) approval of the registration of WAM Leaders as the holder of all of the Century Shares in the books of Century and direct the making of the requisite entry in the Share Register to effect to the transfer, the cancellation of the existing share certificates issued in respect of the Century Shares (if any) and the issue of new certificates in the name of WAM Leaders;
- (ii) acceptance of the resignation of Century's existing Directors, secretaries and public officers effective on the appointment of the directors, secretaries and public officers referred to in Clause 4.1(q)(iii);
- (iii) appointment of WAM Leaders' nominees as directors, secretaries and public officers of Century;
- (iv) alteration of the registered office of Century to the registered office nominated by WAM Leaders,

with each such resolution being subject to the issue of the Scheme Consideration in accordance with the Scheme;

(r) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which through its counsel,

Century 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 Agreement and the Scheme; and

- (s) **calculation of Century NTA:** procure that the Century NTA is calculated and delivered to WAM Leaders and the Manager within 5 Business Days of the Calculation Date with sufficient supporting information (including full details of all accounting principles, policies and practices applied in determining the Century NTA) (**Century Data**).

#### 4.2. WAM Leaders' obligations

WAM Leaders must take all necessary steps to implement the Transaction as soon as is reasonably practicable, including doing each of the following:

- (a) **Timetable:** use reasonable endeavours to ensure that each step in the Timetable are met by the date set out beside that step (and consult with Century on a regular basis about its progress in that regard), subject to Clauses 3.4 and 9.3;
- (b) **WAM Leaders Information:** prepare and promptly provide to Century the WAM Leaders Information for inclusion in the Scheme Booklet to comply with all applicable laws and ASIC regulatory guides, and consult with Century as to the content and presentation of the WAM Leaders Information in the Scheme Booklet, such consultation to include allowing Century a reasonable opportunity to review and make comments on successive drafts of the WAM Leaders Information before lodgement of the Regulator's Draft with ASIC;
- (c) **review of Scheme Booklet:** review the drafts of the Scheme Booklet prepared by Century and provide comments, if any, as soon as practicable;
- (d) **confirmation of WAM Leaders Information:** before the Regulator's Draft is provided to ASIC pursuant to section 411(2) of the Corporations Act, either:
  - (i) confirm in writing to Century that the WAM Leaders 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 Century the changes required to ensure that the WAM Leaders 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;
- (e) **Independent Expert's report:** subject to the Independent Expert entering into arrangements with WAM Leaders in relation to confidentiality in a form reasonably acceptable to WAM Leaders, provide any assistance or information reasonably requested by Century or by the Independent Expert in connection with the preparation of the Independent Expert's report to be sent together with the Scheme Booklet;
- (f) **update Bidder Information:** if:
  - (i) at any time after the despatch of the Scheme Booklet, WAM Leaders becomes aware of new information which, were it known at the time of despatch, should have been included in any WAM Leaders Information provided previously to Century; or

- (ii) at any time, WAM Leaders becomes aware that any part of the WAM Leaders Information provided previously to Century is misleading or deceptive in any material respect (whether by omission or otherwise),

it must advise Century so that Century can determine whether supplementary disclosure to Century Shareholders is required;

- (g) **Deed Poll:** on or prior to the First Court Date, enter into a Deed Poll;
- (h) **Management certificate:** at 8.00am on the Second Court Date, give Century a certificate signed by 2 directors on behalf of WAM Leaders (and solely in their capacity as officers of WAM Leaders and not in their personal capacity) certifying that the WAM Leaders Warranties are true and correct in all material respects and that WAM Leaders has complied with all its obligations under this Agreement in all material respects (or setting out any circumstances in which such matters are not true and correct or where there has been non-compliance);
- (i) **Court proceedings:** 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 Agreement and the Scheme; and
- (j) **share transfer:** if the Scheme becomes Effective, accept the transfer of the Century Shares as contemplated by the Scheme;
- (k) **Scheme Consideration:** if the Scheme becomes Effective, issue the Scheme Consideration in the manner and amount contemplated by the terms of the Scheme; and
- (l) **calculation of WAM Leaders NTA:** procure that the WAM Leaders NTA is calculated and delivered to Century and the Manager within 5 Business Days of the Calculation Date with sufficient supporting information (including full details of all accounting principles, policies and practices applied in determining the WAM Leaders NTA) (**WAM Leaders Data**).

#### 4.3. Manager certification

Century and WAM Leaders undertake to procure that the Manager, as soon as practicable following receipt of the Century Data and the WAM Leaders Data, certifies in writing that the Century NTA and WAM Leaders NTA are both accurate, have been prepared in accordance with the Listing Rules and the Australian Accounting Standards and have been prepared based on consistent accounting principles, policies and practices.

#### 4.4. Conduct of appeals

If the Court refuses to grant an order convening any required Scheme Meeting or approving the Scheme, then WAM Leaders and Century must consult with each other in good faith as to whether to appeal the Court's decision. If, in the opinion of senior counsel obtained by either party within 5 Business Days of the Court's decision, there are reasonable prospects of successfully appealing the Court's decision then:

- (a) Century must appeal the Court's decision, the cost of which is to be borne equally by Century and WAM Leaders; and



- (b) WAM Leaders and Century must seek to agree in good faith an extension of the End Date by a period of not more than 3 months to account for the period for determination of the appeal on an expedited basis.

#### **4.5. Conduct of business**

- (a) From the date of this Agreement up to and including the Implementation Date, Century must conduct its business in the ordinary and proper course of business consistent with past practice, keep WAM Leaders informed of the conduct of business, and make all reasonable efforts to:
  - (i) keep available the services of the Directors and Century's other officers;
  - (ii) maintain and preserve satisfactory relationships with its suppliers and others having business dealings with Century (including using reasonable endeavours to obtain consents from third parties to any change of control provisions in contracts or arrangements to which Century is a party);
  - (iii) not enter into any lines of business or other activities in which Century is not engaged as of the date of this Agreement;
  - (iv) preserve intact its asset and business organisation;
  - (v) not allow any tax payment that is due and payable to remain unpaid; and
  - (vi) manage its working capital in the ordinary course of ordinary business consistent with past practice.
- (b) Nothing in Clause 4.5(a) restrains Century from taking any action permitted by this Agreement or with the prior written consent of WAM Leaders, which consent will not be unreasonably withheld or delayed.
- (c) From the date of this Agreement up to and including the Implementation Date, WAM Leaders must conduct its business in the ordinary and proper course of business consistent with past practice, keep Century informed of the conduct of business, and make all reasonable efforts to:
  - (i) keep available the services of the directors of WAM Leaders;
  - (ii) maintain and preserve satisfactory relationships with its suppliers and others having business dealings with WAM Leaders;
  - (iii) not enter into any lines of business or other activities in which WAM Leaders is not engaged as of the date of this Agreement;
  - (iv) preserve intact its asset and business organisation;
  - (v) not allow any tax payment that is due and payable to remain unpaid; and
  - (vi) manage its working capital in the ordinary course of ordinary business consistent with past practice.

- (d) Nothing in Clause 4.5(c) restrains WAM Leaders from taking any action permitted by this Agreement or with the prior written consent of Century, which consent will not be unreasonably withheld or delayed.
- (e) The Parties must consult with each other in good faith immediately after execution of this Agreement and for the period up to the Implementation Date, to discuss and assist in preparing a transition plan.

#### **4.6. Independent Board Committee recommendation**

- (a) Subject to Clause 4.6(b), Century must use its reasonable endeavours to procure that:
  - (i) the Independent Board Committee unanimously recommends in the Scheme Booklet that, in the absence of a Superior Competing Transaction and subject to the Independent Expert concluding or continuing to conclude that the Transaction is in the best interests of Century Shareholders, Century Shareholders vote in favour of the Transaction; and
  - (ii) the Scheme Booklet will include a statement to the effect that each Independent Director will, in the absence of a Superior Competing Transaction and subject to the Independent Expert concluding or continuing to conclude that the Transaction is in the best interests of Century Shareholders, vote (or procure the voting) of all Independent Director Shares in favour of the Scheme at the Scheme Meeting.
- (b) Century must use its reasonable endeavours to procure that the Independent Board Committee collectively, and the Independent Directors of the Century Board individually, do not change, withdraw or modify its, his or her recommendation in the Scheme Booklet that Century Shareholders vote in favour of the Transaction or their statement that they will vote (or procure the voting) of its, his or her Independent Director Shares 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 Board Committee or Independent Director has first obtained written legal advice from its legal advisors that a failure by the Independent Board Committee or Independent Director to change, withdraw or modify its, his or her recommendation or statement 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;
  - (ii) 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 Century 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 Century Shareholders; or
  - (iii) Century receives a Superior Competing Transaction.
- (c) If the Independent Board Committee proposes to change, withdraw or modify its recommendation or statement in accordance with Clause 4.6(b), or make a recommendation or statement that is inconsistent with such recommendation or statement in accordance with Clause 4.6(b):

- (i) Century must notify WAM Leaders in writing no less than 3 Business Days prior to announcing such change, withdrawal or modification of recommendation or statement, or such inconsistent recommendation or statement, that it intends to do so; and
  - (ii) the Parties must consult in good faith to consider and determine whether the recommendation and statement in place at that time can be maintained.
- (d) If:
- (i) Century notifies WAM Leaders that the Independent Board Committee proposes to change, withdraw or modify its recommendation or statement in accordance with Clause 4.6(b), or make a recommendation or statement that is inconsistent with such recommendation or statement in accordance with Clause 4.6(b);
  - (ii) the reason for doing so is that Century has received an actual Superior Competing Transaction; and
  - (iii) prior to the expiry of the 3 Business Day period referred to in Clause 4.6(c), WAM Leaders proposes to Century, or announces amendments to the Transaction or a new transaction that constitutes a matching or superior proposal to the terms of the actual, proposed or potential Superior Competing Transaction (**WAM Leaders Counterproposal**),

Century must procure that the Independent Board Committee considers the WAM Leaders Counterproposal and if the Independent Board Committee, acting reasonably and in good faith, determines that the WAM Leaders Counterproposal would provide an equivalent or superior outcome for Century Shareholders as a whole compared with the Superior Competing Transaction, then:

- (iv) Century and WAM Leaders must use their best endeavours to agree the amendments to this document and enter into, the transaction documents that are necessary to reflect the WAM Leaders Counterproposal and to implement the WAM Leaders Counterproposal, in each case as soon as reasonably practicable; and
- (v) Century must use its reasonable endeavours to procure that the Independent Board Committee recommends the Transaction (as modified by the WAM Leaders Counterproposal) to Century Shareholders in the absence of a superior proposal.

#### **4.7. Access to information**

Between the date of this Agreement and the Implementation Date, Century must, afford to WAM Leaders reasonable access to Century's books and records (subject to any existing confidentiality obligations owed to third parties), premises and personnel at mutually convenient times and afford WAM Leaders reasonable co-operation for the purpose of:

- (a) the Transaction, provided that nothing in this sub-clause will require Century to provide information to WAM Leaders concerning Century's directors and management's consideration of the Transaction;
- (b) WAM Leaders obtaining an understanding of the operations of Century's business, financial position, prospects and affairs in order to allow and facilitate the development and the implementation of the plans of WAM Leaders for those businesses following

implementation of the Transaction (including, for the avoidance of doubt, to formulate the transition plan referred to in Clause 4.5(e)) and the preparation of the financial statements (including for the merged Century-WAM Leaders entity, if any) for inclusion in the Scheme Booklet;

- (c) WAM Leaders contacting Century Shareholders with a view to encouraging their support for the Transaction; and
- (d) any other purpose agreed between the Parties.

#### **4.8. Facilitation**

- (a) Where in this Clause 4 an obligation is imposed on Century to undertake any act or to ensure that an act does not occur, Century must, in addition to doing so itself, instruct the Manager to undertake that act or refrain from undertaking that act (as the case requires) where the terms of the Century Management Agreement or any other agreement, arrangement or understanding or course of conduct between the Manager and Century which imposes responsibility for that matter on the Manager.
- (b) Provided that Century complies with Clause 4.8(a), any breach of an obligation imposed on Century under this Clause 4 that is caused by any act that the Manager undertakes or refrains from undertaking will not be considered to be a breach of this Agreement by Century.

### **5. REPRESENTATIONS AND UNDERTAKINGS**

#### **5.1. WAM Leaders' representations**

WAM Leaders represents to Century (in its own right and separately as trustee or nominee for each of the other Century Parties) that:

- (a) the WAM Leaders Information provided to Century for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that each of the Century Parties will rely on that information to prepare the Scheme Booklet and to propose and implement the Transaction in accordance with the Corporations Act;
- (b) the WAM Leaders Information provided under Clause 4.2(a) included in the Scheme Booklet, as at the date the Scheme Booklet is dispatched to Century Shareholders, will (to the best of WAM Leaders' knowledge, information and belief, after due enquiry) not contain any statement which is materially misleading or deceptive including by way of material omission from that statement;
- (c) WAM Leaders will, as a continuing obligation, provide to Century all further or new information which it becomes aware of after the Scheme Booklet has been dispatched until the date of the Scheme Meeting which is necessary to ensure that there would be no breach of Clause 5.1(b) if it applied as at the date on which that information arose;
- (d) WAM Leaders is a validly existing corporation registered under the laws of its place of incorporation;
- (e) the execution and delivery of this Agreement has been properly authorised by all necessary corporate action of WAM Leaders;

- (f) WAM Leaders has full corporate power and lawful authority to execute, deliver and perform this Agreement;
- (g) this Agreement does not conflict with or result in the breach of or default under WAM Leaders' constitution or any other agreement or any writ, order or injunction, judgment, law, rule or regulation to which it is party or by which it is bound; and
- (h) its capital structure, including all issued securities, as at the date of this Agreement is as set out in clause 2(d) of the Scheme.

## **5.2. WAM Leaders' indemnity**

WAM Leaders agrees with Century (in its own right and separately as trustee or nominee for each of the other Century Parties) to indemnify the Century Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which any of the Century Parties suffers, incurs or is liable for arising out of any breach of any of the representations in Clause 5.1. Century agrees to cause each of the Century Parties to use reasonable endeavours to mitigate any damages or loss that that Century Party may suffer arising out of any breach of any of the representations in Clause 5.1.

## **5.3. No dividends undertaking**

- (a) Century must not declare, pay or distribute any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise up to the Implementation Date.
- (b) WAM Leaders must not declare, pay or distribute any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise unless the record date for determining the holders of shares that participate in such dividend, capital reduction or other corporate action is after the Implementation Date.

## **5.4. Century's representations**

Century represents to WAM Leaders and its directors and officers (in its own right and separately as trustee or nominee for each of the other WAM Leaders Parties) that:

- (a) no information (other than the WAM Leaders Information, the Independent Expert's Report and any section on tax considerations prepared by a Third Party) contained in the Scheme Booklet, as at the date the Scheme Booklet is dispatched to Century Shareholders, will contain (to the best of Century's knowledge, information and belief, after due enquiry) any statement which is materially misleading or deceptive, including by way of material omission from that statement;
- (b) Century is a validly existing corporation registered under the laws of its place of incorporation;
- (c) the execution and delivery of this Agreement has been properly authorised by all necessary corporate action of Century;
- (d) Century has full corporate power and lawful authority to execute and deliver this Agreement and to perform or cause to be performed its obligations under this Agreement;

- (e) this Agreement does not conflict with or result in the breach of or default under any provision of the Century Constitution or any material term or provision of any agreement or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound; and
- (f) its capital structure, including all issued securities, as at the date of this Agreement is as set out in clause 2(b) of the Scheme.

#### **5.5. Century's indemnity**

Century agrees with WAM Leaders (in its own right and separately as trustee or nominee for each of the other WAM Leaders Parties) to indemnify WAM Leaders and its directors and officers from any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which WAM Leaders or any of its directors or officers suffers, incurs or is liable for arising out of any breach of any of the representations in Clause 5.4. WAM Leaders agrees to cause each of the WAM Leaders Parties to use reasonable endeavours to mitigate any damages or loss that that WAM Leaders Party may suffer arising out of any breach of any of the representations in Clause 5.4.

#### **5.6. Repetition of representations**

Each of the Century Warranties and the WAM Leaders Warranties is given at the date of this Agreement and at all time up until 8.00 am on the Second Court Date.

#### **5.7. Survival of representations**

Each representation and warranty in Clauses 5.1 and 5.4:

- (a) is severable;
- (b) survives the termination of this Agreement; and
- (c) is given with the intention that liability under it is not confined to breaches which are discovered before the date of termination of this Agreement.

#### **5.8. Survival of indemnities**

Each indemnity in this Agreement (including those in Clauses 5.2 and 5.5):

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

### **6. RELEASES**

#### **6.1. Century Parties**

- (a) WAM Leaders releases its rights against, and agrees with Century that it will not make a Claim against, any Century Party (other than Century) in connection with:

- (i) any breach of any representation, covenant or warranty of Century in this Agreement;
- (ii) any disclosure made by any Century Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant Century Party has not acted in good faith or has engaged in wilful misconduct.

- (b) Clause 6.1(a) is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.
- (c) Century receives and holds the benefit of this Clause 6.1 as agent and trustee on behalf of each other Century Party.

## **6.2. WAM Leaders Parties**

- (a) Century releases its rights against, and agrees with WAM Leaders that it will not make a Claim against, any WAM Leaders Party (other than WAM Leaders) in connection with:
  - (i) any breach of any representation, covenant or warranty of WAM Leaders in this Agreement;
  - (ii) any disclosure made by any WAM Leaders Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant WAM Leaders Party has not acted in good faith or has engaged in wilful misconduct.

- (b) Clause 6.2(a) is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.
- (c) WAM Leaders receive and hold the benefit of this Clause 6.2 as agent and trustee on behalf of each other WAM Leaders Party.

## **6.3. Insurance**

Century must, 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 WAM acknowledges that, notwithstanding any other provision of this Agreement, that any actions to facilitate that insurance or in connection therewith will not be a Century Material Adverse Change, a Century Prescribed Occurrence or a breach any provision of this Agreement.

## **7. PUBLIC ANNOUNCEMENTS**

### **7.1. Announcement of Transaction**

Immediately after the execution of this Agreement, Century and WAM Leaders must issue a public announcement in a form previously agreed in writing between them.

## **7.2. Other public announcements**

Subject to Clauses 7.3 and 7.4, any further public announcement or disclosure of or in relation to the Transaction or any other transaction the subject of this Agreement 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 use reasonable endeavours to ensure that all public announcements in relation to the Transaction are made outside the trading hours of ASX.

## **7.3. Required disclosure**

Subject to Clause 7.4, if a Party is required by law or the Listing Rules to make any announcement or disclosure relating to matter the subject of this Agreement, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other Party to the fullest extent possible regarding the form and content of the announcement or disclosure.

## **7.4. Exclusions**

The provisions of Clauses 7.2 and 7.3 do not apply to:

- (a) any announcement, document or publication in connection with a Competing Transaction, a Superior Competing Transaction or withdrawal or modification of the Independent Directors' recommendation that Century Shareholders vote in favour of the Scheme at the Scheme Meeting or their statement that they will vote (or procure the voting) of all Century 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 Agreement or the transactions contemplated hereby in connection with any dispute between the Parties regarding this Agreement, the Scheme or the transactions contemplated by this Agreement.

## **8. CONFIDENTIALITY**

### **8.1. Confidentiality Agreement**

Each Party acknowledges and agrees that it continues to be bound by the Confidentiality Agreement in respect of all information received by it from the other Party before or after the date of this Agreement.

### **8.2. Survival of obligations**

The rights and obligations of the Parties under the Confidentiality Agreement survive termination of this Agreement.

## **9. NO TALK AND NO SHOP OBLIGATIONS**

### **9.1. No talk**

Subject to Clause 9.3 and Clause 9.4, during the No Talk Period, Century must not, and must ensure that none of its Representatives:



- (a) directly or indirectly participates in or continues any discussions or negotiations with a Third Party;
- (b) provides or makes available any information to a Third Party (including by way of providing information and access to perform due diligence);
- (c) enters into any agreement, arrangement or understanding with a Third Party; or
- (d) communicates to a Third Party any intention to do any of these things,

in relation to, or which may reasonably be expected to lead to, a Competing Transaction.

## **9.2. No shop**

During the No Shop Period, Century must not, and must ensure that none of its Representatives:

- (a) solicits or invites, directly or indirectly, any Competing Transaction or any enquiries, discussions or proposals which may reasonably be expected to lead to a Competing Transaction; or
- (b) communicates to any person an intention to do any of the things referred to in Clause 9.2(a).

## **9.3. Limitation to no talk**

- (a) Century and its Representatives may undertake any action that would otherwise be prohibited by Clause 9.1 in relation to a bona fide Competing Transaction which was not solicited by it and was not otherwise brought about as a result of any breach by it of its obligations under this Clause 9 if the Independent Board Committee, acting in good faith, determines after having taken advice from its legal advisors and financial advisors, that not undertaking that act would be reasonably likely to involve a breach of the fiduciary or statutory duties owed by any Century director or would otherwise be unlawful and the Competing Transaction is more favourable to Century Shareholders than the Transaction, taking into account all the terms and conditions of the Competing Transaction including whether it is capable of being valued and completed on a timely basis and including having regard to legal, regulatory and financial matters, including any conditions precedent.
- (b) Century must notify WAM Leaders at least 1 Business Day prior to undertaking an act otherwise prohibited by Clause 9.1 in reliance on Clause 9.3(a).

## **9.4. Exceptions**

Nothing in Clause 9.1 prohibits Century from:

- (a) engaging in discussions with the Manager in relation to the Century Management Agreement, including any communication with the Manager or its Related Bodies Corporate and their Representatives, but in each case only to the extent that those discussions do not relate in any way to a Competing Transaction;
- (b) providing information to its Representatives;
- (c) providing information to any Government Agency;

- (d) providing information to its auditors and suppliers acting in that capacity in the ordinary course of business; or
- (e) providing information required to be provided by law, including to satisfy its obligations of disclosure under the Listing Rules or to any Government Agency.

#### **9.5. Notification of approaches**

During the No Shop Period, Century must notify WAM Leaders if:

- (a) it, or any of its Representatives:
  - (i) is approached by any Third Party to take any action of a kind referred to in Clause 9.1 or 9.2 including details of the party making the expression of interest, offer or proposal, their terms and any updates to the expression of interest, offer or proposal, to the extent known by Century; or
  - (ii) receives any proposal whether written or otherwise in connection with, or in respect of any exploration or consummation of, a Competing Transaction or a proposed or potential Competing Transaction, whether unsolicited or otherwise, including details of the party making the proposal, the terms of the proposal and any updates to the proposal, to the extent known by Century;

promptly, and in any event with 1 Business Day, after such approach was made or proposal was received; and

- (b) it or any of its Representatives propose to provide any information relating to Century or its business or operations to any person in connection with or for the purposes of a current or future Competing Transaction or any other action in reliance on Clause 9.3, prior to undertaking the relevant act (which acts are only permitted to be undertaken pursuant to Clause 9.3).

#### **9.6. Provision of information**

- (a) Prior to providing any information to any Third Party who has proposed a bona fide Competing Transaction, Century must enter into a confidentiality agreement with such Third Party on terms no less favourable to Century than those contained in the Confidentiality Agreement (and containing provisions that expressly permit Century to comply with the terms of Clause 9.5 and this Clause 9.6), a copy of which must be promptly (in all events within 24 hours) provided for information purposes only to WAM Leaders.
- (b) Century must within 1 Business Day provide WAM Leaders with any information or due diligence materials (including responses to requests for further information) provided to any Third Party who is or may be considering a Competing Transaction (other than identical copies of documents that have previously been provided to WAM Leaders).
- (c) Such provision of information of materials under Clause 9.6 is only permitted to be undertaken pursuant to Clause 9.3.

#### **9.7. Compliance with law**

- (a) Without limiting Clause 9.3, if it is finally determined by a court, or the Takeovers Panel, that the agreement by Century under this Clause 9 or any part of it:

- (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Century Board or the Independent Board Committee; or
- (ii) constituted, or constitutes, or would constitute, unacceptable circumstances within the meaning of the Corporations Act; or
- (iii) was, or is, or would be, unlawful for any other reason,

then, to that extent (and only to that extent) Century will not be obliged to comply with that provision of Clause 9.

- (b) The parties must not make or cause to be made any application to a court or the Takeovers Panel for or in relation to a determination referred to in Clause 9.7(a)(i).

## **9.8. Warranty and representation**

Century represents and warrants to WAM Leaders that, as at the date of this Agreement, no agreement, arrangement or understanding exists with any Third Party in relation to any Competing Transaction.

## **10. CONDUCT OF COURT PROCEEDINGS**

### **10.1. Conduct of Court Proceedings**

- (a) Century and WAM Leaders are entitled to separate representation at all Court proceedings affecting the Transaction.
- (b) This Agreement does not give Century or WAM Leaders any right or power to give undertakings to the Court for or on behalf of the other Party without that Party's consent.
- (c) Century and WAM Leaders must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this Agreement.

## **11. TERMINATION**

### **11.1. Termination by either Party**

Without prejudice to any other rights of termination under this Agreement, this Agreement may be terminated:

- (a) by either Party by written notice to the other Party at any time before 5.00 pm on the day before the Second Court Date if the other Party is in material breach of any provision of this Agreement taken in the context of the Scheme as a whole (except to the extent that those breaches can be and have been waived in writing by the aggrieved Party), the Party wishing to terminate has given written notice to the other Party setting out the relevant circumstances and stating an intention to terminate, and the relevant circumstances continue to exist 10 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date) from the time the notice is given;
- (b) by Century if, at any time before 8am on the Second Court Date, a majority of the members of the Independent Board Committee have changed, withdrawn or modified

their recommendation that Century Shareholders vote in favour of the Scheme at the Scheme Meeting as permitted under Clause 4.6;

- (c) by Century if, at any time before 8am on the Second Court Date, a majority of the Board publicly recommends a Competing Transaction that is a Superior Competing Transaction, and provided that the Competing Transaction was not connected with a breach of Century's obligations in Clause 9;
- (d) by Century 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 Century 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 Century Shareholders;
- (e) in accordance with and pursuant to Clause 3.4(b); and
- (f) if agreed to in writing by Century and WAM Leaders.

## **11.2. Effect of termination**

If this Agreement is terminated by either Century or WAM Leaders under Clauses 2 or 11.1, except to the extent that the termination results from a breach by either Party of its obligations under this Agreement, all further obligations of the Parties under this Agreement, other than the provisions of Clauses 5, 6, 8, 12 and 13, 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 Agreement.

## **12. DUTY, GST, COSTS AND EXPENSES**

### **12.1. Costs and expenses**

- (a) The Parties agree that all costs associated with the Transaction, including all costs associated with implementing the Transaction (including advisors expenses, legal expenses, counsel fees and fees of the Independent Expert) but excluding for the avoidance of doubt the costs of Century obtaining run-off directors and officers insurance prior to the Implementation Date (which is a separate Century cost to be provisioned for in the calculation of the Century NTA) (**Transaction Costs**) are to be shared in equal proportions by the Parties.
- (b) Subject to clauses 12.1(c), 12.1(d) and 12.1(e) each Party agrees to indemnify the other Party in respect of any cost they incur in excess of 50% of the Transaction Costs subject to the provision of a valid tax invoice in respect of that amount.
- (c) In the event that:
  - (i) a majority of the members of the Independent Board Committee have changed, withdrawn or modified their recommendation given by them in the Scheme Booklet in accordance with Clause 4.6(a)(i);
  - (ii) a majority of the Board publicly recommends a Competing Transaction that is a Superior Competing Transaction;

(iii) a Century Prescribed Occurrence occurs and WAM validly terminates this Agreement in accordance with Clause 3.4(b); or

(iv) WAM validly terminates this Agreement in accordance with Clause 11.1(a),

subject to Clause 12.1(e), Century will be liable for all Transaction Costs and indemnify and hold WAM Leaders harmless with respect to any Transaction Costs incurred by WAM Leaders in relation to implementing the Transaction, except in circumstances where Century is entitled to terminate this Agreement in accordance with Clauses 3.4(b), 11.1(a), 11.1(e) and 11.1(f).

(d) In the event that:

(i) a WAM Leaders Prescribed Occurrence occurs and Century validly terminates this Agreement in accordance with Clause 3.4(b); or

(ii) Century validly terminates this Agreement in accordance with Clause 11.1(a),

subject to Clause 12.1(e), WAM Leaders will be liable for all Transaction Costs and indemnify and hold Century harmless with respect to any Transaction Costs incurred by Century in relation to implementing the Transaction, except in circumstances where WAM Leaders is entitled to terminate this Agreement in accordance with Clauses 3.4(b), 11.1(a), 11.1(e) and 11.1(f).

(e) A Party will not be liable for any Transaction Costs of the other Party, and will not be required to indemnify and hold the other Party harmless with respect to any Transaction Costs incurred by the other Party in relation to implementing the Scheme in excess of \$500,000, to the extent that the aggregate amount of all such Transaction Costs of the other Party exceeds \$500,000.

## 12.2. Stamp duty

WAM Leaders must:

(a) pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this Agreement or the Transaction or the steps to be taken under this Agreement or the Transaction; and

(b) indemnify Century against any liability arising from failure to comply with Clause 12.2(a).

## 12.3. GST

(a) Any consideration or amount payable under this Agreement, including any non-monetary consideration (as reduced in accordance with Clause 12.3(e) if required) (**Consideration**) is exclusive of GST.

(b) If GST is or becomes payable on a Supply made under or in connection with this Agreement, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (Supplier) in accordance with the GST Law.

- (c) The Additional Amount payable under Clause 12.3(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under Clause 12.3(b):
  - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
  - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate.
- (e) Despite any other provision in this Agreement:
  - (i) if an amount payable under or in connection with this Agreement (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a Party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred; and
  - (ii) no Additional Amount is payable under Clause 12.3(b) in respect of a Supply to which section 84-5 of the GST Law applies.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term starting with a capital letter that is not defined in this Agreement has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

## **13. GENERAL**

### **13.1. 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 Agreement, except for representations or inducements expressly set out in this Agreement.
- (b) Each Party acknowledges and confirms that it does not enter into this Agreement 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 Agreement.

- (c) Each Party acknowledges and confirms that Clauses 13.1(a) and 13.1(b) do not prejudice any rights a Party may have in relation to information which has been filed by the other Party with the ASIC or ASX.

### **13.2. No merger**

The rights and obligations of the Parties do not merge on implementation of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

### **13.3. Consents**

Any consent referred to in, or required under, this Agreement from any Party may not be unreasonably withheld, unless this Agreement expressly provides for that consent to be given in that Party's absolute discretion.

### **13.4. Notices**

Any communication under or in connection with this Agreement:

- (a) must be in writing;
- (b) must be addressed as shown below:

#### **WAM Leaders**

Address: Level 26, Governor Phillip Tower, 1 Farrer Place, Sydney, NSW, 2000  
Fax no: (02) 9247 6855  
Attention: Jesse Hamilton, Chief Financial Officer  
Email: jesse@wilsonassetmanagement.com.au

#### **Century**

Address: Level 12, 680 George Street, Sydney, NSW, 2000  
Fax no: (02) 9221 1194  
Attention: Stephen Menzies  
Email: Stephen.Menzies@ashurst.com

(or as otherwise notified by that Party to the other Party from time to time);

- (c) must be signed by the Party making the communication or by a person duly authorised by that Party;
- (d) must be delivered or posted by prepaid post to the address, or sent by fax to the number, or by email to the email address, of the addressee, in accordance with Clause 13.4(b); and
- (e) is regarded as received by the addressee:
  - (i) if sent by prepaid post, on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;

- (ii) if sent by fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day;
- (iii) if delivered by hand, on delivery at the address of the addressee as provided in Clause 13.4(b), unless delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day; and
- (iv) if sent by email:
  - (A) when the sender receives an automated message confirming delivery; or
  - (B) subject to the email being sent within the hours of 9am and 5pm on a Business Day, 6 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.

### **13.5. Governing law and jurisdiction**

- (a) This Agreement is governed by the laws of the State of New South Wales.
- (b) Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales and courts competent to hear appeals from those courts.

### **13.6. 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 Agreement 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 Agreement.
- (b) Any waiver or consent given by any Party under this Agreement 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 Agreement operates as a waiver of another breach of that term or of a breach of any other term of this Agreement.

### **13.7. Variation**

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

### **13.8. Assignment**

A Party may not assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party.



### **13.9. Further action**

Each Party will do all things and execute all further documents necessary to give full effect to this Agreement.

### **13.10. Entire agreement**

This Agreement supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the Parties.

### **13.11. Counterparts**

- (a) This Agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A Party may execute this Agreement by signing any counterpart.
- (d) This Agreement 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 Agreement by such means is a valid and sufficient execution.

**Schedule 1**  
**Timetable**

Event	Date
Announcement	Date of this Agreement
Century provides Regulator's Draft to ASIC	November 2018
First Court Date	December 2018
Printing and despatch of Scheme Booklet	December 2018
Scheme Meeting	January 2018
Second Court Date	January 2018
Effective Date – Lodge Court order approving Scheme with ASIC	January 2018
Record Date	February 2019
Implementation Date	February 2018

**Schedule 2**  
**Scheme**

Attached.

# Share Scheme of Arrangement

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**Century Australia Investments Limited**

(ACN 107 772 761)

**Scheme Shareholders**



KARDOS • SCANLAN  
CORPORATE LAWYERS

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

**PARTIES:**

**Century Australia Investments Limited** (ACN 107 772 761) of Level 12, 680 George Street, Sydney, NSW, 2000 (**Century**);

and

**The Scheme Shareholders.**

**1. DEFINITIONS AND INTERPRETATION**

**1.1. Definitions**

In this Scheme:

**ASIC** means the Australian Securities & Investments Commission.

**ASX** means ASX Limited (ACN 008 624 691) or, as the context requires, the financial market operated by it.

**Business Day** means a weekday on which trading banks are open for business in Sydney, Australia, excluding any Saturday, Sunday or public holiday.

**Calculation Date** means:

- (a) if the Second Court Date occurs within 10 Business Days of 31 January 2019, 5:00pm (Sydney time) on 31 January 2019; or
- (b) otherwise, 5:00pm (Sydney time) on the Second Court Date,

or such other time and date as Century and WAM Leaders agree in writing

**Century NTA** means the NTA of Century as at the Calculation Date as determined in accordance with the Implementation Agreement.

**Century Registry** means Link Market Services Limited (ACN 083 214 537) of Level 12, 680 George Street, Sydney NSW 2000.

**Century Share** means a fully paid ordinary share in the capital of Century.

**CHES** means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act WAM Leaders and Century agree in writing.

**Deed Poll** means the deed poll to be granted by Century in substantially the form set out in Schedule 3 to the Implementation Agreement or such other form agreed to in writing between the Century and WAM Leaders.

**Delivery Time** means, in relation to the Second Court Date, the time being 2 hours before commencement of the hearing of the Court on the Second Court Date.

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

**Effective Date** means the date on which the Scheme becomes Effective.

**End Date** means 1 April 2019.

**Government Agency** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state.

**Implementation Date** means the day 5 Business Days after the Scheme Record Date or such other date as Century and WAM Leaders agree in writing.

**Implementation Agreement** means the scheme implementation agreement dated 13 November 2018 between WAM Leaders and Century relating to the implementation of this Scheme.

**Ineligible Foreign Shareholder** means a Scheme Shareholder whose address as shown in the Share Register is a place outside Australia and its external territories unless Century and WAM Leaders agree in writing that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New WAM Leaders Shares when this Scheme becomes Effective.

**Listing Rules** means the official listing rules of the ASX.

**New WAM Leaders Shares** means WAM Leaders Shares to be issued pursuant to this Scheme as Scheme Consideration.

**NTA** means the pre-tax net tangible asset backing of Century or WAM Leaders (as the context requires) per Century Share or WAM Leaders Share (as the case may be) after excluding all current and deferred tax assets and liabilities and calculated on the basis that any amount pertaining to each of Century's and WAM Leader's proportion of the Transaction Costs calculated in accordance with clause 12.1(a) of the Implementation Agreement which remains unpaid as at the Calculation Date is treated as a liability of Century or WAM Leaders (as applicable), calculated in accordance with the Corporations Act, Australian Accounting Standards (including the Australian Accounting Interpretations), the Corporations Regulations and consistent with the requirements of the Listing Rules for an Investment Entity, rounded to the nearest one hundredth of a cent.

**Registered Address** means, in relation to a Century Shareholder, the address of the Century Shareholder as recorded in the Share Register.

**Sale Agent** means the agent appointed in relation to the Scheme by WAM Leaders to sell the WAM Leaders Shares that would have otherwise been issued to Ineligible Foreign Shareholders.

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Century and the Scheme Shareholders subject to any alternations or conditions:

(a) agreed to in writing by the WAM Leaders and Century and approved by the Court; or

- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed by WAM Leaders and Century.

**Scheme Consideration** for each Scheme Share means, subject to clause 5.3, the number of New WAM Leaders Shares determined by dividing the Century NTA by the WAM Leaders NTA.

**Scheme Meeting** means the meeting of Century Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

**Scheme Record Date** means 7.00pm on the fifth Business Day after the Effective Date or such other date as agreed in writing by WAM Leaders and Century.

**Scheme Share** means a Century Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholder** means each person who is registered in the Share Register as the holder of Century Shares as at the Scheme Record Date.

**Scheme Transfer** means a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of sections 1071B of the Corporations Act, in favour of WAM Leaders as transferee, which may be a master transfer of all or part of the Scheme Shares.

**Second Court Date** means the first day on which the application made to the Court for an order for the purposes of 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 Century maintained in accordance with the Corporations Act.

**WAM Leaders** means WAM Leaders Limited (ACN 611 053 751) of Level 26, Governor Phillip Tower, 1 Farrer Place, Sydney, NSW, 2000.

**WAM Leaders NTA** means the NTA of WAM Leaders as at the Calculation Date as determined in accordance with the Implementation Agreement.

**WAM Leaders Share** means a fully paid ordinary share in the capital of WAM Leaders.

## **1.2. Interpretation**

In this Scheme, headings and bold type 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 or Schedule is a reference to a clause of, and a party, attachment and schedule to this Scheme, and a reference to this Scheme includes any Attachment 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 **\$** or **dollar** is to Australian currency;
- (j) a reference to any time, unless otherwise indicated, is a reference to the time in Sydney, Australia;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Scheme; and
- (l) a reference to the 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 day 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.

## **2. PRELIMINARY MATTERS**

- (a) Century is a public company limited by shares incorporated in Australia and registered in Victoria, Australia, and has been admitted to the official list of the ASX. Century Shares are quoted for trading on the ASX.
- (b) As at the Second Court Date **[insert]** Century Shares were on issue.
- (c) WAM Leaders is a public company limited by shares incorporated in Australia and registered in Victoria, Australia, and has been admitted to the official list of the ASX. WAM Leaders Shares quoted for trading on the ASX.
- (d) As at the Second Court Date **[insert]** WAM Leaders Shares were on issue.
- (e) If this Scheme becomes Effective, in consideration of the transfer of the Scheme Shares, WAM Leaders will provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of this Scheme and the Deed Poll.
- (f) Century and WAM Leaders have agreed by executing the Implementation Agreement to Implement the Scheme.

- (g) This Scheme attributes actions to WAM Leaders but does not itself impose an obligation on them to perform those actions. WAM Leaders has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the providing or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

### **3. CONDITIONS**

#### **3.1. Conditions Precedent**

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

- (a) all the conditions precedent in clause 3.1 of the Implementation Agreement (other than the condition precedent in clause 3.1(c) of the Implementation Agreement relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Implementation Agreement by the Delivery Time;
- (b) neither the Implementation Agreement or the Deed Poll having been terminated in accordance with their terms before the Delivery Time;
- (c) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act and agreed to by WAM Leaders and Century;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme and agreed to by WAM Leaders and Century; and
- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date WAM Leaders and Century agree).

#### **3.2. Certificate**

- (a) Century and WAM Leaders will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent are satisfied, waived or taken to be waived.

### **4. IMPLEMENTATION OF THIS SCHEME**

#### **4.1. Lodgement of Court orders with ASIC**

Century will 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 5.00pm on the first Business Day after the day on which the Court approves this Scheme or such later time as Century and WAM Leaders agree in writing.

#### **4.2. Transfer of Scheme Shares**

On the Implementation Date, subject to the provision of the Scheme Consideration in the manner contemplated by clause 5:

- (a) the Scheme Shares, together with all the rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to WAM Leaders, without the need for any further act by any Scheme Shareholder (other than acts performed by Century as attorney and agent for Scheme Shareholders under clause 9.5), by:
  - (i) Century delivering to WAM Leaders a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Century, for registration; and
  - (ii) WAM Leaders duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Century for registration; and
- (b) as soon as practicable following receipt of the Scheme Transfer in accordance with clause 4.2(a)(ii) Century must enter, or procure the entry of, the name of WAM Leaders in the Share Register in respect of all the Scheme Shares.

#### **4.3. Entitlement to Scheme Consideration**

On the Implementation Date, in consideration for the transfer to WAM Leaders 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 5 of this Scheme.

### **5. SCHEME CONSIDERATION**

#### **5.1. Provision of Scheme Consideration**

- (a) Subject to clause 5.2, on the Implementation Date, WAM Leaders must:
  - (i) issue to each Scheme Shareholder the Scheme Consideration as consideration for the transfer to WAM Leaders of each Scheme Share; and
  - (ii) apply for quotation on ASX of the New WAM Leaders Shares issued to Scheme Shareholders.
- (b) Subject to clause 5.2, the obligation of WAM Leaders to provide New WAM Leaders Shares pursuant to clause 5.1(a) will be satisfied by WAM Leaders as follows:
  - (i) on the Implementation Date, entering the name and Registered Address (as at the Scheme Record Date) of each Scheme Shareholder on the register of members of WAM Leaders as the holder of the New WAM Leaders Shares which that Scheme Shareholder is entitled to receive under this Scheme; and
  - (ii) within 5 Business Days of the Implementation Date, dispatching a holding statement in respect of the requisite number of New WAM Leaders Shares issued to each Scheme Shareholder in the name of each Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date).

## 5.2. Ineligible Foreign Shareholders

(a) WAM Leaders will be under no obligation to issue any New WAM Leaders Shares to any Ineligible Foreign Shareholder as Scheme Consideration, and instead:

- (i) WAM Leaders must issue the New WAM Leaders Shares to which all such Ineligible Foreign Shareholders would otherwise have become entitled under this Scheme to the Sale Agent;
- (ii) WAM Leaders must procure that, as soon as reasonably practicable and in any event not more than 20 Business Days after the Implementation Date, the Sale Agent sells on the ASX all of the New WAM Leaders Shares issued to the Sale Agent and pays to Century the net proceeds of sale received after deducting any applicable brokerage, stamp duty and other costs, taxes and charges); and
- (iii) Century must pay, or procure the payment of, to each Ineligible Shareholder the amount “A” calculated in accordance with the following formula and rounded down to the nearest cent:

$$A = (B \div C) \times D$$

Where:

B = the number of New WAM Leaders Shares that would have been issued to that Ineligible Foreign Shareholder had it not been an Ineligible Foreign Shareholder; and

C = the total number of New WAM Leaders Shares which would otherwise have been issued to all Ineligible Foreign shareholders and which are issued to the Sale Agent; and

D = the net proceeds of sale of those New WAM Leaders Shares (as set out in clause 5.2(a)(ii)).

(b) The obligation of Century to pay, or procure the payment of amounts in accordance with clause 5.2(a)(iii) will be satisfied by Century:

- (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 Century 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 5.2(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 5.4(b)).

- (c) Payment to an Ineligible Foreign Shareholder in accordance with this clause 5.2 satisfies in full the Ineligible Foreign Shareholder's right to Scheme Consideration.
- (d) Century may cancel a cheque issued under clause 5.2 if the cheque:
  - (i) is returned to Century; or
  - (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.
- (e) 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), Century must reissue a cheque that was previously cancelled under clause 5.2(d).
- (f) Century must maintain appropriate records of all payments made in accordance with this clause 5.2, including (amongst other things) the amounts paid (including the method of payment in accordance with clause 5.2(b)), the persons paid and any cancelled cheques pursuant to this clause 5.2.
- (g) 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)).
- (h) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of WAM Leaders.
- (i) In the case of notice having been given to Century (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by a Government Agency:
  - (i) 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 5.2, then Century shall procure that payment is made in accordance with that order; or
  - (ii) which would prevent Century from dispatching payment to any particular Scheme Shareholder in accordance with clause 5.2 of this Scheme, or such payment is otherwise prohibited by applicable law, Century 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 5.2 of this Scheme is permitted by law.
- (j) None of Century, WAM Leaders or the Sale Agent gives any assurance as to the price that will be achieved for the sale of New WAM Leaders Shares described in clause 5.2.
- (k) Each Ineligible Foreign Shareholder appoints Century as its agent to receive on its behalf any financial services guide or other notices which may be given by the Sale Agent to that Ineligible Foreign Shareholder.

### **5.3. Rounding of fractional entitlements and splitting**

- (a) If the number of Scheme Shares held by a Scheme Shareholder is such that an entitlement of that Scheme Shareholder to New WAM Leaders Shares is not a whole number, then any

fractional entitlement to New WAM Leaders Shares will be rounded to the nearest whole number of WAM Leaders Shares.

- (b) If WAM Leaders is of the opinion, formed reasonably, that several Scheme Shareholders, each of which holds a holding of Century Shares which results in a fractional entitlement to WAM Leaders Shares, have, before the Scheme Record Date, been party to a shareholding splitting or division in an attempt to obtain an advantage by reference to the rounding provided for in the calculation of each Scheme Shareholder's entitlement to the Scheme Consideration, WAM Leaders may direct Century to give notice to those Scheme Shareholders:

- (i) setting out the names and Registered Address of all of them;
- (ii) stating that opinion; and
- (iii) attributing to one of them specifically identified in the notice the Century Shares held by all of them,

and, after the notice have been so given, the Scheme Shareholder specifically identified in the notice shall, for the purposes of this Scheme, be taken to hold all those Century Shares and each of the other Scheme Shareholders whose names set out in the notice shall, for the purposes of this Scheme, be taken to hold no Century Shares.

#### **5.4. Joint holders**

In the case of Scheme Shares held in joint names:

- (a) any New WAM Leaders Shares must be issued to and registered in the name of the joint holders and the holding statement in respect of the requisite number of New WAM Leaders Shares must be sent to the holder whose name appears first in the Share Register as at the Scheme Record Date; and
- (b) any bank cheque required to be paid to Ineligible Foreign Shareholders by or on behalf of Century in accordance with clause 5.2(b) must be payable to the joint holders and be forwarded to the holder whose name appears first in the Share Register as at the Scheme Record Date.

### **6. ISSUE OF WAM LEADERS SHARES**

#### **6.1. Issue**

- (a) Upon issue, the New WAM Leaders Shares will be duly and validly issued in accordance with all applicable laws.
- (b) Each Scheme Shareholder agrees to become a member of WAM Leaders and agrees to be bound by the WAM Leaders constitution as in force from time to time.
- (c) Each Scheme Shareholder will be deemed to have irrevocably appointed WAM Leaders and each of its directors and officers (jointly and severally) as its attorneys for the purpose of executing any form of application required for the WAM Leaders Shares.
- (d) Upon issue:

- (i) the New WAM Leaders Shares will rank equally with all existing WAM Leaders Shares; and
- (ii) each New WAM Leaders Shares will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.

## **7. DEALING IN CENTURY SHARES**

### **7.1. Determination of Scheme Shareholders**

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

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant Century Share on or before the Scheme Record Date; and
- (b) in all other cases, registerable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received on or before the Scheme Record Date at the place where the Share Register is kept,

and Century will not accept for registration, nor recognise for any purpose any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate, except a transfer to WAM Leaders pursuant to this Scheme and any subsequent transfer by WAM Leaders.

### **7.2. Register**

- (a) Century must register registerable transmission applications or transfers of the Century Shares in accordance with clause 7.1(b) on or before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 7.2(a) requires Century to register a transfer that would result in a Century Shareholder holding a parcel of Century Shares that is less than a 'marketable parcel' (for the purposes of this clause 7.2(a) 'marketable parcel' has the meaning given in the ASX Settlement Operating Rules).
- (b) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport to agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Century shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Century must maintain the Share Register in accordance with the provision of this clause 7.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) Subject to the provision of the Scheme Consideration and registration of the transfer to WAM Leaders contemplated in clauses 4.2 and 5.1, all statements of holding for Century Shares will cease to have effect after the Scheme Record Date as document of title in respect of those shares and, as from the Scheme Record Date, each entry current as at the Scheme Record Date on the Share Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Century Share relating to that entry.

- (e) As soon as possible on or after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, Century will ensure that a copy of the Share Register as at the Scheme Record Date, including details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Shareholder as shown in the Share Register, is available to WAM Leaders in the form WAM Leaders reasonably requires.

## **8. QUOTATION OF CENTURY SHARES**

- (a) Century will apply to the ASX to suspend trading on the ASX of Century Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by WAM Leaders, Century will apply:
  - (i) for termination of the official quotation of Century Shares on the ASX; and
  - (ii) to have itself removed from the official list of the ASX.

## **9. GENERAL SCHEME PROVISIONS**

### **9.1. Consent to amendments to this Scheme**

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

- (a) Century may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which WAM Leaders has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which counsel for Century has consented to and to which WAM Leaders has agreed to.

### **9.2. Scheme Shareholders' agreement and warranties**

- (a) Each Scheme Shareholder:
  - (i) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares in accordance with this Scheme; and
  - (ii) agrees and acknowledges that this Scheme binds Century and all Scheme Shareholders (including those who do not attend the Scheme Meeting or those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Century and WAM Leaders, and appointed and authorised Century as its attorney and agent to warrant to WAM Leaders, that:
  - (i) all their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, whether legal or equitable;



- (ii) they have no existing right to be issued any Century Shares, securities convertible into Century Shares or which carry a right to be issued or transferred any Century Shares, any convertible notes issued by Century or any other Century securities; and
- (iii) they have full power and capacity to sell and transfer their Scheme Shares to WAM Leaders together with any rights attaching to those shares under the Scheme.

### **9.3. Title to and rights in Scheme Shares**

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to WAM Leaders will, at the time of transfer of them to WAM Leaders, vest in WAM Leaders free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Subject to the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 5, on and from the Implementation Date WAM Leaders will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Century of WAM Leaders in the Share Register as the holder of the Scheme Shares.

### **9.4. Appointment of sole proxy**

Subject to the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 5, on and from the Implementation Date and until WAM Leaders is registered as the holder of the Scheme Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have appointed WAM Leaders as attorney and agent (and directed WAM Leaders in such capacity) to appoint any director, officer, secretary or agent nominated by WAM Leaders as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
- (b) may not 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 clause 9.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as WAM Leaders reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 9.4(a), WAM Leaders and any director, officer, secretary or agent nominated by WAM Leaders under clause 9.4(a) may act in the best interests of WAM Leaders as intended registered holder of the Scheme Shares.

### **9.5. Authority given to Century**

Each Scheme Shareholder, without the need for any further act:

- (a) on the Scheme becoming Effective, irrevocably appoints Century and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against WAM Leaders and Century undertakes in favour of

each Scheme Shareholder that it will enforce the Deed Poll against WAM Leaders on behalf of and as agent and attorney for Scheme Shareholders; and

- (b) on the Scheme becoming Effective, irrevocably appoints Century and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer,

and Century accepts each such appointment. Century as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 9.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

#### **9.6. Binding effect of Scheme**

This Scheme binds Century and all of the Scheme Shareholders (including those who did not attending the meeting of Century Shareholders to vote on this Scheme, did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of Century.

### **10. GENERAL**

#### **10.1. Duty**

WAM Leaders must:

- (a) pay all duties and any fines and penalties with respect to duty in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with this scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 10.1(a).

#### **10.2. Counsel**

Each of the Scheme Shareholders consents to Century doing all things necessary or incidental to the implementation of this Scheme.

#### **10.3. Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Century, 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 Century's registered office or at the office of the Century Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Century Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

#### **10.4. Governing law and jurisdiction**

- (a) This Scheme is governed by the laws in force in the State of New South Wales.

- (b) Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales and courts competent to hear appeals from those courts.

**10.5. Further action**

Century must do all things and execute all further documents necessary or expedient to give full effect to this Scheme and the transactions contemplated by it.

**10.6. No liability when acting in good faith**

Neither Century or WAM Leaders nor any director, officer or secretary of Century or WAM Leaders will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

**Schedule 3**  
**Deed Poll**

Attached.

# Deed Poll

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**WAM Leaders Limited**

(ACN 611 053 751)



KARDOS • SCANLAN

CORPORATE LAWYERS

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**Made By**

**WAM Leaders Limited** (ACN 611 053 751) of Level 26, Governor Phillip Tower, 1 Farrer Place, Sydney, NSW 2000 (**WAM Leaders**),

**in favour of** each person registered as a holder of one or more Scheme Shares (**Scheme Shareholders**).

Recitals:

- A. Century and WAM Leaders entered into the Implementation Agreement.
- B. In the Implementation Agreement, WAM Leaders agreed to enter into this deed poll.
- C. WAM Leaders is entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform its obligations under the Scheme.
- D. The effect of the Scheme will be that the Scheme Shares, together with all rights and entitlements attached to them, will be transferred to WAM Leaders in exchange for the Scheme Consideration.

**1. DEFINITIONS AND INTERPRETATION**

**1.1. Definitions**

In this deed poll:

**First Court Date** means the first day on which an application made to the Court for an order under section 411(1) of the Corporations Act directing Century to convene the Scheme Meeting to consider 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).

**Implementation Date** means the day 5 Business Days after the Scheme Record Date or such other date as Century and WAM Leaders agree in writing.

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Century and the Scheme Shareholders subject to any alternations or conditions:

- (a) agreed to in writing by the WAM Leaders and Century and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed by WAM Leaders and Century.

Unless the context otherwise requires, terms defined in the Scheme have the meaning when used in this deed poll.

**1.2. Interpretation**

Clause 1.2 and 1.3 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' in those clauses are to be read as references to 'this deed poll'.

### **1.3. Nature of deed poll**

WAM Leaders acknowledges 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 Century and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing this deed poll against WAM Leaders.

## **2. CONDITIONS TO OBLIGATIONS**

### **2.1. Conditions**

This deed poll and the obligations of WAM Leaders under this deed poll are subject to the Scheme becoming effective.

### **2.2. Termination**

This deed poll and the obligations of WAM Leaders under this deed poll will automatically terminate and this deed poll will be of no force or effect if:

- (a) the Implementation Agreement is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date or any later date as the Court, with the consent of Century and WAM Leaders, may order.

### **2.3. Consequences of termination**

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other rights, powers or remedies available to Scheme Shareholders:

- (a) WAM Leaders is released from its obligations to further perform this deed poll except those obligations contained in clause 7.1 and any other obligations which by their nature survive termination; and
- (b) each Scheme Shareholder retains the rights, powers or remedies they have against WAM Leaders in respect of any breach of this deed poll which occurred before it was terminated.

## **3. PERFORMANCE OF OBLIGATIONS GENERALLY**

WAM Leaders must comply with its obligations under the Implementation Agreement and do all acts and things necessary or desirable on its part under the Implementation Agreement to give full effect to the Scheme.

## **4. SCHEME OBLIGATIONS**

### **4.1. Undertaking to pay Scheme Consideration**

Subject to clause 2, WAM Leaders undertakes in favour of each Scheme Shareholder to:

- (a) provide the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and



- (b) undertake all other actions attributed to it under the Scheme,  
subject to and in accordance with the provisions of the Scheme.

## **5. WARRANTIES**

WAM Leaders represents and warrants that:

- (a) it is a corporation validly existing under the law 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 carry out the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding on it and enforceable against it in accordance with the terms of this deed poll;
- (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**

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) WAM Leaders has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

## **7. NOTICES**

### **7.1. Form of notice**

Any communication to WAM Leaders under or in connection with this deed poll:

- (a) must be in writing;
- (b) must be addressed as shown below:

Address:	Level 26, Governor Phillip Tower, 1 Farrer Place, Sydney, NSW, 2000
Fax no:	(02) 9247 6855
Attention:	Jesse Hamilton, Chief Financial Officer

- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered by hand or posted by prepaid post to the address, or sent by fax to the number, of WAM Leaders, in accordance with clause 7.1(b), or given in any other way permitted by law; and
- (e) is regarded as received by WAM Leaders:
  - (i) if sent by prepaid post, on the third Business Day after the date of posting (if posted to an address in the same country), and on the fifth Business Day after the date of posting (if posted to an address in a different country); and
  - (ii) if sent by fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day; and

if delivered by hand, on delivery at the address of the addressee as provided in clause 7.1(b), unless delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day.

## **8. GENERAL**

### **8.1. Duty**

WAM Leaders must:

- (a) pay all duties, registration fees and similar taxes and any fines and penalties with respect to duty, registration fees and similar taxes in respect of this Scheme and the deed poll, the performance of the Scheme and this deed poll and each transaction effected by or made under or in connection with the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

### **8.2. Governing law and jurisdiction**

- (a) This Agreement is governed by the laws in force in the State of New South Wales.
- (b) Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales and courts competent to hear appeals from those courts.

### **8.3. Waiver**

- (a) WAM Leaders may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of WAM Leaders as a waiver of any right unless the waiver is in writing and signed by WAM Leaders.

- (c) The meanings of the terms used in this clause 8.3 are set out below:

**conduct** includes delay in the exercising of a right;

**right** means any right arising under or in connection with this deed and includes the right to rely on this clause; and

**waiver** includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

#### **8.4. Variation**

A provision of this deed poll may not be varied unless:

- (a) if before the Second Court Date, the variation is agreed to by Century; or
- (b) if on or after the Second Court Date, the variation is agreed to by Century and is approved by the Court,

in which event WAM Leaders will enter into a further deed poll in favour of the Scheme Shareholders given effect to the variation.

#### **8.5. Cumulative rights**

The rights created by this deed poll are personal to WAM Leaders and each Scheme Shareholder under this deed poll and cumulative with, and do not exclude, any other rights, powers or remedies provided by law independently of this deed poll.

#### **8.6. Assignment**

- (a) The rights created by this deed poll are personal to WAM Leaders and each Scheme Shareholder and must not be dealt with at law or equity without the prior written consent of WAM Leaders.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

#### **8.7. Further action**

WAM Leaders must do all things and execute all further documents necessary or expedient to give full effect to this Scheme and the transactions contemplated by it.

**Executed** as a deed poll:

**EXECUTED** by )  
**WAM Leaders Limited** )  
(ACN 611 053 751) 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)

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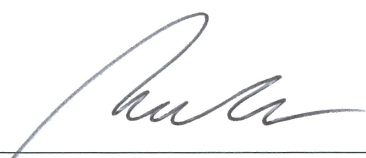
Name (please print)

Executed by the Parties as an Agreement:

SIGNED by )  
WAM Leaders Limited )  
(ACN 611 053 751) in accordance with section )  
127 of the Corporations Act: )

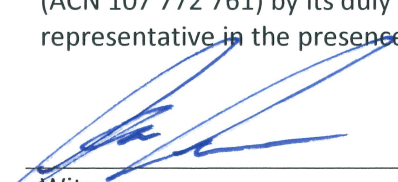
  
\_\_\_\_\_  
Director/Secretary

LINDA VO  
\_\_\_\_\_  
Name (please print)

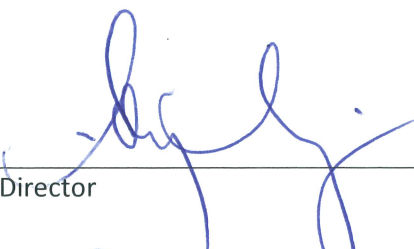
  
\_\_\_\_\_  
Director

MELINDA SNOWDEN  
\_\_\_\_\_  
Name (please print)

SIGNED by )  
Century Australia Investments Limited )  
(ACN 107 772 761) by its duly authorised )  
representative in the presence of: )

  
\_\_\_\_\_  
Witness

CHRISTOPHER CLARKE  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Director

Stephen Menzies  
\_\_\_\_\_  
Name (please print)