

8 July 2019

VILLA WORLD LIMITED ABN 38 117 546 326 ASX CODE: VLW

Villa World and AVID enter into Scheme Implementation Agreement

Villa World Limited (ASX: VLW) (**Villa World** or the **Company**) refers to its announcement on 2 May 2019 in relation to the revised indicative, conditional, incomplete and non-binding proposal from AVID Property Group Australia Pty Limited (**AVID**) to acquire all of the shares in Villa World by way of a scheme of arrangement for a cash offer price of \$2.345¹ per share (**Revised Proposal**).

Following the completion of due diligence by AVID, Villa World is pleased to announce that it has entered into a binding Scheme Implementation Agreement (**SIA**) under which it is proposed that AVID will acquire all of the ordinary shares in Villa World by way of a scheme of arrangement for \$2.345¹ per share in cash (**Scheme**).

Under the terms of the Scheme, Villa World shareholders will be entitled to receive \$2.345¹ per share in cash (**Scheme Consideration**), subject to all applicable conditions being satisfied or waived and the Scheme being implemented. Under the SIA, Villa World is permitted to pay a final dividend (**Final Dividend**) and/or a special dividend (**Special Dividend**) on or prior to implementation of the Scheme. The Scheme Consideration will be reduced by the cash amount of any such Final Dividend and/or Special Dividend. The size of any potential Final Dividend and/or Special Dividend (if declared) will be determined by the Board of Villa World having regard to a range of factors, including the availability of franking credits. Details of any Final Dividend and/or Special Dividend will be provided in the explanatory document to be circulated to shareholders in relation to the Scheme (**Scheme Booklet**).

Unanimous recommendation of the Board

The board of directors of Villa World (**Board**) unanimously recommend that Villa World shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to an independent expert concluding and continuing to conclude that the Scheme is in the best interests of Villa World shareholders. Subject to those same qualifications, each director of Villa World intends to vote all the Villa World shares held or controlled by them in favour of the Scheme.

In making this recommendation, the Board considered several factors, including:

- **Premium:** the Scheme Consideration of \$2.345¹ per share represents:
 - a 17.8% premium to the Villa World closing share price of \$1.99 on 14 March 2019, being the last closing price of Villa World shares prior to the announcement of the initial proposal received from AVID and announced to the market on 14 March 2019 (**Prior Proposal**);
 - a 17.4% premium to the one-month volume weighted average price (**VWAP**) of \$2.00 per Villa World share up to 14 March 2019;
 - a 25.1% premium to the three-month VWAP of \$1.88 per Villa World share up to 14 March 2019;
 - a 5.2% premium to the 31 December 2018 pro-forma NTA per Villa World share of \$2.23; and
 - a 5.2% increment (an increase of 11.5c per Villa World share) to the Prior Proposal.

¹ Under the terms of the Revised Proposal, the consideration will be reduced by the amount of any dividends or distributions paid by Villa World after the date of the Revised Proposal, but will not be reduced by the 1H19 dividend of \$0.08 per share paid on 2 April 2019.

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- **Certainty of value:** if the Scheme is implemented, the 100% cash consideration payable to Villa World shareholders provides Villa World shareholders with certainty of value and the opportunity to realise in full their investment in Villa World at a certain cash price; and
- **Final Dividend and/or Special Dividend:** there may be an opportunity for shareholders to receive benefits from franking credits that may be attached to the payment of a Final Dividend and/or Special Dividend. Villa World is considering the timing and payment of any Final Dividend and/or Special Dividend and will provide an update in the Scheme Booklet. The Scheme Consideration will be reduced by the cash amount of any such Final Dividend and/or Special Dividend.

Mark Jewell, Independent Chair of Villa World, said: “We are proud of what Villa World has created over a long and successful journey. We’re pleased to be entering into a binding transaction with AVID today which provides our shareholders the opportunity to realise their investment in Villa World at an attractive and certain price. Once the Scheme is implemented, shareholders will receive a cash payment at a meaningful premium to the trading price of Villa World shares prior to the announcement of the initial AVID proposal.”

Craig Treasure, CEO and Managing Director of Villa World said: “Our real strength has been our commitment to people, helping them reach home. The proposed transaction is an endorsement of the quality of our brand and the relationships we’ve built with customers, staff, suppliers and contractors, shareholders and the broader community. The combination of our business with AVID, bringing together the best of both companies, will provide an enhanced proposition for our customers and staff.”

Anthony Kingsley, Chair of AVID, said: “Villa World’s innovative housing platform and exposure to greenfield east coast growth corridors positions AVID to scale up across a larger portfolio of assets and future built form opportunities. Combining those assets with AVID’s access to capital and global property expertise will position the business to deliver on our growth and diversification strategy, with outstanding outcomes for customers.”

Cameron Holt, CEO of AVID, said: “This acquisition strategically combines two strong performing and complementary businesses with recognised brands and market leading technical and service propositions. Leveraging the talent, expertise and systems of both businesses will create a stronger, better platform from which to grow.”

Details of the SIA

The implementation of the Scheme is subject to certain conditions, including the approval of Villa World shareholders and the Court, no prescribed occurrences, no material adverse change, no restraints, no material breach of warranty by Villa World or AVID, and the approval of the Foreign Investment Review Board.

AVID has advised Villa World that it expects to fund the cash consideration from internal resources, equity contributions and debt facilities. The Scheme is not conditional on AVID securing funds.

The SIA contains customary exclusivity provisions, including no-shop and no-talk restrictions and a notification obligation, as well as a matching right. The SIA also details circumstances under which Villa World may be required to pay AVID a break fee of approximately \$3 million.

Full details of the conditions to the Scheme and other agreed terms are set out in the SIA, a copy of which has been attached to this announcement.

Independent expert

The Board intends to appoint Grant Thornton Corporate Finance as the independent expert to prepare a report opining on whether the Scheme is in the best interests of Villa World shareholders. A copy of the independent expert’s report will be included in the Scheme Booklet.

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Indicative timetable

Villa World shareholders do not need to take any action at the present time. A Scheme Booklet is expected to be sent to Villa World shareholders in August. This will include a more detailed explanation of the Scheme, including reasons for the Villa World Board's recommendation, and a copy of the independent expert's report. Villa World shareholders will be given the opportunity to vote on the Scheme at the Scheme meeting expected to be held towards the middle of October.

Subject to shareholder approval and the conditions of the Scheme being satisfied, the Scheme is expected to be implemented in late October/early November.

These dates are indicative and subject to change.

The Board of Villa World is being advised by Macquarie Capital (Australia) Limited as financial adviser and Allens as legal adviser.

About AVID

AVID is a diversified Australian property development business with a reported \$3bn portfolio of broad acre and medium density residential and industrial projects. AVID is owned by a number of significant international institutional investors, whose investment in AVID is managed and advised by Proprium Capital Partners, a fund manager headquartered in the United States.

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Scheme Implementation Agreement

Villa World Limited
Target

AVID Property Group Australia Pty Limited
Bidder

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Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	Best and reasonable endeavours	18
1.3	Business Day	18
1.4	Interpretation	18
2.	Obligations in relation to Scheme	19
2.1	Target to propose Scheme	19
2.2	Bidder may elect a Subsidiary	19
3.	Conditions precedent	20
3.1	Conditions	20
3.2	General obligations in relation to Conditions	21
3.3	Obligations in relation to regulatory approvals	22
3.4	Notice in relation to satisfaction of Conditions	22
3.5	Waiver of Conditions	23
3.6	Termination on failure of Conditions	23
4.	Implementation of Scheme	24
4.1	Scheme	24
4.2	Timetable	24
4.3	Target's obligations	25
4.4	Bidder's obligations	28
4.5	Dispute as to Explanatory Memorandum	30
4.6	Responsibility statement	31
4.7	Court representation	31
4.8	Appeal process	31
4.9	Reconstitution of Target Board	31
4.10	Removal of Target from official list of ASX	32
5.	Scheme Consideration	32
5.1	Scheme Consideration	32
5.2	Bidder undertakings in relation to Scheme Consideration	32
5.3	Permitted Dividends	32
5.4	Rounding up	33
6.	Conduct of business	33
6.1	Conduct of Target's business	33
6.2	Change of control provisions	36
6.3	Access	37
6.4	Transaction Implementation Committee	38
6.5	Existing financing and security	38
6.6	Financing cooperation	38
6.7	Alternative financing	39
6.8	Business updates	39
6.9	Specific updates	40
6.10	Planning matters	40
7.	Recommendation, intentions and announcements	41
7.1	Target Board Recommendation and Voting Intention	41
7.2	Confirmation and undertaking	42
7.3	Notification of change of Recommendation	42
7.4	Announcements	42
8.	Performance Rights	43
9.	Exclusivity arrangements	43
9.1	No existing discussions	43

9.2	No shop	43
9.3	No talk and no due diligence	43
9.4	Limitation to no talk and no due diligence	44
9.5	Notification of approaches	44
9.6	Matching right	44
9.7	Normal provision of information	46
10.	Reimbursement of Costs.....	46
10.1	Background to Target Payment.....	46
10.2	Target Payment	46
10.3	Timing	48
10.4	Basis of Target Payment	48
10.5	No payment if Scheme becomes Effective.....	49
10.6	Target Payment payable once.....	49
10.7	Compliance with law	49
11.	Liability of directors, officers and employees	49
11.1	Liability of directors, officers and employees.....	49
11.2	Directors and officers insurance	49
11.3	Obligations in relation to directors and officers insurance.....	50
11.4	Directors and officers indemnities	50
11.5	Compliance with law and benefit	50
12.	Representations, warranties and indemnities	50
12.1	Representations and warranties by Bidder	50
12.2	Bidder warranty certificate	53
12.3	Reliance on Bidder Warranties.....	53
12.4	Representations and warranties by Target	53
12.5	Qualification of Target Warranties	58
12.6	Target warranty certificate	58
12.7	Reliance on Target Warranties.....	58
12.8	Notifications	58
12.9	Status of representations and warranties	59
12.10	Status and enforcement of indemnities	59
12.11	Timing of representations and warranties	59
13.	Confidentiality and communications	59
13.1	Confidentiality Deed.....	59
13.2	Survival of obligations.....	59
13.3	Disclosure on termination of agreement.....	59
14.	Termination and remedies	60
14.1	Limited termination events.....	60
14.2	Termination by Bidder.....	60
14.3	Termination by Target.....	60
14.4	Effect of termination.....	61
14.5	Termination	61
14.6	Remedies.....	61
14.7	Target's limitation of liability.....	61
15.	Notices	61
15.1	How notice to be given	61
15.2	When notice taken to be received	62
16.	GST	63
16.1	Interpretation.....	63
16.2	Reimbursements and similar payments	63
16.3	GST payable.....	63
17.	Entire agreement.....	64
18.	General	64

18.1	No representation or reliance	64
18.2	Amendments.....	64
18.3	Assignment	64
18.4	Consents.....	64
18.5	Costs.....	64
18.6	Counterparts	65
18.7	Further acts and documents.....	65
18.8	No merger	65
18.9	Severance.....	65
18.10	Stamp duties.....	65
18.11	Waivers.....	65
18.12	No recourse	65
19.	Governing law, jurisdiction and service of process.....	66
19.1	Governing law.....	66
19.2	Jurisdiction.....	66
	Schedule 1 Timetable.....	67
	Annexure A - Scheme	70
	Annexure B - Deed Poll.....	71

Scheme implementation agreement

Date 5 July 2019

Parties **Villa World Limited ACN 117 546 326** of Level 1, 19 Elizabeth Avenue, Broadbeach, Queensland, Australia, 4218 (**Target**)

AVID Property Group Australia Pty Limited ABN 76 608 061 874 of Suite 02, Level 35, 259 George Street, Sydney, New South Wales, Australia, 2000 (**Bidder**)

Background

- A. Bidder proposes that it will acquire all of the Scheme Shares pursuant to a scheme of arrangement under section 411 of the Corporations Act between Target and the holders of Scheme Shares.
- B. Target has agreed to propose the Scheme and issue the Explanatory Memorandum, and Target and Bidder have agreed to implement the Scheme on the terms and conditions of this agreement.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this agreement:

Aggregate Scheme Consideration means the aggregate amount of the Scheme Consideration payable to Scheme Shareholders for all Scheme Shares under the Scheme.

ANZ means Australia and New Zealand Banking Group Limited.

Arrovest means Arrovest Pty Ltd.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12 of the Corporations Act.

ASX means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

Bellmere Project has the meaning given in clause 6.10.

Bidder Announcement means an announcement by Bidder, a draft of which has been provided to Target on or before the date of this agreement.

Bidder Board means the board of directors of Bidder.

Bidder Group means Bidder and each of its Subsidiaries.

Bidder Indemnified Parties means Bidder and its Related Bodies Corporate and their respective directors, officers and employees, past and present.

Bidder Information means such information regarding Bidder that is provided by or on behalf of Bidder to Target or the Independent Expert:

- (a) to enable the Explanatory Memorandum to be prepared and completed in compliance with all applicable laws, Regulatory Guides and the Listing Rules;
- (b) to enable applications for regulatory approvals to be made; and
- (c) otherwise in compliance with Bidder's obligations under clause 4.4.

Bidder Warranties means the warranties made by Bidder set out in clause 12.1.

Business Day means a day which is a "Business Day" within the meaning given in the Listing Rules.

Caboolture Project has the meaning given in clause 6.10.

Cash means all cash in bank accounts and on hand of the Target Group, to be determined:

- (a) inclusive of:
 - (i) any amounts in transit;
 - (ii) cheques and drafts deposited for the account of any Target Group Member or on hand with any Target Group Member; and
 - (iii) accrued but unpaid interest on funds held in interest bearing accounts of any Target Group Member; and
- (b) net of uncleared cheques and outgoing wire transfers issued or authorised by any Target Group Member,

For the purpose of this definition, Target Group Member only includes a wholly owned Subsidiary of Target.

Change of Control Rights has the meaning given in clause 6.2

COC Contracts has the meaning given to it in clause 6.2.

Common Terms Deed means the Common Terms Deed dated 27 February 2015 between, among others, Target, ANZ and Westpac Banking Corporation, as most recently amended by a fourth amendment deed dated 21 March 2017 and shall include each "Finance Document" as defined therein.

Competing Proposal means a proposed transaction or arrangement (whether by way of takeover, share acquisition, scheme of arrangement, reverse takeover, synthetic merger, capital reconstruction, acquisition of assets, dual listed structure, or otherwise) which, if implemented substantially in accordance with its terms, would result in a Third Party:

- (a) directly or indirectly acquiring or having a right to acquire, or obtaining an economic interest in all or a substantial part of the business, assets or undertakings of the Target Group;
- (b) acquiring Control of the Target or Target Group;
- (c) acquiring a Relevant Interest in any Target Shares, as a result of which that Third Party will have Relevant Interests in 20% or more of the Target Shares in aggregate; or
- (d) otherwise acquiring, or merging with, Target.

Condition means each condition specified in clause 3.1.

Confidentiality Deed means the confidentiality deed between Target and the Bidder dated 1 May 2019.

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

Corporations Act means the Corporations Act 2001 (Cth).

Court means the Federal Court of Australia or such other court of competent jurisdiction as Target and Bidder agree in writing.

Current Accounting Practice means the accounting principles and practices in accordance with the Australian Accounting Standards (including Australian Accounting Interpretations) adopted by the Australian Accounting Standards Board and the Corporations Act.

CVC Property means CVC Property Investments Pty Ltd.

Data Room means the online data room established for the purpose of this Transaction, the index for which is attached to the Target Disclosure Letter.

Debt Commitment means the financing commitments pursuant to the Debt Commitment Letter.

Debt Commitment Letter means an executed facilities agreement or an executed commitment letter and accompanying term sheet from certain banks or other financial institutions addressed to Bidder and dated on or about the date of this agreement.

Debt Documents means definitive agreements related to the Debt Financing and the Debt Commitment Letter.

Debt Financing means the debt financing incurred or intended to be incurred pursuant to the Debt Commitment Letter.

Deed Poll means a deed poll to be executed by Bidder in favour of the Scheme Shareholders, substantially in the form set out in Annexure B or in such other form as Target and Bidder agree in writing.

Donnybrook means Donnybrook JV Pty Ltd.

Donnybrook Project has the meaning given in clause 6.10.

Donnybrook Facility means the facility supported by:

- (a) a general security agreement dated 21 August 2015 between Donnybrook and NAB over all present and after-acquired property of Donnybrook;
- (b) a real property mortgage dated 21 August 2015 granted by Donnybrook to NAB over property situated in Donnybrook, Victoria, being the land at Volume 06229 Folio 723;
- (c) an undated real property mortgage granted by Donnybrook to NAB over the land at Volume 11260 Folio 109 and Volume 11260 Folio 110; and
- (d) a limited Guarantee and Indemnity dated 23 August 2017 from the Target and VWD, jointly and severally guaranteeing up to 51% of the amounts owing under the Donnybrook Facility,

and any amendments, variations and/or restatements of any of the above documents entered into on or prior to the date of this agreement that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter.

DSD has the meaning given in clause 6.10.

EBIT means, for any period, the amount determined by:

- (a) calculating the consolidated net profit after tax of the Target Group for that period, in accordance with Current Accounting Practice applied by the Target Group as at the date of this agreement;
- (b) adding back the aggregate of:
 - (i) income tax expense of the Target Group for that period; and
 - (ii) interest expense of the Target Group for that period, which includes loan and interest charges, less the amount capitalised; and
 - (iii) the unwind of any amount capitalised by the Target Group relating to financial assets and any other interest expense typically applied by the Target Group;
- (c) adding back or subtracting (as the case may be) the net amount of:
 - (i) extraordinary, abnormal, non-operating or non-recurring items typically classified as such by Target Group;
 - (ii) gains or losses from the sale of assets by the Target Group to the extent that such items are included by the Target Group in revenue or expense from ordinary activities; and
 - (iii) impairments or impairment reversals on current inventory of the Target Group.

EBITDA means, for any period, EBIT for that period after adding back any amount attributable to the amortisation or depreciation of assets of the Target Group and after excluding costs and expenses (including GST) incurred by the Target Group in connection with the Transaction to the extent such costs and expenses are Fairly Disclosed in the Target Disclosure Letter.

Effective means, when used in relation to the Scheme, 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 the Scheme.

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

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date 6 months after the date of this agreement or such other date agreed in writing between Target and Bidder.

Equity Commitment Letters means the binding, executed commitment letters dated on or about the date of this agreement addressed to Bidder from Proprium Real Estate Special Situations Fund, LP and Malone Co-Investment, LP and agreed to and accepted by Bidder.

Exclusivity Period means the period commencing on the date of this agreement and ending on the earliest of:

- (a) the End Date;
- (b) the date this agreement is terminated in accordance with its terms; and
- (c) the Implementation Date.

Explanatory Memorandum means the explanatory memorandum to be prepared by Target pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of this agreement and to be dispatched to the Target Shareholders (including, for the avoidance of doubt, the Independent Expert's Report).

Fairly Disclosed has the meaning given in clause 1.4(j).

Financial Indebtedness means the aggregate of any indebtedness for or in respect of:

- (a) total borrowings of the Target Group, including borrowings drawn and bank guarantees issued under the Common Terms Deed, and the Villa World Bonds; and
- (b) amounts due and payable by the Target Group to its trade creditors, sundry creditors and agent creditors (the category of creditor to be determined in accordance with Current Accounting Practice applied by the Target Group as at the date of this agreement), but, in each case, only to the extent that the relevant amounts have fallen due for payment and have not been paid by the relevant due date.

For the purpose of this definition, Target Group only includes those Target Group Members that are wholly owned Subsidiaries of Target.

Financial Year means a period of 12 months ending on 30 June in any year.

FIRB Approval has the meaning given to that term in clause 3.1(a).

First Court Date means the first day of the hearing of an application made to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

FY20 Target Performance Right means a Target Performance Right granted or issued in respect of the financial year ending 30 June 2020.

Greenbank Facility means the facility supported by:

- (a) a general security deed dated 24 August 2018 between Villa Green and ANZ over all of Villa Green's present and after-acquired property;
- (b) a specific security deed dated 24 August 2018 between Villa Green, ANZ, VWD and Arrovest;
- (c) a guarantee and indemnity dated 24 August 2018 from Target;
- (d) various Queensland real property mortgages each dated 24 August 2018 and granted by Villa Green in favour of ANZ over various lots of land on SP297215 and SP302889;
- (e) a further Queensland real property mortgage dated 24 August 2018 granted by Villa Green in favour of ANZ over the land described as Lot 801 on SP296346;
- (f) a civil works contractor side deed dated 24 August 2018 between Villa Green, ANZ and SEE Civil Pty Ltd;

- (g) a development manager side deed dated 24 August 2018 between Villa Green, ANZ and VWD; and
- (h) a subordination deed dated 24 August 2018 between Villa Green, ANZ and Swiss RE International SE,

and any amendments, variations and/or restatements of any of the above documents entered into on or prior to the date of this agreement that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter.

Implementation Date means the date which is 5 Business Days after the Record Date or such other date as Target and Bidder agree in writing.

Impugned Amount has the meaning given in clause 10.7.

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

Independent Expert's Report means the report (including the initial report and any update, revision, amendment, addendum or supplementary reports to it) prepared by and from the Independent Expert for inclusion in the Explanatory Memorandum, stating whether or not, in the opinion of the Independent Expert, the Scheme is in the best interests of the Target Shareholders and setting out the reasons for that opinion.

Insolvency Event means in relation to an entity:

- (a) the entity resolving that it be wound up or the making of an application or order for the winding up or dissolution of the entity, other than where the application or order (as the case may be) is set aside within 14 days;
- (b) the entity entering into an arrangement, compromise or composition with, or assignment for the benefit of, its creditors or a class of them;
- (c) a liquidator or provisional liquidator of the entity being appointed;
- (d) a court making an order for the winding up of the entity;
- (e) an administrator, controller or similar officer of the entity being appointed;
- (f) the entity being or becoming unable to pay its debts when they fall due, or otherwise being, or being presumed or taken to be, insolvent;
- (g) the entity executing a deed of company arrangement;
- (h) a receiver, or a receiver and manager, being appointed in relation to the entity, or a substantial part, of the property of the entity;
- (i) an Encumbrance being enforced over a substantial part of the property of the entity; or
- (j) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurring with respect to the entity.

Listing Rules means the official listing rules of the ASX.

Material Adverse Change means the occurrence of any of the following:

- (a) as at 5.00 pm on the day that is three Business Days before the Second Court Date (the **Testing Time**), the Target Net Debt exceeds the Maximum Target Net Debt; or

- (b) any event, occurrence, change, matter, thing, condition or circumstance which individually or when aggregated with other events, occurrences, changes, matters, things, conditions or circumstances, has had, or is reasonably likely to have, the effect of a diminution in the EBITDA of the Target Group for the financial year ending 30 June 2020 (**FY20**) of at least \$7,200,000, compared to what the forecast FY20 EBITDA of the Target Group (as Fairly Disclosed in the Target Due Diligence Materials and adjusted such that the forecast FY20 EBITDA is calculated in the manner contemplated by this agreement) could reasonably be expected to have been but for the relevant events, occurrences, changes, matters, things, conditions or circumstances,

provided that:

- (c) the impact of the relevant event, occurrence, change, matter, thing, condition or circumstance on the value of the FY20 EBITDA of the Target Group must be determined after taking into account any matters that are of a same or substantially similar nature which offset, or are reasonably likely to offset, the impact of the first event, occurrence, change, matter, thing, condition or circumstance on the value of FY20 EBITDA of the Target Group, subject to Target providing reasonable evidence to Bidder of the sameness or substantial similarity of such matters and the impact that such matters will have, or are reasonably likely to have, on the value of the FY20 EBITDA of the Target Group;
- (d) any event, occurrence, change, matter, thing, condition or circumstance that has a negative effect on the FY20 EBITDA of the Target Group, or that causes an increase in the Target Net Debt, will be disregarded:
- (i) if it is expressly required or permitted to be undertaken or procured by the Target Group pursuant to the Transaction Documents;
 - (ii) to the extent that it has been approved or consented to by the Bidder in writing;
 - (iii) to the extent that it is Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter;
 - (iv) to the extent that it is Fairly Disclosed in any announcement to the ASX made by Target within 18 months prior to the date of this agreement;
 - (v) if it results from or in connection with:
 - A. any actual or proposed change in any applicable law, accounting standard, or policy of a Regulatory Authority after the date of this agreement; or
 - B. general economic, business or political conditions or changes in such conditions (including disruptions to, or fluctuations in financial markets, changes in interest rates or commodity prices and acts of terrorism, war (whether declared or not), natural disaster or the like),

in each case, other than such changes, conditions, or changes in such conditions, that have a disproportionate effect on the Target Group, taken as a whole, as compared to other participants in the industries in which the Target Group operates; or
 - (vi) if it results from or in connection with the exercise of a Specified Right and the Specified Right was Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter; and

- (e) the Target Net Debt will be deemed to not have exceeded the Maximum Target Net Debt if the Target Net Debt would have been equal to or below the Maximum Target Net Debt had all of the 78 pre-sale contracts for Sienna Stage 1 currently forecast to settle during October 2019 (other than those contracts that have been terminated in accordance with their terms prior to the Testing Time) (in this definition **Sienna Pre Sale Contracts**) settled before the Testing Time. For the avoidance of doubt, in circumstances where not all of the Sienna Pre Sale Contracts have settled prior to the Testing Time, the Cash of the Target Group as at the Testing Time will be deemed to have increased by an amount equal to the value of the Sienna Pre Sale Contracts that have yet to settle as at the Testing Time.

Material Contract means each of the following:

- (a) the shareholders agreement dated 8 December 2014 between VWD, CVC Property and Donnybrook;
- (b) each document comprising the Donnybrook Facility;
- (c) the four sale contracts dated 22 January 2016 between Donnybrook and Satterley Property Group Pty Ltd in respect of:
- (i) Lot 1 on proposed Plan of Subdivision PS738413J (Document ID 04.03.05.01.01.01);
 - (ii) Lot 2 on proposed Plan of Subdivision PS738413J (Document ID 04.03.05.01.02.01);
 - (iii) Lot 3 on proposed Plan of Subdivision PS738413J (Document ID 04.03.05.01.03.01); and
 - (iv) Lot 4 on proposed Plan of Subdivision PS738413J (Document ID 04.03.05.01.04.01);
- (d) the four sale contracts dated 20 December 2017 between Donnybrook and 960 Blueways Pty Ltd in respect of:
- (i) Lot 1 on proposed Plan of Subdivision PS817475V (Document ID 04.03.05.02.01.01);
 - (ii) Lot 2 on proposed Plan of Subdivision PS817476T (Document ID 04.03.05.02.02.01);
 - (iii) Lot 3 on proposed Plan of Subdivision PS817477R (Document ID 04.03.05.02.03.01); and
 - (iv) Lot 4 on proposed Plan of Subdivision PS817478P (Document ID 04.03.05.02.04.01);
- (e) the shareholders agreement dated 20 September 2016 between VWD, Arrovest and Villa Green;
- (f) the development and sales management agreement dated 20 September 2016 between Villa Green and VWD;
- (g) the project management agreement between Greenfields Development Company No 2 Pty Limited and VWD in respect of 'The Chase', Oran Park, New South Wales, dated on or about 26 April 2017;
- (h) each document comprising the Greenbank Facility;

- (i) the shareholders agreement dated 19 December 2017 between Wollert, Villa World Wollert Pty Ltd and HB Oracle Pty Ltd
- (j) the development rights and development management agreement between VWP and Wollert dated 19 December 2017;
- (k) the development and sales management agreement between VWD and Wollert dated 19 December 2017;
- (l) each document comprising the Wollert Facility;
- (m) the development agreement dated 2 June 2016 between NSPT Pty Ltd as trustee for the Byron Bay Property Trust, Villa World Byron Pty Ltd and VWD, as varied up to and including the Fourth Variation of Development Agreement dated 13 May 2019;
- (n) the project development rights agreement dated 27 February 2018 between VWD and Caroline Waters Pty Ltd;
- (o) the leases in respect of the premises at 19 Elizabeth Avenue, Broadbeach, Queensland; and
- (p) otherwise, any of the following, entered into by a Target Group Member between the date of this agreement and the Implementation Date (inclusive of those dates):
 - (i) any land acquisition agreement in respect of which the purchase price (inclusive of any deposit, premium, fee or other amount payable) exceeds \$10,000,000 (including any option agreement or other contingent agreement);
 - (ii) any agreement which provides for the sharing of costs in relation to infrastructure or civil works, other than where the costs the subject of the cost sharing arrangement are contemplated by the relevant Project Feasibilities that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter and then only substantially in accordance with the cost and timing of the cash flows set out in such Project Feasibilities;
 - (iii) any agreement with a utility provider pursuant to which the expenditure by a Target Group Member exceeds, will exceed or is likely to exceed \$1,000,000 per annum, other than to the extent that such expenditure is contemplated by the relevant Project Feasibilities that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter and then only substantially in accordance with the cost and timing of the cash flows set out in such Project Feasibilities;
 - (iv) a joint venture or strategic partnership with any person; or
 - (v) any contract or arrangement (including any lease or licence, but excluding any land acquisition agreement) under which the Target Group Member is or may be or become entitled or required to receive revenue, or make expenditure, of more than \$1,000,000 over the life of such contract or arrangement, other than to the extent that such revenue or expenditure is contemplated by the relevant Project Feasibilities that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter and then only substantially in accordance with the cost and timing of the cash flows set out in such Project Feasibilities,

(together, the **Material Contracts**).

Maximum Target Net Debt means \$160,000,000.

MRDC has the meaning given in clause 6.10.

NAB means National Australia Bank Limited.

Non-Liable Person has the meaning given in clause 18.12(b).

Patriot Act means USA PATRIOT Improvement and Reauthorization Act, Pub. L. 109-177 (signed into law March 9, 2006).

Permitted Dividend means a Permitted Full Year Dividend or a Permitted Special Dividend, as the context requires, provided that the aggregate amount of such dividends declared and paid by Target to Target Shareholders between the date of this agreement and the Implementation Date does not exceed \$0.35 per Target Share.

Permitted Full Year Dividend means a full year dividend declared and paid by Target to Target Shareholders between the date of this agreement and the Implementation Date in respect of the Financial Year ending 30 June 2019 (which may be fully franked subject to the availability of franking credits and which, to the extent franked, will not result in the franking account of the Target being in deficit after the payment of the dividend and it would not be in deficit on the assumption that any tax refunds referable to the period prior to the Implementation Date had been received prior to the Implementation Date).

Permitted Special Dividend means a special dividend declared and paid by Target to Target Shareholders between the date of this agreement and the Implementation Date (which may be fully franked subject to the availability of franking credits and which, to the extent franked, will not result in the franking account of the Target being in deficit after the payment of the dividend and it would not be in deficit on the assumption that any tax refunds referable to the period prior to the Implementation Date had been received prior to the Implementation Date).

Policy means the Target Group Gold Complete Policy issued by AIG Australia Limited for directors' and officers' liability, employment practices liability and crime protection in effect at the date of this agreement.

PPSR means the register of security interests maintained in accordance with the *Personal Property Securities Act 2009* (Cth).

Pre Sale Contract has the meaning given in clause 12.4(a)(xviii).

Project Feasibilities means the project feasibilities as disclosed in folder 11.43 in the Data Room, supplementary material in relation to those project feasibilities disclosed in folder 13 of the Data Room and the written questions asked by the Bidder through the Data Room and the written answers to those questions given by the Target and its Representatives through the Data Room in relation to any of those materials.

Recommendation has the meaning given in clause 7.1(a)(i).

Record Date means 7.00 pm (Sydney time) on the date which is 5 Business Days after the Effective Date or such other time and date agreed in writing between Bidder and Target.

Regulator's Draft has the meaning given in clause 4.3(h).

Regulatory Authority means:

- (a) any government or local authority, any department, minister or agency of any government and any other governmental, administrative, fiscal, monetary or judicial body; and

- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange.

Regulatory Guides means all regulatory guides published by ASIC and in force at the date of this agreement.

Regulatory Review Period means the period from the date on which Target provides the Regulator's Draft to ASIC in accordance with clause 4.3(h) to the date on which ASIC provides a letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the Scheme, when the application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting to consider the Scheme is heard.

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant Competing Proposal has the meaning given in clause 10.2(b).

Relevant Interest has the meaning given to that term in the Corporations Act.

Replacement Financing Letters has the meaning given to that term in clause 6.7(a).

Representatives means, in relation to a party, all directors, officers, employees, professional advisers (including financiers, financial advisers, corporate advisers, legal advisers or technical or other expert advisers or consultants) and agents of the party or of its Related Bodies Corporate.

Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders substantially in the form set out in Annexure A or in such other form as Target and Bidder agree in writing.

Scheme Consideration means the amount of \$2.345 per Scheme Share, less the amount of any Permitted Dividend that is declared and paid per Scheme Share.

Scheme Interest has the meaning given in clause 7.1(c)(i)A.

Scheme Meeting means the meeting of Target Shareholders to be convened by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act.

Scheme Share means a Target Share on issue as at the Record Date.

Scheme Shareholder means each person registered in the Target Share Register as the holder of the Scheme Shares as at the Record Date.

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Security Interest has the meaning given in section 12 of the Personal Property Securities Act 2009 (Cth).

Share Registry means Computershare Investor Services Pty Limited of Level 1, 200 Mary Street, Brisbane, Queensland 4000.

Sienna Stage 1 means Stage 1 of the Sienna North project at Fraser Rise, Victoria, comprising of 104 lots.

Specified Right means a right or power of a Third Party under any agreement, arrangement or understanding with a Target Group Member that arises and is able to be exercised solely as

a result of the announcement of, or the entry into or performance of, this agreement or the Scheme or the transactions contemplated by either.

Subsidiary has the meaning given to that term in the Corporations Act.

Suncorp means Suncorp-Metway Ltd.

Superior Proposal means a bona fide Competing Proposal, which in the determination of the Target Board (having regard to written advice from Target's financial advisers), acting in good faith and in order to satisfy what the Target Board reasonably considers, after having received written legal advice from external legal counsel, to be its fiduciary or statutory duties, would, if it is completed substantially in accordance with its terms, be more favourable to Target Shareholders (as a whole) than the Transaction, taking into account all aspects of the Competing Proposal, including but not limited to:

- (a) the value and type of the consideration payable to Target Shareholders under the Competing Proposal and the Tax consequences related to payment of that consideration (as compared to the consideration available under the Transaction);
- (b) the conditions of the Competing Proposal, the likelihood of those conditions being satisfied and the level of certainty in respect of the funding required for the Competing Proposal; and
- (c) the likely timing required to implement or complete the Competing Proposal.

Target Announcement means an announcement by Target a draft of which has been provided to Bidder on or before the date of this agreement.

Target Board means the board of directors of Target.

Target Due Diligence Material means:

- (a) the information and documents disclosed or made available by or on behalf of the Target Group to Bidder and its Representatives, before 1.30 pm on 5 July 2019, in the Data Room; and
- (b) the written questions asked by the Bidder through the Data Room and the written answers to those questions given by the Target and its Representatives through the Data Room, an index of which is attached to the Target Disclosure Letter.

Target Disclosure Letter means the letter executed by Target and given to Bidder immediately before execution of this agreement.

Target Financing Facilities means:

- (a) each document comprising the Donnybrook Facility;
- (b) each document comprising the Greenbank Facility;
- (c) each document comprising the Wollert Facility; and
- (d) the Common Terms Deed.

Target Group means Target and each of its Subsidiaries (each of which is a **Target Group Member**).

Target Incentive Plan means the Villa World Limited Executive Long Term Incentive Plan adopted by Target Board on 30 September 2015.

Target Indemnified Parties means Target and its Related Bodies Corporate and their respective directors, officers and employees, past and present.

Target Information means all information included in the Explanatory Memorandum, other than the Bidder Information, the Independent Expert's Report and any other report or letter issued by a Third Party.

Target Net Debt means all Financial Indebtedness less Cash.

Target Payment means \$2,981,100.

Target Performance Rights means performance rights in respect of Target Shares issued pursuant to the Target Incentive Plan.

Target Prescribed Occurrence means the occurrence of any of the following events:

- (a) Target converts all or any of its securities into a larger or smaller number of securities;
- (b) Target or another Target Group Member (other than a wholly-owned Subsidiary of the Target) resolves to reduce its capital in any way or resolves to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) Target or another Target Group Member (other than a wholly-owned Subsidiary of the Target):
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any Target Group Member issues shares, or grants an option or a performance right over its shares or agrees to make such an issue or grant such an option or a performance right, other than:
 - (i) an issue of shares as a result of the vesting of Target Performance Rights in accordance with clause 8 of this agreement;
 - (ii) an issue of FY20 Target Performance Rights, provided that all such FY20 Target Performance Rights automatically lapse at the time the Scheme becomes Effective at no cost, expense or liability to any one or more Target Group Members; or
 - (iii) to Target or another Target Group Member that is a wholly-owned Subsidiary of Target;
- (e) any Target Group Member issues, or agrees to issue, convertible notes or any other security convertible into shares or debt securities, other than:
 - (i) to Target or another Target Group Member that is a wholly-owned Subsidiary of Target; or
 - (ii) an issue of FY20 Target Performance Rights, provided that all such FY20 Target Performance Rights automatically lapse at the time the Scheme becomes Effective at no cost, expense or liability to any one or more Target Group Members;
- (f) any Target Group Member announces, agrees to pay, declares, determines or pays a dividend, bonus or any other form of distribution of profits or return of capital to its members, other than:

- (i) the Permitted Dividends; or
 - (ii) the declaration and payment by a Target Group Member of a dividend where the recipient of that dividend is Target or another Target Group Member that is a wholly-owned Subsidiary of Target;
- (g) any Target Group Member creates, or agrees to create, any Encumbrance over, or declares itself the trustee of, any part of its business, property or shares, other than:
 - (i) in the ordinary course of its business where the maximum amount secured by such Encumbrances does not exceed \$1,000,000 alone or in aggregate;
 - (ii) liens or charges arising by operation of law or retention of title arrangements in connection with the acquisition of goods in the ordinary course of its business; or
 - (iii) security interests which have been granted as at the date of this agreement pursuant to financing arrangements in existence as at the date of this agreement and any amendment to those arrangements (in each case, which financing arrangements have been disclosed in the Target Due Diligence Material or the Target Disclosure Letter);
- (h) an Insolvency Event occurs in relation to any Target Group Member;
- (i) any Target Group Member ceases, or threatens to cease to, carry on a substantial part of the business which is material to the Target Group as at the date of this agreement;
- (j) any Target Group Member disposes of, or agrees to dispose of, a whole or a substantial or material part of the Target Group's assets or business (taken as a whole);
- (k) any Target Group Member acquires, or agrees to acquire, any securities, business, assets, interest in a joint venture (including entering into any joint venture or strategic partnership), entity or undertaking, which has or could reasonably be likely to have the effect of, or involve, a material change in:
 - (i) the manner in which the Target Group conducts its business;
 - (ii) the extent or value of the assets of the Target Group; or
 - (iii) the extent or value of the liabilities of the Target Group;
- (l) any Target Group Member adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (m) any Target Group Member:
 - (i) increases the remuneration of, or pays any bonus or issues any securities to, any director, executive, officer or employee;
 - (ii) accelerates the rights to benefits of any kind of any director, executive, officer or employee;
 - (iii) pays, gives or agrees to pay or give a termination payment or benefit (including a 'golden parachute') or a payment or benefit upon, or in connection with, a change of control or any other kind of bonus, compensation or benefit to any director, executive, officer or employee; or

- (iv) varies the employment arrangements with any director, executive or officer;

other than:

- (v) an increase of base salary in the ordinary course as part of annual remuneration reviews consistent with past practices, provided such increase does not exceed \$500,000 alone or in aggregate with all other increases;
 - (vi) as provided for in the Target's redundancy policy or an existing employment or services agreement;
 - (vii) any vesting or lapsing of Target Performance Rights in accordance with clause 8 of this agreement;
 - (viii) an issue of FY20 Target Performance Rights, provided that all such FY20 Target Performance Rights automatically lapse at the time the Scheme becomes Effective at no cost, expense or liability to any one or more Target Group Members;
 - (ix) in connection with any one or more voluntary redundancies, provided that the payments made to all such employees in connection with any such redundancy or redundancies (other than payments required under applicable law in respect of accrued leave entitlements) do not exceed \$150,000 in aggregate; or
 - (x) as required by law;
- (n) any Target Group Member incurs, commits or undertakes any capital expenditure (other than in relation to land or property development projects) in excess of \$1,000,000 (individually or in aggregate);
 - (o) the costs of the Target Group incurred in relation to the Transaction which are paid or payable to Third Parties exceed \$7,000,000 (excluding GST);
 - (p) any change is made to the accounting policies which apply to a Target Group Member (other than any change in policy required by a change in the accounting standards applicable to the Target Group as at the date of this agreement);
 - (q) in respect of the Target Financing Facilities:
 - (i) any breach of a covenant or any misrepresentation occurs which is not remedied in accordance with the cure rights under the arrangement, agreement or instrument or any condition or undertaking in relation to any waiver or amendment under any such arrangement, agreement or instrument is breached;
 - (ii) an event of default or potential event of default occurs which is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument;
 - (iii) any amount under the arrangement, agreement or instrument is accelerated; or
 - (iv) the amount of debt is permanently reduced ahead of a maturity date;
 - (r) any Target Group Member enters into, or resolves to enter into, a transaction with any related party of the Target (other than a related party that is a Target Group Member), as defined in section 228 of the Corporations Act;

- (s) any Target Group Member makes, commences, settles, admits liability or makes any concession in relation to any legal proceedings, claim, investigation, arbitration, royal commission or other like proceeding where the amount payable by any one or more Target Group Members, the amount of the claim or the exposure of the Target Group (as applicable) exceeds \$500,000; or
- (t) any Target Group Member authorises, commits, resolves, undertakes or agrees to do, or makes any representation or warranty regarding doing, any of the matters set out above,

other than an event:

- (u) required by law or Regulatory Authority;
- (v) expressly required or permitted to be undertaken or procured by the Target or another Target Group Member pursuant to the Transaction Documents;
- (w) that results from the exercise of a Specified Right, provided and to the extent that the Specified Right was Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter;
- (x) to which Bidder has provided its prior written consent;
- (y) Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter; or
- (z) Fairly Disclosed in any announcement to the ASX made by Target within 18 months prior to the date of this agreement.

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

Target Shareholder means a person who is registered in the Target Share Register as a holder of Target Shares.

Target Shares means fully paid ordinary shares in the capital of Target.

Target Warranties means the warranties made by Target set out in clause 12.4.

Tax means any tax, levy, excise, duty, charge, surcharge, contribution, withholding tax (including royalty withholding tax), impost or withholding obligation of whatever nature, whether direct or indirect, (including any tax payable under a country's foreign source income attribution or anti-tax-deferral rules) by whatever method collected or recovered, together with any fees, penalties, fines, interest or statutory charges in any country or jurisdiction but excluding any stamp duty payable on any transfer of the Scheme Shares pursuant to the Scheme.

Tax Conditions means a condition imposed by the Treasurer under section 74(2) of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) in the form of the conditions set out in "Attachment B" to the Tax Conditions Guidance Note GN 47 published by the Foreign Investment Review Board dated 13 August 2018 (or any other replacement or substitute "standard" taxation conditions that may be issued by the Treasurer from time to time provided that these are not materially more onerous than those applying on the date of this agreement).

Testing Time has the meaning given to it in paragraph (a) of the definition of Material Adverse Change.

Third Party means a person other than Bidder, Target, or their respective Related Bodies Corporate.

Timetable means the indicative timetable in relation to the Scheme set out in Schedule 1, or such other indicative timetable as Target and Bidder agree in writing.

Transaction means the acquisition by Bidder (or a wholly-owned Subsidiary of Bidder) of the Scheme Shares for the Scheme Consideration pursuant to the Scheme.

Transaction Documents means:

- (a) this agreement;
- (b) the Scheme; and
- (c) the Deed Poll.

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

- (a) representatives of each of Target and Bidder;
- (b) representatives from each of the legal advisers of Target and Bidder; and
- (c) such other persons as the parties may agree from time to time.

Treasurer means the Treasurer of the Commonwealth of Australia.

Voting Intention has the meaning in clause 7.1(a)(ii).

Villa Green means Villa Green Pty Ltd.

Villa World Bonds means the "Series A, Tranche 1 Villa World Bonds" with an aggregate principal amount of A\$50 million issued by Target on 21 April 2017.

VWD means Villa World Developments Pty Ltd.

VWP means Villa World Properties Pty Ltd.

Wollert means Wollert JV Pty Ltd.

Wollert Facility means the facility supported by:

- (a) general security agreements each dated 10 September 2018 and granted by each of Wollert, Villa World Wollert Pty Ltd and HB Oracle Pty Ltd in favour of Suncorp over all of their present and after-acquired personal and real property;
- (b) a general security agreement dated 10 September 2018 granted by VWP in favour of Suncorp over all of its assets relating to the development of properties situated at 40 and 60 Bodycoats Road, Wollert, Victoria;
- (c) a deed of guarantee and indemnity dated 10 September 2018 given in favour of Suncorp by each of Villa World Wollert Pty Ltd, VWD and VWP;
- (d) a deed of guarantee and indemnity dated 10 September 2018 given in favour of Suncorp by HB Oracle Pty Ltd; and
- (e) a deed of subordination dated 10 September 2018 between Wollert, Suncorp, HB Oracle Pty Ltd and Ho Bee Land Limited,

and any amendments, variations and/or restatements of any of the above documents entered into on or prior to the date of this agreement that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter.

1.2 Best and reasonable endeavours

Any provision of this agreement which requires a party to use best endeavours or all reasonable endeavours to procure that something is performed or occurs or does not occur does not include any obligation to:

- (a) pay any money or to provide any financial compensation, or any other incentive to or for the benefit of any person in the form of an inducement or consideration except for payment of:
 - (i) any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority; or
 - (ii) reasonable expenses or costs, including costs of advisers, the Independent Expert, the Share Registry, typesetting, printing and despatching the Explanatory Memorandum and any supplementary disclosure, establishing and operating any shareholder information line, placing advertisements regarding the Court process and hiring a venue for the Scheme Meeting,

to procure the relevant thing (except, in each case, in circumstances that are commercially onerous or unreasonable in the context of this agreement);
- (b) agree to commercially onerous or unreasonable conditions; or
- (c) commence or defend any legal action or proceeding against any person,

except, in each case, where that provision expressly specifies otherwise and, for the avoidance of doubt, that party will not breach the relevant provision requiring the use of best or all reasonable endeavours where the party does not procure that the thing is performed or occurs or does not occur as a result of matters outside the control or influence of the party.

1.3 Business Day

If the day on which any act to be done under this agreement is a day other than a Business Day, that act must be done on the immediately preceding Business Day except where this agreement expressly specifies otherwise.

1.4 Interpretation

In this agreement headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;

- (f) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) a reference to an event, matter or circumstance being "**Fairly Disclosed**" to a party means disclosed to that party or any of its Representatives in sufficient detail so as to enable a reasonable buyer experienced in transactions similar to the Transaction and experienced in a business similar to the business conducted by the Target Group, to identify the nature, scope and potential financial impact of the relevant event, matter or circumstance on the Target Group;
- (k) a reference to **\$** or **dollar** is to Australian currency;
- (l) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this agreement;
- (m) a reference to a date or time is to that date or time in Sydney, Australia; and
- (n) this agreement (including any term or condition of it) must not be construed adversely to a party solely on the basis that the party prepared it or caused it to be prepared.

2. Obligations in relation to Scheme

2.1 Target to propose Scheme

- (a) Target agrees to propose the Scheme on and subject to the terms and conditions of this agreement.
- (b) Bidder agrees to assist Target to propose the Scheme on and subject to the terms and conditions of this agreement.

2.2 Bidder may elect a Subsidiary

- (a) Target agrees that Bidder may elect, under this clause 2.2, a wholly-owned Subsidiary of Bidder to acquire all of the Target Shares under the Scheme by giving written notice to Target of that relevant Subsidiary of AVID Property Group Holdings Pty Ltd before the First Court Date, provided that the election of the wholly-owned Subsidiary under this clause 2.2 does not hinder or prevent the satisfaction of the Condition specified in clause 3.1(a) or result in the revocation of the approval obtained pursuant to the Condition specified in clause 3.1(a).
- (b) Bidder warrants that if it elects a wholly-owned Subsidiary to acquire all of the Target Shares pursuant to clause 2.2(a), Bidder and the wholly-owned subsidiary

will both enter into the Deed Poll and Bidder will continue to be bound by this agreement and the Confidentiality Deed.

- (c) For the avoidance of doubt, Bidder warrants that if it elects a wholly-owned Subsidiary to acquire all of the Target Shares pursuant to clause 2.2(a), it will ensure the wholly-owned subsidiary completes the acquisition in accordance with the terms of this agreement and the Deed Poll.

3. Conditions precedent

3.1 Conditions

Subject to this clause 3, the Scheme will not become Effective until each of the conditions listed in the first column of the following table are either satisfied or waived in accordance with clause 3.5:

Condition	Right to benefit & waive	Responsibility to satisfy
<p>(a) (FIRB Approval) before 5.00 pm on the Business Day before the Second Court Date, the Treasurer has either:</p> <ul style="list-style-type: none"> (i) provided written notice that there is no objection under the <i>Foreign Acquisition and Takeovers Act 1975</i> (Cth) to the Scheme, being either unconditional or subject only to: <ul style="list-style-type: none"> A. Tax Conditions; or B. conditions which are acceptable to Bidder, acting reasonably and in good faith; or (ii) become precluded from exercising any power to make an order under the <i>Foreign Acquisition and Takeovers Act 1975</i> (Cth) in relation to the Scheme. 	None	Bidder
<p>(b) (No restraint) no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction, no preliminary or final decision, determination, notice of objection, or order issued by any Regulatory Authority or any other legal restraint preventing any of the transactions contemplated by this agreement is in effect as at 8.00 am on the Second Court Date.</p>	Target and Bidder	Target and Bidder
<p>(c) (Target Prescribed Occurrence) no Target Prescribed Occurrence has occurred or becomes known to Bidder or Target between the date of this agreement and 8.00 am on the Second Court Date;</p>	Bidder	Target

(d)	(Target Shareholder approval) Target Shareholders approve the Scheme by the majorities required under section 411(4)(a)(ii) of the Corporations Act;	None	Target and Bidder
(e)	(Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;	None	Target and Bidder
(f)	(Target Warranties) at all times on and before 8.00 am on the Second Court Date, the Target Warranties are true and correct in all material respects (other than the Target Warranties qualified by materiality, which must be true and correct in all respects) as at the time they are given;	Bidder	Target
(g)	(Bidder Warranties) at all times on and before 8.00 am on the Second Court date, the Bidder Warranties are true and correct in all material respects (other than the Bidder Warranties qualified by materiality, which must be true and correct in all respects) as at the time they are given;	Target	Bidder
(h)	(Employee incentive arrangements) Target has taken all necessary steps by 8.00 am on the Second Court Date to ensure that all outstanding Target Performance Rights vest or lapse before the Record Date, as contemplated by clause 8;	Bidder	Target
(i)	(No Material Adverse Change) no Material Adverse Change occurs or becomes known to Bidder or Target between the date of this agreement and 8.00am on the Second Court Date.	Bidder	Target

3.2 General obligations in relation to Conditions

Without prejudice to any other obligations of the parties under this agreement, in respect of any given Condition:

- (a) if one party is specified in the third column of the table in clause 3.1 opposite that Condition, that party must use its best endeavours to procure that that Condition is satisfied as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require);
- (b) if both parties are specified in the third column of the table in clause 3.1 opposite that Condition, both parties must, to the extent that it is within their respective control or influence, use their best endeavours to procure that that Condition is satisfied as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require); and

- (c) each party must, to the extent that it is within its respective control or influence, use its best endeavours to procure that there is no occurrence that would prevent the Condition being satisfied.

3.3 Obligations in relation to regulatory approvals

- (a) Without limiting clause 3.2, Bidder must use reasonable endeavours to:
- (i) as soon as reasonably practicable, and in any event within two Business Days, apply for FIRB Approval;
 - (ii) take all procedural steps it is responsible for as part of the FIRB Approval process, including responding to requests for information at the earliest practicable time;
 - (iii) keep Target informed of progress in relation to such regulatory approval and of any material matters raised by any Regulatory Authority which relate to the FIRB Approval; and
 - (iv) provide to Target (on a confidential basis) copies of any material written communications sent to or received from any Regulatory Authority in relation to the FIRB Approval,

provided that:

- (v) the Bidder may withhold or redact information or documents if and to the extent that they are confidential to a Third Party; and
 - (vi) nothing in this clause 3.3 or any other provision of this agreement requires Bidder to:
 - A. disclose commercially sensitive information to Target, its Representatives or any other party; or
 - B. accept or agree to any condition or undertaking imposed or proposed by any Regulatory Authority in respect of any regulatory approval (including FIRB Approval), other than:
 - 1) the Tax Conditions; and
 - 2) conditions which are acceptable to Bidder, acting reasonably and in good faith.
- (b) Without limiting clause 3.2, the Target must provide the Bidder with all assistance and information reasonably requested by the applicant (including information in relation to the Target Group and its business, operations and affairs) in connection with the application for and obtaining the FIRB Approval.

3.4 Notice in relation to satisfaction of Conditions

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions in respect of which it is specified in the third column of the table in clause 3.1;
- (b) in relation to any Condition, promptly notify the other party in writing upon becoming aware of the satisfaction of that Condition, in which case the notifying party must also provide reasonable evidence that the Condition has been satisfied; and

- (c) in relation to any Condition, promptly notify the other party in writing of a breach or non-fulfilment of a Condition or any occurrence or event that will prevent, or is reasonably likely to prevent, a Condition from being satisfied.

3.5 Waiver of Conditions

- (a) A Condition is only for the benefit of:
- (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, that party; or
 - (ii) if both parties are specified in the second column of the table in clause 3.1 opposite that Condition, both parties.
- (b) A Condition may be waived and may only be waived:
- (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, by that party by written notice to **the** other party; or
 - (ii) if both parties are specified in the second column of the table in clause 3.1 opposite that Condition, by written agreement between the parties.
- (c) The Conditions in clauses 3.1(a), (d) and (e) cannot be waived.
- (d) A party entitled to waive or to agree to waive a Condition under this clause 3.5 may do so in its absolute discretion subject to the provision of written notice to the other party and subject to whatever conditions that party deems fit.
- (e) Any waiver of a Condition by a party who is entitled to do so pursuant to clause 3.5(b) is only effective if such waiver is given on or prior to 8.00 am on the Second Court Date.
- (f) A party that waives or agrees to waive a Condition is not prevented from bringing a claim against any other party in respect of any breach of this agreement that caused that Condition not to be satisfied.
- (g) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
- (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

3.6 Termination on failure of Conditions

- (a) If any event occurs which would, or in fact does, prevent a Condition in clause 3.1 being satisfied by the date specified for its satisfaction and that Condition is not waived by Target or Bidder or both (as applicable) in accordance with clause 3.5, the parties must consult in good faith to:
- (i) determine whether the Transaction may proceed by way of alternative means or method;
 - (ii) change the date of the application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by

Target and Bidder (being a date no later than 5 Business Days before the End Date);

- (iii) extend the relevant date to a date no later than 5 Business Days before the End Date; or
 - (iv) extend the End Date.
- (b) If the parties are unable to reach an agreement under clause 3.6(a) within 5 Business Days of becoming aware of the relevant occurrence or relevant date or by the End Date, then unless that Condition is waived by Target or Bidder or both (as applicable) in accordance with clause 3.5, either party may terminate this agreement without liability (except under clause 10, if applicable) to the other party because of that termination, unless the relevant occurrence or the failure of the Condition to be satisfied, or of the Scheme to become Effective, arises out of a breach by the terminating party.
- (c) Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination, on termination of this agreement, no party shall have any rights against or obligations to any other party under this agreement except for those rights and obligations which accrued prior to termination.
- (d) If the Condition in clause 3.1(d) (Target Shareholder approval) is not satisfied only because of a failure to obtain the majority required by section 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that section, provided the party has in good faith formed the view that the prospect of the Court exercising its discretion in that way is reasonable. If approval is given, the Condition in clause 3.1(d) (Target Shareholder approval) is deemed to be satisfied for all purposes.

4. Implementation of Scheme

4.1 Scheme

- (a) Target must propose a Scheme to Target Shareholders, pursuant to which all of the Scheme Shares will be transferred to Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration subject to and on the terms and conditions set out in this agreement and the Scheme.
- (b) 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 (such consent not to be unreasonably withheld or delayed).

4.2 Timetable

Each party must:

- (a) use its best endeavours;
- (b) commit reasonably necessary resources (including management and corporate relations resources and the resources of external advisers); and
- (c) procure that its Representatives 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 perform its obligations as set out in this clause 4 in accordance with the Timetable.

4.3 Target's obligations

Target must take all steps reasonably necessary to implement the Scheme as soon as is reasonably practicable after the date of this agreement in accordance with the Timetable and, in particular, Target must:

- (a) **(Explanatory Memorandum)** as soon as practicable after the date of this agreement, prepare the Explanatory Memorandum (excluding the Bidder Information and the Independent Expert's Report) in accordance with all applicable laws and in particular the requirements of the Corporations Act, the Listing Rules and the Regulatory Guides;
- (b) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Explanatory Memorandum (other than the Bidder Information and the Independent Expert's Report);
- (c) **(Directors' Recommendation)** include a statement in the Explanatory Memorandum and the Target Announcement setting out (on the basis of statements made to Target by each Target director) the Recommendation and Voting Intention of each of the Target directors in accordance with clause 7.1(a), unless there has been a change of Recommendation or Voting Intention as permitted by clause 7.1(b) or a withdrawal or non-provision of the Recommendation (but not Voting Intention) as permitted by clause 7.1(c)(i);
- (d) **(Review of Bidder Information)** as soon as practicable after receiving a draft of the Bidder Information pursuant to clause 4.4(a), review and provide comments on the form and content of the Bidder Information to Bidder and liaise with Bidder to finalise the Bidder Information for inclusion in the Explanatory Memorandum;
- (e) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Explanatory Memorandum;
- (f) **(Provide draft Explanatory Memorandum to Bidder)** provide drafts of the Explanatory Memorandum (including, to the extent available, the Independent Expert's Report no later than 5 Business Days prior to provision of the Regulator's Draft (as defined below) to ASIC) to Bidder, consult with Bidder in relation to the content of those drafts, (acting reasonably and in good faith) take into account any comments from Bidder and its Representatives on those drafts and obtain prior written approval from Bidder for the form and content in which the Bidder Information appears in the Explanatory Memorandum (accepting that any review of the Independent Expert's Report by Bidder is to be limited to review for factual accuracy of those parts that include information relating to Bidder and Target makes no representation as to the extent to which the Independent Expert will consider those comments);
- (g) **(Approval of draft Explanatory Memorandum)** procure that a meeting of the Target Board is convened to approve the draft Explanatory Memorandum to be provided to ASIC for its review;
- (h) **(ASIC review)** as soon as reasonably practicable provide an advanced draft of the Explanatory Memorandum (**Regulator's Draft**) to ASIC, for its review and approval for the purposes of section 411(2) of the Corporations Act, and to Bidder and:
 - (i) liaise with ASIC as necessary during the Regulatory Review Period; and
 - (ii) keep Bidder reasonably informed of any matters raised by ASIC in connection with the Explanatory Memorandum or the Scheme and use reasonable endeavours to consult with Bidder to resolve any such

matters and not resolve any such matters without the prior approval of Bidder where such matters relate to the Bidder Information (such approval not to be unreasonably withheld or delayed);

- (i) **(Section 411(17)(b) statement)** apply to ASIC for the production of:
 - (i) a letter stating that ASIC does not intend to appear before the Court on the First Court Date; and
 - (ii) a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (j) **(Court documents)** consult with Bidder in relation to the content of the 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 process, affidavits, submissions and draft minutes of Court orders) and consider in good faith comments on, and suggested amendments to, those documents from Bidder and its Representatives, noting that Target is ultimately responsible for those documents;
- (k) **(First Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting;
- (l) **(Approval of Explanatory Memorandum)** procure that a meeting of the Target Board is convened to approve the Explanatory Memorandum for registration with ASIC and dispatch to Target Shareholders;
- (m) **(Register Explanatory Memorandum)** request that ASIC register the explanatory statement included in the Explanatory Memorandum in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (n) **(Dispatch and compliance with Court orders)** take all reasonable steps necessary to comply with the orders of the Court including, as required, dispatching the Explanatory Memorandum to Target Shareholders, provided that, before dispatch, Target must obtain the written consent of Bidder to the inclusion of the Bidder Information in the Explanatory Memorandum, in the form and context in which it appears (such consent not to be unreasonably withheld or delayed);
- (o) **(Update Explanatory Memorandum)** until the date of the Scheme Meeting, promptly update the Explanatory Memorandum, or where appropriate otherwise inform the market by way of announcement, if it becomes aware of:
 - (i) any information that is required to be disclosed to Target Shareholders in the Explanatory Memorandum under any applicable law, which has not already been disclosed to Target Shareholders; or
 - (ii) any information included in the Explanatory Memorandum that is or has become misleading or deceptive in any material respect or contains any material omission,

and provide such further or new information as is required to ensure that the information is no longer misleading or deceptive in any material respect or contains any material omissions, provided that Target must:

 - (iii) consult with Bidder in relation to the form and content of any updates to the Explanatory Memorandum;

- (iv) acting reasonably and in good faith, take into account any comments from Bidder and its Representatives on such updates (to the extent reasonably practicable in the circumstances);
 - (v) obtain prior written approval from Bidder for any updates to the Bidder Information (such approval not to be unreasonably withheld or delayed); and
 - (vi) obtain the Court's approval for the dispatch of any updated Explanatory Memorandum;
- (p) **(Convene Scheme Meeting)** convene and hold the Scheme Meeting to seek the Target Shareholder's agreement to the Scheme in accordance with the orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (q) **(Court approval application)** if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act (or where clause 3.6 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and subject to all other Conditions (other than the Condition in clause 3.1(e) being satisfied or waived in accordance with this agreement, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (r) **(Bidder Court documents)** to the extent requested by Bidder, review and provide comments on the documents prepared by Bidder 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, noting that the Bidder is ultimately responsible for those documents;
- (s) **(Representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(1) and section 411(4)(b) of the Corporations Act;
- (t) **(Information)** provide all information, or procure that the Share Registry provides all information (including information about the Transaction, the Target and Target Shareholders), to Bidder, in each case in a form reasonably requested by Bidder, which Bidder reasonably requires in order to:
- (i) understand the legal and beneficial ownership of Target Shares, proxy appointments and directions received by Target prior to the Scheme Meeting; and
 - (ii) canvass Target Shareholders support for the Scheme prior to the Scheme Meeting;
- (u) **(Promotion)** participate in efforts reasonably requested by Bidder to promote the merits of the Transaction and the Scheme Consideration, including:
- (i) meeting with key Target Shareholders at the reasonable request of Bidder; and
 - (ii) providing Bidder with such information, assistance and access that Bidder reasonably requests to enable it to promote the merits of the Transaction;
- (v) **(Proxy solicitation)** engaging a proxy solicitation firm at the reasonable request of the Bidder and providing Bidder with information, access and assistance to discussions with the proxy solicitation firm, associated strategy and arrangements that Bidder reasonably requests, provided that Bidder agrees to reimburse Target for all reasonable Third Party fees, costs and expenses reasonably incurred in

complying with Bidder's requests under this paragraph (v) on provision of written evidence of the payment of such Third Party fees, costs and expenses;

- (w) **(Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(e)) have been satisfied or waived in accordance with this agreement and provide a draft of that certificate to Bidder by 5.00 pm on the Business Day prior to the Second Court Date;
- (x) **(Lodge copy of Court order)** if the Scheme is approved by the Court, lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act by no later than 5:00pm on the Business Day immediately following the day on which such office copy is received (or such later date as is agreed between the parties in writing);
- (y) **(ASX listing)** not do anything to cause the Target to cease to be admitted to the ASX, or the Target Shares to cease to continue to be quoted for trading (or be permanently suspended) on ASX, until the close of business on the Business Day after the Implementation Date;
- (z) **(Implementation of Scheme)** if the Scheme becomes Effective:
 - (i) apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date;
 - (ii) close the Target Share Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
 - (iii) provide to Bidder, or procure that the Share Registry provides to Bidder, all necessary information about the Scheme Shareholders that Bidder reasonably requires in order for Bidder to provide, or procure the provision of, the Scheme Consideration in accordance with the Scheme; and
 - (iv) subject to Bidder paying the Scheme Consideration in accordance with its obligations under clause 5 and the Scheme, on the Implementation Date (or as soon as practicable thereafter) register all transfers of Scheme Shares to Bidder in accordance with the Scheme;
- (aa) **(Trading restrictions)** resolve that, subject to the Scheme becoming Effective, any trading restrictions applying to Target Shares shall cease in order that Scheme Shares shall not be prevented from being transferred to Bidder; and
- (bb) **(Other things necessary)** promptly do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme in accordance with all applicable laws and regulations.

4.4 Bidder's obligations

Bidder must take all steps reasonably necessary to assist Target to implement the Scheme as soon as is reasonably practicable after the date of this agreement in accordance with the Timetable and, in particular, Bidder must:

- (a) **(Draft of Bidder Information)** prepare and provide to Target a draft of the Bidder Information as soon as reasonably practicable after the date of this agreement and consult with Target in relation to the content of drafts of the Bidder Information and (acting reasonably and in good faith) take into account any comments from Target and its Representatives on those drafts;

- (b) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Bidder Information;
- (c) **(Final form of Bidder Information)** provide to Target the Bidder Information in a form appropriate for inclusion in the Explanatory Memorandum;
- (d) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report for inclusion in the Explanatory Memorandum;
- (e) **(Liaise with ASIC)** provide reasonable assistance to Target to assist Target to resolve any matter raised by ASIC regarding the Explanatory Memorandum or the Scheme during ASIC's review of the Explanatory Memorandum;
- (f) **(Assistance with Explanatory Memorandum)** promptly provide all assistance and information reasonably requested by Target or its Representatives in connection with the preparation of the Explanatory Memorandum (including any supplementary disclosure to Target Shareholders) and any documents required to be filed with the Court in respect of the Scheme;
- (g) **(Review Explanatory Memorandum)** review the drafts of the Explanatory Memorandum provided by Target and provide comments on those drafts as soon as reasonably practicable and in good faith;
- (h) **(Approval of Bidder Information)** as soon as reasonably practicable after receipt of the final draft Explanatory Memorandum from Target, and in any event, before a draft of the Explanatory Memorandum is lodged with ASIC, and again before the Explanatory Memorandum is dispatched to Target Shareholders, confirm in writing to Target:
 - (i) Bidder's consent to the inclusion of the Bidder Information in the Explanatory Memorandum in the form and context in which it appears in the Explanatory Memorandum (such consent not to be unreasonably withheld or delayed); and
 - (ii) the accuracy and completeness of the Bidder Information, in the form and context in which it appears in the Explanatory Memorandum, including that it is not misleading or deceptive in any material respect and does not contain any material omission;
- (i) **(Update the Bidder Information)** until the date of the Scheme Meeting, promptly inform Target if it becomes aware of:
 - (i) any information that is required to be disclosed to Target Shareholders in the Bidder Information under any applicable law, which has not already been disclosed to Target Shareholders; or
 - (ii) any information included in the Explanatory Memorandum that is or has become misleading or deceptive in any material respect or contains any material omission,

and provide such further or new information as is required to ensure that the information is no longer misleading or deceptive in any material respect or contains any material omissions;
- (j) **(Promote merits of Transaction)** participate in efforts reasonably requested by Target to promote the merits of the Transaction and the Scheme Consideration, including meeting with key Target Shareholders at the reasonable request of Target;

- (k) **(Deed Poll)** by no later than the Business Day prior to the First Court Date, execute the Deed Poll and deliver the executed Deed Poll to Target;
- (l) **(Target Court documents)** review and provide comments on the documents prepared by Target 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, noting that Target is ultimately responsible for those documents;
- (m) **(Bidder Court documents)** consult with Target in relation to the content of the documents required to be prepared by Bidder 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 affidavits) and consider in good faith comments on, and suggested amendments to, those documents from Target and its Representatives, noting that Bidder is ultimately responsible for those documents;
- (n) **(Representation)** procure that, if requested by Target, it is represented by counsel at the Court hearings convened for the purposes of section 411(1) and section 411(4)(b) of the Corporations Act, at which, through its counsel and, if requested by the Court, Bidder will undertake to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme;
- (o) **(Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(e)) have been satisfied or waived in accordance with this agreement and provide a draft of that certificate to Target by 5:00 pm on the Business Day prior to the Second Court Date;
- (p) **(Scheme Consideration)** if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration in accordance with clause 5 and the terms of the Scheme and Deed Poll;
- (q) **(Share transfer)** if the Scheme becomes Effective, accept the transfer of the Scheme Shares as contemplated by clause 4.3(z)(iv) and execute any instruments of transfer required to effect the transfer of the Scheme Shares; and
- (r) **(Other things necessary)** promptly do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme in accordance with all applicable laws and regulations.

4.5 Dispute as to Explanatory Memorandum

If, after a reasonable period of consultation, the parties, each acting reasonably and in good faith, are unable to agree on the form or content of the Explanatory Memorandum, then:

- (a) if the disagreement relates to the form or content of the Bidder Information (or any information solely derived from, or prepared solely in reliance on, the Bidder Information), Target will, acting in good faith, make such amendments to that information in the Explanatory Memorandum as Bidder may require (acting reasonably and in good faith); and
- (b) if the disagreement relates to the form or content of the Target Information (or any information solely derived from, or prepared solely in reliance on, information provided by or on behalf of Target, or extracted from announcements made by Target to ASX regarding the Target Group), Target will, acting reasonably and in good faith, decide the final form of that information in the Explanatory Memorandum.

4.6 Responsibility statement

The Explanatory Memorandum will contain a responsibility statement to the effect that:

- (a) Bidder is responsible for the Bidder Information contained in the Explanatory Memorandum and, to the maximum extent permitted by law, none of the Target Indemnified Parties will be responsible for any of the Bidder Information and each such party will disclaim any liability for the Bidder Information appearing in the Explanatory Memorandum; and
- (b) Target is responsible for the Target Information contained in the Explanatory Memorandum and, to the maximum extent permitted by law, none of the Bidder Indemnified Parties will be responsible for any information contained in the Explanatory Memorandum that is not Bidder Information and each such party will disclaim any liability for any such information.

4.7 Court representation

- (a) Bidder is entitled to separate representation at all Court proceedings relating to the Scheme at its own cost.
- (b) Target must support any application by Bidder for leave of the Court to be represented, or the separate representation of Bidder, at any hearing held by the Court in relation to the Scheme whether following a request by Target or otherwise.

4.8 Appeal process

- (a) If the Court refuses to make orders convening the Scheme Meeting or approving the Scheme, Target must appeal the Court's decision to the fullest extent possible (and Bidder must provide, or procure that a nominee of Bidder provides, all reasonable assistance) except to the extent that:
 - (i) the parties agree in writing otherwise; or
 - (ii) an independent senior counsel of the New South Wales bar advises that, in that senior counsel's opinion, an appeal would have no reasonable prospect of success before the End Date,
 in which case either party may terminate this agreement (and such termination will be in accordance with termination event in clause 14.2(a) or 14.3(a) (as applicable)).
- (b) Bidder and Target share in equal proportions all costs incurred by either of them in Australia as a result of the operation of this clause 4.8, including all legal and other professional expenses (including any counsel fees).

4.9 Reconstitution of Target Board

With effect on and from the Implementation Date, but subject to Bidder having provided the Scheme Consideration in accordance with this agreement and the Scheme, Target must:

- (a) cause the appointment to the Target Board and to the boards of each Subsidiary of Target those persons nominated by Bidder in writing to Target, subject to those persons being appointed having provided a consent to act as directors of the relevant companies;
- (b) cause the appointment to the Target and to each Subsidiary of Target those persons nominated as company secretaries by Bidder in writing to Target, subject to those persons being appointed having provided a consent to act as company secretaries of the relevant companies; and

- (c) procure that all Target directors and secretaries and the directors and secretaries of each Subsidiary of Target (other than, in each case, those appointed pursuant to clause 4.9(a) or 4.9(b), as the case may be) resign,

in each case, in accordance with the Target constitution (or constitution of the relevant Subsidiary of Target, as the case may be), the Corporations Act and the Listing Rules.

4.10 Removal of Target from official list of ASX

If directed by Bidder in writing, Target must take all steps necessary for Target to be removed from the official list of ASX on the Business Day immediately following the Implementation Date.

5. Scheme Consideration

5.1 Scheme Consideration

Subject to the Scheme becoming Effective, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder at the Record Date, subject to and in accordance with the terms of this agreement and the Scheme.

5.2 Bidder undertakings in relation to Scheme Consideration

Bidder undertakes to Target (in the Target's own right and separately as trustee for each of the Scheme Shareholders) that, if the Scheme becomes Effective, in consideration for the transfer to Bidder of all of the Scheme Shares held by Scheme Shareholders under the terms of the Scheme, Bidder will:

- (a) accept that transfer on the Implementation Date;
- (b) pay, or procure the payment, into a trust account operated by or on behalf of Target as trustee for the Scheme Shareholders, of an amount in cleared funds equal to the Aggregate Scheme Consideration by no later than the Business Day before the Implementation Date (provided that any interest on the amount so deposited (less bank fees and other charges) will accrue for the benefit of Bidder), in accordance with the terms of the Scheme.

5.3 Permitted Dividends

- (a) Bidder acknowledges and agrees that, at any time on or prior to the Implementation Date, Target may announce, declare and pay:
- (i) the Permitted Full Year Dividend; and/or
- (ii) subject to the Scheme becoming Effective, the Permitted Special Dividend,
- provided that the aggregate amount of all such dividends does not exceed \$0.35 per Target Share.
- (b) If Target announces, declares and pays a Permitted Dividend in accordance with clause 5.3(a):
- (i) the payment of the Permitted Dividend will be determined by Target, provided that the Permitted Dividend is paid no later than the Implementation Date;

- (ii) the Permitted Dividend may be franked to the maximum extent possible, subject to the franking account of Target not being in deficit after the payment of the Permitted Dividend;
 - (iii) prior to the declaration of or resolution to pay the Permitted Dividend, Target must provide Bidder with supporting documents evidencing (to Bidder's reasonable satisfaction) that the franking account of Target will not be in deficit after the payment of such; and
 - (iv) the Scheme Consideration per Scheme Share will be reduced by the aggregate amount per Scheme Share of the Permitted Dividends.
- (c) In order to ensure sufficient profits or distributable reserves in Target to pay the Permitted Dividend, a Related Body Corporate of Target may pay a dividend out of its profits, retained earnings or distributable reserves (or a combination of all or some of them) to Target or another Target Group Member, provided that such dividend does not result in any deficit in the franking account of the Related Body Corporate of Target and is otherwise in accordance with the Corporations Act.

5.4 Rounding up

Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up to the nearest whole cent.

6. Conduct of business

6.1 Conduct of Target's business

On and from the date of this agreement up to and including the earlier of the Implementation Date and termination of this agreement in accordance with its terms, Target must:

- (a) procure that each Target Group Member:
 - (i) conducts its businesses and operations in the ordinary and usual course and substantially consistent (subject to any applicable laws, regulations and licence conditions) with the manner in which each such business and operation is conducted prior to the date of this agreement including using all reasonable endeavours to preserve its current business: organisation, the services of its current officers and employees and its current relationship with third parties (including Regulatory Authorities, rating agencies, customers, suppliers, licensors, licensees and others having business dealings with it);
 - (ii) keeps Bidder reasonably informed on a timely basis of any material developments concerning the conduct of business;
 - (iii) conducts its businesses and operations in accordance with all applicable laws and regulations;
 - (iv) uses reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (v) maintains at least its current level of insurance; and
 - (vi) complies in all material respects with all Material Contracts to which such Target Group Member is a party and does not waive any rights under any such Material Contract or terminate or amend in any material respect any such Material Contract (or agree to do any of the foregoing);

- (b) ensure that no Target Group Member:
- (i) disposes of any securities, business, asset, interest in a joint venture (including terminating any joint venture or strategic partnership), entity or undertaking, the value of which exceeds \$1,000,000 (individually or in aggregate), to any person other than another entity within the Target Group, excluding:
 - A. any disposal of inventory in the ordinary course of business;
 - B. any disposal required by a condition to any development or permit approval, provided that all such disposals do not have a material adverse impact on the relevant Project Feasibilities as Fairly Disclosed to the Bidder in the Target Due Diligence Material or the Target Disclosure Letter;
 - C. any disposal approved by the Target Board prior to the date of this agreement that has been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter;
 - (ii) acquires or enters into any agreement for any securities, business, assets, interest in a joint venture (including entering into any joint venture or strategic partnership), entity or undertaking, the purchase price of which exceeds \$10,000,000 (individually or in aggregate), from another person other than another entity within the Target Group, excluding:
 - A. any acquisition of building materials or components in the ordinary course of business;
 - B. any acquisition approved by the Target Board that has been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter;
 - (iii) incurs any indebtedness with, or provides any guarantee or security in respect of financial indebtedness to, any financial institution, or provides financial accommodation, irrespective of what form that financial indebtedness, guarantee, security or financial accommodation takes, other than:
 - A. any borrowing from, or the provision of any guarantee, security or financial accommodation to, Target or another Target Group Member; or
 - B. any borrowing or drawdown under the Target Financing Facilities;
 - (iv) indemnifies the obligations of any other person other than a Target Group Member, or amends (or waives any right under) the Target Financing Facilities;
 - (v) either:
 - A. enters into any agreement or arrangement with any new or potential officer or employee (including any person engaged as a contractor who may at law be an employee) (in this clause 6.1(b)(v) a **Relevant Contractor**);
 - B. enters into, varies or amends the terms of any agreement or arrangement with any existing officer or employee (including any Relevant Contractor); or

- C. terminates any agreement or arrangement with any existing officer or employee (including any Relevant Contractor),

in each case, who is a member of the senior management team of the Target Group or, otherwise, in respect of whom (when aggregated with all other such actions) the total remuneration or engagement costs payable by any one or more Target Group Members is in excess of \$150,000 per annum, other than:

- 1) an increase of base salary in the ordinary course as part of annual remuneration reviews consistent with past practices, provided such increase does not exceed \$500,000 alone or in aggregate with all other increases;
 - 2) as provided for in the Target's redundancy policy or an existing employment or services agreement;
 - 3) any vesting of Target Performance Rights in accordance with clause 8 of this agreement;
 - 4) an issue of FY20 Target Performance Rights, provided that all such FY20 Target Performance Rights automatically lapse at the time the Scheme becomes Effective at no cost, expense or liability to any one or more Target Group Members; or
 - 5) as required by law;
- (vi) waives or forgives any loans made to any officer or employee of any Target Group Member;
- (vii) enters into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this agreement;
- (viii) enters into any Material Contract;
- (ix) does, or omits to do, anything which is likely to result in the variation, termination, suspension, revocation or non-renewal of any Material Contract or any licence or authorisation which is material to the operation of the Target Group's business;
- (x) alters, modifies or varies its announced strategy in respect of a land or property development project in a manner that has, or is reasonably likely to have, a material impact on the value of the relevant project;
- (xi) markets or offers for sale any project (as a house or other accommodation and land package or as a land package) other than in accordance with the Project Feasibility in respect of that project to the extent that Project Feasibility has been Fairly Disclosed to the Bidder in the Target Due Diligence Material or the Target Disclosure Letter;
- (xii) markets any project on the basis of a house or other accommodation and land package in any region in which no Target Group Member presently markets any project on such a basis;
- (xiii) makes any material tax election or settle or compromise any material dispute relating to tax; or

- (xiv) authorises, commits, resolves, undertakes or agrees to do, or makes any representation or warranty regarding doing, any of the matters set out above;
- (c) ensure that no Target Prescribed Occurrence occurs,
except to the extent that any action undertaken by Target relates to any matter:
 - (d) that is expressly required or permitted to be undertaken or procured by Target or another Target Group Member pursuant to the Transaction Documents;
 - (e) for which Bidder has provided its prior written consent;
 - (f) which arises as a result of court or Regulatory Authority order, injunction or undertaking or is otherwise required in order to comply with any applicable law or regulation;
 - (g) which has been Fairly Disclosed in any announcement to the ASX made by Target, within 18 months prior to the date of this agreement;
 - (h) which is in accordance with contractual rights and obligations that existed at the date of this agreement, provided such rights and obligations have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter; or
 - (i) which has been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter.

6.2 Change of control provisions

- (a) As soon as practicable after the date of this agreement:
 - (i) Bidder may notify Target of change of control or unilateral termination rights in any Material Contract or any contract of insurance (including any policy) to which Target or a Target Group Member is party that may be triggered by or exercised in response to this agreement, the implementation of the Transaction, or the transactions contemplated by them; and
 - (ii) Target must provide reasonable assistance to Bidder to assist Bidder to identify any change of control or unilateral termination rights in any contract (other than Material Contract identified in paragraphs (a) to (o) of the definition of Material Contract) and any contract of insurance (including any policy) to which Target or a Target Group Member is party and has a value exceeding \$100,000 per annum or the aggregate of an accelerated termination payment arising from a Change of Control event exceeds \$100,000, which may be triggered by or exercised in response to this agreement, the implementation of the Transaction, or the transactions contemplated by them, including (without limitation) any joint venture agreements or joint venture financing agreements,

(**Change of Control Rights**), provided that nothing in this clause 6.2 will require Target to identify any Change of Control Rights.
- (b) In respect of the Change of Control Rights under those contracts (**COC Contracts**):
 - (i) Target and Bidder will use reasonable endeavours to jointly prepare a plan detailing the steps to be taken to address the Change of Control Rights (which, among other things, will have due regard to applicable legal restrictions) and then Target will use reasonable endeavours to initiate contact, with Bidder's assistance including joint discussions if

required, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate in relation to the Change of Control Rights;

- (ii) Target must use reasonable endeavours to ensure that notification is made to, or consent, confirmation and/or waiver is sought from all counterparties to COC Contracts;
 - (iii) Target must consult with Bidder in good faith in relation to the method and content of communications with each COC Contract counterparty that is to receive a notification or request for consent, confirmation and/or waiver;
 - (iv) Target must use its, and must procure that its officers and employees use their, reasonable endeavours to procure consents, confirmations and/or waivers from counterparties to COC Contracts in the manner contemplated by the terms of the relevant COC Contract and in accordance with the arrangements agreed under clause 6.2(b)(iii);
 - (v) Target must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents, confirmations and/or waivers in respect of the Change of Control Rights as soon as practicable, including by promptly providing any information reasonably and customarily required by counterparties in relation to change of control consents.
- (c) Nothing in this clause 6.2 or any other provision of this agreement requires Bidder or Target to agree to any new conditions or to provide any new guarantees or security to a COC Contract counterparty which are not acceptable to Bidder, in its absolute discretion.

6.3 Access

- (a) Between the date of this agreement and the Implementation Date, without limiting the financing cooperation access requirements set out in clause 6.6, Target must provide Bidder and its Representatives with reasonable, non-disruptive access during normal business hours and on reasonable notice to Target's officers, executives, employees, advisers, other personnel and properties, as well as any documents, books, records and other information of Target and other Target Group Members, 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 (including information technology and data);
 - (ii) the Debt Financing;
 - (iii) implementation of the Scheme (including seeking and obtaining any necessary approvals, consents or waivers and other planning arrangements);
 - (iv) preparing for carrying on the business of the Target Group following implementation of the Scheme; and
 - (v) any other purpose which is agreed in writing between the parties (each acting reasonably).
- (b) Nothing in this clause 6.3 requires Target to provide Bidder or its Representatives with any document, record or information:
- (i) concerning Target's directors' consideration of the Transaction; or

- (ii) which would breach any obligation of confidentiality to any Third Party or any applicable privacy law.

6.4 Transaction Implementation Committee

The parties must establish a Transaction Implementation Committee as soon as reasonably practicable after the date of this agreement and work together in good faith, consult with each other and plan to:

- (a) implement the Transaction in accordance with this agreement; and
- (b) ensure the smooth transition of the management of the business and the affairs of the Target Group to Bidder following the implementation of the Scheme, including to oversee and coordinate the matters set out in this clause 6.

6.5 Existing financing and security

- (a) The Target must cooperate with, and undertake all steps reasonably required or requested in connection with any repayment of existing debt of the Target Group as may be required in connection with the Transaction, including:
 - (i) liaising with Bidder in good faith in relation to the use of the existing cash reserves of the Target for this purpose;
 - (ii) liaising with counterparties (including seeking all relevant consent and waivers) in respect of aligning the timeframe for prepayment of existing financing arrangements on the Implementation Date and issuing prepayment and other notices in relation to existing Target Group debt facilities and closing out any hedging positions;
 - (iii) using all reasonable endeavours to obtain payoff letters and procure deeds of release, discharges of real property mortgages and registrations on the PPSR from secured parties in relation to any security interest granted by a Target Group Member in favour of that party and procuring the return of any title documents held by a secured party; and
 - (iv) cooperating in the Bidder's efforts to prepay on the Implementation Date, and to minimise the cost of prepaying, Villa World Bonds, including by seeking the relevant waiver of redemption notice periods under the terms of the Villa World Bonds to allow for redemption on the Implementation Date.
- (b) Bidder agrees to reimburse the Target for all reasonable fees, costs and expenses reasonably incurred in complying with this clause 6.5 on provision of written evidence of the payment of such fees, costs and expenses.

6.6 Financing cooperation

The Target shall use all reasonable endeavours to assist in the provision of information reasonably required by the Bidder under its Debt Documents (to the extent such information is not contained in the Target Due Diligence Material), including that it shall furnish at least 15 Business Days prior to the Implementation Date all documentation and other information with respect to the Target Group Members (to the extent that information is not contained in the Target Due Diligence Material) required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the Patriot Act, as required to satisfy the conditions in the Debt Documents, provided that all relevant documentation and other information required to be furnished by the Target under this clause has been requested in writing at least 30 Business Days prior to the Implementation Date.

6.7 Alternative financing

- (a) Notwithstanding anything to the contrary contained in this agreement, the Debt Commitment Letter may be superseded at the option of Bidder after the date of this agreement but prior to the Implementation Date by instruments (the **Replacement Financing Letters**) that replace the existing Debt Commitments and/or contemplate co-investment by or financing from one or more debt financing sources or other or additional parties, provided that:
- (i) the terms of any Replacement Financing Letter shall not reduce the aggregate amount of the Debt Financing below an amount necessary to fund the Aggregate Scheme Consideration or expand upon the conditions precedent to the Debt Financing as set forth in the Debt Commitment Letter; and
 - (ii) neither the arrangement or negotiation of any Replacement Financing Letters, nor the terms thereof shall be expected to delay the Implementation Date.
- (b) For the purposes of this agreement:
- (i) the references to “Debt Financing” shall include the financing contemplated by the Debt Commitments as permitted by this clause 6.7 to be amended, modified or replaced; and
 - (ii) the references to “Debt Commitment Letter” and “Debt Documents” shall include such documents (including any fee letter in connection with such Debt Commitment Letters) as permitted by this clause 6.7 to be amended, modified or replaced,

in each case from and after such amendment, modification and replacement.

6.8 Business updates

From the date of this agreement up to and including the earlier of the Implementation Date and termination of this agreement in accordance with its terms, Target must use reasonable endeavours to notify Bidder in writing of any of the following matters of which Target becomes aware, and such written notification must include a reasonable summary of the relevant matter to the extent the details are known to Target:

- (a) events, facts, matters or circumstances which have had, or are reasonably likely to have, a material adverse effect on:
 - (i) the financial or operational performance of, or the reputation of, the Target Group (taken as a whole); or
 - (ii) the Target Group’s relationships with Regulatory Authorities or counterparties to Material Contracts;
- (b) changes to the composition of Target’s executive management team;
- (c) any Pre Sale Contract is not valid, binding and enforceable;
- (d) any material breach of this agreement by Target; and
- (e) any material issues or concerns raised by the ATO or any other Regulatory Authority.

Where the ATO or any other Regulatory Authority raises material issues or concerns of a kind referred to in clause 6.8(e) Target must consult with Bidder in good faith in relation to the

manner in which such issues or concerns are addressed, and must keep Bidder reasonably informed of material discussions or communications with the ATO or relevant Regulatory Authority in relation to such issues or concerns.

6.9 Specific updates

From the date of this agreement up to and including the earlier of the Implementation Date and termination of this agreement in accordance with its terms, Target must use reasonable endeavours to notify, consult in good faith with, and take account of any reasonable comments made by Bidder prior to:

- (a) amending, or approving an amendment to, an existing contract with a customer or supplier of a Target Group Member, where:
 - (i) those amendments require the approval of any one or more of the Target Board, Managing Director and Chief Executive Officer under the existing delegations as Fairly Disclosed to the Bidder in the Target Due Diligence Material;
 - (ii) in respect of any contract for project civil construction works, that amendment or proposed amendment would have a negative impact on the relevant project margin of more than \$100,000, other than where authorised by a progress claim certificate provided by the nominated contract superintendent and where that authorisation does not relate to a variation sought by the relevant Target Group Member;
 - (iii) in respect of a supplier of building materials or components to any Target Group Member, that amendment or proposed amendment when aggregated with the cost of any other amendments to similar contracts with any Target Group Member made from the date of this agreement would have a negative impact on the costs to the Target Group of more than \$500,000 for the relevant Financial Year;
 - (iv) in respect of a building sub-contractor to any Target Group Member, that amendment or proposed amendment when aggregated with the cost of any amendments to similar contracts with any Target Group Member made from the date of this agreement would have a negative impact on the costs to the Target Group of more than \$200,000 for the relevant Financial Year; and
 - (v) in respect of corporate supplies or services to any Target Group Member, that amendment or proposed amendment when aggregated with the cost of any amendments to similar contracts with any Target Group Member made from the date of this agreement would have a negative impact on the costs to the Target Group of more than \$100,000 for the relevant Financial Year; or
- (b) contracting or agreeing to contract to sell land where the contract price is less than 95% of the gross realisation for that parcel of land as set out in the relevant Project Feasibility.

6.10 Planning matters

On and from the date of this agreement up to and including the earlier of the Implementation Date and the termination of this agreement in accordance with its terms, Target must ensure that, in relation to each of the Bellmere Queensland (**Bellmere Project**), Caboolture, Queensland (**Caboolture Project**) and Donnybrook, Victoria (**Donnybrook Project**) projects, each relevant Target Group Member consults in good faith with the Bidder prior to:

- (a) lodgement of any formal submission to Moreton Bay Regional Council (**MRDC**) or Economic Development Queensland being a specialist unit of the Department of State Development QLD (**DSD**) to amend the zoning of any land which forms part of either the Bellmere Project or Caboolture Project;
- (b) any proposal being submitted to the DSD seeking its involvement in the planning and development of either the Bellmere Project or the Caboolture Project;
- (c) any submission to the DSD, the relevant local Government authority or any other Government body to re-sequence the zoning entitlements between the Caboolture Project and Bellmere Project; and
- (d) lodgement of any formal submission to Whittlesea Council, the Victorian Planning Authority or a relevant Planning Panel to amend the zoning of any land forming part of the Donnybrook Project or to amend the Precinct Structure Plan for the Donnybrook Project.

7. Recommendation, intentions and announcements

7.1 Target Board Recommendation and Voting Intention

- (a) Target must ensure that the Target Announcement and the Explanatory Memorandum state that each Target director:
 - (i) recommends that Target Shareholders vote in favour of the resolution to approve the Scheme (**Recommendation**); and
 - (ii) intends to cause any Target Shares in which they have a Relevant Interest to be voted in favour of the resolution to approve the Scheme (**Voting Intention**),

which statements must not be qualified in any way other than by words to the effect of “in the absence of a Superior Proposal” and “subject to the Independent Expert concluding and continuing to conclude that the Scheme is in the best interests of Target Shareholders”.
- (b) Bidder acknowledges that, subject to the other terms of this agreement, each Target director may publicly (or otherwise) withdraw, change or in any way qualify their Recommendation or Voting Intention if:
 - (i) there is a Superior Proposal and Target has complied with the procedure in clause 9.6 (if applicable) in respect of such Superior Proposal; or
 - (ii) the Independent Expert concludes in the Independent Expert’s Report (either in the initial report or any update, revision, amendment, addendum or supplementary reports to it) that the Scheme is not in the best interests of the Target Shareholders.
- (c) Bidder acknowledges that, notwithstanding any other term of this agreement:
 - (i) an executive director of Target may publicly (or otherwise) withdraw his or her Recommendation, or not make a Recommendation, to the extent that, after first obtaining written advice from independent senior counsel of the New South Wales bar, Target reasonably determines:
 - A. the executive director has an interest in the Scheme that renders it inappropriate for him or her to make or maintain such Recommendation (**Scheme Interest**); and
 - B. the Court would be unlikely to grant an order:

- 1) under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting; or
- 2) under section 411(4)(b) and 411(6) of the Corporations Act approving the Scheme,

solely as a result of the Scheme Interest; and

- (ii) Target will not be in breach of any term of this agreement, and will not be liable to Bidder under this agreement, solely as a result of an executive director of Target publicly (or otherwise) withdrawing his or her Recommendation, or not making a Recommendation, as permitted by clause 7.1(c)(i),

provided, in each case, the executive director of Target does not otherwise adversely change or adversely qualify his or her Recommendation or recommend, endorse or support a Competing Proposal, whether publicly or otherwise.

7.2 Confirmation and undertaking

Target represents and warrants to Bidder that each Target director has confirmed its Recommendation and Voting Intention, and Target undertakes in favour of Bidder to use its best endeavours to procure that each Target director maintains, and no Target director (publicly or otherwise) withdraws, changes or in any way qualifies, the Recommendation or Voting Intention of any Target director other than in the circumstances referred to in clause 7.1(b)(i), clause 7.1(b)(ii) or, in the case of a Recommendation (but not Voting Intention), clause 7.1(c).

7.3 Notification of change of Recommendation

During the Exclusivity Period, Target must promptly notify Bidder if it becomes aware that any executive director of Target is likely or has determined to withdraw his or her Recommendation, or not make a Recommendation, in the circumstances referred to in clause 7.1(c), by no later than:

- (a) two Business Days before the date on which Target believes that the executive director will determine to withdraw his or her Recommendation or not make a Recommendation; or
- (b) if Target does not become aware of the potential that the executive director will determine to withdraw his or her Recommendation or not make a Recommendation or its timing until after such determination has been made, the date on which Target becomes aware of that determination.

7.4 Announcements

- (a) Immediately after the execution of this agreement:
 - (i) Target must issue the Target Announcement to the ASX; and
 - (ii) Bidder must issue the Bidder Announcement.
- (b) Subject to clause 7.4(c), Bidder and Target must not make a public announcement or public disclosure of the Transaction or any other transaction the subject of this agreement, the Deed Poll, the Scheme or the Debt Documents other than in a form approved by Target or Bidder (as applicable) in writing (acting reasonably). Such approval must not be unreasonably withheld, conditioned or delayed.

- (c) Where Target or Bidder is required by applicable law, the Listing Rules or the requirements of any Regulatory Authority to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this agreement, the Deed Poll, the Scheme or the Debt Documents, it may do so to the extent legally required and only then after it has used must use all reasonable endeavours, to the extent practicable in the circumstances, to notify and consult with the other party prior to making the relevant announcement or disclosure and take account of any reasonable comments received from the other party in relation to the form and content of the announcement or disclosure.

8. Performance Rights

On or before 8.00 am on the Second Court Date, Target must put in place arrangements so that, subject to the Scheme becoming Effective:

- (a) all Target Performance Rights outstanding as at the date of this agreement vest or lapse before the Record Date; and
- (b) the number of Target Performance Rights that will vest by no later than the Record Date will not exceed 1,967,346.

9. Exclusivity arrangements

9.1 No existing discussions

- (a) Target represents and warrants that, other than the discussions with Bidder and its Representatives in respect of the Transaction, as at the date of this agreement, neither Target nor any of its Representatives is currently in negotiations or discussions in respect of any Competing Proposal with any person (whether directly or indirectly) and Target has not directed any of its Representatives to commence or continue any such negotiations or discussions (whether directly or indirectly).
- (b) From the date of this agreement, Target must promptly enforce the terms of any confidentiality agreement entered into with any person (other than Bidder or its Representatives) in relation to any Competing Proposal in the 12 months before the execution of this agreement, and must promptly request, or must procure that the relevant Target Group company requests, the return or destruction of the Target Group's confidential information in accordance with the terms of that confidentiality agreement, and terminate their access to the Target Group's confidential information under that confidentiality agreement.
- (c) Target agrees not to waive, and to enforce, any standstill obligations of any such person (other than Bidder or its Representatives).

9.2 No shop

During the Exclusivity Period, Target must not, and must ensure that its Representatives do not, except with the prior written consent of Bidder, directly or indirectly solicit, invite, initiate or encourage any Competing Proposal or any inquiry, expression of interest, offer, proposal, negotiations or discussions by or with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to any person to do any of those things.

9.3 No talk and no due diligence

Subject to clause 9.4, during the Exclusivity Period, Target must not, and must ensure that its Representatives do not, except with the prior written consent of Bidder, directly or indirectly:

- (a) enter into, continue or participate in any negotiations or discussions with, or accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding with, any Third Party in relation to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which may reasonably be expected to lead to a Competing Proposal; or
- (b) make available to any Third Party, or permit any Third Party to receive, any non-public information relating to any Target Group Member in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, or which could reasonably be expected to encourage or lead to a Competing Proposal (including without limitation providing such information for the purposes of the conduct of due diligence investigations in respect of the Target in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, or which could reasonably be expected to encourage or lead to a Competing Proposal); or
- (c) communicate to any person an intention to do anything referred to in this clause 9.3.

9.4 Limitation to no talk and no due diligence

Target, its Related Bodies Corporate and their Representatives may undertake any action that would otherwise be prohibited by clause 9.3 in relation to a bona fide written Competing Proposal which:

- (a) was not solicited by any one or more of them, or otherwise brought about, as a result of any breach by it of its obligations under this clause 9;
- (b) is or is reasonably likely to be a Superior Proposal (provided the procedure in clause 9.6 has been followed); and
- (c) the Target Board, acting in good faith and after having considered written advice from the Target Board's external legal advisers, determines that not undertaking that act would be likely to involve a breach of the Target directors' fiduciary or statutory duties.

9.5 Notification of approaches

During the Exclusivity Period, Target must notify Bidder in writing as soon as reasonably practicable (and in any event within 24 hours), if it, or any of its Representatives, receives or becomes aware of any:

- (a) approach or proposal, whether written or otherwise, made to Target or any of its Representatives in connection with a Competing Proposal, and such notice must include reasonable details of the approach or proposal, including the fact that such approach or proposal has been made, the details and identity of the party making the approach or proposal (and if different, details and identity of the proposed bidder or acquirer), the terms and conditions of the approach or proposal and any material updates to the approach or proposal; or
- (b) provision by Target or any of its Representatives of 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 the person formulating, developing or finalising an actual, proposed or potential Competing Proposal, now or in the future.

9.6 Matching right

- (a) Target must:

- (i) not, and must procure that its Related Bodies Corporate do not, enter into any agreement, arrangement or understanding (whether conditional or otherwise) in relation to the implementation of any Competing Proposal; or
- (ii) ensure that no Target director:
 - A. withdraws, changes or in any way qualifies his or her Recommendation or Voting Intention (other than as permitted by this agreement); or
 - B. recommends, supports or endorses a Competing Proposal,

unless:

- (iii) the Competing Proposal is a Superior Proposal; and
- (iv) Target has provided Bidder with written notification of all of the material terms and conditions of the Competing Proposal (including the fact that the Competing Proposal has been made, the detail and identity of the party or parties making the Competing Proposal (and if different, details and identity of the proposed bidder or acquirer), the terms and conditions of the Competing Proposal and any material updates to the Competing Proposal); and
- (v) as at the date that is three Business Days after the date on which Target provided Bidder with such terms and conditions, either:
 - A. Bidder has not proposed an amendment to the Scheme which constitutes an irrevocable offer to Target (**Bidder Counter Proposal**); or
 - B. Bidder has delivered a Bidder Counter Proposal to Target which the Target Board, acting in good faith, determines (after having taken written advice from Target's external legal and financial advisers) is not more favourable (as a whole) to Target Shareholders than the Competing Proposal.

Target's obligations under this clause 9.6(a) apply in respect of each new Competing Proposal and any variation or amendment to an existing Competing Proposal.

- (b) If the Target Board determines, acting in good faith and having taken the advice from its legal and financial advisers, that the terms and conditions of the Bidder Counter Proposal taken as a whole are at least as favourable to Target Shareholders as those of the relevant Competing Proposal, then:
 - (i) Target and Bidder must each use their best endeavours to agree and enter into such amendments to this agreement and the Scheme and such other documentation as are necessary to give effect to and implement the Bidder Counter Proposal as soon as reasonably practicable; and
 - (ii) promptly following such amendments or documentation having been agreed and entered into, Target must ensure that the Target Board publicly announces its unanimous recommendation of the Bidder Counter Proposal.
- (c) If Bidder makes a Bidder Counter Proposal, Target must ensure that the Target Board considers such proposal as soon as practicable and must notify Bidder of the

Target Board's determination in respect of such proposal within 5 Business Days of the Bidder Counter Proposal being made.

9.7 Normal provision of information

Nothing in this clause 9 prevents Target from:

- (a) providing information to its Representatives;
- (b) providing information to any Regulatory Authority;
- (c) providing information to its auditors, advisers, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information to its advisers acting in that capacity in connection with the Transaction or a Competing Proposal;
- (e) providing information required to be provided by law, Listing Rules or any Regulatory Authority; or
- (f) making presentations to brokers, portfolio investors, analysts and other Third Parties in the ordinary course of business or for the purposes of promoting the Transaction.

10. Reimbursement of Costs

10.1 Background to Target Payment

- (a) The parties each acknowledge that, if they enter into this agreement and the Scheme is subsequently not implemented, Bidder will incur significant costs including those set out in clause 10.4.
- (b) In these circumstances, Target has agreed that provision be made for the payment outlined in clause 10.2, without which Bidder would not have entered into this agreement or otherwise agreed to implement the Scheme.
- (c) Target and the Target Board believe, having taken advice from their advisers, that the implementation of the Scheme will provide benefits to Target Shareholders and that it is appropriate for Target to agree to the payment referred to in clause 10.2 in order to secure Bidder's participation in the Transaction.

10.2 Target Payment

- (a) Target must pay the Target Payment to Bidder if:
 - (i) during the Exclusivity Period, any of the Target directors:
 - A. withdraws, changes or in any way qualifies his or her Recommendation or Voting Intention (other than, in the case of a Recommendation (but not Voting Intention), as permitted by clause 7.1(c)); or
 - B. recommends, supports or endorses a Competing Proposal,
 unless:
 - C. the Independent Expert concludes in the Independent Expert's Report (including the initial report or any update, revision, amendment, addendum or supplementary reports to

- it) that the Scheme is not in the best interests of Target Shareholders, except where the Independent Expert reached such conclusion as a result (in whole or in part) of a Competing Proposal; or
- D. Target is entitled to terminate this agreement pursuant to clause 14.3(b)(i) and has given the appropriate termination notice to Bidder;
- (ii) subject to clause 10.2(b), a Competing Proposal is announced or made at any time before the end of the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and, within 12 months of the date of such announcement, the Third Party making such proposal or an Associate of that Third Party:
- A. completes a Competing Proposal; or
- B. acquires a Relevant Interest in more than 50% of the Target Shares under a transaction that is or has become wholly unconditional or otherwise comes to Control Target or acquires substantially all of the assets of Target; or
- (iii) Bidder becomes entitled to terminate this agreement under clause 14.2(b)(i), has given appropriate termination notice to Target and terminates this agreement on the basis of such entitlement.
- (b) Target is not required to pay the Target Payment to Bidder in the circumstances described in clause 10.2(a)(ii)A if, and only if:
- (i) the Competing Proposal (**Relevant Competing Proposal**) is a Competing Proposal of the kind referred to in paragraph (c) of the definition of Competing Proposal;
- (ii) the Relevant Competing Proposal is the direct result of an acquisition of a Relevant Interest by a Third Party in accordance with item 9 of section 611 of the Corporations Act; and
- (iii) neither Target, nor its Representatives, directly or indirectly, at any time before the end of the Exclusivity Period:
- A. enter into, continue or participate in any negotiations or discussions with, or accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding with, any Third Party in relation to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which may reasonably be expected to lead to, the Relevant Competing Proposal; or
- B. make available to any Third Party, or permit any Third Party to receive, any non-public information relating to any Target Group Member in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, or which could reasonably be expected to encourage or lead to the Relevant Competing Proposal (including without limitation providing such information for the purposes of the conduct of due diligence investigations in respect of the Target in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, or which could reasonably be expected to encourage or lead to the Relevant Competing Proposal);

- C. otherwise assist or facilitate any Third Party in connection with the Relevant Competing Proposal; or
 - D. communicate to any person an intention to do anything referred to in this clause 10.2(b)(iii).
- (c) For the avoidance of doubt, the Target Payment will not be payable merely by reason that:
- (i) the Scheme is not approved by Target Shareholders at the Scheme Meeting; or
 - (ii) an executive director of Target publicly (or otherwise) withdraws his or her Recommendation, or does not make a Recommendation, as permitted by clause 7.1(c).

Nothing in this clause 10.2(c) limits or otherwise restricts the obligation on the Target to pay, or the payment itself of, the Target Payment in circumstance where this agreement otherwise requires or permits.

10.3 Timing

- (a) A demand by Bidder for payment of the Target Payment under clause 10.2 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 into which the Target is to pay the Target Payment.
- (b) Target must pay the Target Payment into the account nominated by Bidder, without set-off or withholding, within seven Business Days after receiving a demand for payment where Bidder is entitled under clause 10.2 to the Target Payment.

10.4 Basis of Target Payment

The Target Payment has been calculated to reimburse Bidder for costs including the following:

- (a) fees for legal, financial and other professional advice in planning and implementing the Transaction (excluding success fees);
- (b) costs of management and directors' time in planning and implementing the Transaction;
- (c) out of pocket expenses incurred by Bidder and Bidder's employees, advisors and agents in planning and implementing the Transaction; and
- (d) reasonable opportunity costs incurred in pursuing the Transaction and in not pursuing other alternative acquisitions or strategic initiatives which could have been developed to further business and objectives,

and the parties agree that:

- (e) the costs actually incurred by Bidder will be of such a nature that they cannot all be accurately ascertained;
- (f) the Target Payment is a genuine and reasonable pre-estimate of those costs; and

- (g) both parties have received advice from their respective legal advisors on the operation of this clause 10.

10.5 No payment if Scheme becomes Effective

No Target Payment is payable if the Scheme becomes Effective. To the extent that any amount has already been paid under this clause 10 and the Scheme becomes Effective, such amount must be refunded to Target within 5 Business Days.

10.6 Target Payment payable once

Where the Target Payment becomes payable to Bidder under clause 10.2 and is actually paid to Bidder, Bidder cannot make any claim against Target for payment of any subsequent Target Payment.

10.7 Compliance with law

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 Target Payment required to be paid under clause 10.2 (**Impugned Amount**):

- (a) is unlawful;
 - (b) involves a breach of directors' duties; or
 - (c) constitutes unacceptable circumstances or breaches an order of the Takeovers Panel,
- then,
- (d) the requirement to pay the Target Payment does not apply to the extent of the Impugned Amount; and
 - (e) if Bidder has received the Impugned Amount, it must refund it within 5 Business Days of the final determination being made.

11. Liability of directors, officers and employees

11.1 Liability of directors, officers and employees

To the maximum extent permitted by law, each party releases all rights against, and agrees that it will not make any claim against, the respective past or present directors, officers and employees of each of the other party and the other party's Related Bodies Corporate in relation to:

- (a) information provided to the first party in relation to the Transaction; or
- (b) any breach of any representations, covenants and warranties of the other party in this agreement,

except to the extent that the relevant director, officer or employee has not acted in good faith or has engaged in fraud or wilful misconduct.

11.2 Directors and officers insurance

Bidder acknowledges that Target will:

- (a) arrange for the cover provided under the Policy for a further period until the End Date; and

- (b) by no later than the Implementation Date, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a 7 year period from the Implementation Date, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until the end of that 7 year period.

11.3 Obligations in relation to directors and officers insurance

From the Implementation Date, Bidder must procure that Target does not:

- (a) vary or cancel the Policy in any material respect; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim under the Policy as extended pursuant to clause 11.2(b) above.

11.4 Directors and officers indemnities

- (a) Without limiting any other term of this agreement, from the Effective Date for the Scheme, Bidder undertakes to Target that it will, in respect of each deed of indemnity, access and insurance (**Relevant Deed**) made by a Target Group Member (**Relevant Entity**) in favour of a Target Indemnified Party from time to time procure that:
 - (i) the Relevant Entity complies with the Relevant Deed; and
 - (ii) to the extent that the Relevant Entity ceases to exist after the Implementation Date, each Target Indemnified Party has the benefit of a deed from Bidder on terms no less favourable to the Target Indemnified Party than those contained in the Relevant Deed as at the Effective Date.
- (b) This clause 11.4 applies to the maximum extent permitted by the Corporations Act and will be read down accordingly.

11.5 Compliance with law and benefit

- (a) Clause 11.1 is subject to any restriction under the Corporations Act and will (if and to the extent required) be read down accordingly.
- (b) The parties agree that:
 - (i) Target holds the benefit of this clause 11 to the extent it relates to each Target Indemnified Party as trustee for them, and, as such, each such Target Indemnified Party may enforce this clause 11 against Bidder; and
 - (ii) Bidder holds the benefit of this clause 11 to the extent it relates to each Bidder Indemnified Party as trustee for them, and, as such, each such Bidder Indemnified Party may enforce this clause 11 against Target.

12. Representations, warranties and indemnities

12.1 Representations and warranties by Bidder

Bidder represents and warrants to Target (on its own behalf and separately as trustee for each of the Target Indemnified Parties) that:

- (a) on each date from the date of this agreement until (and including) the Second Court Date:

- (i) it is a company properly incorporated and validly existing under the laws of its place of incorporation;
 - (ii) the execution and delivery by Bidder of the Transaction Documents to which Bidder is party has been properly authorised by all necessary corporate action and Bidder has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;
 - (iii) the Transaction Documents to which Bidder is party constitute legal, valid and binding obligations on it, enforceable in accordance with their terms, and do not conflict with or result in a breach of or default under:
 - A. the constitution or equivalent constituent documents of Bidder or any of its Subsidiaries; or
 - B. any writ, order or injunction, judgment, law, rule or regulation to which Bidder or any of its Subsidiaries is party, or by which Bidder or any of its Subsidiaries is bound; and
 - (iv) other than as expressly contemplated by clause 3, no shareholder or Regulatory Authority approvals are required to be obtained by the Bidder Group in order for it to execute and perform the Transaction Documents to which it is a party;
- (b) on each date from the date of this agreement until (and including) the Implementation Date, no Insolvency Event has occurred in relation to Bidder or any other member of the Bidder Group, nor has any regulatory action of any nature been taken that would prevent or restrict the Bidder's ability to fulfil its obligations under this agreement;
- (c) on the First Court Date, the date of the Scheme Meeting, the Second Court Date and each date in between:
- (i) the Bidder Information has been prepared and included in the Explanatory Memorandum in good faith and on the understanding that Target and the Target Indemnified Parties have relied on that information for the purposes of considering and approving the Target Information in the Explanatory Memorandum and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the Bidder Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides), and includes all information regarding Bidder, its Related Bodies Corporate and the Scheme Consideration that is required by the Corporations Act, Regulatory Guides and Listing Rules to be included in the Explanatory Memorandum;
 - (iii) the Bidder Information in the form and context in which it appears in the Explanatory Memorandum is not misleading or deceptive in any material respect and does not contain any material omission;
 - (iv) Bidder has complied with its obligations under clause 4.4(i);
 - (v) all information provided by or on behalf of Bidder to the Independent Expert is not misleading or deceptive in any material respect and does not contain any material omission and has been prepared and provided in good faith and on the understanding that the Independent Expert has

relied on the information for the purposes of preparing the Independent Expert's Report; and

- (vi) 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;
- (d) on each date from the date of this agreement until (and including) the Implementation Date, neither Bidder nor 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 or under which the Target Shareholder agrees to vote in favour of the Scheme or against any Competing Proposal;
- (e) on each date from the date of this agreement until (and including) the Implementation Date, neither Bidder nor any of its Associates has any agreement, arrangement or understanding with any director, officer or employee of Target relating in any way to the Transaction;
- (f) on each date from the date of this agreement until (and including) the Implementation Date, the Bidder has a reasonable basis to expect that it will, by the Business Day prior to the Implementation Date, have funds sufficient to perform its obligations under the Transaction Documents, if the Schemes become Effective;
- (g) as at 8.00am on the Second Court Date, the Bidder will have sufficient cash amounts (whether from internal cash resources or external financial commitments, or a combination of both) available to it on an unconditional basis (other than conditions relating to the approval of the Court and related procedural matters or documentary requirements which, by their terms or nature, can only be satisfied or performed after the Second Court Date) to ensure that the Scheme Consideration is paid to Scheme Shareholders in accordance with the terms of this agreement, the Scheme and the Deed Poll;
- (h) on each date from the date of this agreement until (and including) the Implementation Date, the Debt Commitment Letter provided to Target before the date of this agreement:
 - (i) is a true and complete copy executed by all parties thereto;
 - (ii) has not been terminated, modified, assigned, novated or rescinded, and no event has occurred which with notice, lapse of time or both, would result in a default under the Debt Commitment Letter; and
 - (iii) is enforceable in accordance with its terms and Bidder is not in default thereunder,

and Bidder has not waived, or agreed to waive, any of its rights under the Debt Commitment Letter; and
- (i) on each date from the date of this agreement until (and including) the Implementation Date, the Equity Commitment Letters provided to Target before the date of this agreement:
 - (i) are a true and complete copy executed by all parties thereto;
 - (ii) have not been terminated, modified, assigned, novated or rescinded, and no event has occurred which with notice, lapse of time or both, would result in a default under the Equity Commitment Letters; and

- (iii) are enforceable in accordance with their terms and Bidder is not in default thereunder,

and Bidder has not waived, or agreed to waive, any of its rights under the Equity Commitment Letters.

12.2 Bidder warranty certificate

Bidder must provide to Target by 8.00am on the Second Court Date a certificate signed by a director of Bidder and made in accordance with a resolution of the Bidder Board stating, as at that date, that the representations or warranties given by Bidder in clause 12.1 remain true and correct or, if any such representation or warranty is not true and correct as at that date, providing complete particulars of the facts and matters which make the representation or warranty untrue or incorrect.

12.3 Reliance on Bidder Warranties

- (a) Bidder acknowledges and agrees that in entering into this agreement Target and the Target Indemnified Parties have relied on the Bidder Warranties.
- (b) Bidder indemnifies Target (on its own behalf and separately as trustee for each of the Target Indemnified Parties) against any claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising, which may be suffered or incurred by reason of any breach of any of the Bidder Warranties.

12.4 Representations and warranties by Target

Target represents and warrants to Bidder (on its own behalf and separately as trustee for each of Bidder Indemnified Parties) that:

- (a) on each date from the date of this agreement until (and including) the Second Court Date:
 - (i) Target is a company properly incorporated and validly existing under the laws of its place of incorporation;
 - (ii) the execution and delivery by Target of the Transaction Documents to which Target is party has been properly authorised by all necessary corporate action and Target has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;
 - (iii) the Transaction Documents to which Target is party constitute legal, valid and binding obligations on it, enforceable in accordance with their terms, and do not conflict with or result in a breach of or default under:
 - A. the constitution or equivalent constituent documents of Target or any of its Subsidiaries; or
 - B. any writ, order or injunction, judgment, law, rule or regulation to which Target or any of its Subsidiaries is party, or by which Target or any of its Subsidiaries is bound; and
 - (iv) other than as expressly contemplated by clause 3, no shareholder or Regulatory Authority approvals are required to be obtained by the Target Group in order for Target to execute and perform the Transaction Documents to which it is a party;

- (v) the Target Group has all material licences, permits, authorisations and approvals necessary for it to conduct its business in the manner in which it is conducted as at the date of this agreement and which the Target Group is required to hold as at the relevant dates on which this Target Warranty is given and, as far as Target is aware, no member of the Target Group is in material breach of, or default under, any such licence, permit, authorisation or approval, nor has any member of the Target Group received, as at the date of this agreement, any notice in respect of the termination, revocation, variation or non-renewal of any such licence, permit, authorisation or approval;
- (vi) as far as the Target is aware, the Target has complied in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and as at the date of this agreement is not withholding any information (other than the fact of its discussions and negotiations with Bidder relating to the Transaction and the subject matter of this agreement) from ASX under Listing Rule 3.1A that has not been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter;
- (vii) each Target Group Member has complied in all material respects with all applicable laws and regulations and orders of Regulatory Authorities having jurisdiction over them, including (without limitation):
 - A. financial services laws and regulations;
 - B. privacy and data protection laws and regulations;
 - C. Tax laws and regulations;
 - D. employment laws and regulations; and
 - E. laws and regulations relating to anti-money laundering, anti-bribery and anti-corruption (including the Australian laws implemented pursuant to the OECD Anti-Bribery Convention),

in each case in each applicable jurisdiction in which the Target Group operates, and Target is not aware of any material breach of any such laws or regulations or orders of any such Regulatory Authorities by any Target Group Member;
- (viii) each member of the Target Group has complied in all material respects with each Material Contract to which it is a party;
- (ix) as at the date of this agreement, no Target Group Member is aware of any intention on the part of any counterparty to a Material Contract to terminate such Material Contract or amend the terms of such Material Contract in any material respect;
- (x) no outstanding calls or demands have been made under, or in respect of, any of the Target Financing Facilities;
- (xi) there is no existing or unremedied material breach of, nor any material default, event of default, potential event of default, cancellation event, review event, prepayment event or similar event currently subsisting under, any of the Target Financing Facilities;
- (xii) no member of the Target Group is a party to or the subject of any investigation, action, proceeding, dispute, claim, demand, notice, direction, declaration, inquiry, arbitration, mediation, dispute resolution or litigation that will or may have a material adverse effect on the trading or

financial performance, profitability, prospects or reputation of the Target Group (taken as a whole);

- (xiii) there is no material change to the accounting policies which apply to a Target Group Member (other than any change in policy required by a change in the accounting standards applicable to the Target Group as at the date of this agreement);
- (xiv) the Target Disclosure Letter includes particulars of all Third Party costs incurred by, or which Target has a reasonable basis to expect will or may become payable or be paid by, the Target Group in connection with the Transaction (including all success fees and incentive fees, but excluding any costs or expenses incurred in relation to any act, matter or thing requested by Bidder under or in connection with this agreement (such as fees payable to any proxy solicitation firm engaged at the request of Bidder under clause 4.3(v) and costs incurred in connection with Bidder's efforts to prepay the Villa World Bonds on the Implementation Date));
- (xv) the Target Due Diligence Material have been prepared, compiled and made available to Bidder by the Target in good faith and with due care and skill and, as at the date of this agreement, Target is not aware of any information:
 - A. contained in the Target Due Diligence Material that is false, misleading or deceptive in any material respect (including by omission); or
 - B. which is not included in the Target Due Diligence Material and which could reasonably be expected to be material to:
 - 1) the financial position or financial performance of the Target Group and its businesses, operations and affairs; and/or
 - 2) the evaluation of the Target Group and its businesses, operations and affairs by a reasonable buyer;
- (xvi) there are 125,159,925 Target Shares on issue as at the date of this agreement, and Target has not issued (and is not required to issue) any other securities or instruments or rights which are still outstanding (or may become outstanding) and which may convert to Target Shares other than the 1,967,346 Target Performance Rights referred to in clause 8;
- (xvii) true and complete copies of each of the following have been disclosed to the Buyer in the Target Due Diligence Material:
 - A. Queensland pro forma contracts, being the relevant contracts in Data Room folder 04.13.01;
 - B. New South Wales pro forma contracts, being the relevant contracts in Data Room folder 04.13.03;
 - C. Victoria pro forma contracts, being the relevant contracts in Data Room folder 04.13.02;

collectively, in this clause 12.4(a), **Pro Forma Contracts**;
- (xviii) each unsettled outstanding pre sale contract between a Target Group Member and a purchaser of a residential house and/or land property

disclosed in the Data Room under folder 04.13.05 (Sample of Executed Project Sale Contracts) and associated documents (each a **Pre Sale Contract**) is substantially in the form of a Pro Forma Contract, other than pre sale contracts associated with the display villages, with amendments necessary to reflect the project and whether the contract is pre-registration or post registration contract;

- (xix) the document disclosed in the Data Room with Document ID 13.137.01 (Unsettled Contracts as at 120619) is a true and complete statement of the unsettled Pre Sale Contracts entered into by a Target Group Member as at the date of that document;
- (xx) as far as the Target is aware as at the date of this agreement, each Pre Sale Contract is valid, binding and enforceable;
- (xxi) as far as Target is aware, no Target Group Member is in material breach of, or liable to make any payments under any warranty or indemnity given in, any Pre Sale Contracts (other than in respect of any defects warranty claim arising in the ordinary course in respect of any individual Pre Sale Contracts, provided that, when aggregated with claims of the same or a similar nature, such claims are not, or are not reasonably likely to be material to the Target);
- (xxii) as far as Target is aware as at the date of this agreement, no circumstance exists which would enable a party to validly rescind or otherwise terminate any Pre Sale Contract that is unconditional other than in respect of conditions to be satisfied by a Target Group Member (**Unconditional Pre Sale Contract**);
- (xxiii) as at the date of this agreement, parties to not more than 5% of the Unconditional Pre Sale Contracts have given any notice rescinding otherwise terminating or purporting to rescind or otherwise terminate or advising of an intention to rescind or otherwise terminate such contracts;
- (xxiv) as at the date of this agreement, there are no contracts that are in force to which any Target Group Member is a party (other than the Material Contracts listed in paragraphs (a) to (o) of the definition of Material Contract), that is or provides for:
 - A. a land acquisition agreement in respect of which the purchase price (inclusive of any deposit, premium, fee or other amount payable) exceeds \$10,000,000 (including any option agreement or other contingent agreement);
 - B. an agreement which provides for the sharing of costs in relation to infrastructure or civil works, other than where the costs the subject of the cost sharing arrangement are contemplated by the relevant Project Feasibilities that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter and then only substantially in accordance with the cost and timing of the cash flows set out in such Project Feasibilities;
 - C. an agreement with a utility provider pursuant to which the expenditure by a Target Group Member exceeds, will exceed or is likely to exceed \$1,000,000 per annum, other than to the extent that such expenditure is contemplated by the relevant Project Feasibilities that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter and then only substantially in accordance with the cost and timing of the cash flows set out in such Project Feasibilities;

- D. a joint venture or strategic partnership with any person; or
 - E. an contract or arrangement (including any lease or licence, but excluding any land acquisition agreement) under which the Target Group Member is or may be or become entitled or required to receive revenue, or make expenditure, of more than \$1,000,000 over the life of such contract or arrangement, other than to the extent that such revenue or expenditure is contemplated by the relevant Project Feasibilities that have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter and then only substantially in accordance with the cost and timing of the cash flows set out in such Project Feasibilities; and
- (xxv) no Target Group Member is a party to any financing facility or similar arrangements with any financial institution other than the Target Financing Facilities or as has otherwise been Fairly Disclosed in the Target Due Diligence Material;
- (b) on the First Court Date, the date of the Scheme Meeting and the Second Court Date and each date in between:
- (i) the Target Information has been prepared and included in the Explanatory Memorandum in good faith and on the understanding that Bidder and the Bidder Indemnified Parties have relied on that information for the purposes of considering and approving the Bidder Information in the Explanatory Memorandum and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the Target Information does not contain a statement which is misleading or deceptive in any material respect and does not contain any material omission;
 - (iii) the Target Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides); and
 - (iv) 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; and
- (c) there are no Encumbrances over any its business or property, other than:
- (i) Encumbrances granted in the ordinary course of business where the maximum amounts secured by such Encumbrances do not exceed \$1,000,000 alone or in aggregate;
 - (ii) liens or charges arising by operation of law or retention of title arrangements in connection with the acquisition of goods in the ordinary course of its business;
 - (iii) security interests granted pursuant to financing arrangements in existence as at the date of this agreement and any amendment to those arrangements (in each case, which financing arrangements have been disclosed in the Target Due Diligence Material or the Target Disclosure Letter); and
 - (iv) Encumbrances that would have been disclosed in a search of the PPSR in relation to any Target Group Member prior to the date of this agreement; and

- (d) on each date from the date of this agreement until (and including) the Implementation Date, no Insolvency Event has occurred in relation to Target, nor has any regulatory action of any nature been taken that would prevent or restrict the Target's ability to fulfil its obligations under this agreement.

12.5 Qualification of Target Warranties

- (a) The Target Warranties and the indemnity under clause 12.7(b), are subject to and qualified by matters which:
- (i) are expressly required or permitted to be undertaken or procured by the Target or another Target Group Member pursuant to the Transaction Documents;
 - (ii) result from the exercise of a Specified Right, provided and to the extent that the Specified Right was Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter;
 - (iii) are within the actual knowledge of Bidder or its Representatives as at the date of this agreement;
 - (iv) have been Fairly Disclosed in the Target Due Diligence Material or the Target Disclosure Letter; or
 - (v) have been Fairly Disclosed in any announcement to the ASX made by Target, within 18 months prior to the date of this agreement.
- (b) If any Target Warranty is qualified by the Target's awareness or knowledge, the facts of which the Target is aware or that are within the Target's knowledge are given by reference to the actual awareness, knowledge or belief of Craig Treasure, Lorelei Nieves, Michael Vinodolac, Brad Scale, Peter Wood, Andrew Ashwood, John Myers and Robyn Valmadre at the relevant time or would have been aware at the relevant time had that person made due and careful enquiries of their direct reports.

12.6 Target warranty certificate

Target must provide to Bidder by 8.00am on the Second Court Date a certificate signed by a director of Target and made in accordance with a resolution of the Target Board stating, as at that date, that the representations or warranties given by Target in clause 12.4 remain true and correct or, if any such representation or warranty is not true and correct as at that date, providing complete particulars of the facts and matters which make the representation or warranty untrue or incorrect.

12.7 Reliance on Target Warranties

- (a) Target acknowledges and agrees that in entering into this agreement Bidder and the Bidder Indemnified Parties have relied on the Target Warranties.
- (b) Target indemnifies Bidder (on its own behalf and separately as trustee for each of the Bidder Indemnified Parties) against any claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising, which may be suffered or incurred by reason of any breach of any of the Target Warranties.

12.8 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 12.

12.9 Status of representations and warranties

Each representation and warranty in this clause 12:

- (a) is severable;
- (b) will survive the termination of this agreement; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this agreement.

12.10 Status and enforcement of indemnities

- (a) Each indemnity in this agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this agreement.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this agreement.

12.11 Timing of representations and warranties

Each representation and warranty made or given under clauses 12.1 or 12.4 is given at the date of this agreement, the date the Explanatory Memorandum is dispatched to Target Shareholders and as at 8.00 am on the Second Court Date, unless that representation or warranty is expressed to be given only at a particular time, in which case, it is given only at that time.

13. Confidentiality and communications

13.1 Confidentiality Deed

Each party acknowledges and agrees that they continue to be bound by the Confidentiality Deed after the date of this agreement in respect of all information received by it from the other party on, before or after the date of this agreement and that the terms of this agreement will prevail over the terms of the Confidentiality Deed to the extent of any inconsistency.

13.2 Survival of obligations

The rights and obligations of the parties under the Confidentiality Deed survive termination of this agreement.

13.3 Disclosure on termination of agreement

The parties agree that, if this agreement is terminated under clause 14, any party may disclose:

- (a) the fact that this agreement has been terminated, where such disclosure is required by the Listing Rules or is in the reasonable opinion of that party required to ensure that the market in its securities is properly informed; and
- (b) the fact that this agreement has been terminated to ASIC.

14. Termination and remedies

14.1 Limited termination events

This agreement may only be terminated by either party in the circumstances contemplated by clauses 14.2 and 14.3, or if the parties agree in writing to terminate this agreement.

14.2 Termination by Bidder

Bidder may terminate this agreement at any time before 8.00 am on the Second Court Date:

- (a) in accordance with clause 3.6; or
- (b) by notice in writing to Target if:
 - (i) Target is in material breach of any of clause of this agreement (including material breach of any Target Warranties or in relation to a Target Prescribed Occurrence), provided that Bidder is only entitled to terminate if it has given notice to Target setting out the relevant circumstances and stating an intention to terminate and the relevant circumstances have continued to exist 5 Business Days (or any shorter period ending at 5.00 pm on the day one Business Day before the Second Court Date) from the time such notice is received by Target;
 - (ii) any Target director:
 - A. withdraws, changes or in any way qualifies his or her Recommendation or Voting Intention (other than as permitted under clause 7.1(c)); or
 - B. recommends, supports or endorses a Competing Proposal, in each case, for any reason, whether or not permitted to do so under this agreement (other than as permitted by clause 7.1(c)); or
 - (iii) Target enters into any agreement or arrangement in relation to the implementation of any Competing Proposal.

14.3 Termination by Target

Target may terminate this agreement at any time before 8.00 am on the Second Court Date:

- (a) in accordance with clause 3.6; or
- (b) by notice in writing to Bidder if:
 - (i) as at the time before 8.00 am on the Second Court Date, Bidder is in material breach of any clause of this agreement (including material breach of any Bidder Warranties), provided that Target is only entitled to terminate if it has given notice to Bidder setting out the relevant circumstances and stating an intention to terminate and the relevant circumstances have continued to exist 5 Business Days (or any shorter period ending at 5.00 pm on the day one Business Day before the Second Court Date) from the time such notice is received by Bidder; or
 - (ii) a majority of Target directors:
 - A. withdraw, change or in any way qualify their Recommendations or Voting Intentions; or

- B. recommend, support or endorse a Competing Proposal,
- in each case, where permitted to do so under this agreement; or
- (iii) the Independent Expert concludes in the Independent Expert's Report (including the initial report or any update, revision, amendment, addendum or supplementary reports to it) that the Scheme is not in the best interests of Target Shareholders, and does not change or withdraw those statements or recommendations once made.

14.4 Effect of termination

If this agreement is terminated:

- (a) the provisions of this agreement shall cease to have effect except for the provisions of clauses 1, 10, 11, 13, 14.4, 14.5, 14.6, 14.7 and 15 to 17 (inclusive), 18.1 to 18.6 (inclusive), 18.8 to 18.12 (inclusive) and 19 which will survive termination; and
- (b) subject to any rights or obligations arising under or pursuant to those clauses referred to in clause 14.4(a) which will survive termination, no party shall have any rights against or obligations to any other party under this agreement, except for those rights and obligations accrued prior to termination of the agreement.

14.5 Termination

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

14.6 Remedies

The parties acknowledge that damages may not be a sufficient remedy for breach of this agreement. Specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this agreement by any party, notwithstanding the ability of the other party to terminate this agreement or seek damages for such a breach or threatened breach or to demand payment of the Target Payment.

14.7 Target's limitation of liability

Notwithstanding any other provision of this agreement and other than in the case of fraud or wilful default, the maximum liability of Target to Bidder under or in connection with this agreement will be the amount of the Target Payment and no further damages, fees, expenses or reimbursements of any kind will be payable by Target under or in connection with this agreement.

15. Notices

15.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) may be given by personal service, post or email;
- (b) must be in writing and in English;
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

(i) if to Target:

Address: Level 1
19 Elizabeth Avenue
Broadbeach Queensland 4218
Australia

Email: BScale@villaworld.com.au

Attention: Brad Scale

with a copies to:

Email: CTreasure@villaworld.com.au

Email: julian.donnan@allens.com.au

Email: chelsey.drake@allens.com.au

(ii) if to Bidder:

Address: Suite 02, Level 35
259 George Street
Sydney NSW 2000
Australia

Email: cholt@avid.com.au

Attention: Cameron Holt

with copies to:

Email: anthony.kingsley@proprium.com

Email: rmoriarty@claytonutz.com

- (d) (in the case of personal service or post) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (e) (in the case of email) must state that the email is a communication under this agreement; and
- (f) must be delivered by hand or posted by prepaid post to the address or sent by email to the email address, of the addressee, in accordance with this clause 15.1.

15.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of delivery by hand) on delivery; and

- (d) (in the case of email) unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of clause 15.1, 4 hours after the email was sent,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day (**working day** meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

16. GST

16.1 Interpretation

- (a) Except where the context suggests otherwise, and subject to clause 16.1(b), terms used in this clause have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) "Input tax credit" has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* and a reference to an input tax credit entitlement of an entity includes an input tax credit for an acquisition made by that entity but to which another member of the same GST group is entitled.
- (c) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (d) Any consideration for a supply that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to that supply for the purpose of this clause.

16.2 Reimbursements and similar payments

Any payment or reimbursement required to be made under this agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

16.3 GST payable

- (a) If GST is payable in relation to a taxable supply made under or in connection with this agreement then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must, subject to clause 16.1(d), pay an additional amount to the Supplier equal to the amount of that GST at the same times as other consideration is to be provided for that supply.
- (b) No payment of any amount pursuant to clause 16.3(a) is required until the Supplier has provided a valid tax invoice to the Recipient.
- (c) Where additional amounts are payable between parties to this agreement pursuant to clause 16.3(a), amounts so payable, to the extent they are equivalent in amount, shall be set off against each other as if paid and each party shall be obliged only to provide the tax invoice referred to in clause 16.3(b) no later than the time at which any consideration is to be first provided for that supply.
- (d) If the GST payable in relation to a supply made under or in connection with this agreement varies from the additional amount paid by the Recipient under clause 16.3(a) then the Supplier must promptly issue an adjustment note to the Recipient and will provide a corresponding refund or credit to, or will be entitled to

receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause is deemed to be a payment, credit or refund of the additional amount payable under clause 16.3(a).

17. Entire agreement

The Transaction Documents and the Confidentiality Deed constitute the entire agreement between the parties in relation to their subject matter and supersede all previous agreements and understandings between the parties in relation to their subject matter.

18. General

18.1 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements expressly set out in this agreement and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this agreement, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement.

18.2 Amendments

This agreement may only be varied by a document signed by or on behalf of each party.

18.3 Assignment

- (a) Subject to clause 18.3(b) below, a party may not assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.
- (b) Bidder may assign, grant a security interest over, novate or otherwise transfer by way of security, any of its rights or obligations under this agreement to a financier or financiers (or a security agent or security trustee thereof) without the prior written consent of Target solely for the purpose of obtaining finance or providing security in connection with the Transaction.

18.4 Consents

Unless this agreement expressly provides otherwise, a consent under this agreement may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

18.5 Costs

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing each Transaction Document.

18.6 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

18.7 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this agreement.

18.8 No merger

A party's rights and obligations do not merge on completion of any transaction contemplated by this agreement.

18.9 Severance

If any provision or part of a provision of this agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

18.10 Stamp duties

Bidder must pay all stamp duties and any related fines and penalties in respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement and is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause 18.10.

18.11 Waivers

Without limiting any other provision of this agreement, the parties agree that:

- (a) failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement;
- (b) a waiver given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party; and
- (c) no waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

18.12 No recourse

- (a) Only the parties to this agreement shall have any obligation or liability under or in respect of this agreement.
- (b) Notwithstanding anything that may be expressed or implied in this agreement, no recourse shall be had against:
 - (i) any current or future affiliate of Bidder or any portfolio company of such affiliate;

- (ii) any current or future direct or indirect shareholder, member, director or officer, general or limited partner, controlling person or beneficial owner of Bidder or any affiliate or portfolio company referred to in clause 18.12(b)(i); or
- (iii) any of the respective representatives, successors or assigns of any person referred to in clauses 18.12(b)(i) or 18.12(b)(ii),

it being expressly agreed and acknowledged that no liability whatsoever shall attach to, be imposed on or otherwise be incurred by any person referred to clauses 18.12(b)(i), 18.12(b)(iii) or 18.12(c) (each a **Non-Liable Person**) for any obligation of any party under this agreement or for any claim based on, in respect of or by reason of any such obligation.

- (c) Bidder holds the benefit of this clause 18.12 as trustee for each Non-Liable Person such that each Non-Liable Person may enforce this clause 18.12 notwithstanding that such Non-Liable Person is not a party to this agreement.

19. Governing law, jurisdiction and service of process

19.1 Governing law

This agreement is governed by the law applying in New South Wales, Australia.

19.2 Jurisdiction

Each party irrevocably:

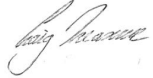
- (a) submits to the non exclusive jurisdiction of the courts of New South Wales, Australia the courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 19.2(a).

Schedule 1 Timetable

Event	Date
Send Explanatory Memorandum to ASIC	August 2019
First Court Date	September 2019
Scheme Meeting	October 2019
Second Court Date (SCD)	October 2019
Effective Date	SCD
Record Date	SCD + 5 Business Days
Implementation Date	SCD + 10 Business Days

Executed as an agreement.

Executed by Villa World Limited ACN 117 546 326 in accordance with section 127 of the Corporations Act 2001 (Cth):



Signature of director

Craig Treasure

Full name of director



Signature of company secretary/~~director~~

Bradley Scale

Full name of company secretary/~~director~~

Executed by AVID Property Group Australia Pty Limited ABN 76 608 061 874 in accordance with section 127 of the Corporations Act 2001 (Cth):



Signature of director

ANTHONY KINGSLEY

Full name of director



Signature of company secretary/director

CAMERON HOLT

Full name of company secretary/director

Annexure A - Scheme

Scheme of arrangement made under section 411 of the Corporations Act

Date

Parties Villa World Limited ACN 117 546 326 of Level 1, 19 Elizabeth Avenue, Broadbeach, Queensland, Australia, 4218 (**Target**)

Each Scheme Shareholder

Background

- A. Target and Bidder have entered into the Implementation Agreement, pursuant to which, amongst other things, Target agreed to propose this Scheme to Scheme Shareholders and each of Target and Bidder agreed to take certain steps to give effect to this Scheme.
- B. If this Scheme becomes Effective, Bidder will provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the provisions of this Scheme and the Deed Poll, and Bidder will acquire all Scheme Shares and Target will enter Bidder in Target Share Register as the holder of the Scheme Shares subject to and in accordance with the provisions of this Scheme.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

Unless the context requires otherwise, in this Scheme:

Aggregate Scheme Consideration means the aggregate amount of the Scheme Consideration payable to Scheme Shareholders for all Scheme Shares under the Scheme.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

Bidder means AVID Property Group Australia Pty Limited ABN 76 608 061 874.

Business Day means a day which is a "Business Day" within the meaning given in the Listing Rules.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited, a wholly-owned subsidiary of ASX.

Condition means each condition specified in clause 3.1 of the Implementation Agreement.

Corporations Act means the Corporations Act 2001 (Cth).

Court means the Federal Court of Australia or such other court of competent jurisdiction as Target and Bidder agree in writing.

Deed Poll means a deed poll to be executed by Bidder in favour of the Scheme Shareholders, substantially in the form set out in Annexure B to the Implementation Agreement or in such other form as Target and Bidder agree in writing.

Effective means, when used in relation to the Scheme, 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 the Scheme.

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

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date 6 months after the date of the Implementation Agreement or such other date agreed in writing between Target and Bidder.

Implementation Agreement means the scheme implementation agreement between Target and Bidder, dated [insert date].

Implementation Date means the date which is 5 Business Days after the Record Date or such other date as Target and Bidder agree in writing.

Listing Rules means the official listing rules of the ASX.

Marketable Parcel has the meaning given to that term in the Listing Rules.

Permitted Dividend means a Permitted Full Year Dividend or a Permitted Special Dividend, as the context requires, provided that the aggregate amount of all such dividends declared and paid by Target to Target Shareholders between the date of the Implementation Agreement and the Implementation Date does not exceed \$0.35 per Target Share.

Permitted Full Year Dividend means a full year dividend declared and paid by Target to Target Shareholders between the date of the Implementation Agreement and the Implementation Date in respect of the financial year ending 30 June 2019 (which may be fully franked subject to the availability of franking credits and which, to the extent franked, will not result in the franking account of Target being in deficit after the payment of the dividend and it would not be in deficit on the assumption that any tax refunds referable to the period prior to the Implementation Date had been received prior to the Implementation Date).

Permitted Special Dividend means a special dividend declared and paid by Target to Target Shareholders between the date of the Implementation Agreement and the Implementation Date (which may be fully franked subject to the availability of franking credits and which, to the extent franked, will not result in the franking account of Target being in deficit after the payment of the dividend and it would not be in deficit on the assumption that any tax refunds referable to the period prior to the Implementation Date had been received prior to the Implementation Date).

Record Date means 7.00 pm (Sydney time) on the date which is 5 Business Days after the Effective Date or such other time and date agreed in writing between Bidder and Target.

Registered Addresses means in relation to a Scheme Shareholder, the address of the Scheme Shareholder as recorded in Target Share Register.

Regulatory Authority means:

- (a) any government or local authority, any department, minister or agency of any government and any other governmental, administrative, fiscal, monetary or judicial body; and

- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange.

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Representatives means, in relation to a party, all directors, officers, employees, professional advisers (including financiers, financial advisers, corporate advisers, legal advisers or technical or other expert advisers or consultants) and agents of the party or of its Related Bodies Corporate.

Scheme means this scheme of arrangement subject to any alterations or conditions made or required by Court under section 411(6) of the Corporations Act and agreed to by Bidder and Target in writing.

Scheme Consideration means the amount of \$2.345 per Scheme Share, less the amount of any Permitted Dividend that is declared and paid per Scheme Share.

Scheme Meeting means the meeting of Target Shareholders convened by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act.

Scheme Share means a Target Share on issue as at the Record Date.

Scheme Shareholder means each person registered in the Target Share Register as the holder of the Scheme Shares as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Security Interest has the meaning given in section 12 of the Personal Property Securities Act 2009 (Cth).

Separate Account has the meaning given in clause 6.3(c).

Share Registry means Computershare Investor Services Pty Limited of Level 1, 200 Mary Street, Brisbane, Queensland 4000.

Subsidiary has the meaning given to that term in the Corporations Act.

Target Board means the board of directors of Target.

Target Group means Target and each of its Subsidiaries (each of which is a **Target Group Member**).

Target Incentive Plan means the Villa World Limited Executive Long Term Incentive Plan adopted by Target Board on 30 September 2015.

Target Performance Rights means performance rights in respect of Target Shares issued pursuant to the Target Incentive Plan.

Target Share 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.

Target Shareholder means a person who is registered in the Target Share Register as a holder of Target Shares.

Target Shares means fully paid ordinary shares in the capital of Target.

Transaction means the acquisition by Bidder (or a wholly-owned Subsidiary of Bidder) of the Scheme Shares for the Scheme Consideration pursuant to the Scheme.

Trust Account means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by or on behalf of Target as trustee for the Scheme Shareholders (except that any interest on the amount deposited, less bank fees and other charges, will accrue for the benefit of Bidder), details of which Target must notify to Bidder no later than 5 Business Days before the Implementation Date.

Unclaimed Money Legislation has the meaning given in clause 6.3(c).

1.2 Business Day

If the day on which any act to be done under this Scheme is a day other than a Business Day, that act must be done on the immediately preceding Business Day except where this Scheme expressly specifies otherwise.

1.3 Listing rules are law

A Listing Rule or business rule of a financial market or securities exchange will be regarded as a law for the purposes of this Scheme.

1.4 Interpretation

In this Scheme headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this Scheme) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this Scheme, and a reference to this Scheme includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

- (j) a reference to **\$** or **dollar** is to Australian currency;
- (k) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this Scheme;
- (l) a reference to a date or time is to that date or time in Sydney, Australia; and
- (m) this Scheme (including any term or condition of it) must not be construed adversely to a party solely on the basis that the party prepared it or caused it to be prepared.

2. Preliminary matters

2.1 Target

- (a) Target is a public company limited by shares, incorporated in Australia and registered in the State of Victoria.
- (b) Target is admitted to the official list of ASX and Target Shares are officially quoted on the ASX.
- (c) As at the date of the Implementation Agreement, Target had the following securities on issue:
 - (i) 125,159,925 Target Shares; and
 - (ii) 1,967,346 Target Performance Rights.

2.2 Bidder

Bidder is a proprietary company limited by shares, incorporated in Australia and registered in the State of Victoria.

2.3 Implementation Agreement

Bidder and Target have agreed, by executing the Implementation Agreement, to implement this Scheme (among other things).

2.4 Deed Poll

Bidder has agreed, by executing the Deed Poll, to perform its obligations under this Scheme, including the obligation to provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of the Scheme.

3. Conditions precedent

3.1 Conditions

The Scheme is conditional on and will not become Effective unless and until each of the following conditions precedent is satisfied:

- (a) all of the Conditions in clause 3.1 of the Implementation Agreement (other than the Condition in clause 3.1(e) of the Implementation Agreement relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Implementation Agreement by 8.00am on the Second Court Date;
- (b) neither the Implementation Agreement nor Deed Poll is terminated in accordance with its terms before 8.00am on the Second Court Date;

- (c) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with such alterations or other conditions made or required by the Court under section 411(6) of the Corporations Act, as are acceptable to Target and Bidder (each acting reasonably);
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act, as are acceptable to Target and Bidder (each acting reasonably) are satisfied or waived; and
- (e) 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) approving this Scheme coming into effect pursuant to section 411(10) of the Corporations Act.

3.2 Certificates

- (a) Target and Bidder must each provide to the Court on the Second Court Date a certificate, or such other evidence as the Court may require or request, confirming (in respect of matters within their knowledge) whether or not as at 8.00am on the Second Court Date all of the conditions set out in clause 3.1 (other than the conditions in clauses 3.1(c) to 3.1(e) above) have been satisfied or waived in accordance with this Scheme and the Implementation Agreement.
- (b) The certificates given by Target and Bidder under clause 3.2(a) constitute conclusive evidence that the conditions set out in clause 3.1 (other than the conditions in clauses 3.1(c) to 3.1(e) above) have been satisfied or waived in accordance with this Scheme and the Implementation Agreement.

3.3 End Date

Without limiting any rights under the Implementation Deed, 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 Implementation Deed or the Deed Poll is terminated in accordance with its terms before the Scheme becomes Effective,

unless Target and Bidder otherwise agree in writing (and, if required, as approved by the Court).

4. Effect of the Scheme

If this Scheme becomes Effective:

- (a) in consideration for the transfer of each Scheme Share to Bidder, Bidder will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll;
- (b) all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Bidder; and
- (c) Target will enter the name of Bidder in the Target Share Register in respect of all the Scheme Shares.

5. Implementation of the Scheme

5.1 Lodgement of Court orders

For the purposes of section 411(10) of the Corporations Act, Target must lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme as soon as possible following such approval and, in any event, by no

later than 5.00pm on the Business Day immediately following the day on which it receives such office copy (or such later date as is agreed between the parties in writing).

5.2 Transfer of Scheme Shares

Subject to the Scheme becoming Effective, on the Implementation Date:

- (a) subject to Bidder providing or procuring the provision of the Scheme Consideration in the manner contemplated by clause 6.2(b) of this Scheme and the Deed Poll, all of the Scheme Shares, together with all rights and entitlements attaching to them at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target or any of its directors, officers or secretaries, as agent and attorney of the Scheme Shareholders under clause 9.5 of this Scheme or otherwise) by:
 - (i) Target delivering to Bidder a duly completed and executed Scheme Transfer to transfer all of the Scheme Shares to Bidder, executed on behalf of the Scheme Shareholders by Target in its capacity as their agent and attorney; and
 - (ii) Bidder duly executing such Scheme Transfer and delivering the executed and, if necessary, stamped, Scheme Transfer to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 5.2(a)(ii), Target entering, or procuring the entry of, the name of Bidder in the Target Share Register in respect of all the Scheme Shares.

6. Scheme Consideration

6.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, on the Implementation Date, in consideration for the transfer of the Scheme Shares to Bidder, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder in accordance with this clause 6 and the Deed Poll.

6.2 Provision of Scheme Consideration

- (a) Bidder must provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with its obligations under clause 6.2(b).
- (b) The obligation of Bidder to provide, or procure the provision of, the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll will be satisfied by Bidder:
 - (i) paying, or procuring the payment, into the Trust Account, of an amount in cleared funds equal to the Aggregate Scheme Consideration by no later than one Business Day before the Implementation Date to be held by or on behalf of Target on trust for the Scheme Shareholders (provided that any interest on the amount so deposited, less bank fees and other charges, will accrue for the benefit of Bidder); and
 - (ii) providing Target with written confirmation that payment has been made in accordance with clause 6.2(b)(i) above.
- (c) Subject to Bidder complying with its obligations under clause 6.2(a), Target must, on the Implementation Date, pay, or procure the payment, from the Trust Account to each Scheme Shareholder an amount equal to the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder as set out in the Target Share Register on the Record Date.

- (d) Target's obligations under clause 6.2(c) will be satisfied by Target:
- (i) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of the Share Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount to that Scheme Shareholder in Australian currency by electronic means in accordance with that election; or
 - (ii) whether or not a Scheme Shareholder has made an election referred to in clause 6.2(d)(i), dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to that Scheme Shareholder by prepaid post to the Registered Address of that Scheme Shareholder, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 6.6).

6.3 Unclaimed, returned and other dealings with Scheme Consideration

- (a) Target may cancel a cheque issued under this clause 6 if the cheque:
- (i) is returned to Target; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent,
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Share Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 6.3(a) must be reissued.
- (c) In the event that:
- (i) a Scheme Shareholder does not have a Registered Address and no account has been notified in accordance with clause 6.2(d)(i) or a deposit into such an account is rejected or refunded; or
 - (ii) a cheque issued under this clause 6 has been cancelled in accordance with clause 6.3(a),

Target, as trustee for the Scheme Shareholders, may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Target (**Separate Account**) to be held on trust by Target for the Scheme Shareholder until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW) (**Unclaimed Money Legislation**) (except that any interest on the amount deposited, less bank fees and other charges, will accrue for the benefit of Bidder). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the Unclaimed Money Legislation.

Until such time as the amount is dealt with in accordance with the Unclaimed Money Legislation, Target must hold the amount on trust for the relevant Scheme Shareholder (except that any interest on the amount deposited, less bank fees and other charges, will accrue for the benefit of Bidder). An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Target must maintain records of the amount paid, the people who are entitled to the amounts and any transfer of the amounts.

- (d) The Unclaimed Money Legislation will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in sections 7, 8 and 10 of the Unclaimed Money Legislation).

6.4 Treatment of surplus amounts

To the extent that there is a surplus in the amount held by Target as the trustee for the Scheme Shareholders in the Trust Account, that surplus may, at the election of Bidder, either remain with Target or be paid by Target as trustee for the Scheme Shareholders to Bidder following the satisfaction of Target's obligations as the trustee for the Scheme Shareholders under this clause 6 (provided that, for the avoidance of doubt, any interest on the amount deposited, less bank fees and other charges, will accrue for the benefit of Bidder).

6.5 Amounts to be withheld or retained

If written notice is given to Target (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by any Regulatory Authority that:

- (a) requires payment to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which amount would otherwise be payable to that Scheme Shareholder by Target in accordance with clause 6, then Target will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents Target from making a payment to a particular Scheme Shareholder in accordance with clause 6, or such payment is otherwise prohibited by applicable law, Target will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with clause 6 is permitted by that order or direction or otherwise by law,

and the payment or retention by or on behalf of Target will constitute the full discharge of Target's obligations under this Scheme with respect to the amount so paid or retained until, in the case of clause 6.5(b), it is no longer required to be retained.

6.6 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent, at the sole discretion of Target, either to the holder whose name appears first in the Target Share Register as at the Record Date or to the joint holders (unless the joint holders have nominated a bank account under clause 6.2(d)(i), in which case the amount must be deposited directly to the nominated bank account of the joint holders);
- (b) any other document required to be sent under this Scheme will be forwarded, at the sole discretion of Target, either to the holder whose name appears first in Target Share Register as at the Record Date or to the joint holders.

6.7 Rounding

Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up to the nearest cent.

7. Dealings in Target Shares

7.1 Determination of Scheme Shareholders

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

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

and for the purpose of establishing the persons who are Scheme Shareholders, Target must not accept for registration nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title) any transfer or transmission application or other request received after the Record Date, or received prior to the Record Date but not in registrable or actionable form.

7.2 Target Share Register

- (a) Target must maintain the Target Share Register in accordance with the provisions of this clause 7.2 until the Scheme Consideration has been provided to the Scheme Shareholders and the Target Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (b) Target must register valid registrable transmission applications or transfers of the kind referred to in clause 7.1(b) by no later than the Record Date (provided that for the avoidance of doubt nothing in this clause 7.2(b) requires Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a Marketable Parcel).
- (c) Target will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Target Shares received after the Record Date.
- (d) If this Scheme becomes Effective, from the Record Date until the earlier of registration of Bidder in respect of all Scheme Shares under clause 5.2(b) or the End Date, no Scheme Shareholder may dispose of, purport or agree to dispose of, or otherwise deal with any Scheme Shares or any interest in them in any way except as set out in this Scheme and any attempt to do so will be void and have no effect and Target will be entitled to disregard any such disposal, purported disposal, agreement or other dealing.

7.3 Information made available to Bidder

As soon as practicable after the Record Date and in any event at least 2 Business Days before the Implementation Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Share Register as at the Record Date are available to Bidder in the form Bidder reasonably requires.

7.4 Effect of share certificates and holding statements

- (a) Each entry which is current on the Target Share Register as at the Record Date is the sole evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.
- (b) All certificates and statements of holding for Scheme Shares (other than statements of holding in favour of Bidder and its successors in title) will cease to have effect after the Record Date as documents of title (or evidence thereof) in respect of those shares and, as from that date, each entry current at that date on the Target Share Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

8. Quotation of Target Shares

8.1 Suspension of trading

Subject to the Scheme becoming Effective, Target must take all steps reasonably necessary and within its power to procure that trading in Target Shares on ASX is suspended with effect from the close of trading on the Effective Date, including by applying to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date.

8.2 Removal of Target from official list of ASX

Unless otherwise directed by Bidder, Target must take all steps reasonably necessary and within its power (including by applying to ASX and satisfying any conditions reasonably required by ASX) to procure:

- (a) the termination of the official quotation of Target Shares on the ASX; and
- (b) the removal of Target from the official list of ASX,

in each case, with effect on and from the close of trading on the Business Day immediately following the Implementation Date.

9. General Scheme provisions

9.1 Consent to amendments to this Scheme

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

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

9.2 Binding effect of the Scheme

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

9.3 Agreement of Scheme Shareholders

Each Scheme Shareholder:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with terms of this Scheme;
- (b) irrevocably agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (c) irrevocably agrees to, on the direction of Bidder, destroy any share certificates or holding statements relating to their Scheme Shares; and
- (d) irrevocably acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who did not attend the Scheme Meeting, those who did not vote at that Scheme Meeting, or voted against this Scheme at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target; and

- (e) irrevocably consents to Bidder and Target doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of this Scheme,

without the need for any further act by the Scheme Shareholder.

9.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to Target and Bidder, and appointed and authorised Target as its attorney and agent to warrant to Bidder that:
 - (i) all Scheme Shares held by that Scheme Shareholder, together all rights and entitlements attaching to those Scheme Shares, which are transferred to Bidder under this Scheme will, at the time of transfer to Bidder, be:
 - A. fully paid;
 - B. free from all Encumbrances and third party rights or interests of any kind; and
 - C. free from all restrictions on transfer of any kind;
 - (ii) it has full power and capacity to sell and to transfer their Scheme Shares, together with all rights and entitlements attaching to their Scheme Shares, to Bidder; and
 - (iii) it has no existing right to be issued any Target Shares, options exercisable into Target Shares, Target Performance Rights, Target convertible notes or any other Target securities, other than, in the case of any Scheme Shareholder who is also a holder of Target Performance Rights, the right to be issued Target Shares on the vesting of those Target Performance Rights (if applicable) before the Record Date, in accordance with their terms.
- (b) Target undertakes that it will provide such warranty to Bidder as agent and attorney for each Scheme Shareholder.

9.5 Authority given to Target

Immediately upon this Scheme becoming Effective, each Scheme Shareholder without the need for any further act:

- (a) irrevocably appoints Target and each of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of:
 - (i) enforcing the Deed Poll against Bidder;
 - (ii) doing and/or executing all acts, matters, things and documents necessary, desirable, incidental or expedient to give full effect to this Scheme and the transactions contemplated by it, including, without limitation, executing and delivering the Scheme Transfer,
- and Target accepts such appointment. Target, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 9.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally); and
- (b) will be deemed to have authorised Target to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary, desirable, incidental or expedient to give full effect to this Scheme and the transactions

contemplated by it, including, without limitation, executing and delivering the Scheme Transfer as agent and attorney of each Scheme Shareholder.

9.6 Appointment of sole proxy

Immediately, upon the provision of the Scheme Consideration by the Bidder to the Scheme Shareholders in the manner contemplated by clause 6.2(b) and until Target registers Bidder as the holder of all Scheme Shares in the Target Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed Bidder as its attorney and agent (and directed Bidder in such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to:
 - (i) attend shareholders' meetings of Target;
 - (ii) exercise the votes attaching to the Scheme Shares registered in their name; and
 - (iii) sign any Target Shareholders' resolutions, whether in person, by proxy or by corporate representative;
- (b) undertakes not to otherwise attend or vote at any Target Shareholders' meetings or sign or vote on any resolutions, whether in person, by proxy or by corporate representative, other than as pursuant to clause 9.6(a);
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 9.6(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 9.6(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

9.7 Title to Target Shares

- (a) Immediately, upon the Scheme Consideration being provided by the Bidder to the Scheme Shareholders in accordance with clause 6.2(b) and until Target registers Bidder as the holder of all Scheme Shares in the Target Share Register, Bidder will be beneficially entitled to all of the Scheme Shares.
- (b) Without limiting clause 9.7(a), the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) will, at the time of transfer of them to Bidder, vest in Bidder free from all Encumbrances and third party rights or interests of any kind, and free from all restrictions on transfer of any kind, in each case, whether legal or otherwise.

10. General

10.1 Stamp duties

Bidder must pursuant to its obligations under the Deed Poll:

- (a) pay all stamp duties and any related fines and penalties in respect of the transfer of the Scheme Shares to Bidder pursuant to this Scheme or the Deed Poll and is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause; and
- (b) indemnify each Scheme Shareholder against any liability from a failure to comply with clause 10.1(a).

10.2 Notices

- (a) 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 place where the Target Share Register is kept.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Target Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

10.3 Further acts and documents

Target must do all further acts and execute and deliver all further documents (on its own behalf and on behalf of each Scheme Shareholder) required by law or necessary to give effect to this Scheme and the transactions contemplated by it.

10.4 No liability when acting in good faith

None of Target or Bidder, nor any of their respective directors, officers, secretaries, employees or Related Bodies Corporate, 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. Governing law and jurisdiction

11.1 Governing law

This Scheme is governed by the law applying in New South Wales, Australia.

11.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non exclusive jurisdiction of the courts of New South Wales, Australia the courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 11.2(a).

Annexure B - Deed Poll

Deed poll dated

By **AVID Property Group Australia Pty Limited ABN 76 608 061 874** of Suite 02, Level 35, 259 George Street, Sydney, New South Wales 2000 (**Bidder**)

In favour of **Each person registered as a holder of fully paid ordinary shares in the capital of Villa World Limited ACN 117 546 326** of Level 1, 19 Elizabeth Avenue, Broadbeach, Queensland 4218 (**Target**) on issue as at the Record Date (**Scheme Shareholders**)

Background

- A. Target and Bidder have entered into the Implementation Agreement, pursuant to which, amongst other things, Bidder:
- (i) is to pay the Scheme Consideration to each Scheme Shareholder and acquire all Scheme Shares held by Scheme Shareholders under the Scheme; and
 - (ii) agreed to enter into this deed poll.
- B. Bidder is entering into this deed poll for the purposes of covenanting in favour of the Scheme Shareholders to procure and undertake the actions attributed to the Bidder under the Scheme.

It is declared as follows

1. Definitions and interpretation

1.1 Definitions

Unless the context requires otherwise, in this deed poll:

- (a) **Implementation Agreement** means the scheme implementation agreement between Target and Bidder, dated [insert date]; and
- (b) **Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between the Target and the Scheme Shareholders in substantially the same form as set out in Annexure A of the Implementation Agreement, subject to any alterations or conditions made or required by Court under section 411(6) of the Corporations Act and agreed to by Bidder and Target in writing.

1.2 Terms defined in the Scheme

Capitalised words and phrases used but not defined in this deed poll have the meaning given to them in the Scheme, unless the context requires otherwise.

1.3 Interpretation

The provisions of clauses 1.2, 1.3 and 1.4 of the Scheme form part of this deed poll as if set out in full in this deed poll, except that references to "Scheme" in those clauses will be taken to be references to "deed poll".

1.4 Nature of this deed poll

The Bidder acknowledges and agrees that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints Target and each of its directors, secretaries and officers (jointly and severally) as its attorney and agent to enforce this deed poll against Bidder.

2. Condition Precedent

2.1 Condition

The obligations of the Bidder under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of the Bidder under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

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

unless Target and Bidder otherwise agree in writing (and, if required, as approved by the Court).

2.3 Consequences of termination

If this deed poll terminates under clause 2.2, in addition to and without prejudice to any other rights, powers or remedies available to it:

- (a) Bidder is released from its obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights it has against the Bidder in respect of any breach of this deed poll which occurs before it was terminated.

3. Scheme Obligations

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

- (a) provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and
- (b) undertake all other actions attributed to it under the Scheme, as if named a party to the Scheme,

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

4. Warranties

The Bidder represents and warrants to each Scheme Shareholder that:

- (a) it is a company properly incorporated and validly existing under the laws of its place of incorporation;
- (b) it has the legal right and full corporate power to execute, deliver and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;

- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll constitutes (or will when executed constitute) valid legal and binding obligations on it and is enforceable against it in accordance with its terms;
- (e) this deed poll does not conflict with, or result in a breach of or default under:
 - (i) any provision of the constitution or equivalent constituent documents of Bidder or any of its Subsidiaries; or
 - (ii) any writ, order or injunction, judgment, law, rule, obligation or regulation to which Bidder or any of its Subsidiaries is party, or by which Bidder or any of its Subsidiaries is bound.

5. Continuing obligations

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

- (a) the time at which the Bidder has fully performed its obligations under this deed poll; and
- (b) the termination of this deed poll under clause 2.

6. Notices

6.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) may be given by personal service, post or email;
- (b) must be in writing and in English;
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
 - (i) if to Target:

Address: Level 1
19 Elizabeth Avenue
Broadbeach Queensland 4218
Australia

Email: BScale@villaworld.com.au

Attention: Brad Scale

with a copy in each case to:

Email: CTreasure@villaworld.com.au

Email: Julian.Donnan@allens.com.au

Email: Chelsey.Drake@allens.com.au

(ii) if to Bidder:

Address: Suite 02, Level 35
259 George Street
Sydney NSW 200
Australia

Email: cholt@avid.com.au

Attention: Cameron Holt

with a copy in each case to:

Email: anthony.kingsley@proprium.com

Email: rmoriarty@claytonutz.com

- (d) (in the case of personal service or post) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (e) (in the case of email) must state that the email is a communication under this agreement; and
- (f) must be delivered by hand or posted by prepaid post to the address or sent by email to the email address, of the addressee, in accordance with this clause 6.1 of this deed poll.

6.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed poll is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of delivery by hand) on delivery; and
- (d) (in the case of email) unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of clause 6.1 of this deed poll, 4 hours after the email was sent,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day (**working day** meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

7. General

7.1 Amendments

This deed poll may only be amended by another deed poll entered into by the Bidder, and then only:

- (a) if before the First Court Date, if the amendment is agreed to by the Target in writing; and

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

7.2 Assignment

- (a) The rights of each Scheme Shareholder under this deed poll are personal and cannot be assigned, novated, transferred or otherwise dealt with without the prior written consent of the Bidder.
- (b) Any purported assignment, novation, transfer or other dealing in contravention of clause 7.2(a) of this deed poll is invalid.

7.3 Cumulative rights

The rights, powers and remedies of the Bidder and each Scheme Shareholder under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by the law independently of this deed poll.

7.4 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed poll by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.
- (b) A waiver or consent given by a party under this deed poll is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed poll operates as a waiver of another breach of that term or of a breach of any other term of this deed poll.

7.5 Stamp Duty

Bidder must:

- (a) pay all stamp duties and any related fines and penalties in respect of the transfer of the Scheme Shares to Bidder pursuant to this Scheme or the Deed Poll and is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause; and
- (b) indemnify each Scheme Shareholder against any liability from a failure to comply with clause 7.5(a) of this deed poll.

7.6 Further assurances

Bidder must, at its own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

7.7 Counterparts

This deed poll maybe executed in counterparts, all of which taken together constitute one document.

8. Governing law and jurisdiction

8.1 Governing law

This deed poll is governed by the law applying in New South Wales, Australia.

8.2 Jurisdiction

The Bidder irrevocably:

- (a) submits to the non exclusive jurisdiction of the courts of New South Wales, Australia the courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed poll; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 8.2(a).

Executed and delivered as a deed poll.

Executed by AVID Property Group Australia Pty Limited ABN 76 608 061 874 in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director