



2 January 2019

Highlands executes Scheme Implementation Agreement with Cobalt 27

Highlands Pacific Limited (ASX:HIG) has entered into a Scheme Implementation Agreement (“**SIA**”) with Cobalt 27 Capital Corp. under which Cobalt 27 has agreed to acquire all of the shares in Highlands which it does not already own by way of a Scheme of Arrangement (“**Scheme**”) under the PNG Companies Act. Cobalt 27 is currently the largest holder of Highlands shares, holding an interest of approximately 13%.

Under the terms of the Scheme, Highlands shareholders will be entitled to receive A10.5 cents cash per share, subject to all applicable conditions being satisfied or waived and the Scheme being implemented. The consideration represents a premium of 43.8% over the closing price of Highlands shares on 24 December 2018 of A7.3 cents and implies an equity value for Highlands of approximately A\$115 million.

The consideration will increase by A1.0 cents cash per share to A11.5 cents if before 31 December 2019 the closing spot price of nickel¹ exceeds US\$13,220 per tonne over a period of 5 consecutive trading days.

The Scheme will require the approval of 75% of Highlands’ shareholders entitled to vote and voting at a shareholder meeting which is expected to be held in mid to late April 2019. The Scheme also will require approval by the PNG National Court.

Highlands’ largest shareholders, collectively representing 30.1% of Highlands shares, have stated their intention to vote in favour of the Scheme in the absence of a superior proposal. These shareholders comprise: Lim Advisors Ltd (owning 9.4% of Highlands), Tribeca Investment Partners Pty Ltd (owning 8.9% of Highlands) and PanAust Limited (owning 11.8% of Highlands). PanAust’s intention to vote in favour of the Scheme, in the absence of a superior proposal, is subject to board and regulatory approval in China. PanAust is a subsidiary of Guangdong Rising Assets Management Co (“GRAM”), a Chinese state-owned enterprise.²

¹ Determined as the mid-point of the London Metal Exchange (LME) Official Closing Cash Bid and Cash Offer prices.

² If the PanAust Buyback Agreement (as defined below) is entered into, PanAust will not be eligible to vote at the shareholder meeting to approve the Scheme.



Background to the Scheme

Execution of the SIA and announcement of the Scheme follows a prolonged effort by Highlands and Cobalt 27 to close the streaming transaction entered into on 22 May 2018 to facilitate repayment of the Ramu project loans (the “**Streaming Arrangement**”).

A key condition precedent to the Streaming Arrangement was formal approval from the Company’s joint venture partner and lender in the Ramu Nickel Cobalt Project, Metallurgical Corporation of China (“**MCC**”) for Highlands to repay its Ramu project loans to MCC. Highlands has been seeking this formal approval from MCC since May 2018 and the parties have negotiated a contractual framework (known as the Project Way Forward Agreement (“**PWFA**”)) to facilitate the repayment of the Ramu project loans, the subsequent step up in joint venture interest and a Sales Agency Agreement to formalise MCC’s role as sales agent for Highlands.³

After a long delay, on 21 December 2018 Highlands received from MCC the executed PWFA and Sales Agency Agreement. The PWFA remains to be executed by the other joint venture partners, Mineral Resources Ramu Limited and Mineral Resources Madang Limited (together, “**MRDC**”). A condition of the PWFA, as stipulated by MCC, is that MRDC repays its project loans at the same time as Highlands, with repayment to occur prior to 30 June 2019.

However, while Highlands and MCC have executed the PWFA and Sales Agency Agreement, due to the late receipt of such approval from MCC and requirement for MRDC participation, it was not possible for all closing conditions of the Streaming Arrangement with Cobalt 27 to be satisfied prior to the long stop date of 31 December 2018. Highlands was willing to amend the Streaming Arrangement to extend the long stop date beyond 31 December 2018 to allow for the satisfaction of the outstanding conditions precedent and to align with the PWFA, however Cobalt 27 declined any extension and accordingly, the Streaming Arrangement has been terminated and will not proceed to financial close.

As it became clear that the Streaming Arrangement would not close, Highlands formed a Board sub-committee consisting of Ron Douglas and Craig Lennon to examine all options to maximise shareholder value. This included examining potential alternative transactions with Cobalt 27 including a revised streaming arrangement or acquisition of Highlands by Cobalt 27.

Having considered all available options, the independent directors of Highlands have concluded that the Scheme represents the nearest and most certain outcome for shareholders in that it offers value certainty at a significant premium to recent share prices.

³ Under the PWFA, if Highlands and MRDC repay the project loans before 30 June 2019 and receive the subsequent step up in joint venture interests, they would waive their option to purchase a further 15% interest under the Ramu Nickel Joint Venture Agreement (Highlands 9.25% and MRDC 5.75%) based on market value.



Board Recommendation

The independent directors of Highlands, being Ron Douglas, Ernie Gangloff and Craig Lennon, intend to unanimously recommend that all Highlands shareholders vote in favour of the Scheme, and they intend to vote Highlands shares in their control in favour of the Scheme, in each case in the absence of a superior proposal and subject to an Independent Expert concluding that the Scheme is in the best interests of shareholders⁴. The Scheme is also subject to certain regulatory approvals being met.

The reasons for the independent directors of Highlands supporting the Scheme include:

1. **Material premium:** the Consideration of A10.5 cents cash per share represents a significant premium of:
 - 43.8% over the closing price of Highlands shares on 24 December 2018, the last day Highlands shares traded prior to the announcement of the SIA;
 - 30.1% over the 1-month volume weighted average price up to and including 24 December 2018; and
 - 49.4% over the closing price of Highlands shares on 22 May 2018 (the day prior to announcement of the stream transaction) adjusted for the change in the S&P/ASX Small Resources Index since that time⁵.
2. **Certainty of value:** following the termination of the Streaming Arrangement, in the absence of the Scheme, the share price of Highlands may fall. The 100% cash proposal provides Highlands shareholders with certainty of value and the opportunity to realise their full investment for cash.
3. **Upside protection:** the additional consideration of A1.0 cents cash per share gives Highlands' shareholders additional value should the nickel price rise above the agreed threshold after announcement of the Scheme and prior to 31 December 2019.
4. **Execution:** the Scheme is not subject to further financing arrangements or due diligence.

Separately, Highlands has agreed with Cobalt 27 to use its best endeavours to negotiate an agreement with PanAust whereby PanAust transfers to Highlands its 128,865,980 shares in Highlands, representing an 11.8% interest in the Company, and cancels any outstanding debt owed by Highlands to PanAust, in return for Highlands transferring its interest in the Frieda River Joint Venture to PanAust (the "**PanAust Buyback Agreement**"). If the PanAust Buyback Agreement is entered into between PanAust and Highlands prior to the scheduled first Court date for the Scheme, PanAust's shares in

⁴ Highlands director, Anthony Milewski, a nominee of Cobalt 27, did not participate in board deliberations regarding the Scheme and will abstain from providing a recommendation to shareholders in respect of the Scheme.

⁵ The ASX Small Ordinaries Resources Index (ASX:XSR) declined by 24.4% from 22 May 2018 to 24 December 2018. The closing price of Highlands shares on 22 May 2018 was A9.3 cents per share, implying an adjusted price of A7.03 cents per share when reduced by 24.4%.



Highlands would be acquired under that agreement, and not under the Scheme. If the PanAust Buyback Agreement is entered into, it would complete immediately following implementation of the Scheme. In that scenario, PanAust will not be a Scheme Shareholder and this would result in PanAust being ineligible to vote on the Scheme. However, the Scheme is not conditional on the PanAust Buyback Agreement being entered into, or being completed.

The SIA, which accompanies this announcement, includes deal protections including exclusivity commitments, matching rights for Cobalt 27 on market standard terms and a break fee of A\$1 million. The exclusivity commitments do not apply until 45 days after execution of the SIA, a period during which the Company can examine alternative transactions without restriction. After that date, the Company can still respond to a competing proposal if permitted to do so under the terms of the fiduciary carve-out in the no-talk provision in the SIA.

Highlands' Chairman Ron Douglas said that after careful consideration, the independent directors concluded that the scheme proposal, at a significant premium to market, is an attractive outcome for shareholders given the streaming transaction will not close and the challenging environment for commodities.

Highlands will commission an Independent Expert to determine whether, in its opinion, the Scheme is in the best interests of shareholders. The Independent Expert Report, which will be supported by an independent technical specialist's report, will be provided to Highlands' shareholders as part of the explanatory memorandum for the Scheme.

Subject to the availability of PNG Court hearing dates, it is anticipated that the Scheme will proceed according to the following timetable:

- First court hearing for the Scheme of Arrangement – End February 2019;
- Despatch explanatory memorandum - Early March 2019;
- Shareholder meeting – Mid-Late April 2019;
- Second court hearing for the Scheme of Arrangement – Late April 2019;
- Implementation Date – Early May 2019.

Advisers

Highlands' financial adviser is Grant Samuel and its legal adviser is Allens.

For further information, please contact:

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ASX Code: HIG
POMSoX Code: HIG
Shares on Issue: 1,093 million
Performance Rights: Nil

Directors

Ron Douglas, Chairman
Craig Lennon, MD/CEO
Ernie Gangloff
Anthony Milewski

Management

Sylvie Moser, CFO / Co & Sec
Ron Gawi, GM Port Moresby

Investor and Media Enquiries:

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About Highlands Pacific Limited

Highlands Pacific is a PNG incorporated and registered mining and exploration company listed on the ASX and POMSoX. Its major assets are interests in the producing Ramu nickel cobalt mine and the Frieda River copper gold project; with exploration in progress in the Star Mountains. Highlands also has exploration tenements at on Normanby Island (Sewa Bay).

Ramu Nickel Cobalt Mine

The producing Ramu nickel cobalt mine is located 75km west of the provincial capital of Madang, PNG. Highlands holds an 8.56% interest in the Ramu project that will increase to 11.3% at no cost to Highlands once Highlands' share of Ramu project debt is repaid to the project manager and joint venture partner Metallurgical Corporation of China (MCC).

Star Mountains Prospects

The Star Mountains exploration tenements are located approximately 20km north of the Ok Tedi mine, in the West Sepik Province, PNG. They lie within the highly prospective New Guinean Orogenic Belt, which hosts the Grasberg, Ok Tedi, Porgera and Hidden Valley mines, as well as the Frieda deposit.

Frieda River Copper/Gold Project

The Frieda River copper gold project is located 175km north-west of the Porgera gold mine and 75km north-east of the Ok Tedi mine. Highlands has a 20% interest in the project and Frieda River Limited (a wholly owned subsidiary of PanAust Limited which in turn is a wholly owned subsidiary of Guangdong Rising Assets Management Co. Ltd.) has 80%.

Scheme Implementation Agreement

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This Agreement is made on 1 January 2019.

Parties

- 1 **Cobalt 27 Capital Corp** (a company incorporated under the laws of British Columbia) of Suite 401, 4 King Street West, Toronto, Ontario, Canada, M5H 1B6 (**Cobalt 27**).
- 2 **Highlands Pacific Limited** (a company limited by shares that is incorporated in and domiciled in Papua New Guinea) of Level 1, Allotment 6, Section 58, Sir Hubert Murray Highway, Boroko NCD, Papua New Guinea (**Highlands Pacific**).

Recitals

- A Highlands Pacific and Cobalt 27 have agreed that a scheme of arrangement will be proposed under Part XVI of the PNG Companies Act between Highlands Pacific and the holders of Scheme Shares in accordance with this Agreement.
- B Highlands Pacific has agreed to propose the Scheme, and to issue the Scheme Booklet, and the parties have agreed to implement the Scheme upon and subject to the terms and conditions of this Agreement.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

Additional Contingent Scheme Consideration means A\$0.010 per Scheme Share.

Adviser means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant who provides advisory services in a professional capacity to the market in general and who has been engaged by that entity.

Announcement Date means:

- (a) the date on which this Agreement is executed; or
- (b) if this Agreement is executed on a day that is not a Trading Day, the first Trading Day immediately following the day of execution.

ASIC means the Australian Securities and Investments Commission.

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

ASX Listing Rules means the official listing rules of ASX.

Australian Corporations Act means the *Corporations Act 2001* (Cth), as amended by any applicable ASIC relief.

Base Scheme Consideration means A\$0.105 for each Scheme Share, except that if Cobalt 27 or any of its associates (within the meaning of section 12 of the Australian Corporations Act) acquires any interest in any Highlands Pacific Share for a price higher than A\$0.105 at any time between the date of this Agreement and the Record Date, the Base Scheme Consideration will be that higher price. If Cobalt 27 or any of its associates (within the meaning of section 12 of the

Australian Corporations Act) acquires any interest in a Highlands Pacific Share for a consideration which is in whole or in part non-cash, the 'price' for the purposes of the previous sentence will be calculated by reference to the fair market value of that non-cash consideration.

Break Fee means A\$1 million.

Business Day means a day that banks are open for business in each of:

- (i) Brisbane, Australia;
- (ii) Toronto, Canada; and
- (iii) Port Moresby, Papua New Guinea.

Claim means, in relation to a party, a demand, claim, action or proceeding made or brought against the party, however arising and whether present unascertained, immediate, future or contingent.

Cobalt 27 Group means Cobalt 27 and each Subsidiary of Cobalt 27 and **Cobalt 27 Group entity** means any of them.

Cobalt 27 Indemnified Parties means:

- (a) each Cobalt 27 Group entity; and
- (b) the directors, officers, employees and Advisers of each Cobalt 27 Group entity.

Cobalt 27 Nominee means, in respect of the transfer of Highlands Pacific Shares under the Scheme, a wholly owned Subsidiary of Cobalt 27 nominated prior to the Record Date.

Cobalt 27 Provided Information means all information regarding Cobalt 27 and its Related Companies that:

- (a) is provided by or on behalf of Cobalt 27 to Highlands Pacific to enable the Scheme Booklet to be prepared and completed in accordance with clause 5.3(a) and 5.3(g); or
- (b) relates to any statement of intention relating to the Highlands Pacific Group following the Effective Date,

and any updates to that information provided by or on behalf of Cobalt 27 to Highlands Pacific or any of its Representatives in accordance with clause 5.3(a).

Cobalt 27 Warranties means the representations and warranties of Cobalt 27 as set out in clause 9.1.

Competing Proposal means any proposal, agreement, transaction or arrangement by or with any person pursuant to which, if the proposal, agreement, transaction or arrangement is entered into or completed substantially in accordance with its terms a Third Party:

- (a) directly or indirectly acquires a Relevant Interest in, or has a right to acquire a legal, beneficial or economic interest in, or control of, 10% or more of the Highlands Pacific Shares;
- (b) directly or indirectly acquires or becomes the holder of, or otherwise or has a right to acquire a legal, beneficial or economic interest in, or control of, all or a substantial part of the assets or business of Highlands Pacific;
- (c) otherwise acquires control (within the meaning of section 50AA of the Australian Corporations Act) of Highlands Pacific;

- (d) otherwise directly or indirectly acquires or merges with Highlands Pacific or any material Subsidiary of Highlands Pacific; or
- (e) requires Highlands Pacific to abandon, or otherwise fail to proceed with, the Scheme, whether by way of takeover offer or bid, scheme of arrangement, trust scheme of arrangement, amalgamation shareholder approved transaction, capital reduction, share buy-back or repurchase, sale or purchase of shares, other securities or assets or any other transaction or arrangement.

Conditions Precedent means the conditions precedent set out in clause 3.1.

Confidentiality Agreement means the confidentiality agreement dated 8 March 2018 between Highlands Pacific, Cobalt 27 and Ramu Nickel Limited Company No. 1-26890.

Constitution means the constitution establishing Highlands Pacific as amended from time to time.

Contingent Scheme Consideration Event occurs if, at any time during the period from the date of this Agreement up until and including 31 December 2019, the LME Closing Price over a 5 consecutive trading day period exceeds US\$13,220 per tonne. (For the avoidance of doubt, a Contingent Scheme Consideration Event can only occur once.)

Corporations Regulations means the *Corporations Regulations 2001* (Cth), as amended by any applicable ASIC relief.

Court means the National Court of Papua New Guinea.

Data Room means the electronic data room made available to Cobalt 27 and its representatives at 12pm on 30 December 2018, the index of which has been initialled by, or on behalf of, Cobalt 27 and Highlands Pacific for identification.

Deed Poll means a deed poll to be executed by Cobalt 27 in favour of the Scheme Participants substantially in the form of Schedule 3, or in such other form as Cobalt 27 and Highlands Pacific may agree in writing (such agreement not to be unreasonably withheld).

Due Diligence Materials means the documents and information contained in the Data Room.

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to section 250 of the PNG Companies Act, of the orders of the Court under section 250(1) of the PNG Companies Act in relation to the Scheme, but in any event at no time before a certified copy of the orders of the Court are lodged with the PNG Registrar of Companies.

Effective Date means the date on which the Scheme has become Effective.

End Date means 30 June 2019, or such later date as Cobalt 27 and Highlands Pacific may agree in writing.

Excluded Securities means:

- (a) Highlands Pacific Shares held by a Highlands Pacific Shareholder who:
 - (i) is a member of the Cobalt 27 Group; or
 - (ii) holds the Highlands Pacific Shares on behalf of, or for the benefit of any member of the Cobalt 27 Group; or

- (b) in the event that the PanAust Buy-Back Agreement is entered into and becomes unconditional at least 5 Business Days prior to the First Court Date, such Highlands Pacific Shares to be transferred to Highlands Pacific under the PanAust Buy-Back Agreement.

Exclusivity Date means the date commencing 45 days after the Announcement Date.

Exclusivity Period means the period commencing on the Exclusivity Date and ending on the earlier of:

- (a) the termination of this Agreement in accordance with its terms;
- (b) the Implementation Date; and
- (c) the End Date.

First Court Date means the first day of hearing of an application made to the Court by Highlands Pacific for the First Court Order or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

First Court Order means order pursuant to section 250(2)(b) of the PNG Companies Act convening the Scheme Meeting.

Frieda River JV Agreement means the Exploration, Development and Mine Operating Agreement dated 27 July 2007 between Xstrata Frieda River Limited, Highlands Frieda Limited and OMRD Frieda Co Ltd, as amended by Variation Deeds dated 24 November 2011 and 25 August 2014.

Government Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency or similar entity or organisation, or securities exchange.

Highlands Pacific Board means the board of directors of Highlands Pacific (as constituted from time to time), and includes any authorised committee of directors of those boards.

Highlands Pacific Director means a director of Highlands Pacific.

Highlands Pacific Disclosed Information means all information provided by Highlands Pacific and its representatives to Cobalt 27 and its representatives in connection with the Streaming Agreement, the Scheme or the Due Diligence Materials.

Highlands Pacific Group means Highlands Pacific and each Subsidiary of Highlands Pacific, and **Highlands Pacific Group entity** means any of them.

Highlands Pacific Indemnified Parties means:

- (a) each Highlands Pacific Group entity; and
- (b) the directors, officers, employees and Advisers of each Highlands Pacific Group entity.

Highlands Pacific Independent Director means a director of Highlands Pacific, other than any nominee director or Representative of the Cobalt 27 Group.

Highlands Pacific Material Adverse Change means:

- (a) any event, occurrence or matter that individually or when aggregated with all such events, occurrence or matters has had or could be reasonably expected to have:

- (i) the effect of diminishing the value of the consolidated net assets of the Highlands Pacific Group, taken as a whole, by at least 15% or more against what it would reasonably be expected to have been but for that event, occurrence or matter; or
 - (ii) the effect of diminishing the consolidated underlying earnings before interest, tax, depreciation and amortisation of the Highlands Pacific Group, taken as a whole, in any financial year, by at least 15% or more against what it would reasonably be expected to have been in that financial year but for that event, occurrence or matter (disregarding any event, occurrence or matter which have a one-off or non-recurring impact); or
- (b) if for a continuous period of 10 days, there is a cessation or suspension of operations at the Ramu Project including without limitation any civil unrest, landowner dispute, actions or inactions by a joint venture party or the manager of the Ramu Project, change in law, regulation, regulatory administration, practices or undertakings in connection with the Ramu Project,

but does not include any event, occurrence or matter:

- (c) required to be undertaken or procured by the Highlands Pacific Group pursuant to a Transaction Document or the PanAust Buy-Back Agreement;
- (d) fairly disclosed to:
 - (i) ASX or POMSoX; or
 - (ii) Cobalt 27 or any of their respective Representatives in the Highlands Pacific Disclosed Information,prior to the date of this Agreement and the event, when it occurs, is materially the same as had been disclosed;
- (e) arising from any actual or proposed change in any tax, law or accounting standards or mandatory policies or codes;
- (f) relating to or arising from any general economic, regulatory or political conditions or changes in those conditions, but excluding events, occurrences or matters relating to or arising from economic, regulatory or political conditions in PNG that have an adverse effect on the Ramu Project which is materially greater than on other mining and/or processing operations in PNG;
- (g) financial market fluctuations, changes in commodity prices including but not limited to the price of cobalt and nickel, changes in interest rates or changes in foreign currency exchange rates;
- (h) which is a non-cash impairment charge in the financial statements of the Highlands Pacific Group;
- (i) relating to or arising from an act of terrorism, war (whether or not declared), natural disaster or the like;
- (j) relating to costs or expenses incurred by Highlands Pacific associated with the Scheme, including all fees payable to external advisers of Highlands Pacific; or
- (k) agreed to in writing by Cobalt 27 (not to be unreasonably withheld or delayed).

Highlands Pacific Prescribed Occurrence means the occurrence of any of the following:

- (a) Highlands Pacific converts all or any of its securities into a larger or smaller number of securities;
- (b) except in relation to the PanAust Buy-Back Agreement, any Highlands Pacific Group entity reduces, or resolves to reduce, its capital in any way;
- (c) except in relation to the PanAust Buy-Back Agreement, any Highlands Pacific Group entity:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement;
- (d) any Highlands Pacific Group entity issues shares or grants an option over its shares, or agrees to make such an issue or grant such an option, other than to an entity all the issued shares of which are owned by one or more Highlands Pacific Group entities;
- (e) Highlands Pacific declares, pays or distributes any dividends, bonus or other share of profits or assets;
- (f) Highlands Pacific adopts a new constitution, makes any material change to, or repeals, the Constitution or a provision of it (other than pursuant to the amendments required for the implementation of the Scheme);
- (g) any Highlands Pacific Group entity creates, or agrees to create, any mortgage charge, lien or other encumbrance over the whole, or a substantial part, of its business or assets other than in the ordinary course of its business;
- (h) an Insolvency Event occurs in relation to a Highlands Pacific Group entity;
- (i) a Highlands Pacific Group entity acquires or disposes, or agrees to acquire or dispose, of the whole or substantial part of a business or property the value of which exceeds \$1 million individually or \$5 million in aggregate other than in the ordinary course of its business or as contemplated by any budget or work program included in the Data Room;
- (j) Highlands Pacific incurs any financial indebtedness or issues any indebtedness, other than pursuant to advances under its credit facilities in existence as at the date of this Agreement where the funds drawn pursuant to those advances are used in the ordinary course of business; or
- (k) Highlands Pacific makes any loans, advances or capital contributions to, or investments in, any other person, other than to or in Highlands Pacific or any Subsidiary of Highlands Pacific;

but does not include any matter:

- (l) required to be undertaken or procured by the Highlands Pacific Group pursuant to a Transaction Document or the PanAust Buy-Back Agreement;
- (m) fairly disclosed to:
 - (i) ASX or POMS0X; or
 - (ii) Cobalt 27 or any of their respective Representatives in the Highlands Pacific Disclosed Information,

prior to the date of this Agreement and the event, when it occurs, is materially the same as had been disclosed;

- (n) agreed to in writing by Cobalt 27 (not to be unreasonably withheld or delayed); or
- (o) which occurs in the ordinary course of the Highlands Pacific Group's business.

Highlands Pacific Provided Information means all information included in the Scheme Booklet, and any updates to that information prepared by or on behalf of Highlands Pacific in accordance with clause 5.1(i), other than:

- (a) the Cobalt 27 Provided Information and any information solely derived from, or prepared solely in reliance on, the Cobalt 27 Provided Information; and
- (b) the Independent Expert's Report.

Highlands Pacific Public Announcement means the public announcement regarding the execution of this Agreement to be made by Highlands Pacific in the form agreed between the parties (acting reasonably) prior to the date of this Agreement.

Highlands Pacific Warranties means the representations and warranties of Highlands Pacific as set out in clause 9.2.

Highlands Pacific Shareholder means a person who is registered in the Register as the holder of one or more Highlands Pacific Shares.

Highlands Pacific Shares means the fully paid ordinary shares issued in the capital of Highlands Pacific.

Implementation Date means the date that is five Business Days after the Record Date, or such other date as Highlands Pacific and Cobalt 27 may agree in writing.

Independent Expert means an independent expert to be engaged by Highlands Pacific to express an opinion on whether the Scheme is in the best interests of Highlands Pacific Shareholders.

Independent Expert's Report means the report from the Independent Expert commissioned by Highlands Pacific for inclusion in the Scheme Booklet, and any update to such report that the Independent Expert issues prior to the Scheme Meeting.

Insolvency Event means, in relation to an entity:

- (a) the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity (other than where the order is set aside within 14 days);
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;
- (c) the entity executing a deed of company arrangement;
- (d) the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this Agreement;
- (e) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Australian Corporations Act (or, if applicable, legislation of the place of its incorporation); or

(f) the entity being deregistered as a company or otherwise dissolved.

Key Material Contract means:

- (a) the Ramu Nickel Joint Venture Agreement dated October 20, 2005, among MCC Ramu NiCo Limited, Ramu Nickel Limited, Mineral Resources Madang Limited and Mineral Resources Ramu Limited; and
- (b) the Master Agreement dated March 30, 2005 by and among China Metallurgical Construction (Group) Corporation, Seller, Mineral Resources Ramu Limited and Mineral Resources Madang Limited, as amended and clarified by the clarification agreement dated February 19, 2015 between MCC Ramu NiCo Limited, Ramu Nickel Limited, Mineral Resources Madang Limited and Mineral Resources Ramu Limited and Ramu NiCo Management (MCC) Limited.

LME Closing Price means, in respect of a trading day on the London Metals Exchange (**LME**), the mid-point of the LME Official Cash Bid Price and LME Official Cash Offer Price at the close of trading on that trading day (as currently published on: <https://www.lme.com/Metals/Non-ferrous/Nickel#tabIndex=0>).

PanAust Buy-Back Agreement means a buy-back agreement containing terms consistent with the provisions set out in Schedule 4.

PanAust Group means PanAust Limited and each Subsidiary of PanAust Limited, and **PanAust Group entity** means any of them.

Placement Shares means 142,530,500 Highlands Pacific Shares issued under the Subscription and Relationship Agreement between the parties to this Agreement and Electric Metals Streaming Corp dated 23 May 2018.

PNG means Papua New Guinea.

PNG Companies Act means the *Companies Act 1997* (PNG).

PNG Registrar of Companies means the Registrar of Companies appointed under section 394(1) of the PNG Companies Act.

PNG Securities Act means the *Securities Act 1997*, PNG.

PNG Securities Commission means the Securities Commission of Papua New Guinea.

POMSoX means Port Moresby Stock Exchange Limited or, as the context requires, the financial market operated by it.

Ramu Project means the Ramu Nickel mine located on the Kurumbukari plateau near Madang, PNG and the joint venture related thereto.

Record Date means 7.00pm on the fifth Business Day after the Effective Date, or such other date as may be agreed in writing between Cobalt 27 and Highlands Pacific.

Register means the register of holders of Highlands Pacific Shares kept by Highlands Pacific.

Registry means Computershare Investor Services Pty Limited of 117 Victoria Street, West End QLD 4101, Australia.

Regulatory Approval means any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration,

authority, waiver, modification or exemption from, by or with a Governmental Agency or anything that would be fully or partly prohibited or restricted by law if a Governmental Agency intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Related Company has the meaning given in the PNG Companies Act, except that references to 'subsidiary' have the meaning given to 'Subsidiary' in this Agreement.

Relevant Interest has the meaning previously attributed to it in section 113 of the PNG Securities Act (and for that purpose, section 114 of the PNG Securities Act will not be taken into account to the extent that it would exclude from the definition of 'relevant interest' in section 113 any proxies to vote any share or any voting agreement in respect of any share). The term "Relevant Interest" will also include an economic interest in a share under a cash settled equity swap or equivalent transaction.

Representative means, in relation to a person:

- (a) a Related Company of the person;
- (b) a director, officer or employee of the person or any of the person's Related Companies;
or
- (c) an Adviser to the person or any of the person's Related Companies.

Reverse Break Fee means A\$1 million.

Scheme means a scheme of arrangement under Part XVI of the PNG Companies Act between Highlands Pacific and holders of the Scheme Shares substantially in the form of Schedule 2, or in such other form as Cobalt 27 and Highlands Pacific may agree in writing (such agreement not to be unreasonably withheld or delayed).

Scheme Booklet means the explanatory memorandum to be prepared in respect of the Scheme in accordance with the terms of this Agreement and to be despatched by Highlands Pacific to Highlands Pacific Shareholders.

Scheme Consideration means the Base Scheme Consideration and, if the Contingent Scheme Consideration Event occurs, the Additional Contingent Scheme Consideration.

Scheme Meeting means the meeting of Highlands Pacific Shareholders to be ordered by the Court to be convened under section 250(2)(b) of the PNG Companies Act in relation to the Scheme, and includes any adjournment of that meeting.

Scheme Participant means a person registered in the Register as the holder of one or more Scheme Shares at the Record Date.

Scheme Shares means the Highlands Pacific Shares on issue as at the Record Date other than the Excluded Securities.

Second Court Date means the first day of hearing of an application made to the Court by Highlands Pacific for the Second Court Order or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Second Court Order means an order, pursuant to section 250(1) of the PNG Companies Act, approving the Scheme.

Subsidiary has the meaning given in the PNG Companies Act, provided that an entity will also

be taken to be a Subsidiary of another entity if it is controlled by that entity (as 'control' is defined in section 6 of the PNG Companies Act) and, without limitation:

- (a) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share;
- (b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation; and
- (c) an entity will also be deemed to be a Subsidiary of an entity if that entity is required by the accounting standards to be consolidated with that entity.

Superior Proposal means a bona fide Competing Proposal received by Highlands Pacific (and not received as a result of a material breach by Highlands Pacific of its obligations under clause 11) that the Highlands Pacific Board determines, acting in good faith and after having obtained advice from Highlands Pacific's external legal and financial advisers:

- (a) is reasonably capable of being valued and completed, taking into account all aspects of the Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be more favourable to the Highlands Pacific Shareholders than the Transaction.

Third Party means any of the following:

- (a) a person other than Cobalt 27 or any of their respective Related Companies; or
- (b) a consortium, partnership, limited partnership, syndicate or other group in which none of Cobalt 27 or any of their respective Related Companies has agreed in writing to be a participant.

Timetable means the indicative timetable in relation to the Scheme set out in Schedule 1, or such other indicative timetable as Cobalt 27 and Highlands Pacific may agree in writing.

Trading Day has the meaning given in the ASX Listing Rules.

Transaction means the acquisition by Cobalt 27 of all of the Scheme Shares under the Scheme.

Transaction Documents means this Agreement, the Scheme and the Deed Poll.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after 'includes', 'including', 'for example', or similar expressions, does not limit what else might be included.
- (c) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- (d) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.

- (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (v) A reference to a clause or Schedule is a reference to a clause of, or Schedule to, this Agreement.
- (vi) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
- (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
- (viii) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (x) A reference to *dollars* or \$ is to Australian currency.
- (xi) Words and phrases not specifically defined in this Agreement have the same meanings (if any) given to them in the PNG Companies Act.
- (xii) A reference to time is to Port Moresby, PNG time.
- (xiii) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.

1.3 Fairly disclosed

A reference to a fact, matter, circumstance or thing being ***fairly disclosed*** to a person means disclosed in writing to any of that person or any of that person's Representatives in good faith and in sufficient detail so as to reasonably apprise a person (or one of its Representatives) as to the nature and scope of the relevant matter, event, circumstance or thing.

1.4 Knowledge, belief or awareness of Highlands Pacific

- (a) Certain Highlands Pacific Warranties are given by Highlands Pacific on the basis of Highlands Pacific's knowledge, belief or awareness. For this purpose, Highlands Pacific's knowledge, belief or awareness is limited to the actual knowledge, belief or awareness of Ron Douglas and Craig Lennon as at the date of this Agreement.
- (b) The knowledge, belief or awareness of any person other than the persons referred to in paragraph (a) will not be imputed to Highlands Pacific.
- (c) None of the persons named in paragraph (a) will bear any personal liability in respect of the Highlands Pacific Warranties or otherwise under this Agreement.

1.5 Best and reasonable endeavours

A reference to a party using or an obligation on a party to use its best endeavours or reasonable endeavours or all reasonable endeavours does not oblige that party to:

- (a) pay money:
 - (i) in the form of an inducement or consideration to a third party to procure something (other than the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing); or
 - (ii) in circumstances that are commercially onerous or unreasonable in the context of this Agreement;
- (b) provide other valuable consideration to or for the benefit of any person; or
- (c) agree to commercially onerous or unreasonable conditions.

1.6 Consents and approvals

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a party or is within the discretion of a party, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this Agreement specifies otherwise).

2 Agreement to proceed with Scheme

2.1 Highlands Pacific to propose Scheme

Highlands Pacific agrees to propose and implement the Scheme upon and subject to the terms and conditions of this Agreement, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise in accordance with the Timetable.

2.2 Cobalt 27 to assist

Cobalt 27 agrees to assist Highlands Pacific to propose and implement the Scheme upon and subject to the terms and conditions of this Agreement, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise in accordance with the Timetable.

3 Conditions Precedent and pre-implementation steps

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Cobalt 27 under clause 4.2 are not binding, unless each of the following Conditions Precedent is satisfied or waived in accordance with clauses 3.2 and 3.3:

Conditions Precedent for the benefit of Cobalt 27 and Highlands Pacific

- (a) **(Highlands Pacific Shareholder approval)** the Scheme is approved by the requisite majority of Highlands Pacific Shareholders under section 250 of the PNG Companies Act;
- (b) **(Independent Expert's Report)** the Independent Expert provides the Independent Expert's Report to Highlands Pacific, stating that in its opinion the Scheme is in the best interests of Highlands Pacific Shareholders, and the Independent Expert does not change

that opinion or withdraw the Independent Expert's Report by notice in writing to Highlands Pacific prior to 8.00am on the Second Court Date;

- (c) **(Court approval of Scheme)** the Scheme is approved by the Court in accordance with section 250 of the PNG Companies Act;
- (d) **(no restraints)** no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Government Agency of competent jurisdiction, remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the implementation of the Scheme;
- (e) **(Government Agency approvals)** Highlands Pacific and Cobalt 27 obtain all consents and approvals from Government Agencies which are required, or which Cobalt 27 and Highlands Pacific agree are desirable, to implement the Transaction before 8.00am on the Second Court Date. If such consents or approvals are subject to conditions, those conditions must be reasonably acceptable to Cobalt 27 and Highlands Pacific;

Conditions Precedent for the benefit of Cobalt 27 only

- (f) **(no Highlands Pacific Prescribed Occurrences)** no Highlands Pacific Prescribed Occurrence occurs between the date of this Agreement and 8.00am on the Second Court Date;
- (g) **(no Highlands Pacific Material Adverse Change)** no Highlands Pacific Material Adverse Change occurs between the date of this Agreement and 8.00am on the Second Court Date;
- (h) **(Ramu Project)** to the extent that the implementation of the Scheme would require consent or trigger any right of termination or other pre-emptive right or other material right in favour of a party (other than a Highlands Pacific Group entity), under a Key Material Contract, each required consent, or waiver of each such right, being obtained and not withdrawn (and, where given conditionally, subject to conditions reasonably acceptable to Cobalt 27) by 8.00am of the Second Court Date;

Conditions Precedent for the benefit of Highlands Pacific only

- (i) **(Execution of Deed Poll)** between the date of this Agreement and 8.00am on the First Court Date, Cobalt 27 signs and delivers the Deed Poll; and
- (j) **(Cobalt 27 funding)** the Cobalt 27 Warranty in clause 9.1(j) is true and correct as if given at all times between the date of this Agreement and 8.00am of the Second Court Date.

3.2 Benefit and waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a) to 3.1(e) are for the benefit of Highlands Pacific and Cobalt 27, and (except in the case of the Conditions Precedent in clauses 3.1(a) and 3.1(c), which cannot be waived) any breach or non-satisfaction of any of those Conditions Precedent may only be waived with the written consent of Highlands Pacific and Cobalt 27.

- (b) The Conditions Precedent in clauses 3.1(f) to 3.1(h) are for the sole benefit of Cobalt 27, and any breach or non-satisfaction of those Conditions Precedent may only be waived by Cobalt 27 giving its written consent.
- (c) The Conditions Precedent in clauses 3.1(i) to 3.1(j) are for the sole benefit of Highlands Pacific, and any breach or non-satisfaction of those Conditions Precedent may only be waived by Highlands Pacific giving its written consent.
- (d) A party entitled to waive the breach or non-satisfaction of a Condition Precedent pursuant to this clause 3.2 may do so in its absolute discretion.
- (e) If a waiver by a party of a Condition Precedent is itself expressed to be conditional and the other parties accept the conditions, the terms of the conditions apply accordingly. If the other parties do not accept the conditions, the relevant Condition Precedent has not been waived.
- (f) If a party waives the breach or non-satisfaction of a Condition Precedent, that waiver will not preclude it from suing the other parties for any breach of this Agreement constituted by the same event that gave rise to the breach or non-satisfaction of the Condition Precedent.
- (g) Waiver of a breach or non-satisfaction in respect of one Condition Precedent does not constitute:
 - (i) a waiver of breach or non-satisfaction of any other Condition Precedent resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-satisfaction of that Condition Precedent resulting from any other event or circumstance.

3.3 Best endeavours and co-operation

Without prejudice to any other obligations of the parties under this Agreement:

- (a) Cobalt 27 must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(i) and 3.1(j);
- (b) Highlands Pacific must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(f) to 3.1(h) (inclusive);
- (c) each party must, to the extent it is within its power to do so, use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d) and 3.1(e); and
- (d) no party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition Precedent, except to the extent that such action is required to be done or procured pursuant to, or is otherwise permitted by, the Transaction Documents, or is required by law.

3.4 Regulatory Approvals

Without limiting the generality of clause 3.3:

- (a) Cobalt 27 must:

- (i) promptly apply for all Regulatory Approvals referred to in clause 3.1(e), and provide to Highlands Pacific a copy of all those applications, having, a reasonable time prior to sending any submission or correspondence to a Government Agency in relation to a Regulatory Approval, provided a draft copy of such submission or correspondence to Highlands Pacific for comment and made such amendments as Highlands Pacific reasonably requires;
 - (ii) consult with Highlands Pacific in advance in relation to the progress of obtaining, and promptly notify Highlands Pacific of all communications with Government Agencies regarding, those Regulatory Approvals;
 - (iii) provide copies of any material written communications sent to or received from a Government Agency to Highlands Pacific promptly upon despatch or receipt (as the case may be) and keep Highlands Pacific informed of the progress in relation to obtaining the approvals, consents or confirmations, including any matters raised or other arrangements proposed by the relevant Government Agency; and
 - (iv) act reasonably in considering the provision of undertakings, concessions or conditions requested or required by a Government Agency to facilitate any of those Regulatory Approvals;
- (b) each party:
- (i) has the right to be represented and make submissions at any proposed meeting (which includes any telephone conversations) with any Government Agency relating to any of those Regulatory Approvals; and
 - (ii) must promptly provide the other parties and the relevant Government Agencies with all information reasonably requested in connection with the applications for those Regulatory Approvals,

provided that information that is commercially sensitive information to a party or its Related Companies need not be provided to the other parties.

3.5 Notifications

Each party must:

- (a) keep the other parties promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;
- (b) promptly notify the other parties in writing if it becomes aware that any Condition Precedent has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition Precedent has been satisfied; and
- (c) promptly notify the other parties in writing of a failure to satisfy a Condition Precedent or of any fact or circumstance that results in that Condition Precedent becoming incapable of being satisfied or that may result in that Condition Precedent not being satisfied in accordance with its terms.

3.6 Failure of Conditions Precedent

- (a) If:

- (i) there is a breach or non-satisfaction of a Condition Precedent which is not waived in accordance with this Agreement by the time or date specified in this Agreement for the satisfaction of the Condition Precedent;
- (ii) there is an act, failure to act or occurrence which will prevent a Condition Precedent being satisfied by the time or date specified in this Agreement for the satisfaction of the Condition Precedent (and the breach or non-satisfaction which would otherwise occur has not already been waived in accordance with this Agreement); or
- (iii) it becomes more likely than not that a Condition Precedent will not be satisfied by the End Date,

each party may serve notice on the other parties, and then Highlands Pacific and Cobalt 27 must consult in good faith with a view to determining whether:

- (iv) the Scheme may proceed by way of alternative means or methods;
 - (v) to extend the relevant time or date for satisfaction of the Condition Precedent;
 - (vi) to change the First Court Date or to adjourn the application for the First Court Order to another date agreed by the parties;
 - (vii) to change the Second Court Date or to adjourn the application for the Second Court Order to another date agreed by the parties; or
 - (viii) to extend the End Date.
- (b) If Highlands Pacific and Cobalt 27 are unable to reach agreement under clauses 3.6(a)(iv), 3.6(a)(v), 3.6(a)(vi), 3.6(a)(vii) or 3.6(a)(viii) within five Business Days after the delivery of the notice under that clause or any shorter period ending at 5pm on the day before the Second Court Date, Highlands Pacific or Cobalt 27 may terminate this Agreement by notice in writing to the other parties, provided that:
- (i) the Condition Precedent to which the notice relates is for the benefit of that party (whether or not the Condition Precedent is also for the benefit of another party); and
 - (ii) there has been no failure by that party to comply with its obligations under this Agreement, where that failure directly and materially contributed to the Condition Precedent to which the notice relates becoming incapable of satisfaction, or being breached or not fulfilled before the End Date,

in which case clause 15.2 will have effect.

3.7 Certificates in relation to Conditions Precedent

- (a) On the Second Court Date:
 - (i) Highlands Pacific must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00am on the Second Court Date the Conditions Precedent have been satisfied or waived in accordance with this Agreement; and
 - (ii) Cobalt 27 must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge)

whether or not as at 8.00am on the Second Court Date the Conditions Precedent have been satisfied or waived in accordance with this Agreement.

- (b) Highlands Pacific and Cobalt 27 must provide to each other a draft of the relevant certificate to be provided by it pursuant to clause 3.7(a) by 5pm on the day that is two Business Days prior to the Second Court Date, and must provide to each other on the Second Court Date a copy of the final certificate or other evidence provided to the Court.

4 Scheme

4.1 Outline of Scheme

- (a) The parties agree that:
 - (i) Highlands Pacific will propose the Scheme on and subject to the terms of this Agreement; and
 - (ii) Cobalt 27 will assist Highlands Pacific in proposing the Scheme on and subject to the terms of this Agreement.
- (b) Subject to the Scheme becoming Effective, the general effect of the Scheme will be as follows:
 - (i) on the Implementation Date, all of the Scheme Shares will be transferred to Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, to the Cobalt 27 Nominee) in accordance with the terms of the Scheme;
 - (ii) on the Implementation Date, in consideration for the transfer to Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, to the Cobalt 27 Nominee) of all the Scheme Shares held by the Scheme Participants, the Scheme Participants will receive the Base Scheme Consideration in accordance with the terms of the Scheme (and, if the Contingent Scheme Consideration Event has occurred on or prior to the Record Date, the Scheme Participants will also receive the Additional Contingent Scheme Consideration in accordance with the terms of the Scheme); and
 - (iii) if the Contingent Scheme Consideration Event has occurred during the period after the Record Date and up to and including 31 December 2019, the Scheme Participants will, in addition to receiving the consideration under paragraph (b)(ii) above, receive the Additional Contingent Scheme Consideration in accordance with the terms of the Scheme.

4.2 Payment of Cash

Subject to the Scheme becoming Effective, Cobalt 27 must pay the Scheme Consideration to each Scheme Participant in accordance with the Scheme.

5 Steps for implementation

5.1 Highlands Pacific's obligations in respect of the Scheme

Highlands Pacific must take all steps reasonably necessary to propose and implement the Scheme as soon as is reasonably practicable after the date of this Agreement and otherwise substantially in accordance with the Timetable. In particular, Highlands Pacific must:

- (a) **(preparation of Scheme Booklet)** prepare the Scheme Booklet so that it complies with all applicable regulatory, compliance and content requirements and the orders of the Court at the First Court Hearing. The Scheme Booklet must contain responsibility statements to the effect that:
 - (i) Highlands Pacific has prepared and is responsible for the Highlands Pacific Provided Information, and that Cobalt 27 does not assume any responsibility for the accuracy or completeness of the Highlands Pacific Provided Information; and
 - (ii) Cobalt 27 has prepared and is responsible for the Cobalt 27 Provided Information, and that Highlands Pacific does not assume any responsibility for the accuracy or completeness of the Cobalt 27 Provided Information.

The Scheme Booklet must also include the recommendation and statement required under clause 7;

- (b) **(Independent Expert)** appoint the Independent Expert (if the Independent Expert has not been appointed prior to the date of this Agreement), and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Scheme Booklet (including any updates to it);
- (c) **(Verification)** undertake appropriate verification processes in relation to the Highlands Pacific Provided Information included in the Scheme Booklet;
- (d) **(approval of Scheme Booklet)** procure that a meeting of the Highlands Pacific Board is convened to approve the Scheme Booklet for despatch to Highlands Pacific Shareholders;
- (e) **(Court documents)** prepare the documents necessary for the Court proceedings (including any appeals) relating to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders), and provide Cobalt 27 with drafts of those documents for review and (acting in good faith) take into account, for the purpose of amending those drafts, any comments from Cobalt 27 and its Representatives on those drafts, provided such comments are provided in a timely manner;
- (f) **(lodgement of Scheme Booklet)** lodge a copy of the Scheme Booklet with the PNG Securities Commission, PNG Registrar of Companies, Port Moresby Securities Exchange, ASX and any other relevant securities exchange;
- (g) **(First Court Date)** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for the First Court Order;
- (h) **(despatch)** despatch the Scheme Booklet to Highlands Pacific Shareholders;

- (i) **(update Scheme Booklet)** from the First Court Date until the Implementation Date, promptly update the Scheme Booklet with any information that arises after the date of despatch of the Scheme Booklet:
 - (i) necessary to ensure that the Scheme Booklet does not contain any statement false or misleading in a material respect including because of any material omission from that statement; or
 - (ii) is required to be disclosed to Highlands Pacific Shareholders under any applicable law,and cooperate with Cobalt 27 to ensure that the Scheme Booklet or the information contained in it is updated accordingly;
- (j) **(Scheme Meeting)** convene the Scheme Meeting to approve the Scheme (in accordance with the First Court Order);
- (k) **(Court approval)** subject to all the Conditions Precedent in clause 3.1, other than the Condition Precedent in clause 3.1(c), being satisfied or waived in accordance with this Agreement, apply to the Court for the Second Court Order;
- (l) **(representation)** allow, and not oppose, any application by Cobalt 27 for leave of the Court to be represented, or the separate representation of Cobalt 27 by counsel, at the Court hearings in relation to the Scheme, provided that in making any application for representation or in appearing before the Court, Cobalt 27 acts in accordance with the Transaction Documents and does not oppose any application by Highlands Pacific in exercise of its rights under the Transaction Documents;
- (m) **(Second Court Order)** if the Court makes the Second Court Order, by no later than 5pm on the first Business Day after the date on which the Court makes the Second Court Order, or such other Business Day as Highlands Pacific and Cobalt 27 may agree in writing, lodge the Court orders approving the Scheme with the PNG Registrar of Companies;
- (n) **(implementation of the Scheme)** if the Scheme becomes Effective:
 - (i) use best endeavours to ensure that ASX and POMSoX suspends trading in Highlands Pacific Shares with effect from the close of trading on the Effective Date;
 - (ii) close the Register as at the Record Date to determine the identity of Scheme Participants and to determine their entitlements to the Scheme Consideration in accordance with the Scheme; and
 - (iii) subject to Cobalt 27 satisfying its obligations under clause 4.2, on the Implementation Date promptly execute proper instruments of transfer of, and register all transfers of, the Scheme Shares to Cobalt 27 or the Cobalt 27 Nominee in accordance with the Scheme;
- (o) **(Cobalt 27 Provided Information)** during the period until the Cobalt 27 Provided Information (or any information solely derived from, or prepared solely in reliance on, the Cobalt 27 Provided Information) becomes publicly available, only use that information with the prior written consent of Cobalt 27 (not to be unreasonably withheld or delayed); and

- (p) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws and regulations.

5.2 Appeal process

If the Court refuses to make any orders convening a Scheme Meeting or approving the Scheme, Highlands Pacific must appeal the Court's decision (except to the extent that Highlands Pacific and Cobalt 27, acting reasonably, agree otherwise).

5.3 Cobalt 27's obligations in respect of the Scheme

Cobalt 27 must take all steps reasonably necessary to assist Highlands Pacific to propose and implement the Scheme as soon as is reasonably practicable after the date of this Agreement and otherwise substantially in accordance with the Timetable. In particular, Cobalt 27 must:

- (a) **(provide information)** prepare and provide to Highlands Pacific the Cobalt 27 Provided Information for inclusion in the Scheme Booklet in a form that includes all information regarding Cobalt 27 and its Related Companies so that it complies with all applicable laws, and consult with Highlands Pacific as to the content and presentation of the Cobalt 27 Provided Information in the Scheme Booklet, such consultation to include allowing Highlands Pacific a reasonable opportunity to review and make comments on successive drafts of the Cobalt 27 Provided Information before lodgement of the Scheme Booklet with the PNG Securities Commission;
- (b) **(review drafts of the Scheme Booklet)** as soon as practicable after delivery, review drafts of the Scheme Booklet prepared by Highlands Pacific and provided any comments on those drafts;
- (c) **(Verification)** undertake appropriate verification processes in relation to the Cobalt 27 Provided Information included in the Scheme Booklet;
- (d) **(Independent Expert information)** provide all assistance and information reasonably requested by Highlands Pacific or its Representatives or by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any updates to it);
- (e) **(confirmation of Cobalt 27 Provided Information)** before the Scheme Booklet is provided to the PNG Securities Commission, procure that a meeting of the Cobalt 27 board of directors is convened to approve those sections of the Scheme Booklet that comprise the Cobalt 27 Provided Information as being in a form appropriate for provision to the PNG Securities Commission for review, and either:
- (i) confirm in writing to Highlands Pacific that the Cobalt 27 Provided 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 Highlands Pacific the changes required to ensure that the Cobalt 27 Provided 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;

- (f) **(approval of Cobalt 27 Provided Information)** procure that a meeting of the Cobalt 27 board of directors is convened to approve, and does approve, those sections of the Scheme Booklet that comprise the Cobalt 27 Provided Information as being in a form appropriate for despatch to Highlands Pacific Shareholders;
- (g) **(keep Highlands Pacific informed)** from the First Court Date until the Implementation Date, promptly inform Highlands Pacific if it becomes aware:
- (i) that the Cobalt 27 Provided Information contains a statement that, in the form and context in which it appears in the Scheme Booklet, is or has become misleading or deceptive in any material respect or that contains any material omission, and provide such further or new information as is required to ensure that such information is no longer misleading or deceptive in any material respect or does not contain any material omission; or
 - (ii) of any new information which, were it known at time of despatch of the Scheme Booklet, should have been included in any Cobalt 27 Provided Information included in that version of the Scheme Booklet,
- and cooperate with Highlands Pacific to ensure that the Scheme Booklet or the information contained in it is updated accordingly;
- (h) **(Deed Poll)** execute the Deed Poll by no later than the Business Day prior to the First Court Date and, if the Scheme becomes Effective, comply with its obligations under the Deed Poll;
- (i) **(representation)** procure that, if requested by Highlands Pacific, it is represented by counsel at the Court hearings convened in relation to the Scheme, at which, through its counsel and if requested by the Court, Cobalt 27 will undertake to do all such things and take all such steps within its power as may be necessary in order to ensure the satisfaction of its obligations under this Agreement and the Scheme;
- (j) **(Scheme Consideration)** if the Scheme becomes Effective, provide the Base Scheme Consideration in accordance with the Scheme and the Deed Poll;
- (k) **(Additional Contingent Scheme Consideration)** if the Scheme becomes Effective and the Contingent Scheme Consideration Event has occurred, provide the Additional Contingent Scheme Consideration in accordance with the Scheme and the Deed Poll;
- (l) **(share transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 4.1(b) and execute instruments of transfer in respect of the Scheme Shares;
- (m) **(Highlands Pacific Provided Information)** during the period until the Highlands Pacific Provided Information becomes publicly available, only use the Highlands Pacific Provided Information with the prior written consent of Highlands Pacific (not to be unreasonably withheld or delayed);
- (n) **(financing)** do everything necessary to ensure that all finance agreements and arrangements to which Cobalt 27 is party relating to the availability of funds for the purposes of paying the Scheme Consideration remain on foot, that all conditions precedent to draw down of funds have been satisfied or waived under those agreements

or arrangements and to hold the proceeds of the financing to the extent required to pay the Scheme Consideration to the Scheme Participants on the Implementation Date; and

- (o) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws and regulations.

5.4 Appointment of directors

On and from the Implementation Date, subject to the provision of the Scheme Consideration in accordance with the Scheme and the Deed Poll, Highlands Pacific must use its best endeavours to:

- (a) take all action necessary to procure that any Highlands Pacific Independent Director designated by Cobalt 27 in writing, and any director of any Subsidiary of Highlands Pacific designated by Cobalt 27 in writing, resigns their office; and
- (b) cause the appointment to the Highlands Pacific Board and to the boards of each Subsidiary of Highlands Pacific of such persons as nominated by Cobalt 27, subject to those persons having provided a consent to act as directors of the relevant company or companies.

Cobalt 27 must provide the necessary details of its nominees to the Highlands Pacific Board and to the boards of each Subsidiary of Highlands Pacific, together with their signed consents to act, by the date of the Scheme Meeting.

6 Conduct of business and requests for access

6.1 Conduct of Highlands Pacific business

During the period from the date of this Agreement up to and including the Implementation Date, Highlands Pacific must:

- (a) procure that the Highlands Pacific Group conducts its business and operations in the ordinary course and generally consistent (subject to any applicable laws, regulations and regulatory approvals) with the manner in which each such business and operation has been conducted in the 12 month period prior to the date of this Agreement; and
- (b) to the extent consistent with the obligation in clause 6.1(a), use reasonable efforts to keep available the services of the current senior management team of Highlands Pacific, and to preserve the Highlands Pacific Group's relationship with Government Agencies, ratings agencies, customers, suppliers, licensors, licensees and others having business dealings with it,

except to the extent:

- (c) required to be done or procured by Highlands Pacific pursuant to, or that is otherwise expressly permitted by, the Transaction Documents;
- (d) Cobalt 27 has approved in writing, such approval not to be unreasonably withheld or delayed, or
- (e) which is fairly disclosed in the Highlands Pacific Disclosed Information prior to the date of this Agreement.

6.2 PanAust Buy-Back Agreement

Prior to the First Court Date, Highlands Pacific must:

- (a) use its best endeavours to negotiate and execute the PanAust Buy-Back Agreement;
- (b) before executing the PanAust Buy-Back Agreement, provide such agreement to Cobalt 27 to confirm that such agreement is consistent with the terms set out in Schedule 4 (such consent not to be unreasonably withheld);
- (c) not execute the PanAust Buy-Back Agreement if Cobalt 27 does not so confirm;
- (d) promptly give notice to Cobalt 27 of:
 - (i) the execution of the PanAust Buy-Back Agreement; and
 - (ii) if applicable, the termination of the PanAust Buy-Back Agreement; and
- (e) not amend the PanAust Buy-Back Agreement without the prior written consent of Cobalt 27.

Cobalt 27 must provide reasonable assistance to ensure that the PanAust Buy-Back Agreement is entered into, including assistance to Highlands Pacific in the negotiation of that agreement.

For the avoidance of doubt neither this Agreement nor the Scheme is conditional on the PanAust Buy-Back Agreement being entered into or being completed.

6.3 Prohibited actions

Other than with the prior approval of Cobalt 27 or as required by this Agreement and without derogating from clause 6.1, Highlands Pacific must not, during the period referred to in clause 6.1:

- (a) **(remuneration and retention payments)** increase the remuneration of (including with regard to superannuation benefits) or benefits provided to, or pay any bonus (other than in accordance with existing arrangements and in the ordinary course) to, or pay any termination or retention payments to, or otherwise vary the employment agreements with, any directors or employees, other than:
 - (i) as a result of annual remuneration reviews in accordance with past practice or as a result of promotions in the ordinary course;
 - (ii) as provided for in a document (including any employment contract or policy) in place as at the date of this Agreement;
 - (iii) the payment of special service fees (calculated on a time-incurred basis and payable on a quarterly basis) to any of its directors for their time spent on special board committee matters relating to the Transaction or other proposals leading up to the execution of this Agreement, or relating to any Competing Proposals that may arise from time to time; or
 - (iv) any payment of or increase in bonuses or other benefits granted in accordance with past practice or in the ordinary course having regard to (and commensurate with) reasonable factors such as performance and workload;
- (b) **(accelerate rights)** accelerate the rights of any of its directors or employees to benefits of any kind;

- (c) **(termination payments)** pay a director, executive or employee a termination payment, other as provided for in an existing employment contract in place as at the date of this Agreement;
- (d) **(dividends or distributions)** announce, declare, determine or pay any dividends or other distributions;
- (e) **(Highlands Pacific Prescribed Occurrence)** take any action that would be reasonably expected to give rise to a Highlands Pacific Prescribed Occurrence; or
- (f) **(agreement)** agree to do any of the matters set out above.

6.4 Exceptions

Nothing in this clause 6 restricts the ability of Highlands Pacific or any Highlands Pacific Group entity to take any action that:

- (a) is expressly required or permitted by any Transaction Document, the Scheme or otherwise required by law or the rules of a recognised securities exchange;
- (b) has been fairly disclosed to Cobalt 27 or its Representatives in the Highlands Pacific Disclosed Information; or
- (c) has been agreed in writing by Cobalt 27 (such agreement not to be unreasonably withheld or delayed).

6.5 Access to information and co-operation

- (a) **(Provision of access and information)** During the period from the date of this Agreement up to and including the Implementation Date, Highlands Pacific must, and must procure each of its Subsidiaries to, respond to reasonable requests from Cobalt 27 and its Representatives for information concerning the Highlands Pacific Group businesses and operations, and give Cobalt 27 and its Representatives reasonable access to Highlands Pacific's senior management team and records, and otherwise provide reasonable co-operation to Cobalt 27 and its Representatives, in each case for the purposes of:
 - (i) the implementation of the Scheme;
 - (ii) facilitating the agreement of the PanAust Buy-Back Agreement;
 - (iii) the refinancing of any Highlands Pacific Group debt facilities which may need to be repaid in connection with the Scheme;
 - (iv) the integration of the Highlands Pacific Group and Cobalt 27 following the implementation of the Scheme; and
 - (v) any other purpose that is agreed in writing between the parties.
- (b) **(Limits on Highlands Pacific obligations)** The obligations in clauses 6.5(a) and 6.6 do not require Highlands Pacific to:
 - (i) assume any responsibility or liability whatsoever for any information provided by or conduct of any person other than Highlands Pacific in connection with clause 6.5(a)(ii);

- (ii) do anything which would interfere or be inconsistent with the proper performance by the directors and officers of each Highlands Pacific Group entity of their fiduciary duties;
 - (iii) do anything which would affect a Highlands Pacific Group entity's ability to allocate resources towards, or otherwise cause undue disruptions to, the operation of its business in the ordinary course;
 - (iv) do anything which would cause any Condition Precedent to not be satisfied or otherwise cause a breach of this Agreement;
 - (v) require a Highlands Pacific Group entity to take any action that would reasonably be expected to conflict with or violate the entity's constituent documents or by any law;
 - (vi) provide information to Cobalt 27 concerning the Highlands Pacific Board and management's consideration of the Scheme;
 - (vii) provide any commercially sensitive or competitive information; or
 - (viii) breach an obligation of confidentiality to any person.
- (c) The parties acknowledge that all information that is provided pursuant to this clause 6.5 will be provided subject to the terms of the Confidentiality Agreement.

6.6 Updates concerning the Ramu Project

During the period from the date of this Agreement up to and including the Implementation Date Highlands Pacific must provide update reports to Cobalt 27, upon request by Cobalt 27, about the status of the Ramu Project including any reactions by any joint venture party or the manager of the Ramu Project or any of their Related Companies, the Government of Papua New Guinea or any Government Agency (**Ramu Interested Persons**) known to the Highlands Pacific Independent Directors concerning this Agreement, the Scheme and the transactions contemplated herein and therein and must promptly notify Cobalt 27 of any information known to, or that becomes known to, the Highlands Pacific Independent Directors about any actions or intentions of any Ramu Interested Persons that could have a material adverse impact on the financial status or prospects of the Ramu Project.

7 Highlands Pacific Board recommendations and intentions

7.1 Highlands Pacific Board recommendation

- (a) The Highlands Pacific Public Announcement to be issued by Highlands Pacific on the Announcement Date must state (on the basis of written statements or resolutions made by each of the Highlands Pacific Independent Directors) that the Highlands Pacific Board considers the Scheme to be in the best interests of Highlands Pacific Shareholders and recommends that Highlands Pacific Shareholders approve the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Highlands Pacific Shareholders.
- (b) Highlands Pacific must use its best endeavours to procure that:
 - (i) the Highlands Pacific Board:

- (A) does not change or withdraw the statements and recommendations set out in the Highlands Pacific Public Announcement; and
 - (B) does not make any public statement or take any action that is, or may be reasonably construed as being inconsistent with any of the statements or recommendations contemplated in the Highlands Pacific Public Announcement; and
- (ii) the Scheme Booklet states that the Highlands Pacific Board considers the Scheme to be in the best interests of Highlands Pacific Shareholders and recommends that Highlands Pacific Shareholders approve the Scheme, in the absence of a Superior Proposal, and that no Highlands Pacific Independent Director changes or withdraws his or her statement or recommendation once made,
- unless either:
- (iii) the Independent Expert concludes in the Independent Expert's Report (including in any update, revision, amendment or addendum to that report) that the Scheme is not in the best interests of Highlands Pacific Shareholders; or
 - (iv) there is a Superior Proposal.

7.2 Highlands Pacific Independent Director intentions

- (a) The Highlands Pacific Public Announcement to be issued by Highlands Pacific on the Announcement Date, and the Scheme Booklet despatched to Highlands Pacific Shareholders, must state (on the basis of written statements or resolutions made by each of the relevant Highlands Pacific Independent Directors) that each Highlands Pacific Independent Director who holds Highlands Pacific Shares, or who has control over voting rights attaching to Highlands Pacific Shares, intends to vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Highlands Pacific Shareholders.
- (b) Highlands Pacific must use reasonable endeavours to ensure that each Highlands Pacific Independent Director who holds Highlands Pacific Shares, or who has control over voting rights attaching to Highlands Pacific Shares:
 - (i) intends to vote in favour of the Scheme, or procures that the Highlands Pacific Shares the voting rights of which the Highlands Pacific Independent Director has control over are voted in favour of the Scheme; and
 - (ii) does not change that voting intention,unless either:
 - (iii) the Independent Expert concludes in the Independent Expert's Report (including in any update, revision, amendment or addendum to that report) that the Scheme is not in the best interests of Highlands Pacific Shareholders; or
 - (iv) there is a Superior Proposal.

8 Public announcements and Confidentiality Agreement

8.1 Required announcements

- (a) On the Announcement Date, Highlands Pacific must release the Highlands Pacific Public Announcement to ASX and POMSoX.
- (b) Where a party is required by applicable law, the ASX Listing Rules or any other applicable stock exchange regulation to make any announcement or to make any disclosure in connection with this Agreement (including its termination), the Scheme, the Transaction or any other transaction contemplated by this Agreement or the Scheme, it may do so only after it has given the other party as much notice as is reasonably practicable in the context of any deadlines imposed by law or applicable requirement, but in any event prior notice, and has consulted with the other party as to (and has given the other parties a reasonable opportunity to comment on) the form and content of that announcement or disclosure and taken all reasonable steps to restrict that disclosure to the greatest extent possible. Nothing in this clause requires the giving of prior notice or the taking of any action if doing so would lead to a party breaching an applicable law, the ASX Listing Rules or any other applicable stock exchange regulation.

8.2 Confidentiality Agreement

Except as set out in clause 8.1(b), the parties acknowledge and agree that:

- (a) they continue to be bound by the Confidentiality Agreement after the date of this Agreement;
- (b) the rights and obligations of the parties under the Confidentiality Agreement survive termination of this Agreement; and
- (c) in the event of any inconsistency between the Confidentiality Agreement and this Agreement, the terms of this Agreement prevail.

8.3 Standstill

Cobalt 27 will not, and will ensure that its Related Companies will not, have a Relevant Interest in 20% or more of Highland Pacific Shares.

9 Representations and warranties

9.1 Cobalt 27 representations and warranties

Cobalt 27 represents and warrants to Highlands Pacific (on Highlands Pacific's own behalf and separately as trustee for each of the Highlands Pacific Indemnified Parties) that, except as consented to in writing by or on behalf of Highlands Pacific:

- (a) **(status)** Cobalt 27 is a corporation duly incorporated and validly existing under the laws of its place of incorporation;
- (b) **(power)** Cobalt 27 has the power to enter into and perform its obligations under this Agreement, own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;

- (c) **(corporate authorisation)** Cobalt 27 has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance by it of this Agreement;
- (d) **(Agreement binding)** this Agreement is Cobalt 27's valid and binding obligation enforceable in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by Cobalt 27 of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (i) a law or treaty or a judgment, ruling, order, injunction or decree binding on it;
 - (ii) its constitution or other constituent documents; or
 - (iii) any other document or agreement that is binding on it or any of its Subsidiaries;
- (f) **(Cobalt 27 Provided Information)** on the First Court Date and the Second Court Date:
 - (i) the Cobalt 27 Provided Information has been prepared and provided in good faith and on the understanding that Highlands Pacific and each other Highlands Pacific Indemnified Party have relied on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme, and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the Cobalt 27 Provided Information complies in all material respects with the requirements referred to in clauses 5.3(a) and 5.3(e);
 - (iii) the Cobalt 27 Provided Information in the form and context in which it appears in the Scheme Booklet (as approved by Cobalt 27 in accordance with clause 5.3(f)) is not, as at that date, misleading or deceptive in any material respect and does not contain any material omission (with any statement of belief or opinion having been formed on a reasonable basis);
 - (iv) all information provided by or on behalf of Cobalt 27 to the Independent Expert to enable the Independent Expert's Report to be prepared has been prepared and provided in good faith and on the understanding that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
- (g) **(solvency)** no Insolvency Event has occurred in relation to it, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this Agreement;
- (h) **(approvals)** no regulatory approval is required to be obtained by Cobalt 27 in order for it to execute, deliver and perform this Agreement;
- (i) **(no interest in Highlands Pacific Shares above 19.9%)** at the date of this Agreement, Cobalt 27 and its respective Subsidiaries collectively do not have a Relevant Interest in Highlands Pacific Shares other than the Placement Shares and, without limiting the foregoing, hold, no proxies to vote any such other Highland Pacific Shares and have not entered any voting agreements in respect of any such other Highlands Pacific Shares; and

- (j) **(funding)** Cobalt 27 will have sufficient cash reserves (whether from internal cash reserves or external debt and/or equity funding arrangements) available to it on an unconditional basis (excepting conditions under the control of Cobalt 27, or conditions relating to, or which will cease to apply or be satisfied following, the Court making the Second Court Order) to meet its obligations to pay the Scheme Consideration in accordance with its obligations under this Agreement, the Scheme and the Deed Poll. Cobalt 27 acknowledges that any financing by Cobalt 27 will not be a condition to any obligation on Cobalt 27 under this Agreement and the Deed Poll.

9.2 Highlands Pacific representations and warranties

Highlands Pacific represents and warrants to Cobalt 27 (on its own behalf and separately as trustee for each of the Cobalt 27 Indemnified Parties) that, except as consented to in writing by Cobalt 27:

- (a) **(status)** Highlands Pacific is a corporation duly incorporated and validly existing under the laws of its place of incorporation;
- (b) **(power)** Highlands Pacific has the power to enter into and perform its obligations under this Agreement, own its property and carry on its business, and to carry out the transactions contemplated by this Agreement;
- (c) **(corporate authorisation)** Highlands Pacific has taken all necessary corporate action to authorise the entry into this Agreement and has taken or will take all necessary corporate action to authorise the performance by it of this Agreement;
- (d) **(Agreement binding)** this Agreement is Highlands Pacific's valid and binding obligation enforceable in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by Highlands Pacific of this Agreement and each transaction contemplated by this Agreement did not and will not violate in any respect a provision of:
 - (i) its Constitution or other constituent documents; or
 - (ii) a law or treaty or a judgment, ruling, order, injunction or decree binding on it;
- (f) **(solvency)** no Highlands Pacific Group entity is subject to an Insolvency Event;
- (g) **(Due Diligence Materials)** as far as Highlands Pacific is aware, the Due Diligence Materials have been collated and prepared in good faith, and Highlands Pacific has not intentionally included in the Due Diligence Materials any information that is misleading in any material respect;
- (h) **(continuous disclosure)** other than in relation to this Transaction, Highlands Pacific is not withholding any information from Cobalt 27 that is being withheld from public disclosure in reliance on ASX Listing Rule 3.1A;
- (i) **(compliance with laws)** as far as Highlands Pacific is aware, as at the date of this Agreement, no Highlands Pacific Group entity is in material breach of any laws and regulations applicable to them;
- (j) **(litigation)** as at the date of this Agreement:

- (i) Highlands Pacific is not aware of any material litigation, prosecution, mediation, arbitration or other proceeding in respect of the Highlands Pacific Group; and
 - (ii) so far as Highlands Pacific is aware, the Highlands Pacific Group has not received any written notice of Claim threatening the commencement of any material litigation prosecution, mediation, arbitration or other proceeding in respect of any of the business operated by the Highlands Pacific Group;
- (k) **(capital structure)** as at the date of this Agreement, there are 1,092,733,836 Highlands Pacific Shares on issue and no Highlands Pacific Group entity has issued or agreed to issue (or is actually or contingently required to issue) any other securities or instruments that are still outstanding (or may become outstanding) and that may convert into or be exchanged for Highlands Pacific Shares;
- (l) **(Highlands Pacific Provided Information)** on the First Court Date and the Second Court Date:
- (i) the Highlands Pacific Provided Information has been prepared and included in the Scheme Booklet in good faith and on the understanding that Cobalt 27 and each of its directors, officers and employees have relied on that information for the purposes of considering and approving the Cobalt 27 Provided Information in the Scheme Booklet, and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the Highlands Pacific Provided Information complies in all material respects with the requirements referred to in clause 5.1(i);
 - (iii) the Highlands Pacific Provided 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 omissions; and
 - (iv) all information provided by or on behalf of Highlands Pacific to the Independent Expert to enable the Independent Expert's Report to be prepared has been prepared and provided in good faith and on the understanding that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report; and
- (m) **(Ramu Project)** (i) No Highlands Pacific Group entity nor, as far as Highlands Pacific is aware, any counterparty to a Key Material Contract has committed a material breach or default under any Key Material Contract, (ii) no Highlands Pacific Group entity knows of, or has received any notice (written or oral) of, any material breach or default under a Key Material Contract, (iii) as far as Highlands Pacific is aware, there is no existing condition which with the passage of time or the giving of notice or both would result in such a material breach or default under any a Key Material Contract, and (iv) no Highlands Pacific Group entity has received any written notice that any counterparty to a Key Material Contract intends to cancel, terminate, not renew, or renegotiate any material aspect of, its relationship under that Key Material Contract with any Highlands Pacific Group entity and, as far as Highlands Pacific is aware, no such action is threatened.

9.3 Reliance by parties

Each party (**Representor**) acknowledges that:

- (a) in entering into this Agreement each other party has relied on the representations and warranties provided by the Representor under this clause 9;
- (b) any breach of the representations and warranties provided by the Representor under this clause 9 after the Scheme becomes Effective may only give rise to a Claim in damages and cannot result in a termination of this Agreement; and
- (c) it has not entered into this Agreement in reliance on any warranty or representation made by or on behalf of the other parties except those warranties and representations set out in this Agreement.

9.4 Notifications

Each party will promptly advise the other parties in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 9.

9.5 Status and timing of representations and warranties

Each representation and warranty in this clause 9:

- (a) is severable;
- (b) will survive the termination of this Agreement;
- (c) is given with the intent that liability under it will not be confined to breaches that are discovered prior to the date of termination of this Agreement; and
- (d) is made or given at the date:
 - (i) of this Agreement;
 - (ii) the Scheme Booklet is despatched to Highlands Pacific Shareholders;
 - (iii) the Scheme Meeting is held; and
 - (iv) of the Second Court Date,

unless that representation or warranty is expressed to be given at a particular time, in which case it is given at that time.

10 Indemnities and releases

10.1 Indemnities and releases by Highlands Pacific

- (a) Highlands Pacific agrees with Cobalt 27 to indemnify and keep indemnified the Cobalt 27 Indemnified Parties from and against all loss that any of the Cobalt 27 Indemnified Parties may suffer or incur by reason of any breach of any of the Highlands Pacific Warranties.
- (b) To the fullest extent permitted by law, Highlands Pacific releases its rights against, and agrees with Cobalt 27 that it will not make a Claim against, any Cobalt 27 Indemnified Party (other than Cobalt 27) in connection with:
 - (i) any breach of any representation, covenant and warranty of Cobalt 27 in this Agreement; or

- (ii) any disclosure made by any Cobalt 27 Indemnified Party that contains any statement that is false or misleading whether in content or by omission, except to the extent the relevant Cobalt 27 Indemnified Party has not acted in good faith, has acted without taking reasonable care or has engaged in wilful misconduct.

10.2 Indemnities and releases by Cobalt 27

- (a) Cobalt 27 agrees with Highlands Pacific to indemnify and keep indemnified the Highlands Pacific Indemnified Parties from and against all loss that any of the Highlands Pacific Indemnified Parties may suffer or incur by reason of:
 - (i) any breach of any of the Cobalt 27 Warranties; or
 - (ii) the PanAust Buy-Back Agreement (if entered into with the consent of Cobalt 27), or the transactions the subject of that agreement.
- (b) To the fullest extent permitted by law, Cobalt 27 releases its rights against, and agrees with Highlands Pacific that it will not make a Claim against, any Highlands Pacific Indemnified Party (other than Highlands Pacific) in connection with:
 - (i) any breach of any representation, covenant and warranty of Highlands Pacific in this Agreement;
 - (ii) any disclosure made by any Highlands Pacific Indemnified Party that contains any statement that is false or misleading whether in content or by omission; or
 - (iii) any failure to provide information; or
 - (iv) the PanAust Buy-Back Agreement (if entered into with the consent of Cobalt 27), or the transactions the subject of that agreement,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except to the extent the relevant Highlands Pacific Indemnified Party has not acted in good faith, has acted without taking reasonable care or has engaged in wilful misconduct.
- (c) To the fullest extent permitted by law, Cobalt 27 agrees that any time after the Implementation Date, it will not cause, suffer or permit Highlands Pacific to make any Claim against a Highlands Pacific Indemnified Party in respect of any matter arising in connection with this Agreement; the Transaction; the PanAust Buy-Back Agreement (if entered into with the consent of Cobalt 27), or the transactions the subject of that agreement; or any act or omission whatsoever which occurred or is alleged to have occurred on or before the Implementation Date, except where and to the extent that the relevant Highlands Pacific Indemnified Party has engaged in wilful misconduct.

10.3 Survival of indemnities and releases

Each indemnity and release in clauses 10.1 and 10.2 will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity or release from any other obligations of that party under this Agreement; and

- (d) survive the termination of this Agreement.

10.4 Benefit and enforcement

- (a) The representations and warranties set out in clause 9.2 and the indemnities and releases in clause 10.1 are given to Cobalt 27, for itself and as trustee for each of the other Cobalt 27 Indemnified Parties.
- (b) The representations and warranties set out in clause 9.1 and the indemnities and releases in clause 10.2 are given to Highlands Pacific, for itself and as trustee for each of the other Highlands Pacific Indemnified Parties.
- (c) It is not necessary for a person to incur expense or to make any payment before enforcing a right of indemnity conferred by clause 10.1 or 10.2.

10.5 Qualification on Highlands Pacific's representations, warranties and indemnities

The representations and warranties given by Highlands Pacific in clause 9.2 and the indemnity given by Highlands Pacific in clause 10.1 are each subject to matters that have been fairly disclosed in the Highlands Pacific Disclosed Information.

11 Exclusivity

11.1 Commencement of Exclusivity Period

The Exclusivity Period commences on the Exclusivity Date, but will not commence if this Agreement is terminated in accordance with its terms prior to the Exclusivity Date commencing.

11.2 No shop restriction

During the Exclusivity Period, Highlands Pacific must not, and must ensure that each of its Representatives does not, except with the prior written consent of Cobalt 27, solicit, invite, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

11.3 No talk restriction

- (a) During the Exclusivity Period, Highlands Pacific must not, and must ensure that each of its Representatives does not, enter into, continue or participate in negotiations or discussions with, or enter into any agreement, arrangement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal unless the Highlands Pacific Board, acting in good faith, after having obtained written advice from Highlands Pacific's external legal advisers, determines that not undertaking that act may involve a breach of the fiduciary or statutory duties owed by any Highlands Pacific Director. Each party acknowledges that such exception has been included in contemplation of an instance where a Competing Proposal constitutes, or would reasonably be expected to result in, a Superior Proposal.
- (b) Nothing in clause 11.3(a) prevents Highlands Pacific from making normal presentations to, or responding to enquiries from, brokers, proxy advisers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction, so long as such actions are not directed toward obtaining any Competing Proposal.

11.4 No due diligence

Without limiting the general nature of clause 11.3, during the Exclusivity Period, Highlands Pacific must not, and must ensure that each of its Representatives does not, make available to any Third Party (other than to Representatives of Cobalt 27) or permit any such Third Party to receive any non-public information relating to any Highlands Pacific Group entity in connection with such Third Party formulating, developing or finalising a Competing Proposal, unless the Highlands Pacific Board, acting in good faith, after having obtained written advice from Highlands Pacific's external legal advisers, determines that not undertaking that act may involve a breach of the fiduciary or statutory duties owed by any Highlands Pacific Director.

11.5 Notification by Highlands Pacific

- (a) During the Exclusivity Period, Highlands Pacific must promptly notify Cobalt 27 if it receives in writing any Competing Proposal, which notice must include the material terms of the Competing Proposal including the name of the party, details of the proposed price, details of the proposed consideration, conditions, timing and break fee in respect of the Competing Proposal.
- (b) The obligations in this clause 11.5 do not apply to the extent that the Highlands Pacific Board, acting in good faith, after having obtained written advice from Highlands Pacific's external legal and, if appropriate, financial advisers, determines that not undertaking that act would, or would be likely to, involve a breach of the fiduciary or statutory duties owed by any Highlands Pacific Director.

11.6 Matching rights

- (a) If Highlands Pacific receives a Competing Proposal prior to or during the Exclusivity Period, and as a result the Highlands Pacific Board proposes to publicly change or withdraw its statement that they consider the Scheme to be in the best interests of Highlands Pacific Shareholders and/or its recommendation that Highlands Pacific Shareholders vote in favour of the Scheme, Highlands Pacific must:
 - (i) give Cobalt 27 5 Business Days' notice in writing of such proposed change or withdrawal; and
 - (ii) provide to Cobalt 27 with that notice the name of the party making the Competing Proposal and all material terms of the applicable Competing Proposal including details of the proposed price, details of the proposed consideration, conditions, timing and break fee in respect of the Competing Proposal.

Any information provided pursuant to this clause 11.6(a) will be provided subject to the terms of the Confidentiality Agreement.

- (b) During the period of 5 Business Days referred to in clause 11.6(a), Cobalt 27 will have the right to make a written offer to amend the terms of the Scheme (a **Cobalt 27 Counterproposal**) so that the terms of the Scheme (as amended) would provide an outcome for the Highlands Pacific Shareholders equivalent to or superior than the applicable Competing Proposal.
- (c) Highlands Pacific must procure that the Highlands Pacific Board considers any Cobalt 27 Counterproposal that Highlands Pacific receives and if the Highlands Pacific Board,

acting in good faith, determines that the Cobalt 27 Counterproposal would provide an equivalent or superior outcome for the Highlands Pacific Shareholders to or than the applicable Competing Proposal, taking into account all the terms and conditions of the Cobalt 27 Counterproposal, then:

- (i) Highlands Pacific and Cobalt 27 must use their best endeavours to agree the amendments to the Transaction Documents that are reasonably necessary to reflect the Cobalt 27 Counterproposal (including amendments to the Scheme Consideration that are reasonably necessary to reflect the Cobalt 27 Counterproposal), and to enter into one or more appropriate amended agreements to give effect to those amendments and to implement the Cobalt 27 Counterproposal, in each case as soon as reasonably practicable; and
 - (ii) Highlands Pacific must use its best endeavours to procure that the Highlands Pacific Board must recommend the Cobalt 27 Counterproposal to Highlands Pacific Shareholders and not the applicable Competing Proposal.
- (d) Any material modification to any Competing Proposal (which will include any modification relating to the price or value of any Competing Proposal) will be taken to make that proposal a new Competing Proposal in respect of which Highlands Pacific must comply with its obligations under this clause 11.5 again.
- (e) For the avoidance of doubt:
- (i) during the period of 5 Business Days referred to in clause 11.6(a)(i); and
 - (ii) after such period expires, in the event that Cobalt 27 has made a Cobalt 27 Counterproposal by the expiry of the 5 Business Days referred to in clause 11.6(a),

Highlands Pacific must not, for such longer period as is reasonably required for Highlands Pacific to satisfy its obligations under clause 11.6(c):

- (iii) publicly change or withdraw its statement that they consider the Scheme to be in the best interests of Highlands Pacific Shareholders and/or its recommendation that Highlands Pacific Shareholders vote in favour of the Scheme; and
- (iv) enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a Third Party proposes to undertake or give effect to a Competing Proposal.

11.7 Normal provision of information

Nothing in this clause 11 prevents a party from:

- (a) providing information to its Representatives;
- (b) providing information to any Government Agency;
- (c) providing information to its auditors, Advisers, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure to any Government Agency; or

- (e) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business or to promote the merits of the Transaction.

12 Break Fee

12.1 Background

- (a) The parties acknowledge that, if they enter into this Agreement and the Scheme is subsequently not implemented, Cobalt 27 will incur significant costs.
- (b) In these circumstances:
 - (i) Cobalt 27 requested that provision be made for the payments referred to in clause 12.2, without which Cobalt 27 would not have entered into this Agreement; and
 - (ii) the Highlands Pacific Board believes that it is appropriate for Highlands Pacific to agree to the payments referred to in clause 12.2 in order to secure Cobalt 27's entry into this Agreement.
- (c) The parties acknowledge that the Break Fee represents a reasonable amount to compensate Cobalt 27 for the following:
 - (i) all advisory costs in planning and implementing the Transaction (including costs of Advisers other than success fees);
 - (ii) costs of management and directors' time in planning and implementing the Transaction;
 - (iii) out of pocket expenses incurred by Cobalt 27 and its Representatives in planning and implementing the Transaction;
 - (iv) all commitment fees and other financing costs (whether associated with debt or equity finance); and
 - (v) reasonable opportunity costs incurred in pursuing the Scheme or not pursuing other alternative acquisitions or strategic initiatives.

12.2 Payment of Break Fee

- (a) Subject to clauses 12.2(b), 12.2(c) and 12.2(d), Highlands Pacific must pay Cobalt 27 the Break Fee in accordance with clause 12.4(a), without withholding or set off, if, after the date of this Agreement but prior to the end of the Exclusivity Period:
 - (i) a Highlands Pacific Independent Director fails to recommend that Highlands Pacific Shareholders approve the Scheme, or, having made such a recommendation, publicly adversely changes or withdraws that recommendation, other than:
 - (A) in any case if the Independent Expert reaches a conclusion described in clause 7.1(b)(iii);
 - (B) where Highlands Pacific has terminated this Agreement in accordance with clause 15.1(b); or

- (C) as a result of a failure to satisfy a Condition Precedent in clauses 3.1(a) to 3.1(e), other than as a result of a breach by Highlands Pacific of clause 3.3, or a failure to satisfy a Condition Precedent in clause 3.1(i) or 3.1(j); or
 - (ii) a Superior Proposal is announced and recommended or supported by the Highlands Pacific Board or any Highlands Pacific Independent Director; or
 - (iii) Cobalt 27 terminates this Agreement in accordance with clause 15.1(b).
- (b) Despite any other term of this Agreement, the Break Fee is only payable once and Cobalt 27 cannot make any claim against Highlands Pacific for payment of any subsequent Break Fee.
- (c) Despite any other term of this Agreement:
- (i) if the Scheme becomes Effective notwithstanding the occurrence of any event in clause 12.2(a); or
 - (ii) if as at the earlier of the date of termination of this Agreement and the End Date, Highlands Pacific was entitled to terminate this Agreement under clause 15.1(b), then:
 - (iii) the Break Fee is not payable by Highlands Pacific to Cobalt 27; and
 - (iv) if the Break Fee or any part of it has already been paid by Highlands Pacific to Cobalt 27 it must be refunded by Cobalt 27 to Highlands Pacific:
 - (A) in relation to sub-paragraph (i) above, within 5 Business Days after the Scheme become Effective; or
 - (B) in relation to sub-paragraph (ii) above, within 5 Business Days after Highlands Pacific first becomes entitled to terminate this Agreement under clause 15.1(b).
- (d) For the avoidance of doubt, the Break Fee will not be payable merely by reason that any Scheme is or is not approved by Highlands Pacific Shareholders at a Scheme Meeting.

12.3 Compliance with law and other qualifications

- (a) This clause 12 does not impose an obligation on Highlands Pacific to pay the Break Fee to the extent that the obligation to pay the Break Fee is determined to be unenforceable or unlawful (including by virtue of it being a breach of the fiduciary or statutory duties of the members of the Highlands Pacific Board) by a court.
- (b) For the avoidance of doubt, any part of that fee that is not unenforceable or unlawful (as applicable) must be paid by Highlands Pacific.
- (c) No party must make, or cause or permit to be made, any application to a court for or in relation to a declaration or determination referred to in clause 12.3(a).
- (d) A statement that a shareholder should 'take no action pending further advice' (or words to that effect) is not regarded as an adverse modification of a recommendation for the purposes of clause 12.2(a), provided that the Highlands Pacific Board publicly re-affirms its recommendation in favour of the Transaction at least 5 Business Days before the earlier of the date that the Scheme is considered by Highlands Pacific Shareholders and

the End Date and if such public reaffirmation is not made within such time, such statement will be considered to be an adverse modification of a recommendation for the purposes of clause 12.2(a).

12.4 Time for payment

- (a) Highlands Pacific must pay Cobalt 27 the Break Fee, if it is payable pursuant to clause 12.2(a), within 5 Business Days after receiving a written notice from Cobalt 27 setting out the relevant circumstances and requiring payment of the Break Fee.
- (b) A written notice requiring payment of the Break Fee may only be made after the Scheme fails to become Effective by the End Date or this Agreement is terminated in accordance with its terms.

12.5 Limitation of liability

Notwithstanding any other provision of this Agreement:

- (a) the maximum aggregate liability of Highlands Pacific to all other parties under or in connection with this Agreement including in respect of any breach of this Agreement will be the amount of the Break Fee; and
- (b) a payment by Highlands Pacific of the Break Fee in accordance with clause 12.2 represents the sole and absolute liability of Highlands Pacific and any other Highlands Pacific Indemnified Party to any other party under or in connection with this Agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by Highlands Pacific to any other party in connection with this Agreement.

13 Reverse Break Fee

13.1 Background

- (a) The parties acknowledge that, if they enter into this Agreement and the Scheme is subsequently not implemented, Highlands Pacific will incur significant costs.
- (b) In these circumstances:
 - (i) Highlands Pacific requested that provision be made for the payments referred to in clause 13.2, without which Highlands Pacific would not have entered into this Agreement; and
 - (ii) the Cobalt 27's board of directors believes that it is appropriate for Cobalt 27 to agree to the payments referred to in clause 13.2 in order to secure Highlands Pacific's entry into this Agreement.
- (c) The parties acknowledge that the Reverse Break Fee represents a reasonable amount to compensate Highlands Pacific for the following:
 - (i) all advisory costs in planning and implementing the Transaction (including costs of Advisers);
 - (ii) costs of management and directors' time in planning and implementing the Transaction; and
 - (iii) all out of pocket expenses incurred by Highlands Pacific and its Representatives in planning and implementing the Transaction.

13.2 Payment of Reverse Break Fee

- (a) Subject to clauses 13.2(b) and 13.2(c), Cobalt 27 must pay Highlands Pacific the Reverse Break Fee in accordance with clause 13.4(a), without withholding or set off, if:
 - (i) Highlands Pacific terminates this Agreement in accordance with clause 15.1(b); or
 - (ii) Cobalt 27 does not pay the Scheme Consideration in accordance with the terms and conditions of this Agreement and the Deed Poll.
- (b) Despite any other term of this Agreement, the Reverse Break Fee is only payable once.
- (c) Despite any other term of this Agreement, the Reverse Break Fee will not be payable to Highlands Pacific if as at the earlier of the date of termination of this Agreement and the End Date, Cobalt 27 was entitled to terminate this Agreement under clause 15.1(b).
- (d) For the avoidance of doubt, the Reverse Break Fee will not be payable merely by reason that any Scheme is or is not approved by Highlands Pacific Shareholders at a Scheme Meeting.

13.3 Compliance with law

- (a) This clause 13 does not impose an obligation on Cobalt 27 to pay the Reverse Break Fee to the extent that the obligation to pay the Reverse Break Fee is determined to be unenforceable or unlawful by a court, provided that all proper avenues of appeal and review, judicial and otherwise, have been exhausted. For the avoidance of doubt, any part of that fee that is not unenforceable or unlawful (as applicable) must be paid by Cobalt 27.
- (b) No party must make, or cause or permit to be made, any application to a court for or in relation to a declaration or determination referred to in clause 13.3(a).

13.4 Time for payment

- (a) Cobalt 27 must pay Highlands Pacific the Reverse Break Fee, if it is payable pursuant to clause 13.2(a)(i), within 5 Business Days after receiving a written notice from Highlands Pacific setting out the relevant circumstances and requiring payment of the Reverse Break Fee.
- (b) A written notice requiring payment of the Reverse Break Fee may only be made after this Agreement is terminated in accordance with its terms.

14 Deeds of indemnity and insurance and policies

- (a) Subject to the Scheme becoming Effective and having been implemented, Cobalt 27 undertakes in favour of Highlands Pacific and each Highlands Pacific Indemnified Party that it will:
 - (i) subject to clause 14(b) and to the extent permitted by law, for a period of 7 years from the Implementation Date, ensure that the constitution of each Highlands Pacific Group entity continues to contain such rules as are contained in those constitutions as at the date of this Agreement that provide for each entity to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the entity (and Cobalt 27

- undertakes not to vary, and must ensure there is no variation of, those constitutional arrangements); and
- (ii) procure that each Highlands Pacific Group entity complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers as at the date of this Agreement (and Cobalt 27 undertakes not to vary, and must ensure there is no variation of, those arrangements, except that it may enter into such deeds with newly appointed directors and officers on terms materially consistent with existing deeds as at the date of this Agreement) and, without limiting the foregoing, not take any action which would prejudice or adversely affect any directors' and officers' run-off insurance cover taken out prior to the Implementation Date;
 - (b) The undertakings contained in clause 14(a) are subject to any legal restrictions and will be read down accordingly;
 - (c) Highlands Pacific receives and holds the benefit of clause 14(a), to the extent they relate to the Highlands Pacific Indemnified Parties, as trustee for them; and
 - (d) Each party acknowledges that, notwithstanding any other provision of this Agreement, any Highlands Pacific Group entity may, prior to the Implementation Date, enter into a run-off insurance policy in respect of any of the Highlands Pacific Indemnified Parties for a 7 year period (or longer if Cobalt 27 agrees, acting reasonably), and that any actions to facilitate that insurance or in connection with that insurance will not be a Highlands Pacific Prescribed Occurrence or breach any provision of this Agreement, provided that the Highlands Pacific Group entity has not acted unreasonably and has consulted with Cobalt 27 (who must act reasonably and not so as to cause delay) in entering into any such policy.

15 Termination

15.1 Termination by any party

Cobalt 27 or Highlands Pacific (a **terminating party**) may terminate this Agreement by notice to the other party:

- (a) in accordance with clause 3.6;
- (b) at any time before 8.00am on the Second Court Date if:
 - (i) the other party is in breach of any clause of this Agreement;
 - (ii) that breach is material in the context of the Transaction as a whole;
 - (iii) the terminating party has given notice to the other party setting out the relevant circumstances and stating an intention to terminate this Agreement; and
 - (iv) the relevant circumstances have continued to exist for 5 Business Days (or any shorter period ending at 5.00pm on the last Business Day before the Second Court Date) from the time such notice is given;
- (c) the Scheme has not become Effective by the End Date; or
- (d) if agreed to in writing by Cobalt 27 and Highlands Pacific.

15.2 Termination by Cobalt 27

Cobalt 27 may terminate this Agreement at any time before 8.00am on the Second Court Date by notice in writing to Highlands Pacific if at least a majority of the Highlands Pacific Independent Directors publicly adversely changes (including by attaching qualifications to) or withdraws their statements that they consider the Scheme to be in the best interests of Highlands Pacific Shareholders or their recommendation that Highlands Pacific Shareholders approve the Scheme, or publicly recommends, promotes or otherwise endorses a Superior Proposal, whether or not in accordance with clause 7.1(b).

15.3 Termination by Highlands Pacific

Highlands Pacific may terminate this Agreement at any time before 8.00am on the Second Court Date by notice in writing to Cobalt 27 if at least a majority of the Highlands Pacific Independent Directors publicly adversely changes (including by attaching qualifications to) or withdraws their statements that they consider the Scheme to be in the best interests of Highlands Pacific Shareholders or their recommendation that Highlands Pacific Shareholders approve the Scheme, in either case in accordance with clause 7.1(b), or publicly recommends, promotes or otherwise endorses a Superior Proposal.

15.4 Effect of termination

In the event of termination of this Agreement by either Cobalt 27 or Highlands Pacific pursuant to clause 3.6(b), 15.1, 15.2 or 15.3, this Agreement will have no further force or effect and the parties will have no further obligations under this Agreement, provided that:

- (a) this clause 15 and clauses 1, 8.2, 10 and 16 will survive termination;
- (b) each party will retain any accrued rights and remedies, including any rights and remedies it has or may have against the other parties in respect of any past breach of this Agreement; and
- (c) in all other respects, all future obligations of the parties under this Agreement will immediately terminate and be of no further force or effect, including, without limitation, any further obligations in respect of the Scheme.

15.5 Manner of termination

Where a party has a right to terminate this Agreement, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other parties stating that it terminates the Agreement and the basis on which it terminates the Agreement.

15.6 No other termination

No party may terminate or rescind this Agreement except as permitted by this clause 15.

16 GST

16.1 Recovery of GST

If GST is payable, or notionally payable, on a supply made under or in connection with this Agreement, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the **GST Amount**). Subject to the prior receipt of a tax invoice, the GST Amount is

payable at the same time that the other consideration for the supply is provided. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

16.2 Liability net of GST

Where any indemnity, reimbursement or similar payment under this Agreement is based on any cost, expense or other liability, it must be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.

16.3 Adjustment events

If an adjustment event occurs in relation to a supply made under or in connection with this Agreement, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.

16.4 Cost exclusive of GST

Any reference in this Agreement to a cost, expense or other similar amount (other than the Break Fee and Reverse Break Fee) (**Cost**) is a reference to that Cost exclusive of GST.

16.5 Survival

This clause will not merge upon completion and will continue to apply after expiration or termination of this Agreement.

16.6 Definitions

Unless the context requires otherwise, words and phrases used in this clause that have a specific meaning in the GST law (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) or the *Goods and Services Tax Act 2003* (PNG) will have the same meaning in this clause.

17 Miscellaneous

17.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the physical address or email address (as applicable) below or the physical address or email address (as applicable) last notified by the intended recipient to the sender:

- (i) to Highlands Pacific: Level 1, Allotment 6. Section 58, Sir Hubert Murray Highway, Boroko NCD, Papua New Guinea

Email: clennon@highlandspacific.com

Attention: Craig Lennon

With a copy to:

Allens, Level 28 Deutsche Bank Place,
Corner Hunter and Phillip Streets, Sydney
NSW 2000

E-mail: Guy.Alexander@allens.com.au;
Richard.Kriedemann@allens.com.au

Attention: Guy Alexander and Richard
Kriedemann

(ii) to Cobalt 27:

Address: 4 King Street. West – Suite 401,
Toronto, ON, M5H 1B6

Email: justin@cobalt27.com

Attention: President & COO

With a copy to:

Piper Alderman, Level 23 Governor
Macquarie Tower, 1 Farrer Place, Sydney
NSW 2000

Email: mwilliamson@piperalderman.com.au

Attention: Mark Williamson

(c) will be conclusively taken to be duly given or made:

- (i) in the case of delivery in person, when delivered;
- (ii) in the case of delivery by post, 3 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country); and
- (iii) in the case of delivery by email, the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that two hour period, an automated message that the email has not been delivered; and

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or at a time that is later than 5.00pm (in the place to which the Notice is sent), it will be conclusively taken to have been duly given or made at 9.00am (in the place to which the Notice is sent) on the next business day in that place.

17.2 Consideration

The parties acknowledge that each party is giving the promises under this Agreement as consideration for the promises made by each other party under this Agreement.

17.3 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

17.4 Remedies cumulative

The rights, powers and remedies provided to each party in this Agreement are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

17.5 Entire agreement

This Agreement and the Confidentiality Agreement contain the entire agreement between the parties with respect to their subject matter. They set out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively, **Conduct**) relied on by the parties and supersede all earlier Conduct by or between the parties in connection with their subject matter. No party has relied on or is relying on any other Conduct in entering into this Agreement and completing the transactions contemplated by it. If there is any inconsistency between the provisions of this Agreement and the provisions of the Confidentiality Agreement, the provisions of this Agreement will prevail to the extent of any inconsistency and the provisions of the Confidentiality Agreement will be construed accordingly.

17.6 Amendment

This Agreement may be amended only by another document executed by all the parties.

17.7 Assignment

No party can assign, charge, create a security interest over, encumber or otherwise deal with any of its rights or obligations under this Agreement, or attempt or purport to do so, without the prior written consent of the other parties.

17.8 No merger

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

17.9 Further assurances

Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

17.10 Costs and duty

Subject to clauses 12 and 13, each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne by Cobalt 27.

17.11 Severability of provisions

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

17.12 Governing law and jurisdiction

This Agreement is governed by the laws of Queensland, Australia. In relation to it and related non-contractual matters, each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

17.13 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

Schedule 1**Timetable**

Event	Date
First Court Date	Late February
Despatch of Scheme Booklet completed	Early March
Scheme Meeting	Mid-April
Second Court Date	Mid to late April
Effective Date	1 Business Day after the Second Court Date
Record Date	5 Business Days after the Effective Date
Implementation Date	5 Business Days after the Record Date

Schedule 2

Form of Scheme

Scheme of Arrangement pursuant to section 250(1) of the *Companies Act 1997* (PNG)

Between

Highlands Pacific Limited (a company limited by shares that is incorporated in and domiciled in Papua New Guinea) of Level 1, Allotment 6, Section 58, Sir Hubert Murray Highway, Boroko NCD, Papua New Guinea (***Highlands Pacific***).

And

Each holder of Highlands Pacific Shares recorded in the Register as at the Record Date (other than as holder of Excluded Securities) (each a ***Scheme Participant*** and together the ***Scheme Participants***).

Recitals

- A Highlands Pacific is a public company limited by shares, incorporated in Papua New Guinea. Highlands Pacific Shares are quoted for trading on the ASX and POMSoX.
- B Cobalt 27 is a company incorporated in British Columbia, Canada.
- C Highlands Pacific and Cobalt 27 have entered into a Scheme Implementation Agreement dated 1 January 2019 (the ***Scheme Implementation Agreement***) pursuant to which:
- (a) Highlands Pacific has agreed to propose the Scheme to Highlands Pacific Shareholders; and
 - (b) Highlands Pacific and Cobalt 27 have agreed to take certain steps to give effect to the Scheme.
- D If the Scheme becomes Effective, then:
- (a) all of the Scheme Shares and all of the rights and entitlements attaching to them on the Implementation Date will be transferred to Cobalt 27 or the Cobalt 27 Nominee;
 - (b) the Scheme Consideration will be provided to the Scheme Participants in accordance with the terms of the Scheme and the Deed Poll; and
 - (c) Highlands Pacific will enter the name and address of Cobalt 27 or the Cobalt 27 Nominee in the Highlands Pacific Register as the holder of all of the Scheme Shares.
- E By executing the Scheme Implementation Agreement, Highlands Pacific has agreed to propose and implement the Scheme, and Cobalt 27 has agreed to assist with that proposal and implementation, on and subject to the terms of the Scheme Implementation Agreement.
- F Cobalt 27 has entered into the Deed Poll for the purpose of covenanting in favour of the Scheme Participants that it will observe and perform the obligations contemplated of it under the Scheme,

and that it will procure that Cobalt 27 performs the obligations contemplated of it under the Scheme.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

In this document, unless the context requires otherwise:

Additional Contingent Scheme Consideration means A\$0.010 per Scheme Share.

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

ASX Listing Rules means the official listing rules of ASX.

Base Scheme Consideration means A\$0.105 for each Scheme Share, except that if Cobalt 27 or any of its associates (within the meaning of section 12 of the Australian Corporations Act) acquires any interest in any Highlands Pacific Share for a price higher than A\$0.105 at any time between the date of the Scheme Implementation Agreement and the Record Date, the Base Scheme Consideration will be that higher price. If Cobalt 27 or any of its associates (within the meaning of section 12 of the Australian Corporations Act) acquires any interest in a Highlands Pacific Share for a consideration which is in whole or in part non-cash, the 'price' for the purposes of the previous sentence will be calculated by reference to the fair market value of that non-cash consideration.

Business Day means a day that banks are open for business in each of:

- (a) Brisbane, Australia;
- (b) Toronto, Canada; and
- (c) Port Moresby, Papua New Guinea.

CHES means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

Cobalt 27 means Cobalt 27 Capital Corp (a company incorporated under the laws of British Columbia) of Suite 401, 4 King Street West, Toronto, Ontario, Canada, M5H 1B6.

Cobalt 27 Nominee means, in respect of the transfer of Highlands Pacific Shares under the Scheme, a wholly owned Subsidiary of Cobalt 27 nominated prior to the Record Date.

Constitution means the constitution establishing Highlands Pacific, as amended from time to time.

Contingent Scheme Consideration Event occurs if, at any time during the period from the date of this Agreement up until and including 31 December 2019, the LME Closing Price over a 5 consecutive trading day period exceeds US\$13,220 per tonne. (For the avoidance of doubt, a Contingent Scheme Consideration Event can only occur once.)

Court means the National Court of Papua New Guinea.

Deed Poll means the deed poll executed on or about the date of this document by Cobalt 27 in favour of the Scheme Participants.

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to section 250 of the PNG Companies Act, of the orders of the Court under section 250(1) of the PNG Companies Act in relation to the Scheme, but in any event at no time before a certified copy of the orders of the Court are lodged with the PNG Registrar of Companies.

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

End Date means 30 June 2019, or such later date as Cobalt 27 and Highlands Pacific may agree in writing.

Excluded Securities means:

- (a) Highlands Pacific Shares held by a Highlands Pacific Shareholder who:
 - (i) is a member of the Cobalt 27 Group; or
 - (ii) holds the Highlands Pacific Shares on behalf of, or for the benefit of any member of the Cobalt 27 Group; or
- (b) in the event that the PanAust Buy-Back Agreement is entered into and becomes unconditional at least 5 Business Days prior to the First Court Date, such Highlands Pacific Shares to be transferred to Highlands Pacific under the PanAust Buy-Back Agreement.

Frieda River JV Agreement means the Exploration, Development and Mine Operating Agreement dated 27 July 2007 between Xstrata Frieda River Limited, Highlands Frieda Limited and OMRD Frieda Co Ltd, as amended by Variation Deeds dated 24 November 2011 and 25 August 2014.

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

Highlands Pacific Share Registry means Computershare Investor Services Pty Limited of 117 Victoria Street, West End QLD 4101, Australia, or any replacement share registry services provider to Highlands Pacific.

Highlands Pacific Shareholder means a person who is registered in the Highlands Pacific Register as a holder of Highlands Pacific Shares.

Implementation Date means the date that is five Business Days after the Record Date, or such other date as Cobalt 27 and Highlands Pacific may agree in writing.

LME Closing Price means, in respect of a trading day on the London Metals Exchange (**LME**), the mid-point of the LME Official Cash Bid Price and LME Official Cash Offer Price at the close of trading on that trading day (as currently published on: <https://www.lme.com/Metals/Non-ferrous/Nickel#tabIndex=0>).

PanAust Buy-Back Agreement means a Buy-Back Agreement between Highlands Pacific and a member of the PanAust Group containing terms consistent with the provisions set out in Schedule 4 of the Scheme Implementation Agreement.

PanAust Group means PanAust Limited and each Subsidiary of PanAust Limited, and **PanAust Group entity** means any of them.

PNG Companies Act means the *Companies Act 1997* (PNG).

PNG Registrar of Companies means the Registrar of Companies appointed under section

394(1) of the PNG Companies Act.

POMSoX means Port Moresby Stock Exchange Limited or, as the context requires, the financial market operated by it.

Record Date means 7.00pm on the date that is five Business Days after the Effective Date, or such other date as may be agreed in writing between Cobalt 27 and Highlands Pacific.

Register means the register of members of Highlands Pacific maintained by or on behalf of Highlands Pacific.

Registered Address means, in relation to a Scheme Participant, the address of that Scheme Participant shown in the Highlands Pacific Register as at the Record Date.

Scheme means the scheme of arrangement under Part XVI of the PNG Companies Act between Highlands Pacific and holders of the Scheme Shares substantially in the form of this document or in such other form as Cobalt 27 and Highlands Pacific may agree in writing (such agreement not to be unreasonably withheld or delayed).

Scheme Consideration means the Base Scheme Consideration and, if the Contingent Scheme Consideration Event occurs, the Additional Contingent Scheme Consideration.

Scheme Meeting means the meeting of Scheme Participants to be ordered by the Court to be convened under section 250(2)(b) of the PNG Companies Act in relation to the Scheme, and includes any adjournment of that meeting.

Scheme Orders means the orders of the Court made under section 250(1) of the PNG Companies Act in relation to the Scheme.

Scheme Shares means the Highlands Pacific Shares on issue as at the Record Date other than the Excluded Securities.

Scheme Transfer means, in relation to each Scheme Participant, a form of transfer of their Scheme Shares for the purpose of section 65(2) of the PNG Companies Act, which may be a master transfer of all or part of all of the Scheme Shares.

Second Court Date means the first day of hearing of an application made to the Court for orders approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Subsidiary has the meaning given in the PNG Companies Act, provided that an entity will also be taken to be a Subsidiary of another entity if it is controlled by that entity (as 'control' is defined in section 6 of the PNG Companies Act) and, without limitation:

- (a) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share;
- (b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation; and
- (c) an entity will also be deemed to be a Subsidiary of an entity if that entity is required by the accounting standards to be consolidated with that entity.

Trust Account means a trust account operated by Highlands Pacific (or by the Highlands Pacific Share Registry on behalf of Highlands Pacific) as trustee for the Scheme Participants.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (v) A reference to a clause is a reference to a clause of this document.
 - (vi) A reference to an agreement or document (including a reference to this document) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this document or that other agreement or document.
 - (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
 - (viii) A reference to a person includes the person's successors, permitted substitutes and permitted assigns (and, where applicable, the person's legal personal representatives).
 - (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (x) A reference to *dollars* or \$ is to Australian currency and a reference to *US dollars* or *US\$* is to the currency of the United States of America.
 - (xi) Words and phrases not specifically defined in this document have the same meanings (if any) given to them in the PNG Companies Act.
 - (xii) A reference to time is to Port Moresby, Papua New Guinea time.
 - (xiii) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.

2 Conditions

2.1 Conditions Precedent

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

- (a) as at 8.00am on the Second Court Date each of the conditions precedent set out in clause 3.1 of the Scheme Implementation Agreement (other than the condition precedent

relating to the approval of the Court set out in clause 3.1(c) of the Scheme Implementation Agreement) has been satisfied or waived in accordance with the Scheme Implementation Agreement;

- (b) as at 8.00am on the Second Court Date, neither the Scheme Implementation Agreement nor the Deed Poll has been terminated in accordance with its terms;
- (c) the Court makes orders approving the Scheme under section 250(1) of the PNG Companies Act, including with such alterations made or required by the Court under section 251(1) of the PNG Companies Act as are acceptable to Cobalt 27 and Highlands Pacific (each acting reasonably);
- (d) such other conditions made or required by the Court as are acceptable to Cobalt 27 and Highlands Pacific (each acting reasonably) have been satisfied or waived in accordance with the Scheme Implementation Agreement; and
- (e) the orders of the Court made under section 250(1) of the PNG Companies Act approving the Scheme come into effect on or before the End Date.

2.2 Certificate

- (a) Highlands Pacific and Cobalt 27 will provide to the Court on the Second Court Date a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not all of the conditions precedent in clauses 2.1(a) and (b) have been satisfied or waived in accordance with the Scheme Implementation Agreement as at 8.00am on the Second Court Date.
- (b) The certificate referred to in clause 2.2 constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived in accordance with the Scheme Implementation Agreement.

2.3 Lapsing

The Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Agreement or the Deed Poll is terminated in accordance with its terms unless Highlands Pacific and Cobalt 27 otherwise agree in writing.

3 Scheme becoming Effective

Subject to clause 2.3, the Scheme will take effect on and from the Effective Date.

4 Implementation of Scheme

- (a) If the conditions precedent in clause 2.1 are satisfied or waived, Highlands Pacific must lodge with PNG Registrar of Companies, in accordance with section 250(4) of the PNG Companies Act, an office copy of the Scheme Orders as soon as practicable after, and in any event by no later than 5.00pm on the first Business Day after, the day on which the Scheme Orders are entered, or such other date as agreed by Highlands Pacific and Cobalt 27.
- (b) On the Implementation Date, subject to Cobalt 27 having satisfied its obligations in clause 5, all of the Scheme Shares, together with all rights and entitlements attaching to the

Scheme Shares as at the Implementation Date, will be transferred to Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, to the Cobalt 27 Nominee), without the need for any further act by any Scheme Participant (other than acts performed by Highlands Pacific or any of its directors and officers as attorney and agent for Scheme Participants under the Scheme), by:

- (i) Highlands Pacific delivering to Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, to the Cobalt 27 Nominee) for execution duly completed (and, if necessary, stamped) Scheme Transfers to transfer all of the Scheme Shares to Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, to the Cobalt 27 Nominee), duly executed by Highlands Pacific (or any of its directors and officers) as the attorney and agent of each Scheme Participant as transferor under clause 8.3;
- (ii) Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, the Cobalt 27 Nominee) executing the Scheme Transfers as transferee and delivering them to Highlands Pacific for registration; and
- (iii) Highlands Pacific, immediately after receipt of the Scheme Transfers under clause 4(b)(ii), entering, or procuring the entry of, the name and address of Cobalt 27 (or, if Cobalt 27 has nominated a Cobalt 27 Nominee, the Cobalt 27 Nominee) in the Highlands Pacific Register as the holder of all of the Scheme Shares.

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to the terms of the Scheme, each Scheme Participant will be entitled to receive the Scheme Consideration for all of the Scheme Participant's Scheme Shares.

5.2 Payment of Scheme Consideration

Cobalt 27 must, by no later than 12pm on the Business Day before the Implementation Date:

- (a) deposit (or procure the deposit) in cleared funds into the Trust Account an amount at least equal to the aggregate amount of:
 - (i) the Base Scheme Consideration payable to each Scheme Participant; and
 - (ii) the Additional Contingent Scheme Consideration that has become payable to each Scheme Participant (if the Contingent Scheme Consideration Event has occurred during the period after the date of the Scheme Implementation Agreement and on or prior to the Record Date), or which may become payable to each Scheme Participant (if the Contingent Scheme Consideration Event occurs during the period after the Record Date and up to an including 31 December 2019),provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Cobalt 27's account; and
- (b) provide written confirmation to Highlands Pacific of that deposit.

5.3 Payment to Scheme Participants – Scheme Consideration and Additional Contingent Scheme Consideration

- (a) On the Implementation Date, subject to Cobalt 27 having satisfied its obligations in clause 5.2, Highlands Pacific must pay or procure the payment from the Trust Account, of the Base Scheme Consideration to each Scheme Participant.
- (b) If the Additional Contingent Scheme Consideration Event occurs on or prior to the Record Date, on or prior to the Implementation Date, subject to Cobalt 27 having satisfied its obligations in clause 5.2, Highlands Pacific must pay or procure the payment from the Trust Account of the Additional Contingent Scheme Consideration to each Scheme Participant.
- (c) If the Additional Scheme Consideration Event occurs after the Record Date, within 10 Business Days after such occurrence, subject to Cobalt 27 having satisfied its obligations in clause 5.2, Highlands Pacific must pay or procure the payment from the Trust Account of the Additional Contingent Scheme Consideration to each Scheme Participant.
- (d) The obligations of Highlands Pacific under clause 5.3(a) and 5.3(c) will be satisfied by Highlands Pacific (in its absolute discretion):
 - (i) where a Scheme Participant has, before the Record Date, made a valid election in accordance with the requirements of the Highlands Pacific Share Registry to receive dividend payments from Highlands Pacific by electronic funds transfer to a bank account nominated by the Scheme Participant, paying, or procuring the payment of, the relevant amount in the relevant currency by electronic means in accordance with that election; or
 - (ii) otherwise, whether or not the Scheme Participant has made an election referred to in clause 5.3(d)(i), dispatching, or procuring the dispatch of, a cheque for the relevant amount to the Scheme Participant by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 5.5).
- (e) If, following satisfaction of Cobalt 27's obligations under clause 5.2 but prior to the occurrence of all of the events described in clause 4, the Scheme lapses under clause 2.3(b):
 - (i) Highlands Pacific must immediately repay (or cause to be repaid) to or at the direction of Cobalt 27 the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges); and
 - (ii) the obligation to transfer Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, to Cobalt 27 or the Cobalt 27 Nominee under clause 4 will immediately cease.
- (f) If implementation of the Scheme has occurred on the Implementation Date in accordance with this clause 5.3, but the Contingent Scheme Consideration Event has not occurred by 31 December 2019, Highlands Pacific must immediately repay (or cause to be repaid) to or at the direction of Cobalt 27 the remaining funds representing the Additional

Contingent Scheme Consideration that were deposited in the Trust Account (if any) plus any interest on the amounts deposited (less bank fees and other charges).

- (g) Scheme Participants may elect to receive any Base Scheme Consideration or Additional Contingent Scheme Consideration amount in the Papua New Guinean Kina equivalent, calculated at the rate of exchange on the Record Date as determined by Highlands Pacific acting reasonably.

5.4 Unknown Registered Address

Clause 5.3 does not apply to a Scheme Participant who does not have a Registered Address or where Highlands Pacific and Cobalt 27 believe that such Scheme Participant is not known at their Registered Address.

5.5 Joint holders

In the case of Scheme Shares held in joint names:

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

5.6 Cancellation and re-issue of cheques

- (a) Highlands Pacific may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to Highlands Pacific or the Highlands Pacific Share Registry; or
 - (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Participant to Highlands Pacific or the Highlands Pacific Share Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Highlands Pacific must reissue a cheque that was previously cancelled under clause 5.6(a).

5.7 Fractional entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, that fractional entitlement will be rounded up or down to the nearest whole number of Cobalt 27 Shares or nearest whole cent (as applicable) in accordance with the Scheme.

If Cobalt 27 is of the opinion, formed reasonably, that several Scheme Participants, each of which holds a holding of Scheme Shares which results in a fractional entitlement to New Cobalt 27 Shares have, before the 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 Participant's entitlement to the Scheme Consideration, Cobalt 27 may direct Highlands Pacific to give notice to those Scheme Participants:

- (a) setting out the names and Registered Address for all of them;
- (b) stating that opinion; and
- (c) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after the notice has been so given, the Scheme Participant specifically identified in the notice shall, for the purposes of the Scheme, be taken to hold all those Scheme Shares and each of the other Scheme Participants whose names are set out in the notice shall, for the purposes of the Scheme, be taken to hold no Scheme Shares.

5.8 Unclaimed monies

- (a) Highlands Pacific may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to Highlands Pacific; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Participant to Highlands Pacific (or the Highlands Pacific Share Registry) (which request may not be made until the date which is five Business Days after the Implementation Date), Highlands Pacific must reissue a cheque that was previously cancelled under this clause 5.8.

5.9 Remaining monies (if any) in Trust Account

To the extent that, following satisfaction of Highlands Pacific's obligations under the other provisions of this clause 5 and provided Cobalt 27 has by that time acquired the Scheme Shares in accordance with the Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of the Scheme, the Deed Poll and the Scheme Implementation Agreement, that surplus (less any bank fees and related charges) shall be paid by Highlands Pacific (or the Highlands Pacific Share Registry on Highlands Pacific's behalf) to Cobalt 27.

5.10 Orders of a Court

- (a) If written notice is given to Highlands Pacific (or the Highlands Pacific Share Registry) of an order or direction made by a Court that:
 - (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable or required to be issued to that Scheme Participant by Highlands Pacific in accordance with this clause 5, then Highlands Pacific shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
 - (ii) prevents Highlands Pacific from providing consideration to any particular Scheme Participant in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibitive by applicable law, Highlands Pacific shall

be entitled to (as applicable) retain an amount equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration in accordance with this clause 5 is permitted by that (or another) court or direction or otherwise by law.

- (b) To the extent that amounts are so deducted or withheld in accordance with clause 5.10(a), such deducted or withheld amounts will be treated for all purposes under this Scheme as having been paid to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts are actually remitted as required.

6 Dealings in Highlands Pacific Shares

6.1 Dealings in Highlands Pacific Shares by Scheme Participants

For the purpose of establishing the persons who are Scheme Participants, dealings in Highlands Pacific Shares will be recognised by Highlands Pacific provided that:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Highlands Pacific Register as the holder of the relevant Highlands Pacific Shares by the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Highlands Pacific Share Registry by 5.00pm on the day which is the Record Date at the place where the Highlands Pacific Register is located (in which case Highlands Pacific must register such transfers or transmission applications before 7.00pm on that day),

and Highlands Pacific will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Participants nor for any other purpose (other than to transfer to Cobalt 27 or the Cobalt 27 Nominee pursuant to the Scheme and any subsequent transfers by Cobalt 27 or the Cobalt 27 Nominee and their successors in title and other than transfers under the PanAust Buy-Back Agreement), any transfer or transmission application in respect of Highlands Pacific Shares received after such times, or received prior to such times but not in actionable or registrable form (as appropriate).

6.2 Highlands Pacific Register

- (a) Highlands Pacific will, until the Scheme Consideration has been provided and the name and address of Cobalt 27 or the Cobalt 27 Nominee has been entered in the Highlands Pacific Register as the holder of all of the Scheme Shares, maintain, or procure the maintenance of, the Highlands Pacific Register in accordance with this clause 6, and the Highlands Pacific Register in this form and the terms of the Scheme will solely determine entitlements to the Scheme Consideration.
- (b) As from the Record Date (and other than for Cobalt 27 or the Cobalt 27 Nominee following the Implementation Date), each entry in the Highlands Pacific Register as at the Record Date relating to Scheme Shares will cease to have any effect other than as evidence of the entitlements of Scheme Participants to the Scheme Consideration in respect of those Scheme Shares.

- (c) As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, Highlands Pacific will ensure that details of the names, Registered Addresses and holdings of Highlands Pacific Shares for each Scheme Participant as shown in the Highlands Pacific Register are available to Cobalt 27 in the form Cobalt 27 reasonably requires.

6.3 Effect of share certificates and holding statements

As from the Record Date (and other than for Cobalt 27 or the Cobalt 27 Nominee following the Implementation Date), all share certificates and holding statements for Scheme Shares (other than statements of holding in respect of Excluded Securities) will cease to have effect as documents of title in respect of those Scheme Shares.

6.4 No disposals after Record Date

If the Scheme becomes Effective, each Scheme Participant, and any person claiming through that Scheme Participant, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after 5.00pm on the Record Date other than to Cobalt 27 or the Cobalt 27 Nominee in accordance with the Scheme and any subsequent transfers by Cobalt 27 or the Cobalt 27 Nominee and their successors in title.

7 Suspension and termination of quotation of Highlands Pacific Shares

- (a) Highlands Pacific must apply to ASX and POMS0X for suspension of trading of the Highlands Pacific Shares with effect from the close of business on the Effective Date.
- (b) Highlands Pacific must apply to ASX and POMS0X for termination of official quotation of the Highlands Pacific Shares and the removal of Highlands Pacific from the official list of ASX and POMS0X with effect from the Business Day immediately following the Implementation Date, or from such later date as may be determined by Cobalt 27.

8 General provisions

8.1 Further assurances

- (a) Each Scheme Participant and Highlands Pacific will do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it.
- (b) Without limiting Highlands Pacific's other powers under the Scheme, Highlands Pacific has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Scheme Implementation Agreement.

8.2 Scheme Participants' agreements and consents

Each Scheme Participant:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Cobalt 27 or the Cobalt 27 Nominee in accordance with the terms of the Scheme;
- (b) acknowledges and agrees that the Scheme binds Highlands Pacific and all Scheme Participants (including those that did not attend the Scheme Meeting or did not vote at

that meeting or voted against the Scheme at that Scheme Meeting) and, to the extent of any inconsistency, overrides the Constitution; and

- (c) irrevocably consents to Highlands Pacific and Cobalt 27 doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it,

without the need for any further act by that Scheme Participant.

8.3 Appointment of Highlands Pacific as attorney for implementation of Scheme

Each Scheme Participant, without the need for any further act by that Scheme Participant, irrevocably appoints Highlands Pacific as that Scheme Participant's agent and attorney for the purpose of:

- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Transfers) under clause 4(b)(i); and
- (b) enforcing the Deed Poll against Cobalt 27,

and Highlands Pacific accepts such appointment. Highlands Pacific, as agent and attorney of each Scheme Participant, may sub delegate its functions, authorities or powers under this clause 8.3 to all or any of its directors and officers (jointly, severally, or jointly and severally).

8.4 Warranty by Scheme Participants

Each Scheme Participant is deemed to have warranted to Cobalt 27, and, to the extent enforceable, to have appointed and authorised Highlands Pacific as that Scheme Participant's agent and attorney to warrant to Cobalt 27, that all of their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the time of the transfer of them to Cobalt 27 or the Cobalt 27 Nominee pursuant to the Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Shares (together with any rights and entitlements attaching to those Scheme Shares) to Cobalt 27 or the Cobalt 27 Nominee pursuant to the Scheme. Highlands Pacific undertakes in favour of each Scheme Participant that it will provide such warranty, to the extent enforceable, to Cobalt 27 on behalf of that Scheme Participant.

8.5 Title to Scheme Shares

Cobalt 27 or the Cobalt 27 Nominee will be beneficially entitled to the Scheme Shares transferred to it under the Scheme pending registration by Highlands Pacific of the name and address of Cobalt 27 or the Cobalt 27 Nominee in the Highlands Pacific Register as the holder of the Scheme Shares.

8.6 Appointment of Cobalt 27 as attorney and agent for Scheme Shares

- (a) From the time that Cobalt 27 has satisfied its obligations in clause 5.2 until Cobalt 27 or the Cobalt 27 Nominee is registered in the Highlands Pacific Register as the holder of all Scheme Shares, each Highlands Pacific Shareholder:

- (i) without the need for any further act by that Highlands Pacific Shareholder, irrevocably appoints Cobalt 27 as its proxy to (and irrevocably appoints Cobalt 27 as its agent and attorney for the purpose of appointing any director or officer of Cobalt 27 as that Highlands Pacific Shareholder's proxy and, where appropriate, its corporate representative to):
 - (A) attend shareholders' meetings of Highlands Pacific;
 - (B) exercise the votes attaching to the Highlands Pacific Shares registered in the name of the Highlands Pacific Shareholder; and
 - (C) sign any Highlands Pacific Shareholders' resolution;
 - (ii) must take all other action in the capacity of a Highlands Pacific Shareholder as Cobalt 27 reasonably directs; and
 - (iii) acknowledges and agrees that in exercising the powers referred to in clause 8.6(a), Cobalt 27 and any person nominated by Cobalt 27 under clause 8.6(a) may act in the best interests of Cobalt 27 as the intended registered holder of the Scheme Shares.
- (b) From the time that Cobalt 27 has satisfied its obligations in clause 5.2 until Cobalt 27 is registered in the Highlands Pacific Register as the holder of all Scheme Shares, no Highlands Pacific Shareholder may attend or vote at any meetings of Highlands Pacific Shareholders or sign any Highlands Pacific Shareholders' resolution (whether in person, by proxy or by corporate representative) other than under this clause 8.6.

8.7 Alterations and conditions to Scheme

If the Court proposes to approve the Scheme subject to any alterations or conditions, Highlands Pacific may, by its counsel or solicitors, and with the prior written consent of Cobalt 27:

- (a) consent on behalf of all persons concerned, including each Highlands Pacific Shareholder, to those alterations or conditions; and
- (b) each Scheme Participant agrees to any such alterations or conditions which Highlands Pacific has consented to.

8.8 Enforcement of Deed Poll

Highlands Pacific undertakes in favour of each Scheme Participant that it will enforce the Deed Poll against Cobalt 27 on behalf of and as agent and attorney for the Scheme Participants.

8.9 Consent

Each of the Scheme Participants consents to Highlands Pacific doing all things necessary or incidental to the implementation of this Scheme, whether on behalf of the Scheme Participants, Highlands Pacific or otherwise.

8.10 Notices

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to Highlands Pacific, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it

is actually received at Highlands Pacific's registered office or by the Highlands Pacific Share Registry, as the case may be.

- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Highlands Pacific Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

8.11 Duty

Cobalt 27 will:

- (a) pay all duty (including stamp duty and any related fines, penalties and interest) payable on or in connection with the transfer by Scheme Participants of the Scheme Shares to Cobalt 27 or the Cobalt 27 Nominee pursuant to the Scheme; and
- (b) indemnify each Scheme Participant against any liability arising from failure to comply with clause 8.11(a).

8.12 Governing law and jurisdiction

This document is governed by the laws of the Independent State of Papua New Guinea. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there and courts of appeal from them in connection with matters concerning this document. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

Schedule 3

Deed Poll

This Deed Poll is made on

Parties

- 1 **Cobalt 27 Capital Corp** (a company incorporated under the laws of British Columbia) of Suite 401, 4 King Street West, Toronto, Ontario, Canada, M5H 1B6 (**Cobalt 27**).

In favour of

Each Scheme Participant.

Recitals

- A Cobalt 27 and Highlands Pacific Limited (a company incorporated in and domiciled in Papua New Guinea) (**Highlands Pacific**) have entered into a scheme implementation agreement dated 1 January 2019 (the **Scheme Implementation Agreement**).
- B Highlands Pacific has agreed in the Scheme Implementation Agreement to propose the Scheme, pursuant to which, subject to the satisfaction or waiver of certain conditions precedent, Cobalt 27 will acquire all of the Scheme Shares from Scheme Participants for the Scheme Consideration.
- C In accordance with the Scheme Implementation Agreement, Cobalt 27 is entering into this Deed Poll for the purpose of covenanting in favour of the Scheme Participants that it will observe and perform the obligations contemplated of it under the Scheme.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

Terms defined in the Scheme Implementation Agreement have the same meaning in this Deed Poll, unless the context requires otherwise.

1.2 Interpretation

The provisions of clause 1.2 of the Scheme Implementation Agreement form part of this Deed Poll as if set out in full in this Deed Poll, and on the basis that references to 'this document' or 'this Agreement' in that clause are references to 'this Deed Poll'.

2 Nature of Deed Poll

Cobalt 27 acknowledges that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Participant in accordance with its terms, even though the Scheme Participants are not party to it; and

- (b) under the Scheme, each Scheme Participant appoints Highlands Pacific as its agent and attorney to enforce this Deed Poll against Cobalt 27 on behalf of that Scheme Participant.

3 Conditions Precedent and Termination

3.1 Conditions precedent

Cobalt 27's obligations (as relevant) under this Deed Poll are subject to the Scheme becoming Effective.

3.2 Termination

If the Scheme Implementation Agreement is terminated before the Effective Date or the Scheme does not become Effective on or before the End Date, the obligations of Cobalt 27 under this Deed Poll will automatically terminate and the terms of this Deed Poll will be of no further force or effect, unless Highlands Pacific and Cobalt 27 otherwise agree in accordance with the Scheme Implementation Agreement.

3.3 Consequences of termination

If this Deed Poll is terminated under clause 3.2, then, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Cobalt 27 is released from its obligations under this Deed Poll, except those obligations under clause 8.6; and
- (b) each Scheme Participant retains any rights, powers or remedies that Scheme Participant has against Cobalt 27 in respect of any breach of its obligations under this Deed Poll that occurred before termination of this Deed Poll.

4 Compliance with Scheme Obligations

4.1 Obligations of Cobalt 27

Subject to clause 3, in consideration for the transfer to Cobalt 27 or the Cobalt 27 Nominee of the Scheme Shares in accordance with the Scheme, Cobalt 27 covenants in favour of each Scheme Participant that it will observe and perform all obligations contemplated of it under the Scheme, including the relevant obligations relating to the provision of the Scheme Consideration in accordance with the terms of the Scheme.

5 Representations and Warranties

Cobalt 27 makes the following representations and warranties.

- (a) **(Status)** It is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
- (b) **(Power)** It has the power to enter into and perform its obligations under this Deed Poll and to carry out the transactions contemplated by this Deed Poll and does not require shareholder approval or any other form of corporate approval which it has not already obtained to do so.
- (c) **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into this Deed Poll and has taken or will take all necessary corporate action to

authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll.

- (d) **(Document binding)** This Deed Poll is its valid and binding obligation enforceable in accordance with its terms.
- (e) **(Transactions permitted)** The execution and performance by it of this Deed Poll and each transaction contemplated by this Deed Poll did not and will not violate in any respect a provision of:
 - (i) a law, judgment, ruling, order or decree binding on it; or
 - (ii) its constitution or other constituent documents.

6 Continuing Obligations

This Deed Poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) Cobalt 27 having fully performed its obligations under this Deed Poll; and
- (b) termination of this Deed Poll under clause 3.

7 Further Assurances

Cobalt 27 will, on its own behalf and, to the extent authorised by the Scheme, on behalf of each Scheme Participant, do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

8 General

8.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed Poll:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address (as applicable) below or the address or email address (as applicable) last notified by the intended recipient to the sender:

Cobalt 27: Address: 4 King St. West – Suite 401, Toronto, ON, M5H 1B6

Email: justin@cobalt27.com

Attention: President & COO

With a copy to:

Piper Alderman, Level 23, Governor Macquarie Tower, 1
Farrer Place, Sydney NSW 2000

Email: mwilliamson@piperalderman.com.au

Attention: Mark Williamson

- (c) will be conclusively taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, 3 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of email, at the earliest of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the intended recipient confirms receipt of the email by reply email; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made:

- (iv) in the case of delivery by hand or post, at a time that is later than 5pm;
- (v) in the case of delivery by email, at a time that is later than 7pm; or
- (vi) on a day that is not a business day,

in the place specified by the intended recipient as its postal address under clause 8.1(b), it will be conclusively taken to have been duly given or made at the start of business on the next business day in that place.

8.2 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by Cobalt 27 or by any Scheme Participant operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy. A waiver is not valid or binding on the person granting that waiver unless made in writing.

8.3 Remedies cumulative

The rights, powers and remedies of Cobalt 27 and of each Scheme Participant under this Deed Poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

8.4 Amendment

No amendment or variation of this Deed Poll is valid or binding unless:

- (a) either:

- (i) before the Second Court Date, the amendment or variation is agreed to in writing by Highlands Pacific and Cobalt 27 (which such agreement may be given or withheld without reference to or approval by any Highlands Pacific Participant); or
 - (ii) on or after the Second Court Date, the amendment or variation is agreed to in writing by Highlands Pacific and Cobalt 27 (which such agreement may be given or withheld without reference to or approval by any Highlands Pacific Participant), and is approved by the Court; and
- (b) Cobalt 27 enters into a further deed poll in favour of the Scheme Participants giving effect to that amendment or variation.

8.5 Assignment

The rights and obligations of Cobalt 27 and of each Scheme Participant under this Deed Poll are personal. They cannot be assigned, encumbered or otherwise dealt with and no person may attempt, or purport, to do so without the prior consent of Cobalt 27 and Highlands Pacific.

8.6 Costs and duty

Cobalt 27 must bear its own costs arising out of the negotiation, preparation and execution of this Deed Poll. All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Deed Poll and any instrument executed under or any transaction evidenced by this Deed Poll must be borne by Cobalt 27. Cobalt 27 must indemnify each Scheme Participant on demand against any liability for that duty (including any related fines, penalties and interest).

8.7 Governing law and jurisdiction

This Deed Poll is governed by the laws of Queensland, Australia. Cobalt 27 submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Deed Poll.

Executed and delivered as a Deed.

Executed by Cobalt 27:

Signature of Witness

Signature of Authorised Signatory

Name of Witness

Name of Authorised Signatory

Schedule 4**PanAust Buy-Back Agreement**

- 1 The PanAust Buy-Back Agreement must contain the following terms and conditions and must not contain a provision that is contradictory to the following terms and conditions:
- (a) the buy-back of all of PanAust Group's Highlands Pacific Shares as at the Record Date, up to a maximum of 128,865,980 Highlands Pacific Shares (**PanAust Buy-Back Shares**), at a purchase price that is equal to the Scheme Consideration for each Scheme Share;
 - (b) the consideration for the buy-back of the PanAust Buy-Back Shares shall be paid by way of the transfer of all of the shares in Highlands Frieda Limited to a member of the PanAust Group, assuming a value for all of the shares in Highlands Frieda Limited determined in accordance with paragraph 1(c) (**Agreed Frieda River Value**);
 - (c) a provision for the determination of the value of Highlands Frieda Limited as:
 - (i) the carrying value of Highlands Pacific's joint venture interest in the Frieda River asset, as disclosed in Highlands Pacific's financial statements for the financial year ended 30 June 2018 (being approximately US\$28.8m); less
 - (ii) the outstanding principle and interest on all loans from Frieda River Limited or a member of the PanAust Group, as at 31 December 2018; less
 - (iii) any and all amounts in respect of unpaid calls claimed to be payable in respect of the 'Arbitration Loan' of approximately US\$12.82m, being the amounts purportedly payable by Highlands Frieda Limited under the Frieda River JV Agreement, which is the subject of a dispute and arbitration;
 - (d) a provision for the making of adjustment payments to the extent that the purchase price payable for the PanAust Buy-Back Shares is:
 - (i) above the Agreed Frieda River Value, in which case Highlands Pacific will pay the difference from its cash reserves; and
 - (ii) below the Agreed Frieda River Value, in which case PanAust will pay the difference to Highlands Pacific;
 - (e) a provision stating that the effective date of the transaction is 1 January 2019 so that all further expenditure by Highlands Frieda Limited is solely to the account of PanAust Limited;
 - (f) the cancellation of any outstanding debts owed by Highlands Pacific Group to the PanAust Group, including, for the avoidance of doubt, the forgiveness of the 'Carried Funding Loan' to Highlands Frieda Limited from Frieda River Limited;
 - (g) limited warranties by Highlands Pacific in favour of PanAust relating only to solvency, power and authority, and title to the Frieda River asset; and
 - (h) the release and discharge of each member of the Highlands Pacific Group by each PanAust Group entity and Highlands Frieda Limited, from any all Claims and liabilities, whether existing, arising out of, or otherwise associated with, the PanAust Buy-Back Agreement, the Frieda River asset, or the Frieda River JV Agreement.

- 2 Upon the Scheme becoming Effective, the PanAust Buy-Back Agreement must complete automatically, immediately following the Scheme being implemented.
- 3 The parties to the PanAust Buy-Back Agreement may not amend the terms of the PanAust Buy-Back Agreement without the prior written consent of Cobalt 27. For this purpose, Highlands Pacific must immediately notify Cobalt 27 of a proposal to amend, of the occurrence of an event, or circumstance which might reasonably require the amendment of, the terms of the PanAust Buy-Back Agreement.
- 4 The PanAust Buy-Back Agreement will be conditional on Highlands Pacific obtaining a waiver from ASX Listing Rule 10.1 in respect of the transactions which are the subject of the PanAust Buy-Back Agreement.
- 5 PNG Companies Act:
 - (a) If the Board of Highlands Pacific does determine to enter into the PanAust Buy-Back Agreement, the Board of Highlands Pacific must, if the members of the Board determine that they can do so in compliance with the requirements of applicable laws, including the PNG Companies Act 1997, and their fiduciary and statutory duties, pass the necessary resolutions required by Regulation 5.3 of Highlands Pacific's Constitution and section 57 of the PNG Companies Act (as amended).
 - (b) If Highlands Pacific does enter into the PanAust Buy-Back Agreement, Highlands Pacific will use its best endeavours to comply with the requirements of section 57 of the PNG Companies Act 1997 in respect of the buy-back.

Schedule 5

Execution pages

Executed as an agreement on 1 January 2019.

Executed by Cobalt 27:

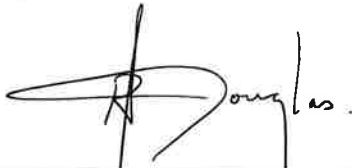
Signature of Witness

Signature of Authorised Signatory

Name of Witness

Name of Authorised Signatory

Executed by Highlands Pacific Limited:



Director Signature

R.J. DOUGLAS

Print Name



Director/Secretary Signature

CRAIG LENNON

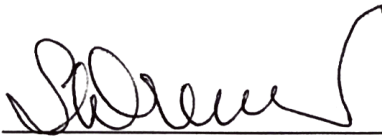
Print Name

Schedule 5

Execution pages

Executed as an agreement on

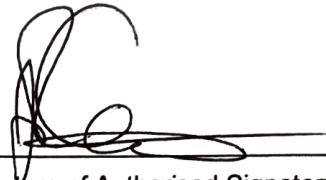
Executed by Cobalt 27:



Signature of Witness

Vanessa Drew.

Name of Witness



Signature of Authorised Signatory

Justin Cochrane

Name of Authorised Signatory

Executed by Highlands Pacific Limited:

Director Signature

Print Name

Director/Secretary Signature

Print Name
