

SILVER CHEF LIMITED ENTERS INTO SCHEME IMPLEMENTATION AGREEMENT

Silver Chef Limited ("**Silver Chef**" or "**Company**" ASX: SIV) announces that it has entered into a binding Scheme Implementation Agreement (**SIA**) with a consortium of investors investing under the leadership of Next Capital Pty Ltd (**Next Capital**). Next Capital is an independent Australian private equity firm, specialising in providing buy-out funding for small to medium growth businesses. The consortium is comprised of investment vehicles affiliated with Next Capital and a number of co-investors that are investing through co-investment vehicles.¹

If the Scheme is implemented, Silver Chef shareholders will be paid:

- (a) cash consideration of \$0.70 (**Cash Consideration**); and
- (b) one contingent value note, representing an opportunity to share in the potential upside in the run-down of the GoGetta business (as detailed below) (**Contingent Value Note**),

for each Silver Chef share they hold as at the record date (**Scheme Consideration**).

Silver Chef shareholders affiliated with Allan English (**Founder Shareholders**) may elect to retain all of their shares in lieu of receiving the Scheme Consideration. Founder Shareholders who elect to retain their Silver Chef shares will vote in a separate Scheme meeting to other Silver Chef shareholders.

Options Available to the Company

Silver Chef has been operating with the support of its financiers since July 2018 as the Company explored options to cure its covenant breaches, which required a minimum of \$45 million capital to reduce the amount drawn under the Company's Syndicated Debt Facility (**SF**). A condition of the SF waiver was that the Company would moderate its growth by ensuring originations were funded from operating cashflows and cash reserves during the waiver period. This had a material impact on the HY2019 results and is expected to have a material adverse impact on FY2019 and the FY2020 outlook.

In addition, from November 2018 the Company has required financier consent for distributions to be received from the Securitisation Warehouse Facility (**SWF**) due to certain reporting requirements not being met. A further condition of the 28 February 2019 waiver extension specified that all asset sell-ins to the SWF required SF lender consent.

The cumulative effect of both the SF and SWF waiver conditions has progressively and significantly reduced the near-term financial outlook for the Company and along with the reduction in the Company's share price has significantly increased the difficulty of raising the necessary capital required to recapitalise the Company.

The Company continues to be restricted in accessing distributions from the SWF and allowing asset sell-ins to the SWF.

Since September 2018, Silver Chef has explored various options to recapitalise the Company so that it could continue to operate and grow the business. The initial preferred option was for the Company to seek offers

¹ The investment vehicles and the percentage proportions in which they propose to acquire the Company's shares are Next Capital Services IVA Pty Limited as trustee for Next Capital Trust IVA (20.3%), Next Capital Services IVC Pty Limited as trustee for Next Capital Trust IVC (13.5%) and Next Capital Services IVD2 Pty Limited as trustee for Next Capital Trust IVD2 (10.5%) (or their bidder nominees in their respective bidder nominee proportions) and Next Capital (Services A) Pty Limited as trustee for Apollo Co-Investment Trust (24.1%) and Next Capital (Services B) Pty Limited as trustee for Apollo Co-Investment Trust B (31.6%) (together, the **Bidder**).

of sub-debt and Ironstone Capital were appointed to advise the Company and run a sub-debt tender process.

Concurrently with the pursuit of sub-debt offers, the Company, through its advisers Adara Partners, engaged with several private equity firms about a potential take private option where an incoming party would acquire the shares in the Company and then recapitalise the Company on a basis agreed with Silver Chef's financiers.

During this process the Silver Chef board appointed an independent board committee, comprising the directors excluding Mr Allan English (**Independent Directors**), to consider take private proposals and the sub-debt proposal, given Mr English's substantial shareholding in the Company and the potential for a conflict of interest to arise in those considerations.

The process culminated in the Company entering into an Exclusivity Agreement with a preferred private equity partner and a preferred sub-debt party in January 2019.

This sub-debt party had proposed that, subject to due diligence, it would provide \$45 million of subordinated debt conditional on a minimum equity raising of \$20 million. Morgans Corporate Limited were appointed as Lead Manager for the equity raising and an Independent Accountant was also appointed to review the Company's financials and forecasts in anticipation of an equity raising in March 2019. The equity raising was subsequently delayed following the additional financier conditions imposed at 28 February resulting from the continuing reporting issues within the SWF.

On 11 April 2019, the Company announced it had received an indicative, conditional, non-binding offer of \$1.00 per share and one Contingent Value Note from Next Capital, which was undertaking due diligence under an Exclusivity Deed and had commenced discussions with the Company's financiers. This Exclusivity Deed has been extended on several occasions as Next Capital and the Company's financiers endeavoured to reach agreement on terms of the recapitalisation of the Company.

The sub-debt proposal lapsed as advised to the market on 23 May 2019, however discussions about a potential public equity solution have continued but have not proved feasible.

On 2 July 2019, Next Capital's indicative, conditional, non-binding offer was revised to \$0.70 per share and one Contingent Value Note per share post completion of negotiations with Silver Chef's financiers.

Today's announcement represents the culmination of extensive negotiations with Next Capital and the Company's financiers and takes into account the prospects facing the Company in a constrained funding environment and the urgent need to cure the covenant breaches to ensure the ongoing support of the Company's financiers.

Silver Chef independent board committee unanimously recommends the Scheme

The Independent Directors have unanimously recommended voting in favour of the Scheme in the absence of a superior proposal emerging and subject to the Independent Expert concluding the Scheme to be in the best interests of Silver Chef shareholders. Subject to those same qualifications, each Independent Director that holds or controls Silver Chef shares has committed to vote in favour of the Scheme.

The Chair of the Independent Board Committee, Sophie Mitchell, commented "The Independent Directors have carefully considered the offer from Next Capital and its relative certainty compared to the existing challenges in raising sufficient debt and/or equity to cure breaches of debt covenants. The Independent Directors have also weighed up the material risk of Silver Chef not receiving ongoing support from financiers and that it may be required to repay its credit facilities within a short timeframe without that support. The Scheme Consideration provides certainty of value to Silver Chef shareholders and an ability to share in the potential upside from the rundown of the GoGetta business".

Independent Expert

Silver Chef has engaged Ernst & Young Transaction Advisory Services Limited (**Independent Expert**) to prepare an independent expert's report for the Scheme Booklet.

Contingent Value Note

The Bidder has proposed to structure the Scheme Consideration so that part of the net cash that may be recouped in the run-off of the GoGetta asset book above \$10 million will be paid to Scheme shareholders. The parties have opted to use the Contingent Value Note structure to achieve this purpose.

The commercial terms which have been agreed in respect of the contingent consideration is that shareholders (other than Founder Shareholders who make a valid election to retain their Silver Chef shares) will be entitled to a redemption amount calculated on 50% of the net proceeds (including cash reserves generated by the GoGetta Business as at the date of the SIA and retained for working capital) that exceed \$10 million from the GoGetta run-off (net of all outgoing and claims including contingent costs and expenses incurred) between the date of the SIA and 30 June 2021. No redemption amount is payable until Silver Chef's Facility B under the SF has been repaid in full. Accordingly, the actual redemption amount for each Contingent Value Note is not quantifiable at this time and the Independent Directors can give no assurance as to their ultimate value or indeed if any payment will be made at all.

It is proposed that Silver Chef will be the issuer of the Contingent Value Notes. The issue of Contingent Value Notes to shareholders by Silver Chef will constitute financial assistance for the purposes of Part 2J.3 of the Corporations Act. Accordingly, Silver Chef will be seeking shareholder approval to provide financial assistance in accordance with sections 260A(1)(b) and 260B of the Corporations Act (**Financial Assistance Resolution**). The Independent Board Committee recommends that shareholders vote in favour of the Financial Assistance Resolution.

The terms of the Contingent Value Notes (including the calculation of the redemption amount) are set out in the Contingent Value Note Trust Deed in Annexure D of the SIA.

Transaction structure

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

The scheme is subject to certain conditions that must be satisfied or waived for the scheme to be implemented. These include:

- (a) receipt of various approvals, consents or relief from regulatory authorities, including ASIC and ASX;
- (b) the Bidder obtaining approval from the Foreign Investment Review Board;
- (c) the Independent Expert concluding that the Scheme is in the best interests of Silver Chef shareholders;
- (d) no material enforcement initiated by any regulatory authority, which has or is likely to have an adverse financial impact on Silver Chef's consolidated net assets of \$9.8 million or profit before tax of \$1.4 million (excluding any events specified in paragraph (f) below);
- (e) no default under Silver Chef's credit facilities or circumstances occurring which results in the waivers received from financiers being revoked or ceasing to apply which are not waived or remedied within 10 business days, provided that any waiver must be on terms acceptable to the Bidder;
- (f) no prosecution, litigation or other proceeding in connection with the ASIC investigation into the GoGetta business results, or is reasonably likely to result, in losses of \$10 million or more.

There are also a number of other customary conditions, including shareholder approval of the Scheme and Financial Assistance Resolution by the requisite majorities, Court approval and no material adverse effect or

target prescribed event. Unless all conditions are satisfied or waived in accordance with the terms of the SIA, the Scheme will not be implemented.

The SIA contains customary exclusivity provisions including no shop, no talk, notification of approaches and a matching right. The SIA also details circumstances under which a break fee of approximately \$1.18 million may be payable to the Bidder.

A copy of the SIA with its attachments accompanies this announcement.

Update on financier waivers

Silver Chef has received an extension of its existing conditional waivers from its financiers in relation to a breach of its debt covenants as at 30 June 2018. The waivers (which are subject to various conditions) have been extended to 30 November 2019 to allow the Scheme to be voted on and, if approved, implemented.

Indicative timetable and next steps

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

A Scheme Booklet containing, among other things, further information relating to the Scheme, reasons for the Independent Director's unanimous recommendation, details of the Scheme Meetings and General Meeting and the Independent Expert's Report is expected to be sent to Silver Chef shareholders in mid to late July 2019.

Otherwise, the key dates for the Scheme are as follows:

Event	Indicative date
Despatch of Scheme Booklet to Silver Chef shareholders	Wednesday, 31 July 2019
General Meeting and Scheme Meetings	Friday, 30 August 2019
Implementation of Scheme	Mid to late September 2019

These dates are indicative only and subject to change.

Silver Chef is being advised by Adara Partners as corporate adviser and by Jones Day as legal adviser.

Enquiries to:

Damien Guivarra
Chief Executive Officer
(07) 3335 3300

Graeme Fallet
Chief Financial Officer
(07) 3335 3300

About Silver Chef

Silver Chef was established in 1986 to help businesses fund their equipment needs through the Rent-Try-Buy® Solution. This keeps their options open and preserves their cash to grow their business.

Silver Chef Limited is an Australian Securities Exchange-listed company (ASX Code: SIV) focused on rentals of commercial equipment to small-to-medium enterprise. The Company has operations in Australia, New Zealand and Canada.

Silver Chef Limited

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Scheme Implementation Agreement

Next Capital Services IVA Pty Limited (ACN 629 199 391) as trustee for Next Capital Trust IVA ("**Fund IVA**")

Next Capital Services IVC Pty Limited (ACN 629 199 426) as trustee for Next Capital Trust IVC ("**Fund IVC**")

Next Capital Services IVD2 Pty Limited (ACN 629 199 408) as trustee for Next Capital Trust IVD2 ("**Fund IVD2**")

(together, "**Fund IV Entities**")

Next Capital (Services A) Pty Limited (ACN 115 384 300) as trustee for the Apollo Co-investment Trust ("**Co-Investment Trust A**")

Next Capital (Services B) Pty Limited ACN (117 027 853) as trustee for Apollo Co-investment Trust B ("**Co-Investment Trust B**")

(Fund IV Entities and Co-Investment Trust, together, "**Bidder**")

Silver Chef Limited (ABN 28 011 045 828) ("**Target**")

Legal adviser to the Target



Legal adviser to the Bidder



Scheme Implementation Agreement

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Scheme Implementation Agreement

Details

Parties

Fund IVA	Name	Next Capital Services IVA Pty Limited (ACN 629 199 391) as trustee for Next Capital Trust IVA
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	Patrick.Elliott@nextcapital.com.au
	Attention	Patrick Elliott
Fund IVC	Name	Next Capital Services IVC Pty Limited (ACN 629 199 426) as trustee for Next Capital Trust IVC
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	Patrick.Elliott@nextcapital.com.au
	Attention	Patrick Elliott
Fund IVD2	Name	Next Capital Services IVD2 Pty Limited (ACN 629 199 408) as trustee for Next Capital Trust IVD2
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	Patrick.Elliott@nextcapital.com.au
	Attention	Patrick Elliott
Co-Investment Trust A	Name	Next Capital (Services A) Pty Limited (ACN 115 384 300) as trustee for the Apollo Co-Investment Trust
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	Patrick.Elliott@nextcapital.com.au
	Attention	Patrick Elliott

Co-Investment Trust B	Name	Next Capital (Services B) Pty Limited ACN (117 027 853) as trustee for Apollo Co-investment Trust B
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	Patrick.Elliott@nextcapital.com.au
	Attention	Patrick Elliott
Target	Name	Silver Chef Limited
	ABN	28 011 045 828
	Formed in	Queensland
	Address	Park Tower - 20 Pidgeon Close, West End Qld 4101
	Email	Graeme.fallet@silverchefgroup.com.au
	Attention	Graeme Fallet
Governing law		Queensland
Recitals	A	Target and Bidder have agreed to merge by means of a members' scheme of arrangement under Part 5.1 of the Corporations Act.
	B	At the request of Bidder, Target intends to propose the Scheme and issue the Scheme Booklet.
	C	Target and Bidder have agreed to implement the Scheme on the terms and conditions of this document.

Scheme Implementation Agreement

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

Accounting Standards means:

- (a) the requirements of the Corporations Act about the preparation and contents of financial reports; and
- (b) the accounting standards approved under the Corporations Act, being the Australian Accounting Standards and any authoritative interpretations issued by the Australian Accounting Standards Board.

APRA means the Australia Prudential Regulation Authority.

ASIC means the Australian Securities & Investments Commission.

ASIC Event means any prosecution, litigation or other proceeding by ASIC where the Losses (contingent or otherwise) by any or all of the Target Group Entities in respect of the ASIC Investigation are (or are reasonably likely to be for) for an aggregate amount equal to or greater than \$10 million. For the avoidance of doubt, the amount of \$10 million is an aggregate amount and is not in addition to any amounts that may be provisioned for by the Target Group.

ASIC Investigation means the ASIC investigation into the GoGetta business of the Target for suspected contraventions of *the National Consumer Credit Protection Act 2009* (Cth) in relation to the financing of motor vehicles for consumer customers without holding an Australian credit licence.

Associate has the meaning set out in section 12 of the Corporations Act, as if section 12(1) of the Corporations Act included a reference to this document.

ASX means ASX Limited or the market operated by it, as the context requires.

Authorised Officer means a director or secretary of a party or any other person nominated by a party to act as an Authorised Officer for the purposes of this document.

Bidder means each of Fund IVA, Fund IVC, Fund IVD2, Co-Investment Trust A and Co-Investment Trust B, acting severally, in their Relevant Proportions and subject to at all times the provisions of clause 19.

Bidder Board means the board of directors of Bidder.

Bidder Confidential Information means all confidential, non-public or proprietary information regardless of how the information is stored or delivered, exchanged between the parties before, on, or after the date of this document relating to the business, technology or other affairs of Bidder.

Bidder Group means Bidder and its Related Bodies Corporate and a reference to **Bidder Group Member** is to Bidder or any of its Related Bodies Corporate.

Bidder Indemnified Party means each Bidder Group Member and each director, officer, employee, advisers, general or limited partner, manager, agent, member and representative of each Bidder Group Member.

Bidder Information means the information regarding Bidder as is required to be included in the Scheme Booklet under the Corporations Act, Corporations Regulations or ASIC Regulatory Guide 60. Bidder Information does not include information about the Target Group (except to the extent it relates to any statement of intention relating to the Target Group following the Effective Date).

Bidder Nominee has the meaning given in clause 2.2(a).

Bidder Nominee Proportion has the meaning given in clause 2.2(b).

Bidder Representations and Warranties means the representations and warranties of Bidder set out in clause 12.4.

Break Fee means \$1,178,037 plus GST.

Business Day means a business day as defined in the Listing Rules.

Cash Scheme Consideration has the meaning given in the Scheme.

Change of Control Authorisations means any:

- (a) regulatory approval required in connection with the Scheme or any aspect of it;
- (b) matter which is the subject of a Condition Precedent; or
- (c) Change of Control Requirements.

Change of Control Requirements has the meaning given in clause 8.7(a).

Competing Transaction means a proposal, transaction or arrangement (whether by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale or issue of securities, joint venture or otherwise) which, if completed, would mean a person (other than Bidder or its Related Bodies Corporate) whether alone or together with its Associates would:

- (a) directly or indirectly, acquire a Relevant Interest in or become the holder of 20% or more of the Target Shares (other than as custodian, nominee or bare trustee);
- (b) acquire Control of Target, within the meaning of section 50AA of the Corporations Act;
- (c) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in all or a substantial part of the assets of, or business conducted by, the Target Group; or
- (d) otherwise acquire or merge (including by a reverse takeover bid or dual listed company structure) with Target.

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

Confidentiality Deed means the Confidentiality Deed between Target and Sponsor dated 12 October 2018.

Confidential Information means Bidder Confidential Information or Target Confidential Information but excludes the Excluded Information

Consolidated Group has the same meaning as in the Tax Act.

Contingent Value Note has the meaning given in the Scheme.

Control means, with respect to any person (other than an individual), the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise, and includes the following:

- (a) direct or indirect ownership of more than 50% of the voting rights of such person; or
- (b) the right to appoint the majority of the members of the board of directors of such person (or similar governing body) or to manage on a discretionary basis the assets of such person.

Controller has the meaning it has in the Corporations Act.

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

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

Costs includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

Court means the Supreme Court of Queensland, or such other court of competent jurisdiction under the Corporations Act agreed by the parties.

Custodian has the meaning given in the Scheme.

Debt Raising means the proposed raising of subordinated debt and equity as set out in announcement made by the Target and released to ASX on 1 March 2019.

Deed Poll means a deed poll substantially in the form of Annexure C to this document.

Details means the section of this document headed "Details".

Director Target Shares means, in respect of an IBC Member, all Target Shares for which that IBC Member holds a Relevant Interest.

Disclosure Letter means the letter identified as such provided by Target to Bidder and countersigned by Bidder on or about the date of this document.

Disclosure Materials means the information in relation to the Target Group disclosed in writing by or on behalf of Target to Bidder and its Representatives in:

- (a) the documents and information contained in the data room (including any written answers to requests for further information made by Bidder and its Representatives) made available by Target to Bidder and its Representatives in the virtual "Project Apollo" data room hosted by Ansarada, the index of which has been initialled by, or on behalf of, the parties for the purposes of identification; and
- (b) the Disclosure Letter.

Effective, when used in relation to the Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court

made under section 411(4)(b) in relation to the Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Election has the meaning given in the Scheme.

Election Form has the meaning given in the Scheme.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any “security interest” as defined in sections 12(1) or 12(2) of the PPSA or any agreement to create any of them or allow them to exist.

End Date means 15 November 2019 or such other date as is agreed by Bidder and Target.

Excluded Information means Confidential Information which:

- (a) is in or becomes part of the public domain other than through breach of this document or an obligation of confidence owed to the party providing the Confidential Information; or
- (b) the recipient of the Confidential Information can prove by contemporaneous written documentation was already known to it at the time of disclosure by the party providing the Confidential Information (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality); or
- (c) the recipient of the Confidential Information acquires from a source other than the party providing the Confidential Information or any Representative of the party providing the Confidential Information where such source is entitled to disclose it.

Exclusivity Period means the period from and including the date of this document to the earlier of:

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

Fairly Disclosed means, in relation to a matter, event or circumstance, publicly disclosed to the ASX or disclosed to the relevant party or its Representatives by 5:00pm on the Business Day prior to the date of this document to the extent, and in reasonably sufficient detail, so as to allow a reasonable and sophisticated bidder (or one of its Representatives) experienced in transactions similar to the Scheme to identify or otherwise determine the nature and scope of the relevant matter, event or circumstance.

Financial Assistance Resolution means a special resolution to be put to Target Shareholders at the General Meeting under sections 260A(1)(b) and 260B of the Corporations Act to approve the financial assistance provided by Target to Bidder in issuing Contingent Value Notes in accordance with the Scheme.

FIRB means the Foreign Investment Review Board.

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

First Court Date means the first day on which an application made to the Court, in accordance with clause 5.2(h), for orders under section 411(1) of the Corporations Act convening the Scheme Meetings is heard.

Founder Shareholder means each of:

- (a) Tessana Pty Ltd (ACN 008 938 618) as trustee for The A English Family Trust;
- (b) English Family Foundation Pty Ltd (ACN 147 782 312) as trustee for the English Family Foundation; and
- (c) Mr Allan John English & Mrs Tessa Winifred English as trustees for The Tessana Superannuation Fund.

Fund III Entities means:

- (a) Next Capital Services IIIA Pty Limited (ACN 600 209 774) as trustee for Next Capital Trust IIIA;
- (b) Next Capital Services IIIC Pty Limited (ACN 600 209 292) as trustee for Next Capital Trust IIIC; and
- (c) Next Capital Services IIID Pty Limited (ACN 602 385 285) as trustee for Next Capital Trust IIID.

Fund IV Entities means, collectively, Fund IVA, Fund IVC and Fund IVD2.

General Meeting means a general meeting of Target Shareholders at which Target Shareholders will vote on the Financial Assistance Resolution.

IBC means the independent board committee appointed by the Target Board to consider and implement the Transaction and includes all Target Board Members other than Mr Allan English and **IBC Member** means any director of Target comprising part of the IBC.

Implementation Date means the 5th Business Day following the Record Date or such other date as is agreed by Bidder and Target.

Incoming Directors means each of Patrick Elliot, David Browne and a third director to be appointed in accordance with the Target Shareholders' Deed.

Independent Expert means the independent expert appointed by Target under clause 5.2(c).

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update or supplementary report, stating whether or not in the Independent Expert's opinion the Scheme is in the best interests of Target Shareholders.

Ineligible Foreign Shareholder has the meaning given in the Scheme.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property; or

- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 14 days), resolution passed or any other action taken, in each case in connection with that person, in respect of any of the things described in paragraphs (a), (b) or (c);
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

Key Employees means any employee of a member of the Target Group who earns an annual salary of \$200,000 or more

Listing Rules means the Listing Rules of ASX modified to the extent of any express written waiver by ASX.

Losses means all claims, demands, damages, losses, costs, expenses and liabilities.

Material Adverse Effect means a Specified Event which has resulted in, or is reasonably likely to result in (including as the result of a regulatory investigation or the loss of a financial services licence), either individually or when aggregated with any Specified Events of a similar kind or category:

- (a) a diminution in the consolidated net assets of the Target Group by at least \$9.8 million; or
- (b) PBT of the Target Group being reduced by at least \$1.4 million in the Target Group's financial years ending 30 June 2019 and/or 30 June 2020 (and for this purpose, the full financial year effect of any resulting PBT reduction must be applied in the relevant periods);

but does not include any matter, event or circumstance:

- (c) required to be done or procured by Target, or expressly permitted, under this document or the Scheme or the transactions contemplated by either;
- (d) which Bidder has previously approved in writing;
- (e) Fairly Disclosed in the Disclosure Materials and provisioned for in the Target Group's financial information Fairly Disclosed;
- (f) that was Fairly Disclosed in documents that were publicly available from 5 Business Days prior to the date of this document from public filings of Target with ASX and provisioned for in the Target Group's financial information Fairly Disclosed;

- (g) relating to the costs and expenses incurred by Target associated with the Scheme or Debt Raising, including all fees payable to external advisers of Target, to the extent such amounts or comparable estimates of such amounts are Fairly Disclosed in the Disclosure Materials;
- (h) relating to the acceleration of collective provisioning by the application of AASB 9 *Financial Instruments* which would not otherwise have had a Material Adverse Effect under the previous Accounting Standard of AASB 139 *Financial Instruments: Recognition and Measurement*; or
- (i) comprising or resulting from a change (including the implementation or introduction of a previously announced or made change) in any applicable law or governmental policy, any Accounting Standards, general economic and business or political conditions (including changes in foreign exchange rates and commodity prices) or financial markets, whether in Australia or elsewhere.

Material Contract means a contract or commitment requiring payments over the term of the contract in excess of \$500,000 or a group of related contracts with the same party or group of related parties requiring payments over the term of the related contracts in excess of \$500,000 or for a term of more than 2 years, other than:

- (a) debtor finance or specialised finance or rental contracts entered into in the ordinary course of business with clients of the Target Group; or
- (b) contracts or commitments relating to the replacement of the Target Group's contract management system.

Maximum Share Number means 39,267,916 Target Shares or such higher number as is agreed in writing between Target and Bidder.

Note Trustee has the meaning given in the Scheme.

Note Trust Deed has the meaning given in the Scheme.

Outgoing Directors means Andrew Kemp, Sophia Mitchell, Bede King and Patrick Tapper.

PBT means consolidated profit from the Target Group before tax calculated in accordance with the accounting policies and principles applied by Target as at the date of this document.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Record Date means 5.00pm on the 5th Business Day following the Effective Date or such other date as Target and Bidder agree.

Register means the share register of Target and **Registry** has a corresponding meaning.

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

Regulatory Approval means any approval of a Regulatory Authority to the Scheme or any aspect of it which Bidder, acting reasonably, determines is necessary or desirable to implement the Scheme.

Regulatory Authority includes, in any jurisdiction:

- (a) a government or governmental, semi-governmental or judicial entity or authority;
- (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (c) any regulatory organisation established under statute,

and includes ASX, ACCC, ASIC, FIRB, the Takeovers Panel and APRA.

Related Body Corporate has the meaning it has in the Corporations Act.

Relevant Interest has the meaning it has in sections 608 and 609 of the Corporations Act.

Relevant Proportion means the following proportions:

- (a) Fund IVA: 20.3%;
- (b) Fund IVC: 13.5%;
- (c) Fund IVD2: 10.5%;
- (d) Co-Investment Trust A: 24.1%; and
- (e) Co-Investment Trust B: 31.6%.

Representative means, in relation to a party:

- (a) a Related Body Corporate;
- (b) a director, officer or employee of the party or any of the party's Related Bodies Corporate; or
- (c) a financier or an adviser to the party or any of the party's Related Bodies Corporate, where an "adviser" means, in relation to an entity, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant who provides advisory services in a professional capacity and who has been engaged by that entity in that capacity in connection with the Transaction.

Retained Shares has the meaning given in the Scheme.

Scheme means the scheme of arrangement under part 5.1 of the Corporations Act under which all the Target Shares (other than the Retained Shares) will be transferred to Bidder substantially in the form of Annexure B together with any amendment or modification made pursuant to section 411(6) of the Corporations Act.

Scheme Booklet means, in respect of the Scheme, the information booklet to be approved by the Court and despatched to Target Shareholders which includes the Scheme, an explanatory statement complying with the requirements of the Corporations Act and notices of meeting and proxy forms.

Scheme Consideration has the meaning given in the Scheme.

Scheme Meetings means the meetings to be convened by the Court at which Target Shareholders will vote on the Scheme.

Scheme Participants means each person who is a Target Shareholder at the Record Date.

Second Court Date means the day on which the Court makes an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme.

Specified Event means an event, occurrence or matter that:

- (a) occurs after the date of this document; or
- (b) occurs before the date of this document but is only announced or publicly disclosed after the date of this document,

other than an ASIC Event.

Sponsor means Next Capital Pty Ltd (ACN 111 963 583).

Subscription Agreements means binding executed subscription agreements with respect to each of the Fund IV Entities, the Co-Investment Trust A and the Co-Investment Trust B from the underlying investors in those entities.

Subsidiary, in relation to an entity, has the meaning given in Division 6 of Part 1.2 of the Corporations Act but so that:

- (a) 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;
- (b) a trust or fund may be a “Subsidiary”, for the purposes of which any units or other beneficial interests will be deemed shares; or
- (c) a corporation or trust or fund may be a “Subsidiary” of a trust or fund if it would have been a Subsidiary if that trust or fund were a corporation.

Superior Proposal means a bona fide Competing Transaction (not resulting from a breach by Target of any of its obligations under clause 10 (Exclusivity)) which the IBC, acting in good faith, and after taking advice from its legal and financial advisers, determines:

- (a) would, if completed substantially in accordance with its terms, result in an acquisition of an interest or Relevant Interest in 20% of the Target Shares;
- (b) is reasonably capable of being valued and completed within 4 months, taking into account all aspects of the Competing Transaction, including its conditions, the identity, reputation and financial condition of the person making the proposal, and legal, regulatory and financial matters; and
- (c) is of a higher financial value and would, if completed substantially in accordance with its terms, be more favourable to Target Shareholders than the Scheme viewed in aggregate, taking into account all terms and conditions of the Competing Transaction (including the consideration, conditionality, funding, certainty and timing).

Target Board means the board of directors of Target and **Target Board Member** means any director of Target comprising part of the Target Board.

Target Confidential Information means all confidential, non-public or proprietary information regardless of how the information is stored or delivered, exchanged between the parties before, on or after the date of this document relating to the business, technology or other affairs of Target.

Target Consolidated Tax Group means the Consolidated Group of which Target is the head company (as defined for the purposes of the Tax Act).

Target Constitution means the constitution of Target.

Target Credit Facilities means each of the corporate facilities used by the Target Group and warehouse facilities used by any member of the Target Group for funding the origination and holding of loans including:

- (a) the facilities provided pursuant to the Target SFA; and
- (b) the facilities provided pursuant to the Target Warehouse Agreements.

Target Credit Facilities Waiver Letters means:

- (a) the Target SFA Waiver Letter; and
- (b) the Target Warehouse Agreements Waiver Letter.

Target Group means Target and its Subsidiaries.

Target Indemnified Parties means Target, its directors, officers, employees, and Related Bodies Corporate and the directors, officers and employees of each of its Related Bodies Corporate and, except for the purposes of clause 7.2, its advisers and those of its Related Bodies Corporate.

Target Information means all information contained in the Scheme Booklet other than the Bidder Information and the Independent Expert's Report.

Target Prescribed Event means, except to the extent required or expressly permitted by this document or the Scheme, any of the following events:

- (a) **(conversion)** Target converts all or any of its shares into a larger or smaller number of shares;
- (b) **(reduction of share capital)** Target or another member of the Target Group resolves to reduce its share capital in any way or resolves to reclassify, combine, split or redeem or repurchase directly or indirectly any of its shares;
- (c) **(buy-back)** Target or another member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** Target makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie);
- (e) **(issuing or granting shares or options)** any member of the Target Group:
 - (i) issues shares;
 - (ii) grants an option over its shares; or
 - (iii) agrees to make such an issue or grant such an option,

in each case to a person outside the Target Group other than as Fairly Disclosed and provided the total number of Target Shares on both the Record Date and the Implementation Date does not exceed the Maximum Share Number;

- (f) **(securities or other instruments)** any member of the Target Group issues or agrees to issue securities or other instruments convertible into shares in each case to a person outside the Target Group other than as Fairly Disclosed and provided the total number of Target Shares on both the Record Date and the Implementation Date does not exceed the Maximum Share Number;
- (g) **(constitution)** Target adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (h) **(disposals)** any member of the Target Group disposes, or agrees to dispose of the whole or a substantial part of its business or property;
- (i) **(Encumbrances)** other than in the ordinary course of business and consistent with past practice any member of the Target Group creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or property;
- (g) **(restraints)** a Member of the Target Group enters into a contract or commitment, which materially restrains a Member of the Target Group from competing with any person or conducting activities in any material market;
- (h) **(Related Party arrangements)** a member of the Target Group enters into or resolves to enter into a transaction with any related party of Target (other than a related party which is a member of the Target Group) as defined in section 228 of the Corporations Act which would require shareholder approval under Chapter 2E or under Chapter 10 of the Listing Rules;
- (i) **(de-consolidation)** a member of the Target Group does anything that would result in a de-consolidation of the Target Consolidated Tax Group, other than acquiring or disposing of a wholly owned subsidiary (subject always to the other provisions of this document);
- (j) **(new term debt)** a member of the Target Group incurs additional term indebtedness with any financier except as Fairly Disclosed in the Disclosure Materials (and for the avoidance of doubt, such indebtedness does not restrict ordinary course of business draw-downs on existing warehouse, working capital, merchant or overdraft facilities);
- (k) **(ASX quotation)** Target Shares cease to be quoted on the ASX;
- (l) **(Insolvency)** Target or any of its Related Bodies Corporate becomes Insolvent; or
- (m) **(Amendment to terms of Target Credit Facilities)** other than in respect of any waiver approved by the Bidder in accordance with clause 3.1(o):
 - (i) Target or any of its Related Bodies Corporate amends or proposes to amend any of the terms of, or seeks or effects any waiver or consent under a Target Credit Facility or a Target Credit Facility Waiver Letter (including any amendments arising from the occurrence of any review event, waiver review event or similar event (howsoever described) under and as defined in a

Target Credit Facility Waiver Letter or any Target Credit Facility other than pursuant to, and under the terms of the relevant Target Credit Facility Waiver Letter; or

- (ii) any party to a Target Credit Facility or a Target Credit Facility Waiver Letter gives any waiver or consent under or with respect to a Target Credit Facility or a Target Credit Facility Waiver Letter (including any amendments, consents or waivers requiring arising from the occurrence of any review event, waiver review event or similar event (howsoever described) under and as defined in a Target Credit Facility Waiver Letter or any Target Credit Facility), regardless of whether such consent or waiver was sought by the Target or any of its Related Bodies Corporate other than pursuant to, and under the terms of the relevant Target Credit Facility Waiver Letter; or
- (iii) a provision of the Target SFA, any of the Target SFA Finance Documents, any Target Warehouse Agreement or a Target Credit Facilities Waiver Letter is or becomes or is claimed by a party to be wholly or partly invalid, void, voidable or unenforceable in any respect,

provided that a Target Prescribed Event listed in items (a) to (m) will not occur where Target has first consulted with Bidder in relation to the event and Bidder has approved the proposed event in writing.

Target SFA means the Syndicated Facility Agreement originally dated 7 August 2015 between, among others, the Target and Commonwealth Bank of Australia as Agent (as amended from time to time and including amendments made pursuant to the Target SFA Waiver Letter).

Target SFA Finance Document has the meaning given to Finance Document in the Target SFA.

Target SFA Waiver means:

- (a) any consent to, or waiver of, any breach of any undertaking or representation in the Target SFA or any Target SFA Finance Document or any event of default or any review event (in each case, howsoever described) under the Target SFA or any Target SFA Finance Document; or
- (b) any agreement to amend the terms of the Target SFA or any Target SFA Finance Document; or
- (c) any consent given under or with respect to the terms of the Target SFA or any Target SFA Finance Document; or
- (d) any agreement to enter into any new Target SFA Finance Document,

in each case whether subject to conditions or not and set out in the Target SFA Waiver Letter.

Target SFA Waiver Letter means the Waiver and Amendment Letter dated 2 July 2019 between Target, Commonwealth Bank of Australia as agent and CBA Corporate Services (NSW) Pty Limited as security trustee.

Target Representations and Warranties means the representations and warranties of Target set out in clauses 10.1 and 12.1.

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

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

Target Shareholders' Deed means the Shareholders' Deed which will be entered into following Implementation of the Scheme in relation to Target.

Target Warehouse Agreements means the 'Transaction Documents' as defined in the document entitled 'SIV Securitisation Trusts – Master Definitions Deed' dated 1 December 2017 between, among others, Perpetual Corporate Trust Limited as trustee and the Target as servicer and seller financier.

Target Warehouse Agreements Waiver means:

- (a) any consent to, or waiver of, any breach of any undertaking or representation in any Target Warehouse Agreement, any event of default, review event, stop funding or stop origination event, early, rapid or controlled or other amortisation event, title perfection event, event of default, termination or replacement event (including without limitation with respect to any originator, servicer, trustee, trust manager, trust administrator or other service provider), servicer termination event, or similar event (in each case, howsoever described) under any Target Warehouse Agreement; or
- (b) any agreement to amend the terms of any Target Warehouse Agreement; or
- (c) any consent given under or with respect to the terms of any Target Warehouse Agreement; or
- (d) any agreement to enter into any new Target Warehouse Agreement,

in each whether subject to conditions or not and set out in the Target Warehouse Agreements Waiver Letter.

Target Warehouse Agreements Waiver Letter means the letter entitled 'SIV Equipment Trust No. 1 – Waiver and Side Letter No. 8' dated on or about the date of this agreement from Westpac Banking Corporation (as WBC and Class A Financier) to, amongst others the Target (as Silver Chef, Servicer, Seller Financier and Income Unitholder).

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), or both as the context requires.

Taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any authority together with any fines, penalties and interest in connection with them.

Timetable means the indicative timetable set out in Schedule 1 or such other indicative timetable as Bidder and Target may agree in writing or as may be required by ASX.

Transaction means:

- (a) the proposed acquisition of the Target Shares (other than the Retained Shares) by Bidder through implementation of the Scheme in accordance with the terms of this document; and
- (b) all associated transactions and steps contemplated in this document.

Transaction Implementation Committee means a committee to be made up of:

- (a) the chief executive officer of Target and a Representative of Bidder;
- (b) a representative from each of the legal and financial advisers of each party; and
- (c) such other persons as the parties may agree from time to time.

Treasurer means the Treasurer of Australia.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Brisbane, Australia time;
- (h) a reference to “**the date of this document**” is to be taken to be a reference to 3 July 2019;
- (i) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (j) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);
- (k) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (l) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (m) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually; and
- (n) a reference to a reference to any thing (including an amount) is a reference to the whole and each part of it.

1.3 Payment

Unless otherwise expressly provided in this document, where an amount is required to be paid to one party by another party, that amount must be paid in immediately available and irrevocable funds by electronic transfer to a bank account notified by the party receiving the funds in writing before the due date for payment (or in such other immediately payable funds as the parties agree) and without deduction, withholding or set-off.

2 Agreement to propose and implement Scheme

2.1 Target to propose Scheme

Target agrees to propose the Scheme on and subject to the terms and conditions of this document.

2.2 Nomination of Bidder nominee

- (a) At any time prior to the date five Business Days before the First Court Date, each Fund IV Entity may nominate any of the Fund III Entities (each a **"Bidder Nominee"**) to acquire its Relevant Proportion of Target Shares (except Retained Shares) under the Scheme by providing a written notice which sets out the details of the Bidder Nominee to Target.
- (b) If more than one Fund IV Entity nominates a Bidder Nominee to acquire Target Shares, those Fund IV Entities may determine that their respective Bidder Nominees acquire the Target Shares in any proportion (**"Bidder Nominee Proportion"**), so long as the Bidder Nominee Proportions, in the aggregate, equal the aggregate Relevant Proportions of all those Fund IV Entities that determine to nominate a Bidder Nominee.
- (c) If a Fund IV Entity decides to nominate a Bidder Nominee to acquire:
 - (i) the relevant Target Shares that the Fund IV Entity would have acquired in its Relevant Proportion; or
 - (ii) the relevant Target Shares that comprise the Bidder Nominee Proportion,as applicable (**"Relevant Target Shares"**), then:
 - (iii) the parties will agree to amend the Deed Poll and Scheme as required to give effect to the nomination (including to make each nominated Bidder Nominee a party to the Deed Poll);
 - (iv) the parties must procure that the Relevant Target Shares transferred under the Scheme are transferred to the relevant Bidder Nominee rather than the Fund IV Entity; and
 - (v) the Fund IV Entities must procure that the Bidder Nominees comply with all of the relevant obligations of the Fund IV Entities under this document and the Scheme.

2.3 Agreement to implement Scheme

The parties agree to implement the Scheme on the terms and conditions of this document.

3 Conditions Precedent

3.1 Conditions Precedent

Subject to this clause, the Scheme will not become Effective, and the obligations of Bidder under clause 4.3 are not binding, until each of the following Conditions Precedent are satisfied or waived to the extent and in the manner set out in this clause.

Condition Precedent		Party entitled to benefit	Party responsible
(a)	(ASIC and ASX) before 8.00am on the Second Court Date, ASIC and ASX issue or provide all reliefs, waivers, confirmations, exemptions, consents or approvals, and have done all other acts, necessary, or which Target and Bidder agree are desirable, to implement the Scheme and such reliefs, waivers, confirmations, exemptions, consents, approvals or other acts (as the case may be) have not been withdrawn, suspended or revoked at 8.00am on the Second Court Date.	Both	Both
(b)	(Shareholder approval) Target Shareholders approve the Scheme by the requisite majorities required under section 411(4)(a)(ii) in accordance with the Corporations Act.	Cannot be waived	Target
(c)	(FIRB approval) before 5.00pm on the Business Day before the Second Court Date either: <ul style="list-style-type: none"> (i) the Treasurer (or the Treasurer's delegate) has provided a written no objection notification to the Scheme either without conditions or with conditions acceptable to Bidder; or (ii) following notice of the proposed Scheme having been given by Bidder to the Treasurer under the FIRB Act, the Treasurer has ceased to be empowered to make any order under Part 3 of the FIRB Act because the applicable time limit on making orders and decisions under the FIRB Act has expired. 	Cannot be waived	Bidder
(d)	(Financial assistance) Target Shareholders approve the Financial Assistance Resolution.	Both	Target

Condition Precedent		Party entitled to benefit	Party responsible
(e)	(Note Trust Deed) Target and the Note Trustee entering into the Note Trust Deed prior to the First Court Date and the Note Trustee has obtained approval from ASIC to act as the Note Trustee.	Both	Target
(f)	(Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.	Cannot be waived	Target
(g)	(Regulatory Authority) before 8.00am on the Second Court Date, the approvals of each Regulatory Authority which Bidder and Target agree (acting reasonably) are necessary to implement the Scheme or conduct the Target Group's business on and from the Implementation lawfully and in a manner consistent with its conduct prior to the Implementation Date.	Both	Both
(h)	(Regulatory intervention) no Court or Regulatory Authority has issued or taken steps to issue an order, temporary restraining order, preliminary or permanent injunction, decree or ruling or taken any action enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Scheme and no such order, decree, ruling, other action or refusal is in effect as at 8.00am on the Second Court Date.	Both	Both
(i)	(Independent Expert) the Independent Expert issues a report which concludes that the Scheme is in the best interests of Scheme Participants before the date on which the Scheme Booklet is lodged with ASIC.	Target	Target
(j)	(No Target Prescribed Event) no Target Prescribed Event occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(k)	(No Material Adverse Effect) no Material Adverse Effect occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(l)	(Target Representations and Warranties) the Target Representations and Warranties are true and correct in all material respects at all times between the date of this document and as at 8.00am on the Second Court Date, except where expressed to be operative at another date.	Bidder	Target

Condition Precedent		Party entitled to benefit	Party responsible
(m)	(Bidder Representations and Warranties) the Bidder Representations and Warranties are true and correct in all material respects at all times between the date of this document and as at 8.00am on the Second Court Date, except where expressed to be operative at another date.	Target	Bidder
(n)	(Enforcement) no material enforcement action is announced or commenced by a Regulatory Authority against, or involving, a Target Group entity, other than general industry consultation or enquiry which is not specifically targeting a Target Group entity, which relates to a material contravention or alleged material contravention of applicable laws or regulations by a Target Group entity and which has or is likely to have an adverse financial impact on the consolidated net assets of \$9.8 million or PBT of the Target Group of at least \$1.4 million (including for this purpose any fines and penalties) in the Target Group's financial years ending 30 June 2019 and/or 30 June 2020 (excluding any ASIC Event).	Bidder	Target
(o)	<p>(No breach of Target Credit Facilities)</p> <p>(i) no event occurs or circumstances exist before 8:00am on the Second Court Date (and for the avoidance of doubt, whether such event occurs or circumstances arise before or after the date of this agreement) which:</p> <p>(A) results in any Target SFA Waiver being revoked or otherwise ceasing to apply or any condition to the continuation of any Target SFA Waiver not being met or satisfied; or</p> <p>(B) results in, has resulted in, gives rise to or has given rise to, a major default, a breach of any interim financial covenant, an event of default or a waiver review event (in each case howsoever described) under the Target SFA Waiver Letter, the Target SFA or any Target SFA Finance</p>	Bidder	Target

Condition Precedent		Party entitled to benefit	Party responsible
	<p>Document, which, in each case is not waived at that time pursuant to, and under the terms of, the Target SFA Waiver Letter;</p> <p>(ii) no event occurs or circumstances exist before 8:00am on the Second Court Date (and for the avoidance of doubt, whether arising before or after the date of this agreement) which:</p> <p>(A) results in any Target Warehouse Agreements Waiver being revoked or otherwise ceasing to apply or any condition to the continuation of any Target Warehouse Agreements Waiver not being met or satisfied; or</p> <p>(B) results in, has resulted in, gives rise to or has given rise to a default, a review event, a stop funding or stop origination event (excluding any restriction on funding or origination which is itself a condition of the Target Warehouse Agreements Waiver Letter), early, a rapid or controlled or other amortisation event, a title perfection event, an event of default, a termination or a replacement event (including without limitation with respect to any originator, servicer, trustee, trust manager, trust administrator or other service provider) (in each case howsoever defined) under the Target Warehouse Agreement Waiver Letter or any Target Warehouse Agreement, in each case which is not waived at that time pursuant to and under the terms of the Target Warehouse</p>		

Condition Precedent		Party entitled to benefit	Party responsible
	<p>Agreements Waiver Letter; or</p> <p>(C) results in, has resulted in, gives rise to or has given rise to an obligation of the Target to negotiate with Westpac Banking Corporation, including under paragraph 3.3 of the Target Warehouse Agreements Waiver Letter,</p> <p>in any such case, which is not waived or remedied within 10 Business Days of its occurrence and in any event (even if within less than 10 Business Days of its occurrence) before 8.00am on the Second Court Date, provided that any waiver sought by or granted to the Target that enables it to satisfy this Condition Precedent is on terms acceptable to the Bidder provided that this Condition Precedent will not be taken to be unfulfilled solely as a result of the occurrence of any waiver review event referred to in paragraph 7.1(b)(iv) of the Target SFA Waiver Letter.</p>		
(p)	(No ASIC Event) no ASIC Event has occurred between the date of this document and 8.00am on the Second Court Date.	Bidder	Target

3.2 Reasonable endeavours

- (a) Each of Target and Bidder agree to use reasonable endeavours to procure that:
 - (i) each of the Conditions Precedent for which it is a party responsible (as noted in clause 3.1):
 - (A) is satisfied as soon as practicable after the date of this document; and
 - (B) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
 - (ii) there is no occurrence that would prevent the Condition Precedent for which it is a party responsible being satisfied.
- (b) In relation to each of the documents referred to in paragraph 7.1(b)(v) of the Target SFA Waiver Letter, the Bidder agrees:
 - (i) to the extent that the Bidder or a Sponsor are proposed to be a party to any such document, to take all reasonable steps to, and

agrees to take all reasonable steps to seek that the Sponsor does, negotiate such documents diligently and in good faith with a view to finalising those documents; and

- (ii) to the extent that the Bidder or a Sponsor are proposed to provide or procure the provision of such documents to the 'Mezzanine Lender', as referred to in the Target SFA Waiver Letter, to take all reasonable steps to, and agrees to take all reasonable steps to seek that the Sponsor does provide or procure the provision of such documents to the Mezzanine Lender,

in each case, as soon as reasonably practicable after the date of this agreement and in sufficient time to provide confirmation that the relevant condition in paragraph 7.1(b)(v) of the Target SFA Waiver Letter is satisfied within the time period referred to in that paragraph.

- (c) The Bidder agrees to take all reasonable steps to, and agrees to take all reasonable steps to seek that the Sponsor does, provide any information or document reasonably requested of them pursuant to paragraph 7.1(b)(vii) of the Target SFA Waiver Letter as soon as reasonably practicable after such request.
- (d) The Bidder:
 - (i) agrees to take all reasonable steps to procure that the Sponsor diligently enforces its rights under the 'Mezzanine Commitment Letter' referred to in the Target SFA Waiver Letter; and
 - (ii) acknowledges that the Target has no obligation to execute the 'Mezzanine Facility Agreement' referred to in the Target SFA Waiver Letter prior to the Implementation Date.

3.3 Regulatory matters

Without limiting clause 3.2, each party:

- (a) **(applying for Regulatory Approvals)** must promptly apply for all relevant Regulatory Approvals and provide each other party with a copy of those applications (provided that any commercially sensitive information may be redacted from the copy provided);
- (b) **(Regulatory Approvals process)** must take all steps it is responsible for as part of the Regulatory Approval process, including responding to requests for information at the earliest practicable time;
- (c) **(representation)** has the right to be represented and make submissions at any meeting with any Regulatory Authority relating to a Regulatory Approval;
- (d) **(consultation)** must consult with the other party in advance in relation to all communications (whether written or oral, and whether direct or via a Representative) with any Regulatory Authority relating to any Regulatory Approval and:
 - (i) provide the other party with drafts of any material written communications to be sent to a Regulatory Authority and make any amendments as the other party reasonably requires; and

- (ii) provide copies of any material written communications sent to or received from a Regulatory Authority to the other party promptly upon despatch or receipt (as the case may be),

in each case to the extent it is reasonable to do so and provided that any commercially sensitive information may be redacted from the copy provided; and

- (e) **(Regulatory Authority)** must promptly offer to the relevant Regulatory Authority, and agree or accept, all reasonable undertakings, commitments and conditions necessary or appropriate in order to obtain the approval or consent (as the case may be) as soon as possible, unless it would be unreasonable to do so.

3.4 FIRB conditions

The parties acknowledge that the tax conditions set out in Attachment B to Guidance Note 47 issued by FIRB from time to time are acceptable if imposed on the no objections notifications.

3.5 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by the party or parties entitled to the benefit of that Condition Precedent as noted in clause 3.1 and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.4 may do so in its absolute discretion.
- (c) If either Target or Bidder waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause 3.4, then:
 - (i) subject to clause 3.5(c)(ii), that waiver precludes that party from suing the other for any breach of this document arising as a result of the breach or non-fulfilment of that Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that Condition Precedent; but
 - (ii) if the waiver of the Condition Precedent is itself conditional and the other party:
 - (A) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with clause 3.5(c)(i); or
 - (B) does not accept the condition, the Condition Precedent has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
 - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.6 Notices in relation to Conditions Precedent

Each party must:

- (a) **(notice of satisfaction)** promptly notify the other of satisfaction of a Condition Precedent and must keep the other informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent;
- (b) **(notice of failure)** immediately give written notice to the other of a breach or non-fulfilment of a Condition Precedent, or of any event which will prevent a Condition Precedent being satisfied; and
- (c) **(notice of waiver)** upon receipt of a notice given under clause 3.6(b), give written notice to the other party as soon as possible (and in any event before 5.00pm on the day before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of any Condition Precedent resulting from the occurrence of that event, specifying the Condition Precedent in question.

3.7 Consultation on failure of Condition Precedent

If:

- (a) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this document by the time or date specified in this document for the satisfaction of the Condition Precedent;
- (b) 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 document for the satisfaction of the Condition Precedent (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this document); or

- (c) the Scheme has not become Effective by the End Date,

the parties must consult in good faith with a view to determine whether:

- (d) the Scheme may proceed by way of alternative means or methods;
- (e) to extend the relevant time for satisfaction of the Condition Precedent or to adjourn or change the date of an application to the Court; or
- (f) to extend the End Date.

3.8 Failure to agree

- (a) If the parties are unable to reach agreement under clause 3.7 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):
 - (i) subject to clause 3.8(a)(ii) and 3.8(c), either party may terminate this document (and that termination will be in accordance with clause 13.1(h)(i)); or
 - (ii) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this document (and that termination will be in accordance with clause 13.1(h)(ii)),

in each case before 8.00am on the Second Court Date.
- (b) A party will not be entitled to terminate this document under this clause 3.8 if the relevant Condition Precedent has not been satisfied (or

agreement cannot be reached) as a result of a breach of this document by that party or a deliberate act or omission of that party.

- (c) If an investigation by a Regulatory Authority under the Condition Precedent in clause 3.1(n) is announced or commenced and Bidder wishes to terminate this document under this clause 3.8, Bidder must first obtain an opinion from senior counsel that, in the opinion of counsel, the investigation relates to a material contravention or alleged material contravention of applicable laws or regulations by a Target Group entity.

4 Outline of Scheme

4.1 Scheme

Target must propose a scheme of arrangement under which:

- (a) all of the Target Shares held by Scheme Participants (other than the Retained Shares) at the Record Date will be transferred to Bidder; and
- (b) each Scheme Participant (other than a Founder Shareholder who has made a valid Election) will be entitled to receive the Scheme Consideration.

4.2 Scheme Consideration

Subject to and in accordance with this document and the Scheme, each Scheme Participant (other than a Founder Shareholder who has made a valid Election) is entitled to receive the Scheme Consideration in respect of each Target Share held by that Scheme Participant.

4.3 Provision of Scheme Consideration

Subject to this document and the Scheme, Bidder undertakes to Target (in its own right and separately as trustee or nominee of each Scheme Participant) that, in consideration of the transfer to Bidder of each Target Share held by a Scheme Participant (other than the Retained Shares), Bidder will, on the Implementation Date:

- (a) accept that transfer;
- (b) provide the Cash Scheme Consideration in accordance with the Scheme; and
- (c) procure Target to issue the Contingent Value Notes in accordance with the Scheme.

Where the calculation of the Cash Scheme Consideration to be provided to a particular Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up (as applicable) to the nearest cent.

4.4 Issue of Contingent Value Notes

- (a) The Bidder has no obligation to procure the Target to issue, and the Target has no obligation to issue, Contingent Value Notes to an Ineligible Foreign Shareholder.

- (b) In accordance with the Scheme and subject to the Scheme becoming Effective, Bidder must procure Target to issue the Contingent Value Notes to:
 - (i) the Scheme Participants (other than Founder Shareholders who have made a valid Election and Ineligible Foreign Shareholders); and
 - (ii) the Custodian the total number of Contingent Value Notes that would otherwise have been issued to the Ineligible Foreign Shareholders, if those Ineligible Foreign Shareholders were Scheme Participants to whom Contingent Value Notes were permitted to be issued to be held by the Custodian in accordance with the Scheme.

4.5 Register

Target must provide Bidder, or procure the provision to Bidder of, an extract of the Target register of members as at the Record Date (which must include the name, address and registered holding of each Founder Shareholder as at the Record Date), within two Business Days of the Record Date. The details and information to be provided under this clause must be provided in such form as Bidder may reasonably require.

4.6 Election mechanism

- (a) Each of the Founder Shareholders will be entitled to make an Election to retain their Target Shares in lieu of receiving the Scheme Consideration for their Scheme Shares in accordance with the terms of the Scheme.
- (b) Target must ensure that an Election Form is made available to the Founder Shareholders.
- (c) The Election Form must include the relevant matters set out in the Scheme and must otherwise be in a form agreed by the parties in writing.

4.7 Note Trust Deed

As soon as reasonably practicable after the date of this Agreement and in any event prior to the First Court Hearing:

- (a) Target must take all reasonable steps to procure the appointment of the Note Trustee and procure that the Note Trustee executes and delivers the Note Trust Deed and submits its application to ASIC to obtain approval to act as the Note Trustee;
- (b) Target must execute and deliver the Note Trust Deed in a form agreed with the Bidder and the Note Trustee, which must be in substantially the same form set out in Annexure D, amended to incorporate any reasonable comments received from the Note Trustee; and
- (c) Target and Bidder must cooperate in good faith to negotiate the terms of the Note Trust Deed and incorporate any reasonable comments received from the Note Trustee.

4.8 No amendment to the Scheme without consent

Target must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of Bidder (not to be unreasonably withheld or delayed).

5 Implementation

5.1 General obligations

Target and Bidder must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers); and
- (b) procure that its officers and advisers work in good faith and in a timely and co-operative fashion with the other party (including by attending meetings and by providing information),

to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and in accordance with the Timetable.

5.2 Target's obligations

Target must take all reasonable steps to implement the Scheme on a basis consistent with this document and as soon as reasonably practicable, and in particular must:

- (a) **(announce directors' recommendation)** following execution of this document, announce, in a form agreed between Target and Bidder (on the basis of statements made to Target by each member of the IBC) that:
 - (i) the IBC intends to unanimously recommend to Scheme Participants that the Scheme be approved; and
 - (ii) each IBC Member intends to vote, or procure the voting of, any Director Target Share in favour of the Scheme,subject to:
 - (iii) the Independent Expert concluding, and continuing to conclude, that the Scheme is in the best interests of Target Shareholders; and
 - (iv) there being no Superior Proposal.
- (b) **(preparation of Scheme Booklet)** subject to clause 5.2(e)(i), as soon as practicable after the date of this document, prepare and despatch the Scheme Booklet:
 - (i) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules; and
 - (ii) which includes a statement by the IBC:
 - (A) unanimously recommending that Target Shareholders vote in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal; and
 - (B) that each IBC Member intends to vote, or procure the voting of, any Director Target Shares in favour of the Scheme subject to the Independent Expert continuing to

conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal,

unless there has been a change or withdrawal of recommendation under clause 6.1;

- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide any assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare its report for the Scheme Booklet as soon as practicable;
- (d) **(section 411(17)(b) statement)** apply to ASIC for the production of:
 - (i) a letter stating that it does not intend to appear at the First Court Date; and
 - (ii) a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (e) **(consultation with Bidder)** consult with Bidder as to the content and presentation of:
 - (i) the Scheme Booklet, which includes:
 - (A) allowing Bidder a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet (accepting that any review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to Bidder);
 - (B) taking any reasonable comments made by Bidder into account in good faith when producing a revised draft of the Scheme Booklet;
 - (C) providing to Bidder a revised draft of the Scheme Booklet within a reasonable time before the draft of the Scheme Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised; and
 - (D) obtaining Bidder's consent to the inclusion of the Bidder Information (including in respect of the form and context in which the Bidder Information appears in the Scheme Booklet); and
 - (ii) documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating processes, affidavits, submissions and draft minutes of Court orders), and consider in good faith any comments on, or suggested amendments to, those documents from Bidder prior to filing those documents with the Court;
- (f) **(lodgement of Regulator's Draft)**
 - (i) as soon as practicable after the date of this document, provide an advanced draft of the Scheme Booklet ("**Regulator's Draft**") to ASIC for its review for the purposes of section 411(2) of the

Corporations Act, and provide a copy of the Regulator's Draft to Bidder immediately thereafter; and

- (ii) keep Bidder reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Bidder in good faith prior to taking any steps or actions to address those material issues (provided that, where those issues relate to Bidder Information, Target must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld);
- (g) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, Target becomes aware:
 - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Target Shareholders under any applicable law but was not included in the Scheme Booklet,

promptly consult with Bidder in good faith as to the need for, and the form of, any supplementary disclosure to Target Shareholders, and make any disclosure that Target considers reasonably necessary in the circumstances, having regard to applicable laws and to ensure that there would be no breach of clause 12.1(g) if it applied as at the date that information arose;

- (h) **(Court application)** apply to the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meetings;
- (i) **(send Scheme Booklet)** send the Scheme Booklet to Target Shareholders as soon as practicable after the Court orders Target to convene the Scheme Meetings;
- (j) **(General Meeting)** convene the General Meeting to approve the Financial Assistance Resolution;
- (k) **(Scheme Meetings)** convene the Scheme Meetings to approve the Scheme in accordance with any orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (l) **(director's voting)** use its reasonable endeavours to procure that each IBC Member votes any Director Target Shares in favour of the Scheme;
- (m) **(Court approval)** subject to all Conditions Precedent, other than paragraph (f) in clause 3.1 being satisfied or waived in accordance with this document, apply to the Court for an order approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (n) **(Conditions Precedent certificate)** at the hearing on the Second Court Date, provide to the Court (through its counsel):
 - (i) a certificate confirming (in respect of matters within Target's knowledge) whether or not the Conditions Precedent for which it is responsible, as noted in clause 3.1 (other than paragraph (f)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Bidder by 5.00pm on the Business Day prior to the Second Court Date; and

- (ii) any certificate provided to it by Bidder under clause 5.3(f);
- (o) **(lodge copy of Court order)** lodge with ASIC an office copy of the Court order approving the Scheme as approved by the Target Shareholders at the Scheme Meetings in accordance with section 411(10) of the Corporations Act on the day after that office copy is received (or any later date agreed in writing by Bidder);
- (p) **(Register)** close the Register as at the Record Date to determine the identity of Scheme Participants and their entitlements to Scheme Consideration;
- (q) **(instruments of transfer)** subject to Bidder satisfying its obligations under clause 4.3, on the Implementation Date (other than in respect of Retained Shares):
 - (i) execute proper instruments of transfer and effect the transfer of Target Shares to Bidder in accordance with the Scheme; and
 - (ii) register all transfers of Target Shares held by Scheme Participants to Bidder;
- (r) **(Suspension of trading)** apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date;
- (s) **(listing)** take all reasonable steps to maintain Target's listing on ASX, notwithstanding any suspension of the quotation of Target Shares, up to and including the Implementation Date, including making appropriate applications to ASX and ASIC; and
- (t) **(other steps)** do all other things necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

5.3 Bidder's obligations

Bidder must take all reasonable steps to assist Target to implement the Scheme on a basis consistent with this document and as soon as reasonably practicable, and in particular must:

- (a) **(Bidder Information)**
 - (i) prepare and promptly provide to Target for inclusion in the Scheme Booklet the Bidder Information (in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules) and consent to the inclusion of that information in the Scheme Booklet;
 - (ii) provide Target with drafts of the Bidder Information in a timely manner and, acting reasonably in good faith and subject to clause 5.5, take into account all reasonable comments from Target and its Representatives on those drafts;
- (b) **(confirmation of Bidder Information)** subject to Target complying with clauses 5.2(e), 5.2(f) and 5.5(a), promptly after Target requires that it does so, confirm in writing to Target that it consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which the Bidder Information appears;
- (c) **(further Bidder Information)** promptly provide to Target any further or new Bidder Information as may arise after the Scheme Booklet has been

sent to Target Shareholders and until the date of the Scheme Meetings as may be necessary to ensure that the Bidder Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and to ensure that there would be no breach of clause 12.4(g) if it applied as at the date on which such further or new Bidder Information arose;

- (d) **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (e) **(Deed Poll)** prior to the Scheme Booklet being sent, sign and deliver to Target the Deed Poll;
- (f) **(Conditions Precedent certificate)** before 8.00am on the Second Court Date, provide to Target for provision to the Court at the hearing on that date a certificate confirming (in respect of matters within Bidder's knowledge) whether or not the Conditions Precedent for which Bidder is responsible, as noted in clause 3.1 (other than paragraph (f)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Target by 5.00pm on the Business Day prior to the Second Court Date;
- (g) **(Share transfer)** if the Scheme becomes Effective, other than in respect of Retained Shares, accept a transfer of the Target Shares as contemplated by clause 4.3(a) and execute (or procure the execution of) proper instruments of transfer of the Target Shares to Bidder in accordance with the Scheme;
- (h) **(Scheme Consideration)** if the Scheme becomes Effective, provide or procure the provision of the Scheme Consideration in the manner and amount contemplated by clause 4.3(b) and the terms of the Scheme; and
- (i) **(other steps)** do all other things reasonably necessary to ensure that the Scheme is effected in accordance with all applicable laws, regulations and policy.

5.4 Scheme Booklet responsibility statement

The responsibility statement to appear in the Scheme Booklet, in a form to be agreed by the parties, will contain words to the effect of:

- (a) Target has prepared, and is responsible for, the content of the Scheme Booklet other than, to the maximum extent permitted by law, the Bidder Information, the Independent Expert's Report or any other report or letter issued to Target by a third party; and
- (b) Bidder has prepared, and is responsible for, the Bidder Information in the Scheme Booklet (and no other part of the Scheme Booklet).

5.5 Disagreement on content of Scheme Booklet

If Bidder and Target disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after reasonable consultation, then:

- (a) if the disagreement relates to the form or content of the Bidder Information contained in the Scheme Booklet, Target will make any amendments as Bidder reasonably requires acting in good faith; and

- (b) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the IBC will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.

5.6 Verification

Each party must undertake appropriate verification processes for the information supplied by that party in the Scheme Booklet.

5.7 Conduct of Court proceeding

- (a) Target and Bidder are entitled to separate representation at all Court proceedings relating to the Scheme. This document does not give Target or Bidder any right or power to give undertakings to the Court for or on behalf of the other party without that party's written consent. Target and Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this document.
- (b) Target and Bidder must defend, or cause to be defended, any lawsuit or other legal proceeding brought against it (or any of its Subsidiaries) challenging this document or the completion of the Scheme, unless the IBC reasonably consider in good faith that to do so would be in breach of their fiduciary or statutory duties.

5.8 Appeal process

If the Court refuses to make orders convening any Scheme Meeting or approving the Scheme, Bidder and Target must appeal the Court's decision to the fullest extent possible except to the extent that:

- (a) the parties agree otherwise; or
- (b) an independent senior counsel of the Queensland, New South Wales or Victorian bar advises that, in their opinion, an appeal would have no reasonable prospect of success before the End Date,

in which case either party may terminate this document in accordance with clause 13.1(h)(iii).

5.9 Transaction Implementation Committee

The parties must establish a Transaction Implementation Committee as soon as reasonably practical after the date of this document. The role of the Transaction Implementation Committee will be to act as a forum for consultation and planning by the parties to:

- (a) implement the Scheme; and
- (b) subject to clause 5.10, ensure the smooth transition of the management of the business and affairs of the Target Group to Bidder following the implementation of the Scheme.

5.10 No partnership or joint venture

Subject to this document, nothing in this clause requires either party to act at the direction of the other. The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

6 IBC recommendation

6.1 Best endeavours

- (a) Target must use its best endeavours to procure that none of its IBC Members withdraws, or changes their recommendation in favour of the Scheme, unless:
 - (i) there is a Superior Proposal (other than as a result of a breach of clause 10 (Exclusivity)); or
 - (ii) the Independent Expert concludes that the Scheme is not in the best interests of Target Shareholders, or adversely changes its previously given opinion that the Scheme is in the best interests of Target Shareholders,

(Recommendation).

For the purpose of this clause, customary qualifications and explanations contained in the Scheme Booklet in relation to a recommendation to vote in favour of the Scheme to the effect that the recommendation is made in the absence of a Superior Proposal from a third party will not be regarded as a failure to make or withdraw the making of a recommendation in favour of the Scheme.

- (b) The parties acknowledge and agree that the IBC Members may, in their discretion, as part of the Recommendation make no recommendation at all in relation to whether Founder Shareholders should make an Election or receive the Scheme Consideration.

6.2 Withdrawal or change of recommendation

Without limiting clause 10, if any IBC Member proposes to withdraw or change his or her recommendation in accordance with clause 6.1:

- (a) the Target must notify Bidder in writing immediately; and
- (b) the parties must consult in good faith for 2 Business Days after the date on which the notification in sub clause (a) is given to consider and determine whether the recommendation in place at the time can be maintained.

7 Directors and employees

7.1 Appointment/retirement of Target directors

On the Implementation Date, but subject to the Scheme Consideration having been provided to the Scheme Participants (other than a Founder Shareholder who has made a valid Election) and receipt by Target of signed consents to act from each Incoming Director, Target must use its reasonable endeavours to:

- (a) cause the appointment of each Incoming Director to the Target Board;
- (b) procure that each of the Outgoing Directors retire from the Target Board and provide written notice to the effect that they have no claim outstanding for loss of office, remuneration (except for accrued but unpaid director's fees and entitlements relating to that Outgoing Director acting as a director of Target in accordance with their director

appointment as at the Implementation Date) or otherwise against Target; and

- (c) ensure that all directors on the boards of Target's subsidiaries resign from the respective board by notice in writing which acknowledges that such director has no outstanding claims against any Target Group Member as at the date of the resignation,

in each case, in accordance with Target's constitution, the Corporations Act and the Listing Rules.

7.2 Directors' and officers' insurance

Subject to the Scheme becoming Effective and subject to the Corporations Act, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:

- (a) for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group are on materially no less favourable terms overall as are contained in those constitutions as at the date of this document that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Bidder Group; and
- (b) procure that Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that the directors' and officers' run-off insurance cover for those directors and officers is maintained, subject to clause 7.3, for a period of 7 years from the retirement date of each director and officer.

7.3 Period of undertaking

The undertakings contained in clause 7.2 are given until the earlier of the end of the relevant period specified in that clause or the relevant member of the Target Group ceasing to be part of the Bidder Group.

7.4 Benefit of undertaking for Target Group

Target acknowledges that it receives and holds the benefit of clause 7.2 to the extent it relates to each director and officer of a member of the Target Group on behalf of each of them.

8 Conduct of business

8.1 Overview

From the date of this document up to and including the Implementation Date, Target must, and must cause each member of the Target Group to, except to the extent Fairly Disclosed in respect to restrictions imposed by financiers under the Target Credit Facilities, conduct its business in the ordinary and usual course consistent with the business plans and budgets Fairly Disclosed and in substantially the same manner as previously conducted in the 12 month period prior to the date of this document and must regularly consult with Bidder on the manner of conduct of the business.

8.2 Specific obligations

Without limiting clause 8.1 and other than with the prior approval of Bidder (which approval must not be unreasonably withheld or delayed) or as required by this document, Target must, during the period contemplated by clause 8.1, use all reasonable endeavours to ensure that Target and each member of the Target Group:

- (a) **(business and assets)** preserve and maintain the value and condition of the businesses and assets of the Target Group;
- (b) **(officers and employees)** keeps available the services of its officers and employees;
- (c) **(relationships)** maintains and preserves its relationships with Regulatory Authorities, financial institution or group of financial institutions, bank or other provider of finance, including any agent or trustee acting on behalf of any of the foregoing, customers and others with whom it has business dealings; and
- (d) **(cash)** ensures that the cash in the Target is managed in the ordinary course and consistent with the practice of the Target as at the date of this document.

8.3 Prohibited actions

Other than with the prior approval of Bidder (which approval must not be unreasonably withheld or delayed) or as required by this document, Target must not, and must ensure that each member of the Target Group does not, during the period referred to in clause 8.1:

- (a) **(Material Contracts)** enter into or terminate a Material Contract;
- (b) **(Target Prescribed Events)** take any action that constitutes a Target Prescribed Event or that could reasonably be expected to result in a Target Prescribed Event;
- (c) **(financial adviser arrangements)** amend in any material respect any arrangement with its financial advisers in respect of the transactions contemplated by this document;
- (d) **(information technology)** take any action in respect of its information technology systems which would have a material impact on those systems; or
- (e) **(acquisitions, disposals or tenders)**: other than in connection with debtor finance or specialised finance or rental contracts entered into in the ordinary course of business with clients of the Target Group or the sale of receivables and other rights under such contracts that are in arrears:
 - (i) acquire or dispose of;
 - (ii) agree to acquire or dispose of; or
 - (iii) offer, propose, announce a bid or tender for,

any business, assets, entity or undertaking the value of which exceeds \$1 million in respect of an acquisition or tender, and \$500,000 in respect of a disposal;

- (k) **(employment arrangements)** other than in the ordinary course of business and consistent with past practice:
 - (i) increase the remuneration of (including with regard to superannuation benefits) or benefits provided to or pay any bonus (other than in accordance with an existing contract in place as at the date of this document and a copy of which has previously been provided to Bidder) or issue any incentive options to, or otherwise vary the employment arrangements with, any of its directors or Key Employees;
 - (ii) accelerate the rights of any of its directors or Key Employees to compensation or benefits of any kind (including under any Target executive or employee share plans), unless the proposed acceleration was Fairly Disclosed in the Disclosure Materials; or
 - (iii) pay any of its directors or Key Employees a termination or retention payment (otherwise than in accordance with an existing contract in place as at the date of this document and a copy of which has previously been provided to Bidder), unless the termination or retention payment was Fairly Disclosed in the Disclosure Materials;
- (l) **(commitments and settlements)** other than in the ordinary course of business and consistent with past practice:
 - (i) terminate or amend in a material manner any contract material to the conduct of the Target Group's business or which involves revenue or expenditure of more than \$750,000 over the term of the contract;
 - (ii) waive any material third party default where the financial impact of the waiver on the Target Group as a whole will be in excess of \$350,000 (individually or in aggregate) other than in the ordinary course of the Target Group's lending business; or
 - (iii) other than agreeing and signing a potential enforceable undertaking in connection with the ASIC Investigation that is on substantially the same terms as Fairly Disclosed in the Disclosure Material and for an amount approximate to the amount provisioned in the Target Group's financial accounts Fairly Disclosed in the Disclosure Material, accept as a settlement or compromise of a material claim, investigation or dispute:
 - (A) an obligation on Target or a Target Group Member to pay an amount or amounts in aggregate in excess of \$500,000; or
 - (B) (relating to an amount or amounts in aggregate in excess of \$1 million) less than 80% of the full compensation due to Target or a Target Group Member (unless based on advice of appropriate legal counsel and a determination by Target that it would be in the best interests of the Target Group Member to accept such lesser amount);
- (m) **(Joint ventures)** enter into or resolve to enter into a joint venture or partnership with any person; or
- (n) **(agree)** agree to do any of the matters set out above.

8.4 Exceptions to conduct of business provisions

Nothing in this clause 8 restricts the ability of Target to take any action which:

- (a) is expressly required or permitted by this document, the Scheme, or otherwise required by law, the rules of a recognised stock exchange or, a Regulatory Authority;
- (b) has been Fairly Disclosed to Bidder prior to the execution of this document as being an action that Target will carry out between (and including) the date of this document and the Implementation Date; or
- (c) has been agreed to in writing by Bidder (such agreement not to be unreasonably withheld).

8.5 Access to people and Target Information

Between the date of this document and the Implementation Date, Target must:

- (a) as soon as reasonably practicable provide Bidder and its officers and advisers with any documents, records, and other information (subject to any existing confidentiality obligations owed to third parties, or applicable privacy laws) reasonably requested by them, other than in relation to Competing Transactions; and
- (b) provide Bidder and its officers and advisers with reasonable access to Target's officers, advisers and financiers which Bidder reasonably requires for the purposes of:
 - (i) understanding Target's financial position (including its cash flow and working capital position), trading performance and management control systems;
 - (ii) implementing the Scheme;
 - (iii) preparing for carrying on the business of Target following implementation of the Scheme; and
 - (iv) any other purpose which is agreed in writing between the parties,

provided in every case that such access is reasonably necessary to Bidder and does not place an unreasonable burden on the ability of Target to run its business.

8.6 No amendment or waiver of Subscription Agreements

As a continuing obligation Bidder will not, without Target's prior written consent, amend or permit the amendment of the Subscription Agreements nor waive any of its rights under the Subscription Agreements in any respect which will, or is reasonably likely to, prejudice Bidder's ability to provide the Scheme Consideration in accordance with this document, the Scheme and the Deed Poll.

8.7 Change of control

As soon as practicable after the date of this document, the parties must:

- (a) seek to identify any change of control or similar provisions in material contracts, joint venture documentation and leases to which a Target Group Member is a party which may be triggered by the implementation of the Scheme ("**Change of Control Requirements**"); and

- (b) unless otherwise agreed between Target and Bidder, use all reasonable endeavours to obtain any material consents required in accordance with the terms of any identified Change of Control Requirements as soon as practicable and in any event before the Second Court Date.

9 Releases

9.1 Release of Target and Target Indemnified Parties

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

- (a) any breach of any representations and warranties of Target or any other member of Target Group in this document; or
- (b) any disclosures containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 9.1 limits Bidder's rights to terminate this document under clause 13.1.

9.2 Benefit for Target Indemnified Parties

Target receives and holds the benefit of this clause 9 to the extent it relates to each Target Indemnified Party on behalf of each of them.

9.3 Release of Bidder and Bidder directors and officers

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

- (a) any breach of any representations and warranties of Bidder or any other member of the Bidder Group in this document; or
- (b) any disclosure containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 9.3 limits Target's rights to terminate this document under clause 13.1.

9.4 Benefit for Bidder Indemnified Parties

Bidder receives and holds the benefit of this clause 9 to the extent it relates to each Bidder Indemnified Party on behalf of each of them.

10 Exclusivity

10.1 No existing discussions

Target represents and warrants that, other than the discussions with Bidder in respect of the Scheme, it is not currently in negotiations or discussions in respect of any Competing Transaction with any person.

10.2 No-shop

During the Exclusivity Period, Target must ensure that neither it nor any of its Representatives directly or indirectly:

- (a) solicits, invites, encourages or initiates any enquiries, negotiations or discussions; or
- (b) communicates any intention to do any of these things,

with a view to obtaining any offer, proposal or expression of interest from any person in relation to a Competing Transaction.

10.3 No-talk

Subject to clause 10.5, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives:

- (a) negotiates or enters into; or
- (b) participates in negotiations or discussions with any other person regarding,

a Competing Transaction or any agreement, understanding or arrangement that may be reasonably expected to lead to a Competing Transaction, even if that person's Competing Transaction was not directly or indirectly solicited, invited, encouraged or initiated by Target or any of its Representatives or the person has publicly announced the Competing Transaction.

10.4 Due diligence information

Subject to clauses 10.5 and 10.6, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives in relation to a Competing Transaction:

- (a) enables any other person other than Bidder to undertake due diligence investigations on any member of the Target Group or their businesses or operations; or
- (b) makes available to any other person, or permits any other person to receive, other than Bidder (in the course of due diligence investigations or otherwise) any non-public information relating to any member of the Target Group or their businesses or operations.

10.5 Exceptions

Clauses 10.3 and 10.4 do not apply to the extent that they restrict Target or the IBC from taking or refusing to take any action with respect to a genuine Competing Transaction (which was not solicited, invited, encouraged or initiated by Target in contravention of clause 10.2) provided that the IBC has determined, in good faith and acting reasonably that:

- (a) after consultation with its financial advisors, such a genuine Competing Transaction is a Superior Proposal; and
- (b) after receiving written legal advice from its external legal advisers (who must be reputable advisers experienced in transactions of this nature) that failing to respond to such Competing Transaction would constitute, or be reasonably likely to constitute, a breach of the IBC's fiduciary or statutory obligations or a breach of the Target's statutory obligations.

10.6 Further exceptions

Nothing in this document prevents Target from:

- (a) continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme or its business generally; or
- (b) fulfilling its continuous disclosure requirements.

10.7 Notice of unsolicited approach

- (a) During the Exclusivity Period, Target must promptly inform Bidder if it or any of its Representatives:
 - (i) receives any unsolicited approach with respect to any Competing Transaction;
 - (ii) receives any request for information relating to Target or any of its Related Bodies Corporate or any of their businesses or operations or any request for access to the books or records of Target or any of its Related Bodies Corporate, which Target has reasonable grounds to suspect may relate to a current or future Competing Transaction; and
 - (iii) provides any information relating to Target or any of its Related Bodies Corporate or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Transaction.
- (b) A notice given under clause 10.7(a) must be accompanied by all material details of the Competing Transaction, including:
 - (i) the identity of the third party who made the approach; and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and break free (if any)) of any Competing Transaction or any proposed Competing Transaction (to the extent known).

10.8 Matching right

Without limiting clauses 10.2 and 10.3, during the Exclusivity Period, Target:

- (a) must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a third party, Target or both proposes or propose to undertake or give effect to an actual, proposed or potential Competing Transaction; and
- (b) must use its best endeavours to procure that none of the IBC Members change their recommendation in favour of the Scheme to publicly

recommend an actual, proposed or potential Competing Transaction (or recommend against the Scheme),

unless:

- (c) the IBC acting in good faith and in order to satisfy what the IBC considers to be its statutory or fiduciary duties (having received written advice from its external legal advisers), determines that the Competing Transaction would be or would be likely to be an actual, proposed or potential Superior Proposal;
- (d) Target has provided Bidder with the material terms and conditions of the actual, proposed or potential Competing Transaction, including price and, the identity of the third party making the actual, proposed or potential Competing Transaction;
- (e) Target has given Bidder 5 Business Days after the date of the provision of the information referred to in clause 10.8(d) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction; and
- (f) Bidder has not submitted or proposed to Target a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction by the expiry of the 5 Business Day period referred to in clause 10.8(e).

Target acknowledges and agrees that each successive modification of any actual, proposed or potential Competing Transaction will constitute a new actual, proposed or potential Competing Transaction for the purposes of the requirements under clause 10.8 and accordingly Target must comply with clause 10.8(a) and clause 10.8(b) of this clause in respect of any new actual, proposed or potential Competing Transaction unless clause 10.8(c) to 10.8(f) (inclusive) apply.

10.9 Bidder counterproposal

If Bidder proposes to Target, or announces amendments to the Scheme or a new proposal that constitute a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction ("**Bidder Counterproposal**") by the expiry of the 5 Business Day period referred to in clause 10.8(e), Target must procure that the IBC considers the Bidder Counterproposal and if the IBC, acting reasonably and in good faith, determines that the Bidder Counterproposal would provide an equivalent or superior outcome for Target Shareholders as a whole compared with the Competing Transaction, taking into account all of the terms and conditions of the Bidder Counterproposal, then:

- (a) Target and Bidder must use their best endeavours to agree the amendments to this document and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable; and
- (b) Target must use its best endeavours to procure that each IBC Member continues to recommend the Scheme (as modified by the Bidder Counterproposal) to Target Shareholders.

10.10 Legal advice

Target acknowledges that it has received legal advice on this document and the operation of this clause.

11 Break Fee

11.1 Background

This clause has been agreed in circumstances where:

- (a) Bidder and Target believe that the Scheme will provide significant benefits to Bidder, Target and their respective shareholders, and Bidder and Target acknowledge that, if they enter into this document and the Scheme is subsequently not implemented, Bidder will incur significant costs, including those set out in clause 11.5;
- (b) Bidder requested that provision be made for the Break Fee, without which Bidder would not have entered into this document;
- (c) both the Bidder Board and IBC believe that it is appropriate for both parties to agree to the payment referred to in this clause to secure Bidder's participation in the Scheme; and
- (d) both parties have received legal advice on this document and the operation of this clause.

11.2 Payment by Target to Bidder

Subject to clause 11.3, Target agrees to pay the Break Fee to Bidder without withholding or set off if the Scheme does not proceed because:

- (a) **(Competing Transaction)** on or before the End Date, a Competing Transaction is announced and within 12 months of the End Date the third party who announced or made the Competing Transaction (and/or any of its Associates):
 - (i) completes a Competing Transaction; or
 - (ii) acquires a Relevant Interest in more than 50% of the Target Shares for which any defeating conditions have been satisfied or waived (and for the purposes of this paragraph (a)(ii), sections 609(6) and 609(7) of the Corporations Act will be disregarded when calculating such Relevant Interest in Target Shares);
- (b) **(change of recommendation)** any IBC Member fails to recommend the Scheme or withdraws their recommendation, adversely changes or qualifies their recommendation or otherwise makes a public statement indicating that he or she no longer supports the Scheme, except where:
 - (i) the change of recommendation or statement is made after the Independent Expert concludes that in the opinion of the Independent Expert the Scheme is not in the best interests of Target Shareholders (other than where a Competing Transaction has been proposed or announced before the report is issued which the Independent Expert may reasonably regard to be on more favourable terms than the transaction contemplated by this document); or

- (ii) Target is entitled to terminate this document in accordance with clause 13.1(e) and has given the appropriate termination notice to the Bidder;
- (c) **(termination)** Bidder validly terminates this document in accordance with:
 - (i) clause 13.1(a) (Target Prescribed Event);
 - (ii) clause 13.1(b) (Material Adverse Effect) and the relevant event, matter, circumstance or occurrence giving rise to the Material Adverse Effect was caused by or as a result of:
 - (A) a deliberate act or omission of Target; or
 - (B) a failure by Target to take reasonable steps (which steps were within the control of Target) to prevent the relevant event, matter, circumstance or occurrence;
 - (iii) clause 13.1(d) (lack of support); or;
 - (iv) clause 13.1(e) (material breach).

11.3 No amount payable if Scheme becomes Effective

- (a) Notwithstanding the occurrence of any event in clause 11.2, if the Scheme becomes Effective:
 - (i) no amount is payable by Target under clause 11.2; and
 - (ii) if any amount has already been paid under clause 11.2 it must be refunded by Bidder.
- (b) Target is liable to pay the Break Fee once and in no circumstances can the Target be required to pay the Break Fee more than once.

11.4 Timing of payment

- (a) A demand by Bidder for payment of the Break Fee under clause 11.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of Bidder into which Target must pay the Break Fee.
- (b) Target must pay the Break Fee to Bidder under clause 11.2 within 15 Business Days of receipt by Target of a valid demand for payment from Bidder under clause 11.4(a).

The demand may only be made after the occurrence of an event referred to in clause 11.2.

11.5 Nature of payment

The Break Fee is an amount to compensate Bidder for:

- (a) advisory costs;
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of Bidder's management from conducting Bidder's business as usual caused by pursuing the Scheme;
- (e) reasonable opportunity costs incurred by Bidder in pursuing the Scheme or in not pursuing alternative acquisitions or strategic initiatives which Bidder could have developed to further its business and objectives; and
- (f) damage to Bidder's reputation associated with a failed transaction and the implications of that damage to Bidder's business.

Bidder represents and warrants to Target that, to the best of Bidder's knowledge, the advisory costs and out-of-pocket expenses of Bidder up until signing of this document will equal or exceed the amount payable under clause 11.2.

11.6 Target's limitation of liability

- (a) Notwithstanding any other provision of this document but subject to clauses 11.6(b), 4.2 and 11.7 the maximum liability of Target to Bidder under or in connection with this document (including in respect of any breach of this document), other than in the case of wilful misconduct or fraud, will be the Break Fee.
- (b) Clause 11.6(a) does not apply to a breach of clauses 10.2, 10.8 or 10.9 by Target in reliance of which Bidder has validly terminated this document in accordance with clause 13.1(e).

11.7 Compliance with law

- (a) If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the amount payable under clause 11.2:
 - (i) is unlawful or would if performed be, unlawful;
 - (ii) involves a breach of the duties of the IBC; or
 - (iii) constitutes unacceptable circumstances within the meaning of the Corporations Act,

then Target's obligation to pay the applicable amount or part of the amount payable under clause 11.2 does not apply and if Bidder has received any such part of the payment due under clause 11.2 it must refund it within 5 Business Days of such final determination. The parties must take all reasonable steps to ensure that any such determination applies to the minimum extent possible.

- (b) If any portion of the Break Fee is found to be unacceptable or unlawful in accordance with clause 11.7:
 - (i) if Bidder is entitled to the Break Fee in accordance with the terms of this document, Target must pay Bidder that remaining

portion of the Break Fee which is still acceptable or enforceable within 15 Business Days of a determination to that effect; and

- (ii) any such finding by the Takeovers Panel or a Court will not give rise to a right to terminate this document to either party or otherwise affect the validity of the Transaction nor will Target be in breach of this document.
- (c) The parties must not make or cause or permit to be made any application to a Court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in this clause 11.6.

12 Representations and warranties

12.1 Target's representations and warranties

Target represents and warrants to Bidder (on its own behalf and separately as trustee or nominee for each of the Bidder directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** other than Change of Control Authorisations, it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Target Information contained in the Scheme Booklet will be included in good faith and on the understanding that Bidder and its directors will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (g) **(Target Information)** the Target Information provided in accordance with this document and included in the Scheme Booklet as at the date of the Scheme Booklet will not contain any material statement which is misleading or deceptive in any material respect, nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;

- (h) **(updating information)** Target will, as a continuing obligation, ensure that the Scheme Booklet (but in respect of Bidder Information, subject to Bidder complying with its obligations to update Bidder Information) will be updated by all such further or new information which may arise after the Scheme Booklet has been despatched until the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission);
- (i) **(Disclosure)** Target has provided to Bidder all material information actually known to it (having made reasonable enquiries) as at the date of this document regarding matters affecting or relating to it, which is not already in the public domain;
- (j) **(continuous disclosure)** Target is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure (other than the transaction contemplated by this document);
- (k) **(complete and accurate)** the Disclosure Materials were prepared, compiled and made available to Bidder and its Representatives in good faith with reasonable care, and as far as the Target is aware, all the Disclosure Material is accurate in all material respects and is not misleading or deceptive in any material respect, whether by way of omission or otherwise;
- (l) **(reasonable assumptions)** to the extent the Target Information includes forward looking statements, those forward looking statements are based on assumptions which Target believes, as at the date the information was provided and continues to believe, to be reasonable;
- (m) **(compliance)** so far the Target is aware, the Target Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licenses, permits and authorisations necessary for it to conduct its business as it has been conducted in the 12 months prior to the date of this document;
- (n) **(opinions)** any statement of opinion or belief contained in the Target Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (o) **(provision of information to Independent Expert)** all information provided by or on behalf of Target to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (p) **(no default)** so far as the Target is aware and other than as Fairly Disclosed in the Disclosure Materials, neither Target nor any of its Subsidiaries is in default under any document, agreement or instrument binding on it or its assets nor has anything occurred which is or would with the giving of notice or lapse of time constitute an event of default, prepayment event or similar event, or give another party a termination right or right to accelerate any right or obligation, under any such document or agreement with such an effect which is or could reasonably give rise to a Material Adverse Effect;

- (q) **(securities)** Target's issued securities as at the date of this document are 39,267,916 Target Shares, and other than as Fairly Disclosed in the Disclosure Materials it has not issued or agreed to issue any other securities or instruments which are still outstanding and which may convert into Target Shares;
- (r) **(no Encumbrances)** there are no Encumbrances over all or any of its assets or revenues other than as Fairly Disclosed in the Disclosure Materials;
- (s) **(Insolvency event)** no material member of the Target Group is Insolvent;
- (t) **(regulatory approvals)** so far as the Target is aware, as at the date of this document, no regulatory approval is required to be obtained by Target in order for it to execute, deliver and perform this document, other than those approvals set out in clause 3.1, and so far as the Target is aware, as at the date of this document no regulatory action of any nature has been taken that would prevent or restrict its ability to fulfil its obligations under this document;
- (u) **(indebtedness)** except as Fairly Disclosed in the Disclosure Materials no Target Group Member has incurred or agreed to incur any material indebtedness under any bank facility or other similar material arrangement providing financial accommodation of any description (excluding usual terms of trade with customers and suppliers);
- (v) **(no material undisclosed liability)** other than as Fairly Disclosed, so far as Target is aware, there is no current or pending claim, dispute, demand, action, litigation, prosecution, arbitration, investigation, mediation or other proceeding which could reasonably be expected to result in an award, settlement, fine, penalty, order, loss or other liability to the Target Group of more than \$500,000, nor is Target aware of any anticipated matter of this kind;
- (w) **(no Material Adverse Effect)** as at the date of this document, Target is not aware of any information relating to the Target Group or its respective businesses or operations (having made reasonable enquiries) that has or could reasonably be expected to give rise to a Material Adverse Effect; and
- (x) **(incentives)**: Target has Fairly Disclosed all arrangements for the award of any payment, bonus, incentive, severance pay or pension contribution to all directors and senior management of the Target Group and all arrangements entered into by any Target Group Member (including with any financial adviser in connection with the Transaction) pursuant to which consideration becomes payable to any person in connection with the Transaction that are in place, or are payable, as at the date of this agreement.

12.2 Target's indemnity

Target indemnifies the Bidder and its directors against all Losses incurred directly or indirectly as a result of any breach of the representations and warranties in clause 12.1.

12.3 Qualifications on Target Representations and Warranties

The representations and warranties in clause 12.1 and the indemnity in clause 12.2 are each subject to matters that:

- (a) have been Fairly Disclosed in the Disclosure Materials;
- (b) have been Fairly Disclosed by Target in an announcement made to Target on ASX; or
- (c) as at the date of this document are within the actual knowledge of Bidder or any of the Bidder's Representatives designated in the Disclosure Letter for the purpose of this paragraph (c).

Any representations and warranties in clause 12.1 that are given subject to Target's awareness, knowledge or belief are given by reference to the actual awareness, knowledge or belief of the Target Representatives referred to in clause 12.6(a) after having made reasonable enquiries.

12.4 Bidder's representations and warranties

Bidder represents and warrants to Target (on its own behalf and separately as trustee or nominee for each of the Target directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Bidder Information provided to Target for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that Target and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (g) **(Bidder Information)** the Bidder Information provided in accordance with this document and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(updating information)** Bidder will, as a continuing obligation, provide to Target all such further or new information which may arise after the

Scheme Booklet has been despatched until the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive in any material respect (including because of any material omission);

- (i) **(reasonable assumptions)** to the extent the Bidder Information includes forward looking statements, those forward looking statements are based on assumptions which Bidder believes, as at the date the information was provided and continues to believe, to be reasonable;
- (j) **(opinions)** any statement of opinion or belief contained in the Bidder Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) **(compliance)** so far as the Bidder is aware, the Bidder Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licenses, permits and franchises necessary for it to conduct its businesses as presently being conducted;
- (l) **(no dealing with Target Shareholders)** neither it nor, so far as the Bidder is aware, any of its Associates has any agreement, arrangement or understanding with any Target Shareholder under which that Target Shareholder (or an Associate of that Target Shareholder) would be entitled to receive consideration for their Target Shares different from the Scheme Consideration (other than for a Founder Shareholder who has made a valid Election) or under which the Target Shareholder agrees to vote in favour of the Scheme or against any Competing Transaction;
- (m) **(reasonable basis)** it has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to provide or procure the provision of the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll;
- (n) **(provision of information to Independent Expert)** all information provided by or on behalf of Bidder to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (o) **(Subscription Agreements)** Bidder has given to Target a true, correct and complete copy of the Subscription Agreements;
- (p) **(due execution and enforceability of the Subscription Agreements)** the Subscription Agreements have been duly executed by the parties to the Subscription Agreements and constitute legally binding obligations of the parties to those agreements enforceable in accordance with its terms;
- (q) **(No termination of Subscription Agreements)** the Subscription Agreements have not been terminated by any party to those agreements;
- (r) **(regulatory approval)** so far as the Bidder is aware, no regulatory approval is required to be obtained by the Bidder in order for it to execute, deliver and perform this document, other than those approvals

set out in clause 3.1, and so far as the Bidder is aware, as at the date of this document no regulatory action of any nature has been taken that would prevent or restrict the Bidder's ability to fulfil its obligations under this document; and

- (s) **(Insolvency event)** so far as the Bidder is aware, no member of the Bidder Group is Insolvent.

12.5 Bidder's indemnity

Bidder indemnifies the Target and its Subsidiaries and each director of Target and its Subsidiaries against all Losses incurred directly or indirectly as a result of any breach of the representations and warranties in clause 12.4.

12.6 Qualifications on Bidder Representations and Warranties

- (a) The Bidder Representations and Warranties in clause 12.4 and the indemnity in clause 12.5 are each subject to matters that as at the date of this document are within the actual knowledge of the Target Representatives designated in the Disclosure Letter for the purposes of this clause 12.6(a).
- (b) Any Bidder Representations and Warranties that are given subject to Bidder's awareness, knowledge or belief are given by reference to the actual awareness, knowledge or belief of the Bidder Representatives who have been directly involved in the assessment and/or negotiation of the transactions contemplated by this document after having made reasonable enquiries.

13 Termination

13.1 Termination events

This document may be terminated:

- (a) **(Target Prescribed Event)** by Bidder if a Target Prescribed Event occurs or becomes known to Bidder on or after the date of this document;
- (b) **(Material Adverse Effect)** by Bidder if a Material Adverse Effect occurs or becomes known to Bidder on or after the date of this document;
- (c) **(End Date)** by either party, if the Scheme has not become Effective on or before the End Date;
- (d) **(lack of support)** by Bidder at any time prior to 8.00am on the Second Court Date if any member of the IBC fails to recommend or changes its recommendation to the Target Shareholders that they vote in favour of the resolution to approve the Scheme, including any adverse modification to its recommendation, or otherwise makes a public statement indicating that it no longer supports the Scheme (excluding a statement that no action should be taken by Target Shareholders pending the assessment of a Competing Transaction or Bidder Counterproposal by the IBC);
- (e) **(material breach)** by either Bidder or Target at any time prior to 8.00am on the Second Court Date, if the other party is in material breach of a term of this document (including any material breach of any representation and warranty contained in clause 12), taken in the context of the Scheme as a whole, provided that Bidder or Target (as the case

may be) has given notice to the other setting out the relevant circumstances and the relevant circumstances continue to exist 10 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time such notice is given;

- (f) **(competing interest)** by Bidder, if a person (other than Bidder or its Associates or the Founder Shareholders) and/or any of its Associates has a Relevant Interest in more than 20% of the Target Shares where the acquisition of that Relevant Interest in the Target Shares has been facilitated in any manner by the Company, other than the registration of transfers of Target Shares in the ordinary course. For the purposes of this paragraph (d), sections 609(6) and 609(7) of the Corporations Act will be disregarded when calculating the Relevant Interest in Target Shares;
- (g) **(Competing Transaction)** by Target if the IBC determines that a Competing Transaction that was not solicited, invited, encouraged or initiated in breach of clause 10.2 is a Superior Proposal and Target has complied with all of its obligations under clause 11 (Break Fee);
- (h) **(consultation or appeal failure)** in accordance with and pursuant to:
 - (i) clause 3.8(a)(i);
 - (ii) clause 3.8(a)(ii); or
 - (iii) clause 5.8; or
- (i) **(conditions precedent)** by Bidder or Target in the circumstances set out in and in accordance with clause 3.8;
- (j) **(agreement)** if agreed to in writing by Bidder and Target.

13.2 Termination

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

13.3 Effect of Termination

If this document is terminated by either party, or if this document otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this document, other than the obligations set out in this clause 13.3 and in clauses 1, 11, 12 and 14 to 21 (inclusive) will immediately cease to be of further force and effect without further liability of any party to the other, provided that nothing in this clause releases any party from liability for any pre-termination breach of this document.

13.4 Damages

In addition to the right of termination under clause 13.1 where there is no appropriate remedy for the breach in this document (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this document.

14 Public announcements

14.1 Public announcement of Scheme

Immediately after signing this document, Target and Bidder must issue a joint public announcement of the proposed Scheme in the form contained in Annexure A.

14.2 Required disclosure

Where a party is required by any applicable law or any Listing Rule to make any announcement or make any disclosure in connection with the Scheme, it must use all reasonable endeavours, to the extent possible, to consult with the other party prior to making the relevant disclosure.

14.3 Other announcements

Subject to clauses 14.1 and 14.2, no party may make any public announcement or disclosure in connection with the Scheme (including disclosure to a Regulatory Authority) other than in a form approved by each party (acting reasonably). Each party will use all reasonable endeavours to provide such approval as soon as practicable. 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 or the Listing Rules.

15 Confidential Information

15.1 Disclosure of Bidder Confidential Information

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

16 Notices and other communications

16.1 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

16.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or

- (c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

16.3 When effective

Communications take effect from the time they are received or taken to be received under clause 16.4 (whichever happens first) unless a later time is specified in the communication.

16.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 days after posting if sent from one country to another);
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

16.5 Receipt outside business hours

Despite anything else in this clause 16, if communications are received or taken to be received under clause 16.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

17 GST

17.1 Definitions and interpretation

For the purposes of this clause:

- (a) “**GST Act**” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause, unless the contrary intention appears; and
- (c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

17.2 GST exclusive

Unless this document expressly states otherwise, all consideration to be provided under this document is exclusive of GST.

17.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply in connection with this document, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply ("**GST Amount**").
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

17.4 Adjustment events

If an adjustment event arises for a supply made in connection with this document, the GST Amount must be recalculated to reflect that adjustment. The supplier or the recipient (as the case may be) agrees to make any payments necessary to reflect the adjustment and the supplier agrees to issue an adjustment note.

17.5 Reimbursements

Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this document which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 17.3 will apply to the reduced payment.

18 Costs

18.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document, except for amounts covered by clause 18.2.

18.2 Stamp duty and registration fees

Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnifies Target against, and agrees to reimburse and compensate it for, any liability in respect of stamp duty under clause 18.2(a).

Bidder agrees to pay amounts due to Target under this clause within 3 Business Days of demand from Bidder.

However, Bidder need not pay, reimburse or indemnify against any fees, fines, penalties or interest to the extent they have been imposed because of Target's delay.

19 Bidder

19.1 References to Bidder

All references to “Bidder” in this document are references to each of Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees), and Co-Investment Trust A and Co-Investment Trust B:

- (a) individually and severally; and
- (b) in each of their respective Relevant Proportions or Bidder Nominee Proportions (as relevant).

19.2 Rights, obligations and liability

Notwithstanding any other provision of this document, the Scheme and the Deed Poll:

- (a) each of Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees), Co-Investment Trust A and Co-Investment Trust B is severally responsible and liable in its Relevant Proportion or Bidder Nominee Proportion (as relevant) for all obligations of Bidder under this document, the Scheme and the Deed Poll; and
- (b) all of the rights of Bidder under this document, the Scheme and the Deed Poll are exercisable severally by Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees), and Co-Investment Trust A and Co-Investment Trust B and any failure by any of them to exercise its rights under this document, the Scheme and the Deed Poll does not constitute a waiver by the others of their rights.

20 General

20.1 Variation and waiver

A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

20.2 Consents, approvals or waivers

By giving any approval, consent or waiver a party does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

20.3 Discretion in exercising rights

Unless this document expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

20.4 Partial exercising of rights

Unless this document expressly states otherwise, if a party does not exercise a right, power or remedy in connection with this document fully or at a given time, they may still exercise it later.

20.5 Conflict of interest

Each party may exercise their rights, powers and remedies in connection with this document even if this involves a conflict of duty or they have a personal interest in their exercise.

20.6 Remedies cumulative

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

20.7 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document.

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

20.8 Inconsistent law

To the extent the law permits, this document prevails to the extent it is inconsistent with any law.

20.9 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this document with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

20.10 Counterparts

This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document.

20.11 Entire agreement

This document constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

20.12 Further steps

Each party agrees to do anything (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed), which the other party asks and considers necessary to:

- (a) bind the party and any other person intended to be bound under this document; or
- (b) show whether the party is complying with this document.

20.13 No liability for loss

Unless this document expressly states otherwise, a party is not liable for any loss, liability or costs arising in connection with the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, power or remedy in connection with this document.

20.14 Severability

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

20.15 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this document or any part of it.

20.16 Assignment

- (a) Except as provided in clause 20.16(b)(ii), a party may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of the other party.
- (b) Notwithstanding any other provision of this document:
 - (i) the benefit of this document may be assigned by Bidder to a Bidder Nominee pursuant to clause 2.2; and
 - (ii) Bidder's rights under this document may otherwise be encumbered by way of security (whether by charge, mortgage or otherwise) for the benefit of each financial institution or group of financial institutions, bank or other provider of finance, including any agent or trustee acting on behalf of any of the foregoing, with which Bidder or any of its Related Bodies Corporate, or, following the Implementation Date, any Target Group Member, incurs financial indebtedness from time to time, and any such security may be enforced or released.

20.17 Enforceability

For the purpose of this document:

- (a) Target is taken to be acting as trustee for the benefit of all Target Indemnified Parties; and
- (b) Bidder is taken to be acting as trustee for the benefit of all Bidder Indemnified Parties,

and all of those persons are to this extent taken to be parties to this document.

20.18 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document,

except for representations or inducements expressly set out in this document;

- (b) it does not enter into this document in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this document; and
- (c) clauses 20.18(a) and 20.18(b) above do not prejudice any rights a party may have in relation to information which had been filed by the other party with ASIC or ASX.

21 Governing law

21.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

21.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address for service of notices under clause 16.2.

Scheme Implementation Agreement

Schedule 1 Timetable (clause 5.1)

Event	Date
Lodge Scheme Booklet with ASIC	Wednesday, 10 July 2019
Application in respect of the Court hearing to be held on the First Court Date, filed with the Court, served on ASIC	Wednesday, 10 July 2019
First Court Date	Thursday, 25 July 2019
Despatch of Scheme Booklet	Wednesday, 31 July 2019
Election Date	5.00pm on Thursday, 15 August 2019
General Meeting and Scheme Meetings held	Friday, 30 August 2019
Second Court Date	Wednesday, 4 September 2019
Lodge Court order with ASIC (Effective Date)	Wednesday, 4 September 2019
Record Date	5.00pm on Wednesday, 11 September 2019
Implementation Date	Wednesday, 18 September 2019

Scheme Implementation Agreement

Signing page

EXECUTED as an agreement

DATED: 3 July 2019

EXECUTED by NEXT CAPITAL
SERVICES IVA PTY LIMITED as
trustee for NEXT CAPITAL TRUST
IVA in accordance with section 127(1)
of the Corporations Act 2001 (Cth):

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Name of director/company secretary
(block letters)

EXECUTED by NEXT CAPITAL
SERVICES IVC PTY LIMITED as
trustee for NEXT CAPITAL TRUST
IVC in accordance with section 127(1)
of the Corporations Act 2001 (Cth):

.....
Signature of director


.....
Name of director (block letters)

.....
Signature of director/company
secretary

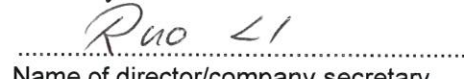
.....
Name of director/company secretary
(block letters)

EXECUTED by NEXT CAPITAL
SERVICES IVD2 PTY LIMITED as
trustee for NEXT CAPITAL TRUST
IVD2 in accordance with section 127(1)
of the Corporations Act 2001 (Cth):


.....
Signature of director



.....
RAYNA TOMAN
.....
Name of director (block letters)


.....
Signature of director/company
secretary



.....
Name of director/company secretary
(block letters)

EXECUTED by NEXT CAPITAL
(SERVICES A) PTY LIMITED as
trustee for the APOLLO CO-
INVESTMENT TRUST in accordance
with section 127(1) of the Corporations
Act 2001 (Cth):


.....
Signature of director



.....
Name of director (block letters)


.....
Signature of director/company
secretary



.....
RAYNA TOMAN
.....
Name of director/company secretary
(block letters)

EXECUTED by NEXT CAPITAL
(SERVICES B) PTY LIMITED as
trustee for the APOLLO CO-
INVESTMENT TRUST B in accordance
with section 127(1) of the Corporations
Act 2001 (Cth):


.....
Signature of director


.....
JAMES MURPHY
.....
Name of director (block letters)


.....
Signature of director/company
secretary


.....
RAYNA TOMAN
.....
Name of director/company secretary
(block letters)

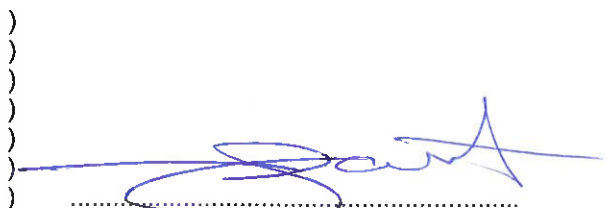
EXECUTED by **SILVER CHEF**
LIMITED in accordance with section
127(1) of the *Corporations Act 2001*
(Cth) by authority of its directors:



Signature of director



Name of director (block letters)



Signature of director/company
secretary



Name of director/company secretary
(block letters)

Scheme Implementation Agreement

Annexure A Public announcement

SILVER CHEF LIMITED ENTERS INTO SCHEME IMPLEMENTATION AGREEMENT

Silver Chef Limited ("**Silver Chef**" or "**Company**" ASX: SIV) announces that it has entered into a binding Scheme Implementation Agreement (**SIA**) with a consortium of investors investing under the leadership of Next Capital Pty Ltd (**Next Capital**). Next Capital is an independent Australian private equity firm, specialising in providing buy-out funding for small to medium growth businesses. The consortium is comprised of investment vehicles affiliated with Next Capital and a number of co-investors that are investing through co-investment vehicles.¹

If the Scheme is implemented, Silver Chef shareholders will be paid:

- (a) cash consideration of \$0.70 (**Cash Consideration**); and
- (b) one contingent value note, representing an opportunity to share in the potential upside in the run-down of the GoGetta business (as detailed below) (**Contingent Value Note**),

for each Silver Chef share they hold as at the record date (**Scheme Consideration**).

Silver Chef shareholders affiliated with Allan English (**Founder Shareholders**) may elect to retain all of their shares in lieu of receiving the Scheme Consideration. Founder Shareholders who elect to retain their Silver Chef shares will vote in a separate Scheme meeting to other Silver Chef shareholders.

Options Available to the Company

Silver Chef has been operating with the support of its financiers since July 2018 as the Company explored options to cure its covenant breaches, which required a minimum of \$45 million capital to reduce the amount drawn under the Company's Syndicated Debt Facility (**SF**). A condition of the SF waiver was that the Company would moderate its growth by ensuring originations were funded from operating cashflows and cash reserves during the waiver period. This had a material impact on the HY2019 results and is expected to have a material adverse impact on FY2019 and the FY2020 outlook.

In addition, from November 2018 the Company has required financier consent for distributions to be received from the Securitisation Warehouse Facility (**SWF**) due to certain reporting requirements not being met. A further condition of the 28 February 2019 waiver extension specified that all asset sell-ins to the SWF required SF lender consent.

The cumulative effect of both the SF and SWF waiver conditions has progressively and significantly reduced the near-term financial outlook for the Company and along with the reduction in the Company's share price has significantly increased the difficulty of raising the necessary capital required to recapitalise the Company.

The Company continues to be restricted in accessing distributions from the SWF and allowing asset sell-ins to the SWF.

Since September 2018, Silver Chef has explored various options to recapitalise the Company so that it could continue to operate and grow the business. The initial preferred option was for the Company to seek offers

¹ The investment vehicles and the percentage proportions in which they propose to acquire the Company's shares are Next Capital Services IVA Pty Limited as trustee for Next Capital Trust IVA (20.3%), Next Capital Services IVC Pty Limited as trustee for Next Capital Trust IVC (13.5%) and Next Capital Services IVD2 Pty Limited as trustee for Next Capital Trust IVD2 (10.5%) (or their bidder nominees in their respective bidder nominee proportions) and Next Capital (Services A) Pty Limited as trustee for Apollo Co-Investment Trust (24.1%) and Next Capital (Services B) Pty Limited as trustee for Apollo Co-Investment Trust B (31.6%) (together, the **Bidder**).

of sub-debt and Ironstone Capital were appointed to advise the Company and run a sub-debt tender process.

Concurrently with the pursuit of sub-debt offers, the Company, through its advisers Adara Partners, engaged with several private equity firms about a potential take private option where an incoming party would acquire the shares in the Company and then recapitalise the Company on a basis agreed with Silver Chef's financiers.

During this process the Silver Chef board appointed an independent board committee, comprising the directors excluding Mr Allan English (**Independent Directors**), to consider take private proposals and the sub-debt proposal, given Mr English's substantial shareholding in the Company and the potential for a conflict of interest to arise in those considerations.

The process culminated in the Company entering into an Exclusivity Agreement with a preferred private equity partner and a preferred sub-debt party in January 2019.

This sub-debt party had proposed that, subject to due diligence, it would provide \$45 million of subordinated debt conditional on a minimum equity raising of \$20 million. Morgans Corporate Limited were appointed as Lead Manager for the equity raising and an Independent Accountant was also appointed to review the Company's financials and forecasts in anticipation of an equity raising in March 2019. The equity raising was subsequently delayed following the additional financier conditions imposed at 28 February resulting from the continuing reporting issues within the SWF.

On 11 April 2019, the Company announced it had received an indicative, conditional, non-binding offer of \$1.00 per share and one Contingent Value Note from Next Capital, which was undertaking due diligence under an Exclusivity Deed and had commenced discussions with the Company's financiers. This Exclusivity Deed has been extended on several occasions as Next Capital and the Company's financiers endeavoured to reach agreement on terms of the recapitalisation of the Company.

The sub-debt proposal lapsed as advised to the market on 23 May 2019, however discussions about a potential public equity solution have continued but have not proved feasible.

On 2 July 2019, Next Capital's indicative, conditional, non-binding offer was revised to \$0.70 per share and one Contingent Value Note per share post completion of negotiations with Silver Chef's financiers.

Today's announcement represents the culmination of extensive negotiations with Next Capital and the Company's financiers and takes into account the prospects facing the Company in a constrained funding environment and the urgent need to cure the covenant breaches to ensure the ongoing support of the Company's financiers.

Silver Chef independent board committee unanimously recommends the Scheme

The Independent Directors have unanimously recommended voting in favour of the Scheme in the absence of a superior proposal emerging and subject to the Independent Expert concluding the Scheme to be in the best interests of Silver Chef shareholders. Subject to those same qualifications, each Independent Director that holds or controls Silver Chef shares has committed to vote in favour of the Scheme.

The Chair of the Independent Board Committee, Sophie Mitchell, commented "The Independent Directors have carefully considered the offer from Next Capital and its relative certainty compared to the existing challenges in raising sufficient debt and/or equity to cure breaches of debt covenants. The Independent Directors have also weighed up the material risk of Silver Chef not receiving ongoing support from financiers and that it may be required to repay its credit facilities within a short timeframe without that support. The Scheme Consideration provides certainty of value to Silver Chef shareholders and an ability to share in the potential upside from the rundown of the GoGetta business".

Independent Expert

Silver Chef has engaged Ernst & Young Transaction Advisory Services Limited (**Independent Expert**) to prepare an independent expert's report for the Scheme Booklet.

Contingent Value Note

The Bidder has proposed to structure the Scheme Consideration so that part of the net cash that may be recouped in the run-off of the GoGetta asset book above \$10 million will be paid to Scheme shareholders. The parties have opted to use the Contingent Value Note structure to achieve this purpose.

The commercial terms which have been agreed in respect of the contingent consideration is that shareholders (other than Founder Shareholders who make a valid election to retain their Silver Chef shares) will be entitled to a redemption amount calculated on 50% of the net proceeds (including cash reserves generated by the GoGetta Business as at the date of the SIA and retained for working capital) that exceed \$10 million from the GoGetta run-off (net of all outgoing and claims including contingent costs and expenses incurred) between the date of the SIA and 30 June 2021. No redemption amount is payable until Silver Chef's Facility B under the SF has been repaid in full. Accordingly, the actual redemption amount for each Contingent Value Note is not quantifiable at this time and the Independent Directors can give no assurance as to their ultimate value or indeed if any payment will be made at all.

It is proposed that Silver Chef will be the issuer of the Contingent Value Notes. The issue of Contingent Value Notes to shareholders by Silver Chef will constitute financial assistance for the purposes of Part 2J.3 of the Corporations Act. Accordingly, Silver Chef will be seeking shareholder approval to provide financial assistance in accordance with sections 260A(1)(b) and 260B of the Corporations Act (**Financial Assistance Resolution**). The Independent Board Committee recommends that shareholders vote in favour of the Financial Assistance Resolution.

The terms of the Contingent Value Notes (including the calculation of the redemption amount) are set out in the Contingent Value Note Trust Deed in Annexure D of the SIA.

Transaction structure

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

The scheme is subject to certain conditions that must be satisfied or waived for the scheme to be implemented. These include:

- (a) receipt of various approvals, consents or relief from regulatory authorities, including ASIC and ASX;
- (b) the Bidder obtaining approval from the Foreign Investment Review Board;
- (c) the Independent Expert concluding that the Scheme is in the best interests of Silver Chef shareholders;
- (d) no material enforcement initiated by any regulatory authority, which has or is likely to have an adverse financial impact on Silver Chef's consolidated net assets of \$9.8 million or profit before tax of \$1.4 million (excluding any events specified in paragraph (f) below);
- (e) no default under Silver Chef's credit facilities or circumstances occurring which results in the waivers received from financiers being revoked or ceasing to apply which are not waived or remedied within 10 business days, provided that any waiver must be on terms acceptable to the Bidder;
- (f) no prosecution, litigation or other proceeding in connection with the ASIC investigation into the GoGetta business results, or is reasonably likely to result, in losses of \$10 million or more.

There are also a number of other customary conditions, including shareholder approval of the Scheme and Financial Assistance Resolution by the requisite majorities, Court approval and no material adverse effect or

target prescribed event. Unless all conditions are satisfied or waived in accordance with the terms of the SIA, the Scheme will not be implemented.

The SIA contains customary exclusivity provisions including no shop, no talk, notification of approaches and a matching right. The SIA also details circumstances under which a break fee of approximately \$1.18 million may be payable to the Bidder.

A copy of the SIA with its attachments accompanies this announcement.

Update on financier waivers

Silver Chef has received an extension of its existing conditional waivers from its financiers in relation to a breach of its debt covenants as at 30 June 2018. The waivers (which are subject to various conditions) have been extended to 30 November 2019 to allow the Scheme to be voted on and, if approved, implemented.

Indicative timetable and next steps

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

A Scheme Booklet containing, among other things, further information relating to the Scheme, reasons for the Independent Director's unanimous recommendation, details of the Scheme Meetings and General Meeting and the Independent Expert's Report is expected to be sent to Silver Chef shareholders in mid to late July 2019.

Otherwise, the key dates for the Scheme are as follows:

Event	Indicative date
Despatch of Scheme Booklet to Silver Chef shareholders	Wednesday, 31 July 2019
General Meeting and Scheme Meetings	Friday, 30 August 2019
Implementation of Scheme	Mid to late September 2019

These dates are indicative only and subject to change.

Silver Chef is being advised by Adara Partners as corporate adviser and by Jones Day as legal adviser.

Enquiries to:

Damien Guivarra
Chief Executive Officer
(07) 3335 3300

Graeme Fallet
Chief Financial Officer
(07) 3335 3300

About Silver Chef

Silver Chef was established in 1986 to help businesses fund their equipment needs through the Rent-Try-Buy® Solution. This keeps their options open and preserves their cash to grow their business.

Silver Chef Limited is an Australian Securities Exchange-listed company (ASX Code: SIV) focused on rentals of commercial equipment to small-to-medium enterprise. The Company has operations in Australia, New Zealand and Canada.

Silver Chef Limited

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ABN 28 011 045 828

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Scheme Implementation Agreement

Annexure B Scheme of Arrangement

Scheme of Arrangement

Dated

Silver Chef Limited (ABN 28 011 045 828) (“**Target**”)

Scheme Participants

Scheme of Arrangement

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Details

Parties

Target	Name	Silver Chef Limited
	ABN	28 011 045 828
	Formed in	Queensland
	Address	Park Tower – 20 Pidgeon Close, West End Qld 4101
	Email	Graeme.fallet@silverchefgroup.com.au
	Attention	Graeme Fallet
Scheme Participants	Each person registered as a holder of fully paid ordinary shares in Target as at the Record Date.	
Governing law	Queensland	

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

APRA means the Australia Prudential Regulation Authority.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited or the market operated by it, as the context requires.

Bidder means each of Fund IVA, Fund IVC, Fund IVD2, Co-Investment Trust A and Co-Investment Trust B, acting severally, in their Relevant Proportions and subject to at all times the provisions of clause 10.

Bidder Nominee has the meaning given to that term in the Scheme Implementation Agreement.

Bidder Nominee Proportions has the meaning given to that term in the Scheme Implementation Agreement.

Business Day means a business day as defined in the Listing Rules.

Cash Scheme Consideration means an amount equal to the aggregate amount of the cash component of the Scheme Consideration payable to Scheme Participants under clause 6.3(a) of this Scheme.

CHES means the clearing house electronic sub-register system of share transfers operated by ASX Settlement and Transfer Corporation Pty Ltd.

Co-Investment Trust A means Next Capital (Services A) Pty Limited (ACN 115 384 300) as trustee for the Apollo Co-Investment Trust.

Co-Investment Trust B means Next Capital (Services B) Pty Limited (ACN 117 027 853) as trustee for the Apollo Co-Investment Trust B.

Contingent Value Note means an unlisted, unsecured note to be issued by the Target, pursuant to the Note Trust Deed.

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

Court means the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act agreed in writing by Bidder and Target.

Custodian means a custodian to be appointed to hold the Contingent Value Notes issued in accordance with clause 6.5(b)(ii).

Custodian CVNs has the meaning given to that term in clause 6.5(d).

Deed Poll means the deed poll dated _____ 2019 executed by Bidder substantially in the form of Annexure C of the Scheme Implementation Agreement or as otherwise agreed by Bidder and Target under which Bidder covenants in favour of each Scheme Participant to perform (or procure the performance of) its obligations under the Scheme Implementation Agreement and this Scheme.

Details means the section of this agreement headed "Details".

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Election means an election by a Founder Shareholder to retain their registered holdings of Target Shares as at the Scheme Record Date in lieu of receiving the Scheme Consideration for their Scheme Shares in accordance with clause 6.3(b).

Election Date means 5.00pm on the date that is ten clear Business Days before the date of the applicable Scheme Meeting or such other date as is agreed in writing between Bidder and Target or as required by a Court.

Election Form means a form issued by Target for the purposes of a Founder Shareholder making an Election.

Election Deed Poll means a deed poll executed by a Founder Shareholder in favour of Target and Bidder, substantially in the form attached to the Election Form.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth), or any agreement to create any of them or allow them to exist.

End Date means 30 November 2019 or such other date as is agreed by Bidder and Target.

FIRB means the Foreign Investment Review Board.

Founder Shareholder means each of:

- (a) Tessana Pty Ltd (ACN 008 938 618) as trustee for the A English Family Trust;
- (b) English Family Foundation Pty Ltd (ACN 147 782 312) as trustee for the English Family Foundation; and
- (c) Mr Allan John English & Mrs Tessa Winifred English as trustees for The Tessana Superannuation Fund.

Fund IVA means Next Capital Services IVA Pty Limited (ACN 629 199 391) as trustee for Next Capital Trust IVA.

Fund IVC means Next Capital Services IVC Pty Limited (ACN 629 199 426) as trustee for Next Capital Trust IVC.

Fund IVD2 means Next Capital Services IVD2 Pty Limited (ACN 629 199 408) as trustee for Next Capital Trust IVD2.

Immediately Available Funds means a bank cheque or other form of cleared funds acceptable to Target.

Implementation Date means the fifth Business Day following the Record Date or such other date as is agreed by Bidder and Target.

Ineligible Foreign Shareholder means a Scheme Participant (other than a Founder Shareholder who has made a valid Election) whose address shown in the Register is a place outside Australia and its external territories unless Silver Chef determines it is lawful and not unduly onerous or impracticable to issue that Scheme Participant with Contingent Value Notes when the Scheme becomes Effective.

Listing Rules means the Listing Rules of the ASX.

Note Register means a register of persons who hold Contingent Value Notes required to be kept and updated by or on behalf of the Target (as the issuer of the Contingent Value Notes) in accordance with the Corporations Act

Note Trust Deed means the deed dated _____ 2019 entered into between the Target and the Note Trustee.

Note Trustee means an entity appointed by the Target to be the trustee for the holders of the Contingent Value Notes under the Note Trust Deed.

Record Date means 5.00pm on the fifth Business Day following the Effective Date or such other date as Target and Bidder agree.

Redemption Amount has the meaning given to that term in the Note Trust Deed.

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

Registered Address means, in relation to a Target Shareholder, the address shown in the Register.

Regulatory Authority includes, in any jurisdiction:

- (a) a government or governmental, semi-governmental or judicial entity or authority;
- (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (c) any regulatory organisation established under statute,

and includes ASX, ACCC, ASIC, the Takeovers Panel, FIRB and APRA.

Relevant Proportion means the following proportions:

- (a) Fund IVA: 20.3%;
- (b) Fund IVC: 13.5%;
- (c) Fund IVD2: 10.5%;
- (d) Co-Investment Trust A: 24.1%; and

(e) Co-Investment Trust B: 31.6%.

Retained Shares means, in respect of Founder Shareholders who have made a valid Election, the Target Shares to be retained by those Founder Shareholders in lieu of receiving the Scheme Consideration for their Scheme Shares.

Scheme means this scheme of arrangement between Target and Scheme Participants under which all of the Scheme Shares (other than the Retained Shares) will be transferred to Bidder under Part 5.1 of the Corporations Act as described in clause 6, in consideration for the Scheme Consideration, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Target and Bidder in accordance with clause 3.1(c).

Scheme Consideration means the consideration to be provided or procured by Bidder for the transfer of the Scheme Shares (other than the Retained Shares) held by a Scheme Participant to Bidder as set out in clause 6.3(a) and determined in accordance with clause 6.3.

Scheme Implementation Agreement means the scheme implementation agreement dated _____ 2019 between Target and Bidder, under which, amongst other things, Target has agreed to propose this Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to this Scheme.

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

Scheme Participant means each person who is a Target Shareholder as at the Record Date.

Scheme Share means a Target Share held by a Scheme Participant as at the Record Date and, for the avoidance of doubt, includes any Target Shares issued on or before the Record Date.

Second Court Date means the day on which the Court makes an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme.

Share Scheme Transfer means, for each Scheme Participant (other than a Founder Shareholder who has made a valid Election), a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Participant for the purposes of section 1071B of the Corporations Act in favour of the Bidder as transferee, which may be a master transfer of all Scheme Shares.

Target Board means the board of directors of Target.

Target Group means Target and its Subsidiaries.

Target Registry means Boardroom Pty Limited (ABN 14 003 209 836).

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

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

Target Shareholders' Deed means the shareholders' deed to become effective following Implementation of the Scheme in relation to Target.

Trust Account means the trust account operated by or on behalf of Target to hold the Cash Scheme Consideration on trust for the purpose of paying the Cash Scheme Consideration to the Scheme Participants in accordance with clause 6.4.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Brisbane, Australia time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (k) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (l) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (m) if a party must do something under this document on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day; and
- (n) if the day on which a party must do something under this document is not a Business Day, the party must do it on the next Business Day.

2 Preliminary

2.1 Target

Target is:

- (a) a public company limited by shares;
- (b) incorporated in Australia and registered in Queensland; and
- (c) admitted to the official list of the ASX and Target Shares are officially quoted on the stock market conducted by ASX.

As at the date of the Scheme Implementation Agreement, Target's issued securities are 39,267,916 Target Shares

2.2 Bidder

Bidder comprises:

- (a) Fund IVA;
- (b) Fund IVC;
- (c) Fund IVD2;
- (d) Co-Investment Trust A; and
- (e) Co-Investment Trust B,

each of which is constituted in Australia.

2.3 If Scheme becomes Effective

If this Scheme becomes Effective:

- (a) in consideration of the transfer of each Scheme Share (other than a Retained Share) to Bidder, Target will provide or procure the provision of the Scheme Consideration to each Scheme Participant (other than a Founder Shareholder who has made a valid Election) in accordance with the terms of this Scheme and the Deed Poll;
- (b) all Scheme Shares (other than the Retained Shares), together with all rights and entitlements attaching to those Scheme Shares, will be transferred to Bidder on the Implementation Date; and
- (c) Target will enter the name of Bidder in the Register in respect of all Scheme Shares (other than the Retained Shares) transferred to Bidder in accordance with the terms of this Scheme.

2.4 Scheme Implementation Agreement

Target and Bidder have agreed by executing the Scheme Implementation Agreement to implement the terms of this Scheme.

2.5 Deed Poll

Bidder has executed the Deed Poll for the purpose of covenanting in favour of the Scheme Participants to perform (or procure the performance of) obligations attributed to it under this Scheme, including to provide the Scheme Consideration.

3 Conditions precedent

3.1 Conditions precedent to Scheme

This Scheme is conditional on, 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, neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms;
- (b) all of the conditions precedent in clause 3.1 of the Scheme Implementation Agreement (other than the condition precedent in clause 3.1(c) of the Scheme Implementation Agreement) having been satisfied or (other than the condition precedent in clause 3.1(b) of the Scheme Implementation Agreement, which cannot be waived) waived in accordance with the terms of the Scheme Implementation Agreement;
- (c) the Court having approved this Scheme, with or without any modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, Target and Bidder having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act; and
- (d) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

3.2 Conditions precedent and operation of clauses 5 and 6

The satisfaction of each condition of clause 3.1 is a condition precedent to the operation of clause 5 and 6.

3.3 Certificate in relation to conditions precedent

Target and Bidder must provide to the Court on the Second Court Date a certificate confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent set out in clause 3.1 (other than the conditions precedent in clause 3.1(c) and clause 3.1(d)) have been satisfied or waived as at 8.00am on the Second Court Date.

The certificate referred to in this clause 3.3 will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 (other than the conditions precedent in clause 3.1(c) and 3.1(d)) have been satisfied or waived as at 8.00am on the Second Court Date.

4 Scheme

4.1 Effective Date

Subject to clause 4.2, this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

4.2 End Date

This 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 their terms.

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 (other than the condition precedent in clause 3.1(d)) are satisfied, Target must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as possible, and in any event by no later than 5.00pm on the first Business Day after the day on which the Court approves this Scheme or such later time as Bidder and Target agree in writing.

5.2 Transfer and registration of Target Shares

Subject to the Scheme becoming Effective, the following will occur on the Implementation Date in the order set out below:

- (a) Bidder confirming in writing to Target that the Cash Scheme Consideration has been provided in accordance with clause 6.4(a);
- (b) payment by Target of the Cash Scheme Consideration in the manner contemplated by clause 6.4(b);
- (c) the Bidder procuring the Target to issue the Contingent Value Notes in the manner contemplated by clause 6.5(b) and the Target having done so;
- (d) the Scheme Shares (other than the Retained Shares), together with all rights and entitlements attaching to those Scheme Shares as at the Implementation Date, must be transferred to Bidder without the need for any further act by any Scheme Participant (other than acts performed by Target as attorney and agent for Scheme Participants under clause 8 of this Scheme) by:
 - (i) Target delivering to Bidder a duly completed and executed Share Scheme Transfer, executed on behalf of the Scheme Participants by Target as their attorney and agent; and
 - (ii) Bidder duly executing the Share Scheme Transfer and delivering it to Target for registration;
- (e) as soon as practicable after receipt of the duly executed Share Scheme Transfer in accordance with clause 5.2(d)(ii), Target must enter, or procure the entry of, the name of Bidder in the Register in respect of all Scheme Shares transferred to Bidder in accordance with the terms of this Scheme; and
- (f) subject to the transfer of Scheme Shares (except the Retained Shares), the Target Shareholders' Deed comes into effect.

5.3 Title and rights in Scheme Shares

Subject to the provision of the Scheme Consideration for the Scheme Shares (other than the Retained Shares) as contemplated by clause 6, on and from the Implementation Date, Bidder will be beneficially entitled to the Scheme Shares transferred to it under the Scheme, pending registration by Target of Bidder in the Register as the holder of the Scheme Shares.

5.4 Scheme Participants' agreements

Under this Scheme, each Scheme Participant:

- (a) other than a Founder Shareholder who has made a valid Election, agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with the terms of this Scheme;
- (b) other than a Founder Shareholder who has made a valid Election, agrees to any variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (c) other than a Founder Shareholder who has made a valid Election, agrees to, on the direction of Bidder, to destroy any share certificates relating to their Scheme Shares;
- (d) other than a Founder Shareholder who has made a valid Election or an Ineligible Foreign Shareholder, agrees to become a holder of the Contingent Value Notes issued to it pursuant to this Scheme and to have its name entered in the Note Register, and accepts the Contingent Value Notes issued to it pursuant to this Scheme on the terms and conditions of the Note Trust Deed, without the need for any further act by the Scheme Participant;
- (e) to the extent they are an Ineligible Foreign Shareholder, acknowledges and agrees that they do not have any rights as a holder of Contingent Value Notes under the Note Trust Deed and will only be entitled to receive the Redemption Amount as remitted by the Custodian in accordance with clause 6.5(d)(ii); and
- (f) to the extent they are a Founder Shareholder who has made a valid Election, to be bound by the Target Shareholders' Deed.

5.5 Warranty by Scheme Participants

Each Scheme Participant (other than a Founder Shareholder who has made a valid Election) warrants to Bidder and is deemed to have authorised Target to warrant to Bidder as agent and attorney for the Scheme Participant by virtue of this clause 5.5, that:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those shares) transferred to Bidder under the Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those shares) to Bidder under the Scheme.

5.6 Transfer free of Encumbrances

To the extent permitted by law, all Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred to Bidder under this Scheme will, at the date of the transfer of them to Bidder, vest in Bidder free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind not referred to in this Scheme.

5.7 Appointment of Bidder as sole proxy

Immediately upon provision of the Scheme Consideration for the Scheme Shares (other than the Retained Shares) as contemplated by clauses 5.2 and 6.4, on and from the Implementation Date until Target registers Bidder as the holder of all of the Scheme Shares (other than the Retained Shares) in the Register, each Scheme Participant:

- (a) is deemed to have irrevocably appointed Target as attorney and agent (and directs Target in such capacity) to appoint Bidder and each of its directors, officers and any secretary or agent nominated by Bidder from time to time (jointly and each of them individually) as its sole proxy, and where applicable corporate representative, to:
 - (i) other than in respect of a Founder Shareholder who has made a valid Election, attend shareholders' meetings of Target, exercise the votes attaching to Scheme Shares registered in its name and sign any shareholders resolution, and no Scheme Participant may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.7(a)); and
 - (ii) in respect of a Founder Shareholder who has made a valid Election, execute and deliver any deed or document required by Target or Bidder that causes each Founder Shareholder who has made a valid Election to be bound by the Target Shareholders' Deed;
- (b) other than in respect of a Founder Shareholder who has made a valid Election, must take all other actions in the capacity of the registered holder of Scheme Shares as Bidder reasonably directs; and
- (c) acknowledges and agrees that in exercising the powers referred to in clause 5.7(a), Bidder and any director, officer, secretary or agent nominated under clause 5.7(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares (other than the Retained Shares).

Target undertakes in favour of each Scheme Participant that it will appoint Bidder and each of its directors, officers and any secretary or agent nominated by Bidder from time to time (jointly and each of them individually) as that Scheme Participant's proxy or, where applicable, corporate representative in accordance with clause 5.7(a).

6 Scheme Consideration

6.1 Consideration under the Scheme

On the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares (other than the Retained Shares), each Scheme Participant (other than a Founder Shareholder who has made a valid Election) will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clauses 6.2 to 6.4.

6.2 Election procedure

- (a) Subject to clauses 6.2(b), 6.2(c), and 6.2(d), each of the Founder Shareholders will be entitled to make an Election. All Elections will take

effect in accordance with this Scheme to the extent that any Founder Shareholder who makes an Election qualifies as a Scheme Participant.

- (b) A Founder Shareholder who makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received on or before the Election Date.
- (c) An Election must be made in accordance with the terms and conditions of the Election Form and this clause 6.2, and an Election not so made will not be a valid Election for the purpose of this Scheme and will not be recognised by Bidder or Target for any purpose (provided that Bidder may, with the agreement of Target, waive this requirement and may, with the agreement of Target, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Election, and any such decision will be conclusive and binding on Bidder, Target and the relevant Founder Shareholder).
- (d) If a Founder Shareholder makes an Election:
 - (i) that Election will be deemed to apply in respect of that Founder Shareholder's entire registered holding of Target Shares at the Record Date, regardless of whether the Founder Shareholder's holding of Target Shares at the Record Date is greater or less than the Founder Shareholder's holding at the time it made its Election, unless Bidder and Target agree otherwise, in their absolute discretion; and
 - (ii) the Founder Shareholder must submit the Election Deed Poll in accordance with the terms and conditions of the Election Form.

6.3 Determination Scheme Consideration

- (a) If the Scheme Participant is not a Founder Shareholder or is a Founder Shareholder who has not made a valid Election on or before the Election Date, then the Scheme Consideration applicable for that Scheme Participant is:
 - (i) \$0.70 for each Scheme Share held by the Scheme Participant; and
 - (ii) one Contingent Value Note for each Scheme Share held by the Scheme Participant.
- (b) If the Scheme Participant is a Founder Shareholder who has made a valid Election on or before the Election Date, then that Scheme Participant will retain their registered holdings of Target Shares as at the Scheme Record Date in lieu of receiving the Scheme Consideration set out in clause 6.3(a) in respect of their Scheme Shares.

6.4 Provision of Cash Scheme Consideration

- (a) The obligation of the Target to provide or procure payment of the Cash Scheme Consideration to Scheme Participants (other than Founder Shareholders who have made a valid Election) pursuant to clauses 2.3(a) and 5.2(b) will be satisfied by Target procuring Bidder to, no later than two Business Days before the Implementation Date, deposit (or procure the deposit) in Immediately Available Funds the aggregate amount of the Cash Scheme Consideration payable to all Scheme Participants (other than Founder Shareholders who have made a valid Election) into the Trust Account (except that the amount of any interest on the amount deposited, less bank fees and other charges, will be

credited to Bidder's account) such amount to be held by Target on trust for the purpose of paying the aggregate amount of the Cash Scheme Consideration to Scheme Participants who are entitled to receive it pursuant to clause 6.4(b).

- (b) On the Implementation Date, and subject to receipt of the aggregate amount of the Cash Scheme Consideration from Bidder in accordance with clause 6.4(a), Target must pay (or procure payment) from the Trust Account to each Scheme Participant (other than a Founder Shareholder who has made a valid Election) an amount equal to the applicable amount of Cash Scheme Consideration for each Scheme Share transferred to Bidder on the Implementation Date by that Scheme Participant.
- (c) Target's obligation under clause 6.4(b) will be satisfied by Target:
 - (i) depositing (or procuring the deposit of) the relevant amount into an account with any Australian ADI (as defined in the Corporations Act) notified to Target by an appropriate authority from the Scheme Participant; or
 - (ii) sending (or procuring the sending of) a cheque for the relevant amount, drawn in Australian currency, to the address of the Scheme Participant as recorded in the Register on the Record Date by pre-paid ordinary post (or, if the address of the Scheme Participant in the Register is outside Australia, by pre-paid airmail post).
- (d) To the extent that following the satisfaction of Target's obligations under clause 6.4(b), there is a surplus in the Trust Account, that surplus must be paid by Target to Bidder.

6.5 Issue of Contingent Value Notes

- (a) The Bidder has no obligation under this Scheme to procure the Target to issue, and the Target has no obligation to issue, Contingent Value Notes to an Ineligible Foreign Shareholder.
- (b) Subject to the Scheme becoming Effective, the Bidder must on the Implementation Date procure the Target to issue to:
 - (i) each Scheme Participant (other than Founder Shareholders who have made a valid Election and Ineligible Foreign Shareholders) one Contingent Value Note for each Scheme Share held by the Scheme Participant on the Record Date; and
 - (ii) the Custodian the total number of Contingent Value Notes that would otherwise have been issued to the Ineligible Foreign Shareholders, if those Ineligible Foreign Shareholders were Scheme Participants to whom Contingent Value Notes were permitted to be issued,in accordance with and subject to the terms of this Scheme and the Note Trust Deed.
- (c) The obligations of the Bidder under clause 6.5(b)(i) will be satisfied by the Target registering or procuring the registration of the name and address of each Scheme Participant (other than Founder Shareholders who have made a valid Election and Ineligible Foreign Shareholders) on the Note Register as the holder of the Contingent Value Notes to which

the Scheme Participant (other than Founder Shareholders who have made a valid Election and Ineligible Foreign Shareholders) is entitled.

- (d) The obligations of the Bidder under clause 6.5(b)(ii) will be satisfied by the Target registering or procuring the registration of the name and address of the Custodian on the Note Register as the holder of the Contingent Value Notes to which the Custodian is entitled (**Custodian CVNs**) and procuring that the Custodian:
 - (i) holds the Custodian CVNs until the earlier of:
 - (A) the termination of the Note Trust Deed; and
 - (B) the redemption or cancellation of the Custodian CVNs in accordance with the terms of the Note Trust Deed; and
 - (ii) promptly following receipt of the aggregate Redemption Amount for the Custodian CVNs (after deducting any applicable costs), remits to each Ineligible Foreign Shareholder a cash amount determined in accordance with the following formula:
Cash amount to be paid to each Ineligible Foreign Shareholder = Redemption Amount x A

Where:

A = total number of Scheme Shares held by that Ineligible Foreign Shareholder at the Record Date.

6.6 Cancellation and reissue of cheques

Target may cancel a cheque issued under clause 6.4 if the cheque:

- (a) is returned to Target; or
- (b) has not been presented for payment within 6 months after the date on which the cheque was sent.

During the period of one year commencing on the Implementation Date, on request from a Scheme Participant to Target (or Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 6.6.

The *Public Trustee Act 1978* (Qld) will apply in relation to any Scheme Consideration which becomes 'unclaimed moneys' (as defined in section 98 of the *Public Trustee Act 1978* (Qld)).

6.7 Orders of a court or Regulatory Authority

- (a) In the case of notice having been given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction or Regulatory Authority which:
 - (i) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant in accordance with clause 6.4, then Target must procure that payment is made in accordance with that order or direction; or

- (ii) would prevent Target from dispatching payment to any particular Scheme Participant in accordance with clause 6.4, Target will retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Participant multiplied by the applicable amount of Cash Scheme Consideration until such time as payment in accordance with clause 6.4 is permitted by the order or direction or otherwise permitted by law; or
- (iii) requires the issue of Contingent Value Notes to a third party in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be issued to that Scheme Participant by the Target in accordance with clause 6.5, then the Target may issue those Contingent Value Notes in accordance with that order or direction; or
- (iv) prevents the Target from issuing Contingent Value Notes to:
 - (A) any particular Scheme Participant in accordance with clause 6.5(b)(i); or
 - (B) to the Custodian in accordance with clause 6.5(b)(ii),

or such issue is otherwise prohibited by applicable law, the Target shall be entitled to not issue, or issue to a trustee or nominee, such number of Contingent Value Notes as that particular Scheme Participant or Custodian (as applicable) would otherwise be entitled to under clause 6.5(b), until such time as the issue in accordance with this clause 6 is permitted by that order or direction or otherwise by law.
- (b) The payment or retention by Target in accordance with clause 6.7(a)(i) or 6.7(a)(ii) will constitute full discharge of Target's obligations under clause 6.4(b) with respect of the amount so paid or retained until, in the case of clause 6.7(a)(ii), it is no longer required to be retained.
- (c) If the Target:
 - (A) issues Contingent Value Notes to a third party under clause 6.7(a)(iii), or
 - (B) does not issue, or issues to a trustee or nominee, Contingent Value Notes under clause 6.7(a)(iv),

the Bidder's obligations under clause 6.5(b) with respect to procuring the issue of those Contingent Value Notes will be fully discharged until, in the case of clause 6.7(a)(iv), such Contingent Value Notes are able to be issued to the particular Scheme Participant or the Custodian (as applicable).

6.8 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be paid to Scheme Participants by Bidder must be payable to the joint holders and be forwarded to the holder whose name appears first in the Register as at the Record Date;
- (b) any certificate in relation to a Contingent Value Note required to be sent under this Scheme will be sent at the sole discretion of the Target, either

to the holder whose name appears first in the Share Register as at the Record Date or to the joint holders; and

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

6.9 Fractional Entitlements

Where the calculation of the aggregate amount of the Cash Scheme Consideration to be provided to a particular Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent the fractional entitlement will be rounded down (as applicable) to the nearest cent.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in Scheme Shares will only be recognised by Target if:

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

7.2 Register

Target must register any registrable transmission applications or transfers of the Scheme Shares received in accordance with clause 7.1(b) on or before the Record Date.

7.3 No disposals after Effective Date

If this Scheme becomes Effective:

- (a) a Scheme Participant other than Founder Shareholders who have made a valid Election (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Effective Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever; and
- (b) Founder Shareholders who have made a valid Election may only dispose of or purport or agree to dispose of any Retained Shares in accordance with the Target Shareholders' Deed.

Except to the extent set out above, Target will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Shares received after the Record Date (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title) and any attempt to do so will have no effect and Target will be entitled to disregard any such disposal.

7.4 Maintenance of Register

For the purpose of determining entitlements to the Scheme Consideration, Target will maintain the Register in accordance with the provisions of this clause 7 until the Scheme Consideration has been paid to the Scheme Participants (other than Founder Shareholders who have made a valid Election) and Bidder has been entered in the Register as the holder of all the Scheme Shares (other than the Retained Shares). The Register in this form will solely determine entitlements to the Scheme Consideration.

7.5 Effect of certificates and holding statements

Subject to provision of the Scheme Consideration and registration of the transfer to Bidder contemplated in clauses 5.2 and 7.4, any statements of holding in respect of Scheme Shares (other than Retained Shares) will cease to have effect after the Record Date as documents of title in respect of those shares (other than statements of holding in favour of Bidder and its successors in title). After the Record Date, each entry current on the Register in respect of Scheme Shares (other than Retained Shares) as at the Record Date (other than entries in respect of Bidder or its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

7.6 Details of Scheme Participants

Within three Business Days after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Register at the Record Date are available to Bidder in such form as Bidder reasonably requires.

7.7 Quotation of Target Shares

Target will apply to ASX to suspend trading on ASX in Target Shares with effect from the close of trading on ASX on the Effective Date.

7.8 Termination of quotation of Target Shares

On a date after the Implementation Date to be determined by Bidder, Target will apply:

- (a) for termination of the official quotation of Target Shares on ASX; and
- (b) to have itself removed from the official list of the ASX.

8 Power of attorney

Each Scheme Participant, without the need for any further act by any Scheme Participant, irrevocably appoints Target and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of:

- (a) executing any document necessary or expedient to give effect to this Scheme including the Share Scheme Transfer;
- (b) executing and delivering any deed or document required by Target or Bidder that causes each Founder Shareholder who has made a valid Election to be bound by the Target Shareholders' Deed; and
- (c) enforcing the Deed Poll against Bidder,

and Target accepts such appointment.

9 Notices

9.1 No deemed receipt

If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Target's registered office or at the office of the Target Registry.

9.2 Accidental omission

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

10 Bidder

10.1 References to Bidder

All references to "Bidder" in this document are references to each of Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees) and Co-Investment Trust A and Co-Investment Trust B:

- (a) individually and severally; and
- (b) in each of their respective Relevant Proportions or Bidder Nominee Proportions (as relevant).

10.2 Rights, obligations and liability

Notwithstanding any other provision of this document, the Scheme Implementation Agreement and the Deed Poll:

- (a) each of Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees), Co-Investment Trust A and Co-Investment Trust B is severally responsible and liable in its Relevant Proportion or Bidder Nominee Proportion (as relevant) for all obligations of Bidder under this document, the Scheme Implementation Agreement and the Deed Poll; and
- (b) all of the rights of Bidder under this document, the Scheme Implementation Agreement and the Deed Poll are exercisable severally by Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees) and Co-Investment Trust A and Co-Investment Trust B and any failure by any of them to exercise its rights under this document, the Scheme Implementation Agreement and the Deed Poll does not constitute a waiver by the others of their rights.

11 General

11.1 Variations, alterations and conditions

Target may, with the consent of Bidder (which cannot be unreasonably withheld), by its counsel or solicitor consent on behalf of all persons concerned (including,

for the avoidance of doubt, all Scheme Participants) to any variations, alterations or conditions to this Scheme which the Court thinks fit to impose.

11.2 Binding effect of Scheme

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

11.3 Further action by Target

Target will execute all documents and do all things (on its own behalf and on behalf of each Scheme Participant) necessary or expedient to implement, and perform its obligations under, this Scheme.

11.4 Authority and acknowledgement

Each of the Scheme Participants:

- (a) irrevocably consents to Target and Bidder doing all things necessary or expedient for or incidental to the implementation of this Scheme; and
- (b) acknowledges that this Scheme binds Target and all Scheme Participants (including those who do not attend a Scheme Meeting or do not vote at that meeting or vote against the Scheme at that Meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Target.

11.5 No liability when acting in good faith

Neither Target nor Bidder, nor any of their respective directors, officers or employees, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

11.6 Enforcement of Deed Poll

Target undertakes in favour of each Scheme Participant to enforce the Deed Poll against Bidder on behalf of and as agent and attorney for the Scheme Participants.

11.7 Stamp duty

Bidder will:

- (a) pay all stamp duty (including any fines, penalties and interest) payable in connection with this Scheme or the Deed Poll; and
- (b) indemnify each Scheme Participant against any liability incurred by the Scheme Participant arising from failure to comply with clause 11.7(a).

12 Governing law

12.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

12.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address set out in the Details.

Scheme Implementation Agreement

Annexure C Deed Poll

Deed Poll

Dated

Given by

Next Capital Services IVA Pty Limited (ACN 629 199 391) as trustee for Next Capital Trust IVA ("**Fund IVA**")

Next Capital Services IVC Pty Limited (ACN 629 199 426) as trustee for Next Capital Trust IVC ("**Fund IVC**")

Next Capital Services IVD2 Pty Limited (ACN 629 199 408) as trustee for Next Capital Trust IVD2 ("**Fund IVD2**")

(together, "**Fund IV Entities**")

Next Capital (Services A) Pty Limited (ACN 115 384 300) as trustee for the Apollo Co-Investment Trust ("**Co-Investment Trust A**")

Next Capital (Services B) Pty Limited (ACN 117 027 853) as trustee for Apollo Co-investment Trust B ("**Co-Investment Trust B**")

(Fund IV Entities Co-Investment Trust A and Co-Investment Trust B, together, "**Bidder**")

In favour of each registered holder of fully paid ordinary shares in Silver Chef Limited (ABN 28 011 045 828) ("**Target**") as at the Record Date ("**Scheme Participants**")

Deed Poll

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Deed Poll

Details

Parties

Fund IVA	Name	Next Capital Services IVA Pty Limited (ACN 629 199 391) as trustee for Next Capital Trust IVA
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	PatrickElliott@nextcapital.com.au
	Attention	Patrick Elliott
Fund IVC	Name	Next Capital Services IVC Pty Limited (ACN 629 199 426) as trustee for Next Capital Trust IVC
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	PatrickElliott@nextcapital.com.au
	Attention	Patrick Elliott
Fund IVD2	Name	Next Capital Services IVD2 Pty Limited (ACN 629 199 408) as trustee for Next Capital Trust IVD2
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	PatrickElliott@nextcapital.com.au
	Attention	Patrick Elliott
Co-Investment Trust A	Name	Next Capital (Services A) Pty Limited (ACN 115 384 300) as trustee for the Apollo Co-Investment Trust
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	PatrickElliott@nextcapital.com.au

Co-Investment Trust B	Name	Next Capital (Services B) Pty Limited (ACN 117 027 853) as trustee for Apollo Co-investment Trust B
	Formed in	New South Wales
	Address	Level 30/31 25 Bligh Street, Sydney NSW 2000
	Email	PatrickElliott@nextcapital.com.au
	Attention	Patrick Elliott
In favour of	Each registered holder of fully paid ordinary shares in Target as at the Record Date (" Scheme Participants ").	
Governing law	Queensland	
Recitals	A	The directors of Target have resolved that Target should propose the Scheme.
	B	The effect of the Scheme will be that all Scheme Shares (other than Retained Shares) will be transferred to Bidder.
	C	Target and Bidder have entered into the Scheme Implementation Agreement.
	D	In the Scheme Implementation Agreement, Bidder agreed (amongst other things) to provide the Cash Scheme Consideration to Target on behalf of the Scheme Participants (other than Founder Shareholders who have made a valid Election) and procure Target to issue the Contingent Value Notes to Scheme Participants (other than Founder Shareholders who have made a valid Election and Ineligible Foreign Shareholders) or the Custodian (in respect of Ineligible Foreign Shareholders), subject to the satisfaction or waiver of certain conditions.
	E	Bidder is entering into this deed poll for the purpose of covenanting in favour of Scheme Participants that they will, severally and in their Relevant Proportions, perform (or procure the performance of) obligations attributed to it under the Scheme.

Deed Poll

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

Bidder means each of Fund IVA, Fund IVC, Fund IVD2, Co-Investment Trust A and Co-Investment Trust B, acting severally, in their Relevant Proportions and subject to at all times the provisions of clause 8.

Bidder Nominee has the meaning given to that term in the Scheme Implementation Agreement.

Bidder Nominee Proportions has the meaning given to that term in the Scheme Implementation Agreement.

Liability means a debt, liability or obligation, whether actual, prospective, contingent or otherwise and whether or not ascertained, and whether or not owing or incurred alone, or jointly and severally, with any other person.

Scheme means the proposed scheme of arrangement between Target and Scheme Participants under which all the Scheme Shares (other than the Retained Shares) will be transferred to Bidder under Part 5.1 of the Corporations Act, substantially in the form of Annexure A to this document, or as otherwise agreed by Bidder and Target, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act, to the extent they are approved in writing by Target and Bidder in accordance with clause 3.1(c) of the Scheme.

Scheme Implementation Agreement means the scheme implementation agreement dated _____ 2019 between Target and Bidder, which, amongst other things, Target has agreed to propose the Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to the Scheme.

All other words and phrases used in this document have the same meaning as given to them in the Scheme.

1.2 General interpretation

Clause 1.2 of the Scheme applies to this document.

1.3 Nature of deed poll

Bidder acknowledges that:

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

2 Conditions precedent and termination

2.1 Conditions precedent

Bidder's obligations under clause 4 are subject to the Scheme becoming Effective.

2.2 Termination

Bidder's obligations under this document will automatically terminate and the terms of this document will be of no further force or effect if:

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

2.3 Consequences of termination

If this document is terminated under clause 2.2, then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Participants:

- (a) Bidder is released from its obligations to further perform this document except Bidder's obligations contained in clause 7.2 and any other obligations which by their nature survive termination; and
- (b) each Scheme Participant retains the rights, powers or remedies they have against Bidder in respect of any breach of this document which occurs before it is terminated.

3 Performance of obligations generally

Bidder will comply with its obligations under the Scheme Implementation Agreement and, subject to clause 2, Bidder covenants in favour of the Scheme Participants that it will perform (or procure the performance of) obligations attributed to it under the Scheme as if Bidder was a party to the Scheme.

4 Scheme Consideration

4.1 Scheme Consideration

Subject to clause 2, Bidder undertakes in favour of each Scheme Participant to:

- (a) provide or procure the provision of the Scheme Consideration to the Scheme Participants in accordance with the Scheme; and
- (b) undertake all other actions attributed to them under the Scheme,

subject to and in accordance with the Scheme.

4.2 Provision of Scheme Consideration

The obligations of Bidder under clause 4.1 will be satisfied if, in respect of the Scheme Consideration:

- (a) Bidder, no later than two Business Days before the Implementation Date, deposits (or procures the deposit) in Immediately Available Funds the

aggregate amount of the Cash Scheme Consideration payable to all Scheme Participants (other than Founder Shareholders who have made a valid Election) into the Trust Account (except that the amount of any interest on the amount deposited, less bank fees and other charges, will be credited to Bidder's account);

- (b) subject to the Scheme becoming Effective, no later than 12 noon (or such later time as Bidder and Target may agree in writing) on the Implementation Date, Bidder procures that the Target:
 - (i) issues all of the Contingent Value Notes to applicable Scheme Participants (other than Ineligible Foreign Shareholders) and the Custodian under the Scheme;
 - (ii) registers or procures the registration of the name and address of each Scheme Participant (other than Ineligible Foreign Shareholders) entitled to be issued Contingent Value Notes under the Scheme on the Note Register as the holder of the Contingent Value Notes to which the Scheme Participant (other than Ineligible Foreign Shareholders) is entitled; and
 - (iii) registers or procures the registration of the name and address of the Custodian on the Note Register as the holder of the Custodian CVNs and procuring the Custodian to hold the Custodian CVNs in accordance with clause 6.5(d) of the Scheme,

in each case, in accordance with, and subject to, the provisions of the Scheme.

5 Representations and warranties

Bidder represents and warrants that:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (ii) any law, judgment, ruling, order or decree binding on or applicable to it or its assets; or
 - (iii) any Encumbrance or document binding on or applicable to it;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms; and

- (f) **(solvency)** is not Insolvent.

6 Continuing obligations

Subject to clause 10.1, this document is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder has fully performed its obligations under this document; or
- (b) the earlier termination of this document under clause 2.2.

7 Costs

7.1 Costs

Bidder agrees to pay all costs in respect of the Scheme (including in connection with the transfer of the Scheme Shares (other than the Retained Shares) to Bidder in accordance with the terms of the Scheme).

7.2 Stamp duty and registration fees

Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document, or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of these amounts); and
- (b) indemnifies each Scheme Participant against, and agrees to reimburse and compensate it, for any liability in respect of stamp duty under clause 7.2(a).

8 Bidder

8.1 References to Bidder

All references to "Bidder" in this document are references to each of Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees) and Co-Investment Trust A and Co-Investment Trust B:

- (a) individually and severally; and
- (b) in each of their respective Relevant Proportions or Bidder Nominee Proportions (as relevant).

8.2 Rights, obligations and liability

Notwithstanding any other provision of this document, the Scheme and the Scheme Implementation Agreement:

- (a) each of Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees) and Co-Investment Trust A and Co-Investment Trust B is severally responsible and liable in its Relevant Proportion or Bidder Nominee Proportion (as relevant) for all obligations of Bidder under this document, the Scheme and the Scheme Implementation Agreement; and

- (b) all of the rights of Bidder under this document, the Scheme Implementation Agreement and the Scheme are exercisable severally by Fund IVA, Fund IVC and Fund IVD2 (or any of their Bidder Nominees) and Co-Investment Trust A and Co-Investment Trust B and any failure by any of them to exercise their rights under this document, the Scheme and the Scheme Implementation Agreement does not constitute a waiver by the others of their rights.

9 Notices

Notices and other communications in connection with this document must be in writing. They must be sent to the address or email address referred to in the Details and (except in the case of email) marked for the attention of the person referred to in the Details. If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details. Any notice to the Bidder may be given to any of Fund IVA, Fund IVC, Fund IVD2, Co-Investment Trust A or Co-Investment Trust B and once so given will be deemed to be properly given to all of them.

10 General

10.1 Waiver

Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this document by a Scheme Participant will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other rights, power or remedy provided by law or under this document. A waiver is not valid or binding on the person granting that waiver unless made in writing.

10.2 Variation

A provision of this document or any right created under it may not be varied, altered or otherwise amended by Bidder unless:

- (a) if before the First Court Date, the variation is agreed to by Target in writing; and
- (b) if on or after the First Court Date, the variation is agreed to by Target in writing and the Court indicates that the variation, alteration or amendment would not itself preclude approval of the Scheme,

in which event Bidder must enter into a further deed poll in favour of the Scheme Participants giving effect to the variation, alteration or amendment.

10.3 Partial exercising of rights

Unless this document expressly states otherwise, if a person does not exercise a right, power or remedy in connection with this document fully or at a given time, it may still exercise it later.

10.4 Remedies cumulative

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

10.5 Assignment or other dealings

Bidder and each Scheme Participant may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of Bidder and Target.

10.6 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 10.6 has no effect if the severance alters the basic nature of this document or is contrary to public policy.

10.7 Further steps

Bidder agrees, at its own expense, to do anything including executing all documents and do all things (on its own behalf or on behalf of each Scheme Participant) necessary or expedient to give full effect to this document and the transactions contemplated by it.

10.8 Counterparts

This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document.

11 Governing law and jurisdiction

11.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. Bidder submits to the non-exclusive jurisdiction of the courts of that place.

11.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on Bidder by being delivered or left at Bidder's address set out in the Details. A document to be served on the Bidder may be served on any of Fund IVA, Fund IVC, Fund IVD2, Co-Investment Trust A or Co-Investment Trust B and such service on any of them will be deemed to have been properly served on all of them.

EXECUTED as a deed poll

Deed Poll

Signing page

DATED: _____

SIGNED, SEALED AND DELIVERED
by **NEXT CAPITAL SERVICES IVA**
PTY LIMITED as trustee for NEXT
CAPITAL TRUST IVA in accordance
with section 127(1) of the Corporations
Act 2001 (Cth) :

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Name of director/company secretary
(block letters)

SIGNED, SEALED AND DELIVERED
by **NEXT CAPITAL SERVICES IVC**
PTY LIMITED as trustee for NEXT
CAPITAL TRUST IVC in accordance
with section 127(1) of the Corporations
Act 2001 (Cth) :

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Name of director/company secretary
(block letters)

Deed Poll

SIGNED, SEALED AND DELIVERED
by **NEXT CAPITAL SERVICES IVD2**
PTY LIMITED as trustee for NEXT
CAPITAL TRUST IVD2 in accordance
with section 127(1) of the Corporations
Act 2001 (Cth) :

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Name of director/company secretary
(block letters)

SIGNED, SEALED AND DELIVERED
by **NEXT CAPITAL (SERVICES A)**
PTY LIMITED as trustee for the
APOLLO CO-INVESTMENT TRUST in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) :

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Name of director/company secretary
(block letters)

SIGNED, SEALED AND DELIVERED
by **NEXT CAPITAL (SERVICES B)**
PTY LIMITED as trustee for the CO-
INVESTMENT TRUST B in accordance
with section 127(1) of the Corporations
Act 2001 (Cth) :

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary

.....
Name of director/company secretary
(block letters)

Deed Poll

Annexure A - Scheme

Scheme Implementation Agreement

Annexure D Form of Note Trust Deed



Contingent Value Note Trust Deed

Silver Chef Limited (ABN 28 011 045 828) (**Note Issuer**)

[Note Trustee]

Jones Day
Riverside Centre, Level 31
123 Eagle Street
Brisbane QLD 4000, Australia
Tel: 61 7 3085 7000
Fax: 61 7 3085 7099
www.jonesday.com

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Contingent Value Note Trust Deed

Date 2019

Parties

Note Issuer Silver Chef Limited (ABN 28 011 045 828) of Park Tower, 20 Pidgeon Close, West End, QLD 4101

Note Trustee [Name of Party] Alt[ABN/ACN/ARBN] [number]
of [address]

- Recitals**
- A. The Note Issuer wishes to issue Contingent Value Notes in accordance with the terms of this document.
 - B. The Note Issuer appoints the Note Trustee and the Note Trustee accepts the appointment as trustee for the Noteholders on the terms contained in this document.
 - C. The obligations of each party under this document are subject to and conditional upon the Scheme becoming Effective.

It is agreed as follows.

1. Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Accounts means profit and loss accounts, balance sheets and cashflow statements together with any statements, reports (including any directors' and auditors' reports) and notes attached to or intended to be read with any of them.

ASIC means the Australian Securities and Investments Commission.

Auditors means the independent auditors of the Note Issuer from time to time.

Authorisation means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, lodgement or registration required by any Government Agency or any law; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Bidder means:

- (a) Next Capital Services IVA Pty Limited (ACN 629 199 391) as trustee for Next Capital Trust IVA;
- (b) Next Capital Services IVC Pty Limited (ACN 629 199 426) as trustee for Next Capital Trust IVC;
- (c) Next Capital Services IVD2 Pty Limited (ACN 629 199 408) as trustee for Next Capital Trust IVD2;
- (d) Next Capital (Services A) Pty Limited (ACN 115 384 300) as trustee for the Apollo Co-Investment Trust; and
- (e) Next Capital (Services B) Pty Limited ACN (117 027 853) as trustee for Apollo Co-investment Trust B.

Business Day means a day on which banks are open for business in Brisbane, Australia, excluding Saturdays and Sundays.

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

Contingent Value Note means an unsecured note issued by the Note Issuer under this document and for the time being outstanding, and a reference to a Contingent Value Note that is outstanding as at a particular date means a Contingent Value Note that has not been redeemed, or otherwise cancelled, prior to that date.

Court means the Supreme Court of Queensland.

Custodian means [insert] in its capacity as custodian under the Custody Agreement.

Custody Agreement means the Custody Agreement executed by the Custodian and the Note Issuer dated [insert] 2019.

Deed Poll means the deed poll executed by the Bidder in the form set out in [Annexure C] of the Scheme Implementation Agreement.

Determination Date means 30 June 2021.

Director means a person appointed to the office of director of the Note Issuer and includes any alternate director duly appointed and acting as director.

Effective, when used in relation to the Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Enforcement Action means:

- (a) taking action in relation to the enforcement of an Event of Default;
- (b) requiring the Note Issuer to take action in relation to an Event of Default, including steps to remedy such Event of Default;
- (c) bringing a claim against the Note Issuer in relation to an Event of Default;
- (d) entering into any agreement or arrangement with the Note Issuer in relation to an Event of Default; or

- (e) petitioning, applying or voting for, or taking any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to the winding up, dissolution, administration or reorganisation of the Note Issuer.

Event of Default means each of the events set out in clause 8.

Financial Half Year means a financial half year of the Note Issuer beginning on 1 July in each year and ending on the following 31 December or beginning on 1 January in each year and ending on the following 30 June.

Financial Year means a financial year of the Note Issuer beginning on 1 July in each year and ending on the following 30 June

GoGetta Premium means the amount calculated according to the following formula:

$$(A - \$10,000,000) \times 0.5 \times (1 - B)$$

Where

A = GoGetta Run Off Amount;

B = the number of Retained Shares divided by the aggregate number of Scheme Shares as at the Record Date.

GoGetta Run Off Amount means the amount calculated in accordance with clause 11.2.

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

GST has the meaning given in clause 23.1.

Independent Assessor means an independent assessor appointed by the Note Issuer who has appropriate experience and qualifications to conduct the verifications required under this Deed.

Independent Review means the independent verification review of the proposed GoGetta Run Off Amount and Redemption Amount calculated by the Note Issuer, to be undertaken by the Independent Assessor in accordance with clause 11 and the Instruction Materials.

Ineligible Foreign Shareholder has the meaning given in the Scheme.

Insolvency Event means in relation to a person:

- (a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or

order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;

- (d) **suspends payments:** the person suspends or threatens to suspend payment of its debts as and when they become due;
 - (e) **ceasing business:** the person ceases or threatens to cease to carry on business;
 - (f) **insolvency:** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
 - (g) **deregistration:** if the person is a company, the person being deregistered as a company or otherwise dissolved;
 - (h) **deed of company arrangement:** the person executing a deed of company arrangement;
 - (i) **person as trustee or partner:** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability; or
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability,
- which results in a material adverse change to the person's financial position; or
- (j) **analogous events:** anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction.

Instruction Letter means the Instruction Letter set out in Schedule 5.

Instruction Materials means the terms in this document, the Terms of Issue, the Instruction Letter and the pro-forma Redemption Determination Notice.

Note Trust means the trusts declared in this document.

Noteholder in relation to a Contingent Value Note, means, at any time, the person whose name is entered into the Register as the holder of that Contingent Value Note.

Noteholder Record Date means 5.00 pm Brisbane time on the Determination Date.

Recovered Moneys means the aggregate amount received or recovered by the Note Trustee under the Transaction Documents in its capacity as trustee for Noteholders.

Redemption Amount means the amount to redeem a Contingent Value Note, being the GoGetta Premium divided by the total number of Contingent Value Notes on issue, as set out in the Redemption Determination Notice (rounded to the nearest cent).

Redemption Conditions means the redemption conditions set out in clause 5.1.

Redemption Determination Notice means the notice given by Independent Assessor to the Note Issuer substantially in the form of Schedule 4 which sets out the Redemption Amount.

Register means the register of persons who hold Contingent Value Notes required to be kept and updated by or on behalf the Note Issuer in accordance with clause 6, Schedule 1, and the Corporations Act, and includes any branch register, provided that, in the event of any inconsistency, the principal register will prevail over any sub-register or branch register.

Related Body Corporate has the meaning given in the Corporations Act.

Retained Shares has the meaning given to that term in the Scheme.

Scheme means the scheme of arrangement under part 5.1 of the Corporations Act under which all the Silver Chef Shares (other than the Retained Shares) will be transferred to Bidder substantially in the form of [Annexure B] of the Scheme Implementation Agreement, together with any amendment or modification made pursuant to section 411(6) of the Corporations Act.

Scheme Shares has the meaning given to that term in the Scheme.

Scheme Implementation Agreement means the Scheme Implementation Agreement dated [insert] 2019 between Note Issuer and the Bidder.

Record Date means 5.00pm on the 5th Business Day following the Effective Date or such other date as Note Issuer and Bidder agree.

Silver Chef Share means an issued fully paid ordinary share in the capital of Note Issuer.

Tax includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding which is levied or imposed by a Government Agency, and any related interest, penalty, charge, fee or other amount. It includes income tax, withholding tax, GST and other similar Taxes.

Terms of Issue means the terms of issue of the Contingent Value Notes, as set out in Schedule 1.

Transaction Document means:

- (a) any Contingent Value Note;
- (b) this document;
- (c) any document or agreement which the Note Issuer and the Note Trustee (acting on the instructions of all Noteholders) at any time agree is to be a Transaction Document for the purposes of this document; or
- (d) any document or agreement entered into under, or for the purposes of amending or novating, any of the documents referred to in paragraphs (a) to (c) above.

Trustee Company means a corporation which satisfies the requirements of section 283AC of the Corporations Act.

1.2 Interpretation

In this deed, the following rules of interpretation apply unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;

- (c) a gender includes other genders;
- (d) another grammatical form of a defined word or expression has a corresponding meaning;
- (e) a reference to a person includes a natural person, a body corporate, a corporation, a trust, a partnership, an unincorporated association or any other entity;
- (f) a reference to a person includes a reference to the person's successors, administrators, executors, and permitted assigns and substitutes;
- (g) a reference to legislation includes regulations and other instruments issued under it and consolidations, amendments, modifications, re-enactments or replacements of any of them;
- (h) a reference to a clause, schedule or annexure is to a clause of, or schedule or annexure to, this deed;
- (i) a reference to a document (including this deed) includes any amendment, variation, replacement or novation of it;
- (j) the meaning of general words is not limited by using the words "including", "for example" or similar expressions;
- (k) a reference to dollars, AUD, \$ or A\$ is a reference to the lawful currency of Australia;
- (l) a reference to time is a reference to time in Brisbane, Australia;
- (m) nothing in this deed is to be construed to the disadvantage of a party because that party prepared it or any part of it;
- (n) a reference to a day (including a Business Day) means a period of time commencing at midnight and ending 24 hours later; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Obligations conditional

The provisions of this document (except for this clause 2) are subject to and conditional upon the Scheme becoming Effective.

3. Issue, Status and Voting

3.1 Issue

The Note Issuer must create and issue Contingent Value Notes in accordance with the terms of the Scheme, the Deed Poll, this document and the Terms of Issue.

3.2 Status

The Contingent Value Notes will:

- (a) rank equally in all respects (including as to payment) as between themselves;
- (b) be unsecured;
- (c) be issued in accordance with the Scheme; and

- (d) be created and issued under and subject to the terms set out in this document.

3.3 Voting

Noteholders are not entitled (in their capacity as Noteholders) to:

- (a) receive notice of a general meeting of the Note Issuer;
- (b) attend a general meeting of the Note Issuer; or
- (c) vote at a general meeting of the Note Issuer or otherwise on a matter on which an ordinary shareholder of the Note Issuer is entitled to vote.

4. Form and Title

4.1 Form

- (a) The Note Issuer's and the Note Trustee's obligations in relation to the Contingent Value Notes are constituted by, and specified in, this document and become effective on entry in the Register of the details of those Contingent Value Notes.
- (b) The Contingent Value Notes are 'unsecured notes' for the purposes of section 283BH of the Corporations Act.

4.2 Title

The Register is conclusive evidence of ownership of Contingent Value Notes, subject to correction for fraud or error. Except as required by law, the Note Issuer and the Note Trustee must treat the person entered in the Register as the holder of a Contingent Value Note as the absolute owner of that Contingent Value Note. This clause 4.2 applies despite any notice of ownership, trust or interest in the Contingent Value Note.

4.3 No certificates

No certificates will be issued to Noteholders unless the Note Issuer determines that certificates should be available or are required by any applicable law.

5. Redemption

5.1 Redemption Conditions

The Contingent Value Notes will only be redeemable if:

- (a) the Independent Assessor has completed the Independent Review and issued the Redemption Determination Notice in accordance with clause 11 and the Instruction Materials; and
- (b) the Redemption Amount is greater than \$0,

(Redemption Conditions).

5.2 Indebtedness of Note Issuer

The Note Issuer acknowledges that upon all of the Redemption Conditions being satisfied, the Note Issuer will be indebted to each Noteholder in respect of the Redemption Amount for each Contingent Value Note held by the Noteholder as at 5.00pm on the Noteholder Record Date, and must redeem the Contingent Value Notes in accordance with the Terms of Issue and this document in satisfaction of its obligation to pay the Redemption Amount in respect of each Contingent Value Note.

5.3 Redemption

- (a) If the Redemption Conditions are satisfied, the Note Issuer must:
 - (i) within 5 Business Days after the date on which the Redemption Conditions were satisfied:
 - (A) notify the Note Trustee in writing that the Redemption Conditions have been satisfied; and
 - (B) give to the Note Trustee (if not already provided) a copy of the Redemption Determination Notice; and
 - (ii) redeem the Contingent Value Notes by paying to each Noteholder, who is a Noteholder on the Noteholder Record Date, the aggregate total Redemption Amount for all Contingent Value Notes held by the Noteholder on the Noteholder Record Date, rounded up or down to the nearest whole cent, within 14 days of receiving the Redemption Determination Notice.
- (b) The Note Issuer must notify the Note Trustee in writing when the Note Issuer has made all of the payments in accordance with clause 5.3(a)(ii).

5.4 Cancellation of Contingent Value Notes

All Contingent Value Notes will be cancelled when any of the following occur:

- (a) all of the Contingent Value Notes have been redeemed;
- (b) the Redemption Amount has been paid in respect of each outstanding Contingent Value Note;
- (c) where no Redemption Amount is payable because the Redemption Conditions have not been satisfied; or
- (d) this document is terminated in accordance with its terms.

5.5 Interest

No interest is payable on the Contingent Value Notes.

6. The Register

The Note Issuer must establish and maintain or cause to be established and maintained a register in accordance with Schedule 2.

7. Meetings

Schedule 3 will apply in respect of meetings of Noteholders.

8. Events of Default

Each of the following is an Event of Default (whether or not it is in the control of the Note Issuer):

- (a) **(Failure to pay Redemption Amount):** if following satisfaction of the Redemption Conditions, the Note Issuer fails to pay the Redemption Amount in respect of any Contingent Value Note in accordance with this document and such failure continues unremedied for a period of 5 Business Days;

- (b) **(Administration, winding up, insolvency etc)** an Insolvency Event occurs in respect of the Note Issuer prior to payment of the Redemption Amount; and
- (c) **(Breach)** the Note Issuer is in breach of any material undertaking under this document or the Terms of Issue (other than those referred to elsewhere in this clause 8), which breach is not rectified to the reasonable satisfaction of the Note Trustee within 20 Business Days of notice by the Note Trustee to do so.

9. Enforcement

9.1 Enforcement by Note Trustee

The Note Trustee may take any Enforcement Action in relation to an Event of Default or otherwise enforce this document in any other circumstances and in its absolute discretion.

9.2 Enforcement on direction of Noteholders

At any time after the occurrence of an Event of Default the Note Trustee must, subject to clauses 9.3 and 9.6, take Enforcement Action or proceedings against the Note Issuer, where all the following conditions are satisfied:

- (a) the Note Trustee has convened a meeting of Noteholders, in accordance with clause 1 of Schedule 3;
- (b) a resolution of Noteholders passed in accordance with clause 13(b) of Schedule 3 directing the Note Trustee to take the Enforcement Action, commence proceedings or to join in proceedings, as the case may be; and
- (c) the Note Trustee is not of the view that such enforcement is inconsistent with the Terms of Issue, this document or the Corporations Act or is otherwise objectionable.

9.3 Indemnification of Note Trustee

The Note Trustee is not required to take any action as contemplated by clause 9.2, unless it has a satisfactory indemnity or protection from the Noteholders against:

- (a) all actions, proceedings, claims and demands to which the Note Trustee may render itself liable by taking such Enforcement Action; and
- (b) all costs, charges, damages and expenses which the Note Trustee may thereby incur.

9.4 Enforcement by Noteholders

A Noteholder can only take action or proceedings against the Note Issuer or enforce any provision of this document following the making of a binding direction in accordance with clause 9.2, if 15 Business Days have lapsed since the date on which the Noteholder gave written notice to the Note Trustee that it intended to commence such action or proceedings (with such notice to specify the details of its claim and the basis of its claim) and the Note Trustee has not commenced such action or proceedings as a result of the binding direction of the Noteholders made in accordance with clause 9.2.

9.5 Invalid resolution

The Note Trustee is entitled to act on, and will not be in any way responsible for acting on, a resolution purporting to have been passed at any meeting of Noteholders where minutes of the relevant meeting have been made, signed and provided to the Note Trustee even though it may subsequently be found that there was some defect in the constitution of the meeting

or that the passing of the resolution was not valid or binding on any of those Noteholders whom it purports to bind or on the Note Trustee.

9.6 No proceedings

Notwithstanding any other provisions of this clause 9, the Note Trustee may not institute any proceedings against the Note Issuer during any period during which the Note Issuer fails or refuses to redeem the Contingent Value Notes in order to comply with:

- (a) any law; or
- (b) any order of any court of competent jurisdiction.

10. Note Issuer Representations and Warranties

10.1 Representations and warranties

The Note Issuer makes the following representations and warranties in favour of the Note Trustee and the Noteholders on the date of this document and repeats them on the date of issue of the Contingent Value Notes:

- (a) **(status)** it is a corporation 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 document and to issue and perform its obligations under the Contingent Value Notes;
- (c) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into and performance of this document and the issue and performance of the Contingent Value Notes;
- (d) **(documents binding)** each Transaction Document to which it is party is its valid and binding obligation enforceable in accordance with its terms;
- (e) **(solvency)** no Insolvency Event has occurred in relation to it;
- (f) **(no contravention or exceeding power)** the Transaction Documents and the transactions under them which involve it do not contravene its constituent documents or any law or obligation to which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded; and
- (g) **(adequate funds)** it has adequate funds (or access to such funds) to meet payments that fall due under each Transaction Document.

10.2 No other representation or warranty

Other than as set out in clause 10.1 or as otherwise expressly contained in this document or the Terms of Issue, the Note Issuer does not make any representation or warranty, express or implied, in relation to or in connection with the Contingent Value Notes.

10.3 Exclusion

To the maximum extent permitted by law, the Note Trustee agrees on behalf of each Noteholder not to make and to waive any right it may have to make a claim against the Note Issuer under sections 1041H or 1041I of the Corporations Act, or any corresponding provision of any enactment in another jurisdiction (including any state or territory of Australia), in relation to or in connection with the Contingent Value Notes.

11. Determination of Redemption Amount

11.1 Note Issuer to calculate amounts

Within 60 days of the Determination Date, the Note Issuer must:

- (a) determine the proposed GoGetta Run Off Amount and Redemption Amount; and
- (b) provide:
 - (i) the Instruction Materials;
 - (ii) the calculations for the proposed GoGetta Run Off Amount and Redemption Amount; and
 - (iii) all information reasonably required to verify and review the GoGetta Run Off Amount and Redemption Amount,

to the Independent Assessor.

11.2 Calculation of GoGetta Run Off Amount

The GoGetta Run Off Amount is to be determined as follows:

- (a) \$6,350,000 (being cash reserves generated by the GoGetta Business as at the date of the Scheme Implementation Agreement retained by the Note Issuer for Hospitality working capital);
- (b) plus Gross Cash;
- (c) less Operating Costs;
- (d) less the Tranche B Debt;
- (e) less any costs and expenses associated with the review or investigation by ASIC (or any other regulatory body) into the lending practices or operations of the GoGetta Business (inclusive of legal fees, expenses and costs associated with any regulatory action, customer claims, litigation, remediation obligations, statutory penalties, enforceable undertaking, settlement, fines or penalties or orders imposed by a court);
- (f) less GoGetta Debt;
- (g) less any Apportioned Taxes;
- (h) less any Third Party Fees; and
- (i) less any costs and expenses associated with administering the Contingent Value Notes and the distribution of the Redemption Amount,

(GoGetta Run Off Amount).

Capitalised terms when used in this clause 11.2 have the meanings given below:

Apportioned Taxes means GoGetta's share of:

- (a) cash income tax that has been paid by the Silver Chef Consolidated Tax Group in respect of the period between the date of the Scheme Implementation Agreement and 30 June 2020; and

- (b) the Note Issuer's reasonable estimate of cash income tax payable by the Silver Chef Consolidated Tax Group for the period between 1 July 2020 and 30 June 2021,

where GoGetta's share of such cash income tax is determined by reference to the net profit before tax of the GoGetta Business on a standalone basis divided by the total consolidated profit before tax of the Silver Chef Consolidated Tax Group in the periods referred to in paragraphs (a) and (b), calculated in accordance with the accounting policies and principles applied by Note Issuer as at the date of the Scheme Implementation Agreement. For the avoidance of doubt, GoGetta's share of such cash income tax cannot be less than 0% or more than 100% of the cash income tax of the Silver Chef Consolidated Tax Group.

Consolidated Group has the same meaning as in the Tax Act.

Contracts means customer contracts entered into by GoGetta.

Excluded Costs means, subject to subparagraph (b) of the definition of Operating Costs below, any costs that may be attributable to directors or senior management of Note Issuer in considering or overseeing the run-down of the GoGetta Business, including time spent considering the GoGetta Business or a sale of the GoGetta Business or assets or Contracts of GoGetta at board or management meetings.

GoGetta means GoGetta Equipment Financing Pty Ltd (ACN 124 102 647).

GoGetta Business means the equipment and asset funding and rental business known as "GoGetta" operated by GoGetta as at the date of the Scheme Implementation Agreement.

GoGetta Debt means any other liabilities of GoGetta as at the date of the Scheme Implementation Agreement or that arise in the ordinary course of operating the GoGetta Business and that have not been discharged as at the Determination Date.

Gross Cash means the gross cash proceeds generated from running-down the GoGetta Business (excluding for the avoidance of doubt any gross cash proceeds generated from assets that have been sold into the Group's Warehouse Facility with Westpac) between the period from the date of the Scheme Implementation Agreement up to the Determination Date (both dates inclusive) including cash, non-cash and deferred consideration (determined at fair market value) received from:

- (a) the performance of the Contracts;
- (b) the sale, assignment, novation or transfer of Contracts or any rights under the Contracts;
- (c) the rental, sale, use, licensing, assignment or transfer of any tangible or intangible assets owned by GoGetta; or
- (d) insurance proceeds in respect of any Contracts or assets.

Operating Costs means the operating costs of the GoGetta Business between the period from the date of the Scheme Implementation Agreement up to the Determination Date (both dates inclusive), including:

- (a) direct employee costs;
- (b) costs payable to Michael Cronan under his employment arrangements with the Note Issuer (as in place from time to time) that relate to the proportion of Michael Cronan's time spent in relation to running down the GoGetta Business (as determined by the Note Issuer acting reasonably) including but limited to:

- (i) a reasonable proportion of salary, superannuation, bonuses and success fees during the period that Michael Cronan spends at least 10 hours per week on the GoGetta Business or until Michael Cronan has entered into a new employment agreement with the Company in respect of a new role; and
- (ii) any bonuses, success fees or similar that are payable to Michael Cronan that are directly attributable to running down the GoGetta Business;
- (c) repossession costs;
- (d) brokerage fees;
- (e) insurance costs;
- (f) funding costs;
- (g) bonds applied; and
- (h) other costs directly associated with the GoGetta Business incurred in the ordinary course of running down the GoGetta Business,

but excluding any Excluded Costs.

Silver Chef Consolidated Tax Group means the Consolidated Group of which Note Issuer is the head company (as defined for the purposes of the Tax Act).

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), or both as the context requires.

Third Party Fees means any fees payable by the Note Issuer to:

- (a) the Note Trustee under the terms of this Deed;
- (b) the Custodian under the terms of the Custody Agreement; and
- (c) the Independent Assessor under the terms of appointment of the Independent Assessor.

Tranche B Debt means the balance of any amounts owing under Facility B (as that term is defined in the Syndicated Facility Agreement dated 7 August 2015 and amended and restated by Second Amendment Deed dated 29 March 2018) as at the last day of the calendar month immediately preceding the date of the Scheme Implementation Agreement.

11.3 GoGetta Premium

No GoGetta Premium is payable if the GoGetta Run-off Amount is less than \$10,000,000.

11.4 Note Issuer to exercise good faith

Any decision by Note Issuer following the issue of Contingent Value Notes to dispose of the GoGetta Business assets must be made in good faith based on bona fide commercial considerations and not with the intention to circumvent the obligation to pay the Redemption Amount.

11.5 Appointment of Independent Assessor

- (a) No later than 3 months before the Determination Date, the Note Issuer must appoint the Independent Assessor for the purposes of verifying the GoGetta Run Off Amount and Redemption Amount (**Independent Review**).

- (b) The terms of appointment of the Independent Assessor must include the following:
 - (i) the Independent Assessor must be provided with, and instructed to complete the Independent Review substantially in accordance with, the Instruction Materials;
 - (ii) the Note Issuer must take all reasonable steps to procure that the Independent Assessor is provided with all information required to complete the Independent Review;
 - (iii) the Independent Review must be completed in accordance with the timeframe specified in the Instruction Letter;
 - (iv) the Independent Assessor must be provided with access to and must be able to consult with representatives of the Note Issuer as is reasonably required in order to conduct the Independent Review;
 - (v) the Independent Assessor must be obliged to deliver to the Note Issuer its draft report and final report outlining the Independent Review within the time frame set out in clause 11.5(b)(iii) above; and
 - (vi) the Independent Assessor must be obliged to determine the Redemption Amount and provide the Redemption Determination Notice to the Note Issuer and the Note Trustee at the same time it gives its final report outlining the Independent Review to the Note Issuer.

11.6 Redemption Determination Notice final and binding

- (a) Absent any manifest error or fraud, the determination of the Independent Assessor as set out in the Redemption Determination Notice will be final and binding on all parties.
- (b) The Note Trustee's obligations in relation to the Independent Review will be discharged when the Note Trustee receives the Redemption Determination Notice.
- (c) The Note Trustee and the Noteholders agree that nothing in this document implies a right for the Note Trustee or the Noteholders to receive confidential information about the GoGetta Business, GoGetta Run Off Amount or the Independent Review.

12. Undertakings

12.1 Note Issuer undertakings

The Note Issuer undertakes to the Note Trustee and each Noteholder that it will:

- (a) **(no further issues)** not issue any additional or new Contingent Value Notes without the consent of the Noteholders by special resolution at a meeting of Noteholders;
- (b) **(conduct business)** carry on and conduct its business (if any) in a proper and efficient manner;
- (c) **(keep accounts)** keep or cause to be kept proper books of account and enter into those books full particulars of all dealings and transactions in relation to its business;
- (d) **(allow inspection)** make available for inspection by:
 - (i) the Note Trustee;
 - (ii) an officer or employee of the Note Trustee authorised by the Note Trustee to carry out the inspection; or

- (iii) a registered company auditor appointed by the Note Trustee to carry out the inspection,

the whole of its financial and other records and will give to them any information, explanation or other assistance as they require with respect to any matters relating to those records;

- (e) **(provide accounts)** provide the following:

- (i) without charge, to the Note Trustee, to each Noteholder who requests it in accordance with section 318(2) of the Corporations Act, and to each Ineligible Foreign Shareholder who requests it, a copy of the Note Issuer's consolidated audited Accounts in respect of each Financial Year and a copy of the Note Issuer's annual report for that Financial Year, at the time required by the Corporations Act;
- (ii) without charge, to the Note Trustee, a copy of the Note Issuer's consolidated Accounts in respect of each Financial Half Year at the time required by the Corporations Act; and
- (iii) whenever requested by the Note Trustee, to the Note Trustee or any person authorised by the Note Trustee to receive it, such information as the Note Trustee reasonably considers necessary in relation to all matters necessary for the purposes of the discharge of the duties, trusts and powers vested in the Note Trustee under this document or imposed upon it by law;

- (f) **(provide quarterly reports)** provide to the Note Trustee within one month after the end of each calendar quarter the report required by section 283BF(4) of the Corporations Act;

- (g) **(give notices)** notify the Note Trustee:

- (i) if it creates a security interest, within 21 days after the charge is created, and if the total amount to be advanced on the security of the security interest is indeterminate and the advances are not merged in a current account with bankers, trade creditors or anyone else, the notice must contain written details of the amount of each advance within seven days after it is made;
- (ii) as soon as reasonably practical after it becomes aware that the Scheme Implementation Agreement has been terminated or will be terminated;
- (iii) as soon as it becomes aware of any Event of Default;
- (iv) as soon as it becomes aware that any provision of this document or a Contingent Value Note is not being, or cannot be, complied with by the Note Issuer, together with details of that breach; and
- (v) as soon as reasonably practicable if the Note Issuer intends to redeem or acquire any Contingent Value Note;

- (h) **(provide documents)** promptly give the Note Trustee copies of all documents and notices received by it from any Noteholder or which it gives to a Noteholder;

- (i) **(provide copy of this document)** without charge, provide a copy of this document to the Note Trustee, a Noteholder or an Ineligible Foreign Shareholder if they request a copy;

- (j) **(further assurances)** do all things and execute all deeds, instruments and other documents as may be necessary or desirable to give full effect to this document and the Terms of Issue in favour of the Note Trustee and the Noteholders; and

- (k) otherwise comply with all statutory and regulatory requirements applicable to it (including under Chapter 2L of the Corporations Act) to the extent they relate to its obligations under this document.

13. Note Trustee Covenants

13.1 General

The provisions contained in this clause 13 are for the benefit of the Noteholders.

13.2 To act continuously as trustee

The Note Trustee must act continuously as trustee of the Note Trust until the Note Trust is terminated as provided by this document or the Note Trustee has retired or been removed from office in the manner provided under this document or, if applicable, the Corporations Act.

13.3 Note Trustee's Duties

- (a) The Note Trustee must comply with the duties imposed on it under the Corporations Act and will observe and perform the covenants and obligations of this document.
- (b) On receipt of a written request from a Noteholder, the Note Trustee must make available a copy of the Redemption Determination Notice provided to it under clause 11.6(a) to that Noteholder.

13.4 No dispositions of assets except in accordance with Transaction Documents

Except as provided or permitted in any Transaction Document, the Note Trustee must not, nor will it permit any of its officers to, sell, mortgage, charge or otherwise encumber or part with possession of any asset of the Note Trust.

13.5 Perform Transaction Documents

The Note Trustee must properly perform the functions which are required of it under all Transaction Documents in respect of the Note Trust.

14. Note Trustee Powers and Discretions

14.1 Powers of the Note Trustee

Subject to this document, the Note Trustee may exercise any of the following powers (in addition to those powers of trustees arising under any law):

- (a) **(delegate)** delegate to any person the trusts, powers or discretions vested in the Note Trustee by this document, including this right of delegation, on such terms and conditions as the Note Trustee, in the interests of Noteholders, thinks fit;
- (b) **(waive as instructed)** on the instructions of the Noteholders by special resolution, waive any breach by the Note Issuer of any of the covenants or obligations binding on it under this document on such terms as the Noteholders instruct;
- (c) **(waive without instruction)** waive any minor breach of a formal, technical or administrative nature by the Note Issuer of any of the covenants or obligations binding on it under this document on such terms as the Note Trustee thinks fit, provided that the Note Trustee believes on reasonable grounds that the Noteholders will not be materially prejudiced as a result of granting such waiver;

- (d) **(rely on advice)** rely on the advice of any barrister, solicitor or accountant or any other expert obtained by the Note Trustee or by the Note Issuer; and
- (e) **(interpret this document)** determine all questions and matters of doubt arising in relation to any of the provisions of this document, and every such determination whether made on a question actually raised or implied in the acts or proceedings under this document is conclusive and binding on the Noteholders, the Note Issuer, and all persons claiming through them.

14.2 Enforcement

Subject to the other terms of this document, at any time after any Contingent Value Notes have become payable, the Note Trustee, acting on the instructions of Noteholders by ordinary resolution and without further notice to the Note Issuer, may institute such proceedings against any person as it may think fit to enforce payment of the Contingent Value Notes and recover any other moneys owing under this document, but need not and must not take any action other than as specified in clause 9.

14.3 Legal Proceedings

The Note Trustee may apply to any court for directions in relation to any question and may assent to and approve or oppose any application to any court made by or at the instance of any Noteholder.

14.4 Provision of information

Nothing contained in this document will impose on the Note Trustee an obligation to inform any Noteholders of any breach by the Note Issuer of any provision of this document.

14.5 Discretion of Note Trustee absolute

Subject to clause 9, the Note Trustee will, as regards all the powers, authorities and discretions vested in it by this document, have absolute and uncontrolled discretion as to the exercise of them in all respects.

14.6 Note Trustee may be a Noteholder

- (a) Nothing in this document will prohibit the Note Trustee from being a Noteholder or from acting in any representative capacity for a Noteholder, including so acting on its own account or as executor, administrator, trustee, receiver, committee, guardian, attorney or agent or in any other fiduciary, vicarious or professional capacity, nor will acting in any such capacity be deemed a breach of the obligations arising out of the fiduciary relationship between the Note Trustee on the one hand and the Noteholders on the other which is established under this document or otherwise imposed or applied by law.
- (b) The Note Trustee will not by reason of its fiduciary capacity be prevented from making any contracts or entering into any transactions with the Note Issuer or any of its Related Bodies Corporate.

14.7 Note Trustee reliance on information

The Note Trustee is:

- (a) entitled to accept a certificate signed by any two Directors as to any factual matter as conclusive evidence of the matter;

- (b) entitled to accept and act on any information, statements, certificates, report, balance sheet or account supplied by the Note Issuer or any Director, secretary, Auditors or duly authorised officer of the Note Issuer; and
- (c) entitled to accept and act upon the statements and opinions contained in any statement, certificate, report, balance sheet, or account given pursuant to the provisions of this document as conclusive evidence of the contents of it.

14.8 Note Trustee not obliged to notify or investigate

Subject to section 283DA of the Corporations Act, the Note Trustee need not:

- (a) notify any person of the execution of this document; or
- (b) take any steps to ascertain whether there has occurred any:
 - (i) Event of Default; or
 - (ii) event which constitutes or which, with the giving of notice or the lapse time or the issue of a certificate would constitute an Event of Default; or
- (c) enquire as to whether the provisions of any Transaction Document have been complied with; or
- (d) request information or otherwise keep itself informed about the circumstances of the Note Issuer or consider or provide to any Noteholder any information with respect to the Note Issuer (whenever coming into its possession).

This clause 14.8 in no way limits the Note Trustee's obligations under clause 13.

14.9 Note Trustee may assume

Until it has actual knowledge or express notice to the contrary, the Note Trustee may assume that no condition, event or act of the kind described in clause 14.8(a)) has occurred and that the Note Issuer and other parties to the Transaction Documents are observing and performing all their obligations contained in this Deed, the Contingent Value Notes and other Transaction Documents and need not enquire whether that is, in fact, the case.

14.10 No interference

The Note Trustee must not interfere with the conduct of the business of the Note Issuer.

14.11 Consents etc may be conditional

Any consent, authority, determination or waiver given by the Note Trustee for the purpose of this document may be given on terms and subject to conditions (if any) the Note Trustee thinks fit.

14.12 Note Trustee's responsibility for information

The Note Trustee is not concerned with or responsible for any omission from or statement or information contained in a prospectus, information memorandum, any advertisement, circular or other document relating to Contingent Value Notes.

14.13 Deemed approval

The Note Trustee is to provide its approval, or reasonable grounds for withholding its approval, to any document provided to the Note Trustee as contemplated by clause 14.11 within 5 Business Days of request by the Note Issuer (or such other period as the Note

Trustee and the Note Issuer may agree). The Note Trustee will not be liable to the Note Issuer if it does not provide such approval or grounds within that period, but if the Note Trustee does not provide its approval, or reasonable grounds for withholding its approval, before such a time, the Note Trustee will be deemed to have approved the document.

15. Note Trustee Limitation of Liability and Indemnity

15.1 Exclusion of liability

Subject to clause 15.3 and any applicable law, including Chapter 2L of the Corporations Act, the Note Trustee will not:

- (a) be under any liability whatsoever in its role as Note Trustee under the Transaction Documents;
- (b) be under any liability for anything done or omitted to be done in accordance with a direction given to it by the Noteholders at a meeting of Noteholders;
- (c) without limiting the generality of paragraph (a), be in any way responsible or liable for the payment of any stamp duty payable on or in respect of the issue of the Contingent Value Notes or on their redemption; and
- (d) without limiting the generality of paragraph (a), be in any way responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise of any authority, discretion or power which the Note Trustee exercises or fails to exercise in connection with this document or any Contingent Value Notes issued in connection with this document.

15.2 Indemnity from the Note Issuer

Without prejudice to any indemnity allowed by law and subject to clause 15.3, the Note Issuer will indemnify the Note Trustee for all costs, charges, expenses and liabilities incurred and payments made in or about the execution, administration or enforcement of this document or the exercise of any right under any Transaction Document and the remuneration payable by the Note Issuer to the Note Trustee.

15.3 Limitation of liability

- (a) This document applies to the Note Trustee only in its capacity as trustee of the Note Trust and in no other capacity. A liability arising under or in connection with this document is limited to and can be enforced against the Note Trustee only to the extent to which it can be satisfied out of property of the Note Trust out of which the Note Trustee is actually indemnified for the liability. This limitation of the Note Trustee's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Note Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (b) No party may sue the Note Trustee in any capacity other than as trustee of the Note Trust, including seek the appointment of a receiver (except in relation to property of the Note Trust), a liquidator, an administrator or any similar person to the Note Trustee or prove in any liquidation, administration or arrangement of or affecting the Note Trustee (except in relation to property of the Note Trust).
- (c) The provisions of this clause 15.3 will not apply to any obligation or liability of the Note Trustee to the extent that it is not satisfied because under this document or by operation of law there is a reduction in the extent of the Note Trustee's indemnification out of the assets of the Note Trust, as a result of the Note Trustee's fraud, gross negligence or breach of trust.

- (d) It is acknowledged that the Note Issuer is responsible under the Transaction Documents for performing a variety of obligations relating to the Note Trust, including under this document. No act or omission of the Note Trustee (including any related failure to satisfy its obligations or breach of representation or warranty under this document) will be considered fraud, gross negligence or breach of trust of the Note Trustee for the purpose of clause 15.3(b) to the extent to which the act or omission was caused or contributed to by any failure by the Note Issuer or any other person to fulfil its obligations relating to the Note Trust or by any other act or omission of the Note Issuer or any other person.
- (e) No attorney, agent, receiver or receiver and manager appointed in accordance with this document has authority to act on behalf of the Note Trustee in a way which exposes the Note Trustee to any personal liability and no act or omission of any such person will be considered fraud, gross negligence or breach of trust of the Note Trustee for the purpose of clause 15.3(b).
- (f) The Note Trustee is not obliged to do or refrain from doing anything under this document (including incur any liability) unless the Note Trustee's liability is limited in the same manner as set out in paragraphs (a) to (c) of this clause.

15.4 Release

Where clause 15.1 is not effective to absolve the Note Trustee from any liability mentioned in clause 15.1 the Noteholders may release the Note Trustee in respect of any such liability to the extent and in the manner contemplated by section 283DB of the Corporations Act.

15.5 Insurance

The Note Trustee covenants that while it is trustee under this document it will maintain adequate professional indemnity insurance and will produce to the Note Issuer evidence of compliance with this covenant on request by the Note Issuer.

16. Remuneration of Note Trustee

16.1 Fees

The Note Issuer must pay to the Note Trustee by way of remuneration for its services as Trustee a fee or such other remuneration as from time to time is mutually agreed.

16.2 Reimbursement of costs

On demand, without limiting the generality of the other provisions of this document, and without prejudice to any other right of indemnity given by law to trustees but subject to any agreement to the contrary, the Note Issuer will reimburse or pay to the Note Trustee all costs, charges and expenses and other liabilities including solicitor and client as well as party and party costs and any stamp or other duty reasonably and properly incurred or payable by the Note Trustee in connection with the execution or purported execution of the trusts hereof or (without limiting the generality of the foregoing):

- (a) in or about or in connection with the preparation and execution of this document or the Transaction Documents;
- (b) in or in connection with the carrying out by the Note Trustee of any right, power, privilege, authority or discretion by this document or any Transaction Document conferred expressly or impliedly on the Note Trustee or on any Noteholder;
- (c) in or in connection with any breach or default in the observance or performance by the Note Issuer of any of the covenants, obligations and conditions of this document or any Transaction Document; or

- (d) in or in connection with the convening and holding of any meeting of Noteholders or the carrying out of any directions or resolutions of such meeting, provided that such costs, charges and expenses are reasonable and properly incurred.

16.3 Priority of payments

All the remuneration and payments mentioned above must be paid in priority to any claim by any Noteholder and, subject to the terms provided above, will continue to be payable until the later of:

- (a) the termination of the Note Trust; and
- (b) the date on which the Note Trustee ceases to have any duties under this deed.

This priority of the Note Trustee will subsist whether or not a receiver is appointed or the Note Trust is in the course of administration by or under the order of any court.

16.4 Funds before acting

- (a) If the Note Trustee proposes to exercise a right, power or remedy or take any action in its capacity as Note Trustee in connection with the Transaction Documents (including as a result of a direction or instruction of Noteholders pursuant to a resolution of Noteholders), and the Note Trustee reasonably considers this could result in the Note Issuer becoming obliged to pay an amount under clause 16.2, then the Note Trustee may require the Note Issuer to pay the Note Trustee before exercising that right, power or remedy or taking that action an amount equal to the amount the Note Trustee reasonably determines the Note Issuer would be liable to pay under clause 16.2.
- (b) Despite any other provisions of any Transaction Document, the Note Trustee is not obliged to so act until that amount is paid.

17. Retirement and Appointment of Note Trustee

17.1 Right of Note Trustee to retire

Subject to any statutory provisions for the time being relating to the retirement of trustees, the Note Trustee may retire at any time (with or without giving any reason for its retirement) after the expiration of not less than 2 months' notice in writing to the Note Issuer of its intention to do so, provided that such retirement will not take effect until a new trustee who is willing to act and who is a Trustee Company has been appointed by the Note Issuer in accordance with the provisions of this clause 17.

17.2 Power of Note Issuer to appoint a new note trustee

Subject to the other provisions of this document, the power under this document of appointing a new trustee of the Note Trust is vested in the Note Issuer and the Note Issuer may at any time remove the Note Trustee and appoint a new trustee of the Note Trust (who must be a Trustee Company and may be a Related Body Corporate of the Note Trustee):

- (a) on not less than 2 months' notice; or
- (b) immediately if:
 - (i) any of the events referred to in section 283BD of the Corporations Act occur in relation to the Note Trustee;
 - (ii) an Insolvency Event occurs in relation to the Note Trustee;

- (iii) a resolution to remove the Note Trustee is passed at a meeting of the Noteholders; or
- (iv) the Note Trustee is in breach of any of its obligations under this document or any other Transaction Document and the breach has not been remedied by the Note Trustee within 14 Business Days of receipt of notice in writing from the Note Issuer specifying the breach.

17.3 Power of existing Note Trustee to appoint a new note trustee

If:

- (a) when the period of notice referred to in clause 17.1 expires, a new note trustee (who must be a Trustee Company) has not been appointed;
- (b) the Note Issuer removes the Note Trustee under clause 17.2 but does not appoint a new note trustee within 10 Business Days of the removal becoming effective; or
- (c) the Noteholders remove the Note Trustee under clause 15 of Schedule 3 but do not appoint a new note trustee within 10 Business Days of the removal becoming effective,

the Note Trustee may at any time thereafter and so long as an appointment has not been made by the Note Issuer or the Noteholders, appoint in writing another person to act as the new trustee of the Note Trust (who must be a Trustee Company) and any such appointment will be effective without the further approval of the Note Issuer or of the Noteholders.

17.4 Retirement, death or removal of Note Trustee

On the retirement, death or removal of the Note Trustee, the retiring or departing Note Trustee must at the cost of the Note Issuer do all such things and execute all such deeds and assurances as are necessary for the purpose of vesting in the new trustee or new trustees all money, property, rights, powers, authorities and discretions vested in the Note Trustee under this document.

17.5 Release of Note Trustee

Upon the appointment of the new trustee, the retiring or departing Note Trustee will be released from all further obligations and liabilities in respect of the Note Trust arising after the date it retires or is removed. The retirement, removal or departure of the Note Trustee will not be effective unless and until a replacement Note Trustee has been appointed in accordance with this clause 17.

18. Acknowledgement of Trust

18.1 Trust

The Note Trustee acknowledges and agrees that it must hold:

- (a) all Recovered Moneys;
- (b) any charge or security for repayment;
- (c) the right of Noteholders to enforce the Note Issuer's duty to pay the Redemption Amount in respect of any Contingent Value Note;
- (d) the right of Noteholders to enforce any other duties and obligations of the Note Issuer under this document, the Terms of Issue or the Corporations Act; and

- (e) the benefit of this document and the Transaction Documents,

on trust for persons who hold Contingent Value Notes from time to time subject to the terms and conditions of this document.

18.2 Order of Priority

All Recovered Moneys will be applied for the following purposes and, subject to the Terms of Issue, in the following order of priority:

- (a) **first**, unless otherwise paid by the Note Issuer, all costs, charges, expenses and liabilities incurred and payments made in or about the execution, administration or enforcement of the trusts of this document including all remuneration payable to the Note Trustee (including any interest payable on any of those amounts);
- (b) **second**, the Redemption Amount and all other amounts due and payable on each Contingent Value Note *pari passu* and without preference or priority amongst Noteholders, subject to any necessary rounding; and
- (c) **third**, in payment of the surplus (if any) without interest to the Note Issuer. The Note Trustee may pay the surplus to the credit of an account in the name of the Note Issuer in the books of any bank carrying on business within Australia and having done so is under no further liability in respect of that surplus.

Any amount required by law to be paid in priority to any amount specified in clauses 18.2(a) to (c) (inclusive) must be paid before any money is applied in payment of the amounts specified in clauses 18.2(a) to (c) (inclusive).

19. Termination of Note Trust

19.1 Termination events

The Note Trust will terminate on the earliest to occur of the following:

- (a) the date on which the Note Trustee is notified of the termination of the Scheme Implementation Agreement;
- (b) the date immediately following:
 - (i) redemption of all of the Contingent Value Notes;
 - (ii) payment of all monies owing in respect of the Contingent Value Notes; and
 - (iii) payment of all costs, charges and expenses properly incurred by the Note Trustee under or in connection with this document or the Transaction Documents;
- (c) the date immediately following the cancellation of all of the Contingent Value Notes in accordance with clause 5.4.

19.2 Disposal and distribution of trust assets on termination

If the Note Trust is terminated in accordance with clause 19.1, the Note Trustee must distribute the balance of the capital and income of the Note Trust (including, without limitation, cash, if any) to the Note Issuer.

19.3 Untraceable Noteholders

- (a) Subject to applicable law:

- (i) where the Note Issuer has made reasonable efforts to locate a Noteholder to effect the payment of monies but is unable to do so; and
 - (ii) the monies owing have not been claimed by the Noteholder or any legal personal representative of the Noteholder for a period of 12 months after first becoming payable,
- (b) then those monies:
 - (i) must be paid by the Note Trustee to the Note Issuer, if the Note Trustee has actual possession and control of such monies; and
 - (ii) will be held by the Note Issuer, until such time as the moneys are dealt with in accordance with the applicable legislation relating to unclaimed monies.
- (c) The Note Trustee is not liable to any Noteholder for any moneys paid to the Note Issuer in accordance with this clause.

19.4 Release

Subject to clauses 19.2 and 19.3, upon termination of the Note Trust under clause 19.1, the Note Trustee and the Note Issuer are discharged and released from all their obligations under this document.

20. Notices

20.1 How to give a Notice

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

- (a) must be in writing and signed by a person duly authorised by the sender (or, in the case of email, set out the full name and position or title of the sender); and
- (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 below or the address or email address last notified by the intended recipient to the sender after the date of this document:

Note Issuer

Address: Park Tower, 20 Pidgeon Close, West End, QLD 4101
 Email: graeme.fallet@silverchefgroup.com.au
 Attention: Graeme Fallet

Note Trustee

Address: [insert]
 Email: [insert]
 Attention: [insert]

Noteholder

Address: to the address of that Noteholder specified in the Register

20.2 When effective

A Notice will be effective upon receipt and will be taken to be received:

- (a) in the case of delivery in person, when delivered;
- (b) in the case of delivery by post, two Business Days after the date of posting; and
- (c) in the case of email, on the earlier of:
 - (i) at the time the sender receives an automated message confirming delivery;
 - (ii) at the time the intended recipient confirms delivery by reply email; and
 - (iii) one hour after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated delivery failure notification indicating that the email has not been delivered,]

but if the result is that a Notice is received or taken to be received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day, then the Notice will be taken to be received at 9.00am on the following Business Day.

21. Amendments

21.1 Amendments with Noteholder approval

At any time, and from time to time, but subject to compliance with applicable laws, the Note Issuer may amend this document or the Terms of Issue if such amendment:

- (a) is authorised by a special resolution of Noteholders in accordance with clause 13(a) of Schedule 3, or if otherwise permitted by clause 21.2;
- (b) has the consent of the Note Issuer which may be granted or withheld in its absolute discretion.

21.2 Amendments without Noteholder approval

At any time, but subject to compliance with applicable laws, the Note Issuer may, without the consent or approval of the Noteholders or the Note Trustee, amend this document or the Terms of Issue if the Note Issuer is of the opinion that such amendment is:

- (a) made to cure any ambiguity or correct a manifest error;
- (b) of a formal, minor or technical nature;
- (c) necessary to comply with the provisions of any statute or the requirements of any statutory authority; or
- (d) required to give effect to the terms of this document for the benefit of the Noteholders as a result of a change in circumstances after the date of this document.

provided that:

- (e) any amendments which will have an adverse effect of the Note Trustee's rights and obligations under the Transaction Documents must be approved by the Note Trustee; and
- (f) the terms of any amendment are promptly notified to the Note Trustee and to each Noteholder.

22. Lodgement of documents by Noteholders

Where in this document provision is made for or reference is made to the production, surrender, lodgement or delivery of documents or the giving of notice in each case by Noteholders to the Note Issuer, the same will be deemed not to have been produced, surrendered, lodged, delivered or given to the Note Issuer by any Noteholder unless and until it is actually received by the Note Issuer at the place where the Register is kept or such other place as the Note Issuer may reasonably nominate for the purposes of this clause.

23. Taxes

23.1 Definitions

In this clause, the following definitions apply:

Adjustment Note has the meaning given by the GST Law.

Consideration has the meaning given by the GST Law.

GST has the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of that Taxable Supply.

GST Group has the meaning given by the GST Law.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and/or the Goods and Services Tax Act (2003) in Papua New Guinea (as the context requires).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Margin Scheme has the meaning given by the GST Law.

Tax Invoice has the meaning given by the GST Law.

Taxable Supply has the meaning given by the GST Law excluding the reference to section 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and (except where expressly agreed otherwise) excluding a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

23.2 General

- (a) The Note Issuer will pay all stamp, transaction, registration and similar Taxes (including fines and penalties but not including income taxes) for which the Note Issuer is liable and which may be payable in relation to the execution, delivery, performance or enforcement of any Transaction Document or any payment or receipt or any other transaction contemplated by any Transaction Document.
- (b) The Note Issuer is not liable for any Tax or other charge arising from the ownership or maturity of the Contingent Value Notes. The holder of the Contingent Value Notes must pay all Tax and other charges, if any, payable in connection with the ownership and maturity of the Contingent Value Notes.

23.3 GST

- (a) GST is not payable on the issue and the redemption of Contingent Value Notes by the Note Issuer, unless there is a change of law such that the issue or the redemption of Contingent Value Notes is considered a Taxable Supply.
- (b) Subject to paragraph (a) above, if GST is payable on a Taxable Supply made under, by reference to or in connection with this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.
- (c) The liability of the Note Issuer under this clause is limited to the amount of the benefit of any Input Tax Credit that the Note Issuer receives in respect of that Taxable Supply.
- (d) No payment of any amount pursuant to paragraphs (a) and (b), and no payment of the GST Amount where the Consideration for a Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- (e) Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability. A party will be assumed to have an entitlement to a full Input Tax Credit unless it demonstrates otherwise prior to the date on which the Consideration must be provided.
- (f) Any reference in this document to price, value, sales, revenue or a similar amount (**Revenue**), is a reference to that Revenue exclusive of GST.
- (g) Any reference in this document (other than in the calculation of Consideration) to cost, expense or other similar amount (**Cost**), is a reference to that Cost exclusive of GST.
- (h) This clause 23 will continue to apply after expiration or termination of this document.

24. General Provisions

24.1 Deemed terms

Any terms required by law from time to time to be in this document are deemed to be set out in this document.

24.2 No liability for loss

Subject to clause 15.3, neither the Note Trustee nor a Noteholder is liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy.

24.3 Waivers, remedies cumulative

Except as provided in this document, no failure to exercise and no delay in exercising on the part of any party of any right, power or privilege under this document will operate as a waiver. Nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise of that or any other right, power or privilege.

24.4 Indemnities

The indemnities in this document are continuing obligations, independent of the Note Issuer's other obligations under this document and continuing after the Note Trust ends. It is not necessary for the Note Issuer, Note Trustee or a Noteholder to incur expense or make payment before enforcing a right of indemnity under this document.

24.5 Rights and obligations unaffected

To the extent permitted by law, rights given to the Note Trustee or any Noteholder under this document and the Note Issuer's liability under it are not affected by anything which might otherwise affect them at law.

24.6 Inconsistent law

To the extent permitted by law, this document prevails to the extent it is inconsistent with any law.

24.7 Severability of provisions

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

24.8 Entire agreement

This document contains the entire agreement of the parties with respect to its subject matter. It constitutes the only conduct relied on by the parties (and supersedes all earlier conduct by the parties) with respect to its subject matter.

24.9 Counterparts

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

24.10 Inspection of this document and copies of this document

The Noteholders may inspect a copy of this document at the office of the Note Issuer during normal business hours, and will be entitled to a copy of it on payment of the prescribed fee within 15 Business Days of receipt of such payment by the Note Issuer.

24.11 Governing law, jurisdiction and service of process

This document is governed by the laws of Queensland. Each person taking benefit of or bound by this document submits to the non-exclusive jurisdiction of courts exercising jurisdiction there and waives any right it has to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction. Without preventing any other mode of service, any document in an action (including, without limitation, any writ of summons or other originating process or any third or other party notice) may be served on the Note Issuer by being delivered to or left for the Note Issuer at its address as stated in this document.

24.12 Noteholders bound

Each Noteholder and any person claiming through each Noteholder who asserts an interest in a Contingent Value Note under this document is bound by this document.

24.13 Liability

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

24.14 Entitlement to enforce

Subject to this document, each Noteholder has the benefit of and is entitled to enforce this document even though it is not a party to, or is not in existence at the time of execution and delivery of, this document.

24.15 Independent enforcement

Subject to this document, each Noteholder may enforce its rights under this document independently from each other Noteholder.

24.16 Accounting procedures

Without limiting any other provision of this document, any calculations or classifications to be made by the Note Trustee for the purposes of the Note Trust must be made in accordance with generally accepted accounting principles and procedures for trusts in Australia.

24.17 Deed

This document is a deed. Factors which might suggest otherwise are to be disregarded.

Schedule 1

Terms of Issue

1. General

1.1 Definitions

Words and expressions defined in the Contingent Value Note Trust Deed between Silver Chef Limited ACN 011 045 828 and [insert trustee] dated [insert] 2019 (the **Note Deed**), have the same meaning in these Terms of Issue, unless the context otherwise requires.

1.2 Terms of issue

The Contingent Value Notes will:

- (a) not be transferable, except in accordance with clauses 7 and 8 of this Schedule;
- (b) subject to clause 2.1 of this Schedule, be redeemable by the Note Issuer in accordance with clause 2.2 of this Schedule; and
- (c) are otherwise issued subject to the provisions of the Note Deed.

1.3 Enforcement

The obligations of the Note Issuer in respect of each Contingent Value Note constitute separate and independent obligations which the Note Trustee and, subject to the Terms of Issue, the Noteholder to which those obligations are owed are each entitled to enforce independently from each other Noteholder.

1.4 Status

The Contingent Value Notes will constitute unsecured obligations of the Note Issuer.

2. Redemption of Contingent Value Notes

2.1 Redemption Conditions

The Contingent Value Notes will only be redeemable if all of the Redemption Conditions are satisfied. If one or more Redemption Condition is not satisfied, no obligation to pay the Redemption Amount in respect of any Contingent Value Note will arise.

2.2 Redemption

If each of the Redemption Conditions is satisfied, the Note Issuer must, in accordance with the Terms of Issue, redeem the Contingent Value Notes by:

- (a) notifying the Note Trustee in writing that the Redemption Conditions have been satisfied providing a copy of the Redemption Determination Notice(s) to the Note Trustee (if not already provided) as soon as practicable (and in any event not later than 5 Business Days) after the date on which the Independent Assessor issued the Redemption Determination Notice; and
- (b) paying to each Noteholder, who is a Noteholder on the Noteholder Record Date, the aggregate total Redemption Amount for all Contingent Value Notes held by the Noteholder on the Noteholder Record Date, rounded up or down to the nearest whole cent within 14 days of receiving the Redemption Determination Notice.

The Note Issuer must notify the Note Trustee in writing when the Note Issuer has made such payments.

2.3 Interest

No interest is payable on the Contingent Value Notes.

3. Payment

3.1 Noteholder Record Date

The payment of the Redemption Amount in respect of each Contingent Value Note will be made to the person whose name is entered in the Register as the Noteholder in respect of that Contingent Value Note as at 5pm on the Noteholder Record Date.

3.2 Payment to Noteholders

Subject to clause 5.3 of this Schedule, any amount (including the Redemption Amount) payable under or in respect of a Note must be paid in Australian dollars only:

- (a) by payment of cheque marked “not negotiable” and sent through the post to the address of the Noteholder on the Register or other person entitled thereto, or where the Contingent Value Notes are held by joint Noteholders to the address of the Noteholder whose name stands first on the Register in respect of those Contingent Value Notes; or
- (b) by direct credit to a nominated account denominated in Australian dollars at a financial institution notified by the relevant Noteholder (or, where the Contingent Value Notes are held by joint Noteholders, the Noteholder whose name stands first on the Register) to the Note Issuer; or
- (c) by any other method of transferring money approved by the Note Trustee and the board of directors of the Note Issuer from time to time.

Every cheque referred to in this clause will be sent at the risk of the person entitled to the money represented by the cheque and payment will be deemed to have been made when the cheque is posted or the deposit is made in accordance with this clause.

3.3 Payment constitutes release

Any payment made by the Note Issuer or the Note Trustee for the account of a person whose name is, on the Noteholder Record Date, entered in the Register as the holder of a Contingent Value Note constitutes for all purposes an absolute and unconditional release and discharge of the Note Issuer and the Note Trustee, to the extent of such payment, of all obligations and indebtedness in respect of the Contingent Value Note under or in respect of which the payment was made.

3.4 No set-off

All payments under or in respect of a Contingent Value Note will be made without any set off, counterclaim or condition.

4. Power of the Noteholders to direct Note Trustee

Upon the occurrence of an Event of Default, the Noteholders will have the following powers exercisable by ordinary resolution:

- (a) to direct the Note Trustee to take any particular action under the Note Deed or the Contingent Value Notes;

- (b) to direct the Note Trustee to commence legal proceedings against the Note Issuer to recover any outstanding Redemption Amount, owing in respect of the Contingent Value Notes; and
- (c) to direct the Note Trustee to take such other action as the Noteholders deem appropriate to recover any outstanding Redemption Amount owing in respect of the Contingent Value Notes,

and the Note Trustee must comply with those directions subject to any applicable law (including Chapter 2L of the Corporations Act), the terms of the Note Deed and these Terms of Issue.

5. Joint Noteholders

5.1 Nature of interest

Where two or more persons are registered as the holders of any Contingent Value Notes, they are considered to hold the Contingent Value Notes as joint tenants with benefits of survivorship, subject to the terms of this clause 5.

5.2 Limit on number of joint Noteholders

The Note Issuer is not bound to register more than three persons as the holders of any Contingent Value Note.

5.3 Payment to joint Noteholders

Any one of the joint Noteholders in respect of a Contingent Value Note may give a receipt for any amount (including the Redemption Amount) payable to the joint Noteholders, and the payment of any such amount to any one of the joint Noteholders will be an effective discharge by the Note Issuer of its obligations in relation to that Contingent Value Note.

5.4 Death of joint Noteholder

On the death of any one of the joint Noteholders in respect of any Contingent Value Note, the remaining joint Noteholders will be the only persons recognised by the Note Issuer as having any title to the Contingent Value Note, but the board of directors of the Note Issuer may require evidence of death and the estate of the deceased joint Noteholder is not released from any liability in respect of the Note.

5.5 Notices and Note Certificates

Only the person whose name stands first in the Register as one of the joint Noteholders in respect of any Contingent Value Note is entitled, subject to the Terms of Issue, to receive notices from the Note Issuer, and any notice given to that person is considered notice to all the joint Noteholders.

5.6 Joint action by joint Noteholders

Subject to the Terms of Issue, all of the joint Noteholders in respect of any Contingent Value Note must join in any application for the replacement of a note certificate which has been lost or destroyed.

6. No transfer of Contingent Value Notes

The Contingent Value Notes are non-transferrable, other than as a result of operation of law or devolution.

7. Transmission according to Custody Agreement

7.1 Transmission on termination

If the Custody Agreement is terminated in accordance with clause [10] of the Custody Agreement, all (but not some only) of the Contingent Value Notes then held by the Custodian may be transferred by the Custodian to a person nominated by the Note Issuer in accordance with clause [10.4] of the Custody Agreement.

7.2 Transmission to Sub-Custodian

If the Custodian appoints the Sub-Custodian (as that term is defined in the Custody Agreement) to act as sub-custodian in accordance with clause [9] of the Custody Agreement, the Custodian may transfer all (but not part only) of the Contingent Value Notes then held by the Custodian to the Sub-Custodian.

8. Transmission on Death or by Law

8.1 Transmission on death

The personal representative of a deceased Noteholder (which Noteholder is not a joint Noteholder) is the only person recognised by the Note Issuer as having any title to Contingent Value Notes registered in the name of the deceased Noteholder. Subject to compliance by the transferee with the Terms of Issue, the board of directors of the Note Issuer may register any transfer signed by a Noteholder prior to the Noteholder's death, despite the Note Issuer having notice of the Noteholder's death.

8.2 Transmission by operation of law

A person (a **transmittee**) who establishes to the satisfaction of the Note Issuer Board that the right to any Contingent Value Notes has devolved on the transmittee by will or by operation of law may be registered as a holder in respect of the Contingent Value Notes or may (subject to the provisions of the Terms of Issue relating to transfers) transfer the Contingent Value Notes.

9. Non-resident Noteholders

Despite anything to the contrary contained in or implied by the Terms of Issue, it is a condition precedent to any right of the Noteholder:

- (a) to receive payment of the Redemption Amount for each of those Contingent Value Notes; and
- (b) to receive payment of any other amount under or in respect of those Contingent Value Notes,

that all necessary Authorisations are obtained or made, and all other applicable regulatory requirements are satisfied, at the cost of the Noteholder.

10. Indemnity to the Note Issuer

Whenever in consequence of:

- (a) the death of a Noteholder;
- (b) the non-payment of any income Tax or other Tax payable by a Noteholder;
- (c) the non-payment of any stamp or other duty by the legal personal representatives of a Noteholder or his estate; or

(d) any other act or thing in relation to a Contingent Value Note or a Noteholder,

any law for the time being of any other country or place, in respect of that Contingent Value Note, imposes or purports to impose any liability of any nature whatever on the Note Issuer to make any payments to any Government Agency, the Note Issuer will in respect of that liability be indemnified by that Noteholder and the Noteholder's legal personal representatives and any monies paid by the Note Issuer in respect of that liability may be recovered by action from that Noteholder and/or the Noteholder's legal personal representatives as a debt due to the Note Issuer and the Note Issuer will have a lien in respect of those monies upon the Contingent Value Notes held by that Noteholder or his legal personal representatives and upon the Redemption Amount payable in respect thereof. Nothing in this clause 10 will prejudice or affect any right or remedy which any such law may confer or purport to confer on the Note Issuer.

11. Deceased or Insolvent Noteholders

The legal personal representatives of a deceased Noteholder (not being one of joint Noteholders) will be the only persons recognised by the Note Issuer as having any title to that Noteholder's Contingent Value Notes. Any person becoming entitled to Contingent Value Notes in consequence of the death or liquidation of any Noteholder may, on producing such evidence of that person's title as the Note Trustee thinks sufficient, be registered as the holder of the Contingent Value Notes or, subject to the preceding clauses relating to transfer, may transfer those Contingent Value Notes. The Note Trustee will be at liberty to retain the principal and interest and any other monies payable in respect of any Contingent Value Notes which any person under this clause is entitled to or to transfer until such person is registered or has duly transferred the Contingent Value Notes in accordance with these Terms of Issue.

12. Title to Contingent Value Notes

- (a) Subject to the Note Deed and these Terms of Issue, the Note Issuer and the Note Trustee will recognise only the Noteholder whose name appears in the Register as the absolute owner of the Contingent Value Note in respect of which the Noteholder is entered in the Register, and the Note Issuer and Note Trustee may act accordingly. The Note Issuer will not, except as provided by the Note Deed and these Terms of Issue or as ordered by a court of competent jurisdiction or as by statute required, be bound to take notice of or see to the executions of any trust or equity to which a Contingent Value Note may be subject or otherwise affecting the ownership of a Contingent Value Note or rights incidental thereto. The receipt of a Noteholder or one of the joint Noteholders of any monies payable upon the redemption of a Contingent Value Note will be a good discharge to the Note Issuer despite any notice the Note Issuer may have, whether express or otherwise, of the right, title or interest of any person to or in that Contingent Value Note or monies. No details of any such equity or trust, express or implied, will be entered in any Register.
- (b) No person who has previously been registered as the owner of a Contingent Value Note has or is entitled to assert against the Note Issuer, the Note Trustee or the registered owner of that Contingent Value Note for the time being and from time-to-time any rights, benefits or entitlements in respect of any Contingent Value Notes.

13. Terms of Issue

These Terms of Issue are binding on the Note Issuer, the Note Trustee and the Noteholders and all persons claiming through or under them respectively.

Schedule 2

The Register

1. Details to be kept on Register

The following information must be entered on the Register:

- (a) **(date of issue of Contingent Value Notes)** the date on which the Contingent Value Notes are issued;
- (b) **(details of Noteholders)** the name, address and email address of each Noteholder;
- (c) **(number of Contingent Value Notes)** the number of Contingent Value Notes held by each Noteholder;
- (d) **(date of entry)** the date on which a person was entered as the holder of Contingent Value Notes;
- (e) **(date of cessation)** the date on which a person ceased to be a Noteholder;
- (f) **(account)** the account to which any payments due to a Noteholder are to be made (if applicable);
- (g) **(payments)** a record of each payment in respect of the Contingent Value Notes;
- (h) **(tax file number/Australian Business Number)** a record that the Note Issuer has (or has not) received the tax file number or Australian Business Number of each Noteholder and, if applicable, the grounds for exemption from the requirement of a Noteholder to hold a tax file number;
- (i) **(additional information)** such other information as:
 - (i) is required by the Terms of Issue;
 - (ii) the Note Issuer considers necessary or desirable or
 - (iii) required by the Corporations Act.

2. Place of keeping Register, copies and access

The Register will be:

- (a) **(place kept)** kept in Queensland;
- (b) **(access to Note Trustee and Auditors)** open to the Note Trustee and the Auditors to inspect during normal business hours who will be provided with a copy upon request and without charge; and
- (c) **(inspection by Noteholder)** open for inspection by Noteholders during normal business hours without charge.

Noteholders will be entitled to a copy of the Register on payment of the prescribed fee and will be provided with a copy within 5 Business Days of the Note Issuer's receipt of such payment (or if the Register is maintained by a third party on the Note Issuer's behalf, on receipt by that person).

3. Closure of the Register

The Note Issuer may from time to time close the Register for any period or periods not exceeding 20 Business Days in any year.

4. Details on Register conclusive

- (a) **(Reliance on Register)** The Note Issuer and the Note Trustee will be entitled to rely on a Register as being a correct, complete and conclusive record of the matters set out in it at any time and whether or not the information shown in that Register is inconsistent with any other document, matter or thing.
- (b) **(No trusts etc)** The Note Issuer will not be obliged to enter on a Register notice of any trust, security interest or other interest whatsoever in respect of any Contingent Value Notes and the Note Issuer and the Note Trustee will be entitled to recognise a Noteholder as the absolute owner of Contingent Value Notes and the Note Issuer and the Note Trustee will not be bound or affected by any trust affecting the ownership of any Contingent Value Notes unless ordered by a court or required by statute.
- (c) **(Register not to be signed)** The Note Issuer must ensure that it does not sign or otherwise execute any entry in the Register.

5. Alteration of details on Register

On the Note Issuer being notified of any change of name or address or payment or other details of a Noteholder by the Noteholder, the Note Issuer must alter or cause to be altered the relevant Register accordingly.

6. Rectification of Register

If:

- (a) an entry is omitted from the Register;
- (b) an entry is made in the Register otherwise than in accordance with the Note Deed;
- (c) an entry wrongly exists in the Register;
- (d) there is an error or defect in any entry in the Register; or
- (e) default is made or unnecessary delay takes place in entering in the Register that any person has ceased to be the holder of Contingent Value Notes,

the Note Issuer must rectify or cause to be rectified the same.

7. Correctness of Register

The Note Issuer, or any person appointed by the Note Issuer to establish and maintain the Register, will not be liable for any mistake in a Register except to the extent that the mistake is attributable to its fraud, negligence or wilful default.

8. Third party registrar

The Note Issuer may cause the Register to be maintained by a third party on its behalf and require that person to discharge the Note Issuer's obligations under the Note Deed in relation to that Register.

9. Audit of Register

If and when required by the Note Trustee (acting reasonably), the Note Issuer will procure that its auditors conduct an audit of, and certify to the Note Trustee, the proper maintenance of the Register in accordance with this Schedule.

Schedule 3

Meetings

1. Note Trustee or Note Issuer may convene a Meeting

The Note Trustee or the Note Issuer may at any time convene a meeting of the Noteholders and either must do so if required by the Corporations Act or the Note Trustee must do so upon the occurrence of an Event of Default.

2. Power of Noteholders to direct Note Issuer to convene a Meeting

- (a) The Note Issuer undertakes to hold a meeting of Noteholders if required to do so on application in writing from the holders of not less than 10% of the total number of Contingent Value Notes on issue, delivered to its registered office with a copy of the application delivered to the Note Trustee.
- (b) Subject to the Noteholders meeting the requirements in paragraph (a), the Note Issuer (by giving notice to each of the Noteholders at the Noteholder's address as specified in the Register) will summon a meeting of Noteholders:
 - (i) to consider the financial statements that were laid before the last annual general meeting of the Note Issuer; and
 - (ii) to give the Note Trustee directions in relation to the exercise of its powers.
- (c) A requisition of a meeting called under paragraph (a) must state the general nature of the business proposed to be dealt with at the meeting. Meetings of Noteholders must be held at such place as the Note Trustee and the Note Issuer from time to time reasonably determine or approve.
- (d) In the event that the Note Issuer does not issue a notice of meeting in accordance with paragraph (a) within 15 Business Days of receipt of the application delivered under that paragraph, the Note Trustee must convene the meeting forthwith.

3. Right of Attendance

The following persons have the right to attend and to address any meeting of Noteholders:

- (a) the Note Trustee, its solicitors and such other experts or advisors as the Note Trustee may engage;
- (b) the Noteholders, their solicitors, and such experts or advisors as the Noteholders may engage; and
- (c) the Note Issuer's Directors, solicitors, the Auditors and such other experts or advisors as the Note Issuer may engage.

4. Notice

- (a) At least 15 Business Days' prior notice of a meeting of Noteholders must be given by the Note Issuer to the Noteholders, the Note Trustee and the Auditors. The notice of meeting must specify:
 - (i) who convened the meeting;
 - (ii) the place, day and hour of the meeting; and

- (iii) the nature of the business to be transacted at the meeting.
- (b) Any accidental omission to give any notice of any meeting or the non-receipt by any Noteholder of any notice will not invalidate the proceedings of any meeting, but where notice of a meeting convened by the Note Issuer is not received by the Note Trustee or notice of a meeting convened by the Note Trustee is not received by the Note Issuer, all business transacted and all resolutions passed at the meeting will (unless the party who did not receive the notice otherwise agrees) be void and of no effect.

5. Quorum

- (a) At any meeting of Noteholders there will be quorum if:
 - (i) 2 or more Noteholders present in person or by proxy or attorney are present and entitled to vote; and
 - (ii) the Noteholders who are so present hold more than 10% of the total number of Contingent Value Notes on issue at the time of the meeting.

No business will (subject to clause 5(b) below) be transacted at any meeting unless the requisite quorum is present at the commencement of business.

- (b) If, within half an hour from the time appointed for any meeting of the Noteholders, a quorum is not present the meeting will stand adjourned to such day and time of not less than 10 Business Days' or, if the meeting was to consider a special resolution, 15 Business Days' later and at a place announced by the chair at the time of the adjournment.

6. Chair

- (a) A person nominated by the Note Trustee is entitled to take the chair at every meeting of Noteholders.
- (b) In case of an equality of votes the chair will both on a show of hands and at a poll have a casting vote in addition to the vote or votes (if any) to which the chair may be entitled as a Noteholder.

7. Voting

- (a) At every meeting of Noteholders each voter is:
 - (i) on a show of hands, entitled to one vote; and
 - (ii) on a poll, entitled to one vote in respect of each Contingent Value Note held by the Noteholder or by the person for whom he is the proxy or attorney.
- (b) At any meeting of Noteholders, a matter will be decided by a show of hands unless a poll is demanded by:
 - (i) the chair or the Note Trustee; or
 - (ii) at least 5 Noteholders present in person or by proxy or by attorney; or
 - (iii) Noteholders present in person or by proxy or by attorney who together hold at least 5% of the total number of Contingent Value Notes on issue at the time of the meeting; or
 - (iv) the Note Issuer, where the Note Issuer holds Contingent Value Notes, in which case it is entitled to vote in its capacity as Noteholder,

a declaration by the chair that a resolution has been carried by a particular majority or lost or not carried by a particular majority is conclusive evidence of the fact.

- (c) Where a poll is demanded under clause 7(b) of this Schedule it will be taken either at once or after an interval of adjournment. If the poll is to be taken on an adjournment, the poll will be taken as the chair directs, but in no case will the date on which the poll is taken be a date more than 30 days from the date of the adjournment. The result of such poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- (d) In the case of joint Noteholders, the vote of the senior who tenders a vote whether in person or by proxy will be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority will be determined by the order in which the names stand in the Register in respect of the joint holding.

8. Voting by Note Issuer

The Note Issuer and its associates are not entitled to vote their interest on a resolution at a meeting of Noteholders if they have an interest in the resolution or matter other than as a Noteholder.

9. Adjournment

The chair may with the consent of such meeting and must if directed by the meeting adjourn the same from time to time and from place to place.

10. Right to Vote

A Noteholder or, in the case of joint Noteholders, the Noteholder whose name stands first on the Register, will be entitled to vote in respect of such Contingent Value Notes either in person or by proxy or attorney.

11. Proxy

- (a) An instrument appointing a proxy must be in writing under the hand of the appointer or of its attorney duly authorised in writing, and in the case of a corporation, under its common seal or under the hand of an officer or attorney so authorised. Every such proxy will enable the Noteholder to vote for or against any resolution and will be in any usual or common form or in any other form which the Note Trustee may approve.
- (b) Any person may be appointed a proxy whether or not that person is a Noteholder.
- (c) An instrument appointing an attorney and an instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed must be deposited at such place as the Note Issuer or Note Trustee (as relevant) sets out in the notice convening the meeting, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting (or in the case of a poll before the time appointed for the taking of the poll) and in default, the power of attorney or instrument of proxy, as the case may be, may at the discretion of the Note Issuer or Note Trustee be invalid.
- (d) The Noteholders as recorded in the Register 48 hours before the time appointed for the holding of the meeting and no other person or persons will be recognised and treated as the legal holders of the Contingent Value Notes for any purpose associated with any meeting of Noteholders.
- (e) A vote given in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or the authority under which the proxy was executed or the transfer of the

Contingent Value Notes in respect of which the proxy is given provided that no intimation in writing of such death, insanity, revocation or transfer has been received by the Note Issuer at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

12. Resolution binding

A resolution passed at a meeting of Noteholders duly convened and held is binding on all the Noteholders whether present or not present at such meeting, whether they are in favour or opposed to the resolution and each of the Noteholders is bound to give effect to any resolutions passed at such meeting.

13. Resolution is passed

- (a) A resolution will be deemed duly passed as a special resolution if it is approved in either of the following ways:
 - (i) by a resolution in writing signed by Noteholders that represent not less than 75% of the total number of Contingent Value Notes then on issue, which resolution may be contained in one document or in several documents in like form each signed by one or more Noteholders; or
 - (ii) at a meeting of Noteholders, by not less than 75% of the votes cast.
- (b) Any resolution (other than a special resolution) of the Noteholders will be duly passed if it is approved in any one of the following ways:
 - (i) by a resolution in writing signed by Noteholders who represent more than 50% of the total number of Contingent Value Notes then on issue, which resolution may be contained in one document or in several documents in like form each signed by one or more Noteholders; or
 - (ii) at a meeting of Noteholders, if carried by a simple majority of the votes cast.
- (c) For the purpose of clauses 13(a)(ii) and 13(b)(ii) of this Schedule, the Noteholders as recorded in the Register 48 hours before the time appointed for the holding of the meeting will be the only Noteholders entitled to vote on or sign any such resolution and the Contingent Value Notes so recorded at such time are the only Contingent Value Notes taken into account in determining whether the requisite majority has been obtained.
- (d) Minutes of all resolutions and proceedings at every such meeting of Noteholders will be made and duly entered in books to be from time to time provided for that purpose by the Note Issuer. Any minutes purporting to be signed by the chair of the meeting at which such resolutions were passed, or proceedings taken, or by the chair of the next succeeding meeting of Noteholders, will be conclusive evidence of the matters contained in those minutes and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes have been made will be deemed to have been duly held and convened and all resolutions passed or proceedings taken to have been duly passed and taken.

14. Referral to Noteholders

The Note Trustee or the Note Issuer may, at its discretion, refer any question arising under or in connection with this document to a meeting of Noteholders and may if it thinks fit act in accordance with any resolution passed in relation to such question. This clause 14 does not curtail or limit in any way any power of the Note Issuer or the Note Trustee under this document.

15. General Powers of Meeting of Noteholders

Subject to other provisions of this Deed, a meeting of Noteholders will in addition to all other powers have the following powers exercisable:

- (a) by special resolution:
 - (i) to sanction the release of the Note Issuer from all or part of its liability to pay the Redemption Amount on any Contingent Value Notes;
 - (ii) to sanction any modification or compromise or arrangement in respect of the rights of Noteholders against the Note Issuer; and
 - (iii) to give any sanction, direction or request which under any of the provisions of this Deed is required to be given by a special resolution of Noteholders; and
- (b) by ordinary resolution:
 - (i) to remove the Note Trustee; and
 - (ii) to direct the Note Trustee to take Enforcement Action.

Schedule 4

Redemption Determination Notice

[On Independent Assessor's letterhead]

[date]

[insert]

Dear Sirs/Madams

GoGetta Run Off Amount and Redemption Amount

We refer to the Contingent Value Note Trust Deed between Silver Chef Limited ACN 011 045 828 and [insert trustee] dated [insert] 2019 (**Note Trust Deed**).

Unless otherwise specified, capitalised terms used in this letter have the meaning given to them in the Note Trust Deed.

We confirm that we have completed the Independent Review in accordance with the terms of our engagement and confirm:

- (a) the GoGetta Run Off Amount is A\$[insert]; and
- (b) accordingly, the Redemption Amount is A\$[insert], based on a total number of [insert] Contingent Value Notes on issue.

Yours faithfully

[insert]

Schedule 5

Instruction Letter

[date]
[Independent Assessor and address]

Dear Sirs/Madams

Instruction Letter relating to verification of GoGetta Run Off Amount and Redemption Amount

Reference is made to the Contingent Value Note Trust Deed between Silver Chef Limited ACN 011 045 828 and [insert trustee] dated [insert] 2019 (**Note Trust Deed**).

Capitalised terms not defined in this Instruction Letter have the meanings given to those terms in the Note Trust Deed unless the context requires otherwise.

Silver Chef Limited (**Instructor**), hereby requests you to conduct an independent verification and review of the GoGetta Run Off Amount and Redemption Amount, and to provide the Redemption Determination Notice, as set out in this Instruction Letter.

1 Independent Review

The Instructor has prepared draft calculations for the GoGetta Run Off Amount and Redemption Amount, which are provided to you with this Instruction Letter.

You are instructed to conduct an Independent Review of the Instructor's calculations relating to the GoGetta Run Off Amount and Redemption Amount (to be calculated in accordance with the Note Trust Deed), and to provide a written report on the Independent Review, confirming the GoGetta Run Off Amount and Redemption Amount rounded to two decimal places.

2 Assumptions

In undertaking the Independent Review, you may make such assumptions as are reasonable and supportable by the available data at the Determination Date and consistent with the accounting policies and principles applied by Note Issuer as at the date of the Scheme Implementation Agreement, and consistent with the terms of this Instruction Letter or the Instruction Materials. These should be described in your Independent Review.

3 Relationship with the Instructor

The Instructor must assist you by providing such data or information (including raw, analysed and processed data and interpretive data and assessments) as you may reasonably require, and in any event may provide to you such data or information (including raw, analysed and processed data and interpretive data and assessments) as they believe will assist you whether or not requested or required by you.

The Instructor will be responsible for your fees.

4 Timing

You are instructed to:

- (a) provide your near final draft report outlining the Independent Review and Redemption Determination Notice as soon as reasonably practicable, and in any event within 30 days of receiving this Instruction Letter;

- (b) allow the Instructor a period of 7 days to review the draft Independent Review and Redemption Determination Notice and make submissions to you in respect of the draft Independent Review and Redemption Determination Notice;
- (c) consider and take into account any submissions you have received from the Instructor and to amend the draft report for the Independent Review as you consider appropriate giving regard to any submissions; and
- (d) provide your final report outlining the Independent Review and Redemption Determination Notice as soon as practicable, and in any case within 7 days following receiving submissions from the Instructor in accordance with paragraph (c) above.

It is of importance to the Instructor that the timing specified above is adhered to, however it is recognised that circumstances out of your control may cause delays that prevent this being achieved. You are asked to immediately inform the Instructor of any circumstances that may lead to any delay, including the expected period of delay, in the completion of your Independent Review outside the time period above.

Yours faithfully

Signing page

Executed as a deed.

EXECUTED by SILVER CHEF)	
LIMITED in accordance with section)	
127(1) of the Corporations Act 2001)	
(Cth) by authority of its directors:)	
)	
.....)
Signature of director)	Signature of director/company
)	secretary
)	
.....)
Name of director (block letters))	Name of director/company secretary
)	(block letters)

[Insert Note Trustee execution clause]