



Scheme Implementation Deed

AIRR Holdings Limited (**Target**)
Elders Limited (**BidCo**)

Scheme Implementation Deed

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Details

Date 15 July 2019

Parties

Name **AIRR Holdings Limited** ACN 129 875 190
ABN 86 129 875 190
Short form name **Target**
Notice details 74-76 Drummond Road
Shepparton VIC 3630
Email: clf@brentnalls-sa.com.au; Peter.Law@airr.com.au
Attention: Craig Farrow / Peter Law

Name **Elders Limited** ACN 004 336 636
ABN 34 004 336 636
Short form name **BidCo**
Notice details 80 Grenfell Street
Adelaide SA 5000
Email: Mark.Allison@elders.com.au / companysecretary@elders.com.au
Attention: Mark Allison / Company Secretary

Background

- A Target and BidCo have agreed to implement the Proposed Transaction on and subject to the terms and conditions of this deed.
- B Target and BidCo have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this deed, unless the context otherwise requires, the following words and expressions have meanings as follows:

Acceptable Confidentiality Agreement means a confidentiality agreement which contains obligations on the recipient of confidential information which are no less onerous in any material respect than the obligations of BidCo under the Confidentiality Agreement.

Accounting Standards means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a);

Adviser means in relation to an entity:

- (a) a financier to the entity in connection with the Proposed Transaction; or
- (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transaction by the entity.

Announcement means an announcement by Target in the form agreed by Target and BidCo (both acting reasonably), shortly after signing of this deed.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and Target was the designated body.

ASX means ASX Limited ABN 98 008 624 691 or, if the context requires, the financial market known as the Australian Securities Exchange operated by it.

Authorised Person means, in respect of a person:

- (a) a director, officer, member or employee of the person;
- (b) an Adviser of the person; and
- (c) a director, officer or employee of an Adviser of the person.

BidCo Group means BidCo and each of its Subsidiaries (excluding, at any time, Target and its Subsidiaries to the extent that Target and its Subsidiaries are Subsidiaries of BidCo at that time). A reference to a member of the **BidCo Group** or a **BidCo Group Member** is a reference to BidCo or any such Subsidiary.

BidCo Indemnified Parties means BidCo and its Related Bodies Corporate and Authorised Persons within the meaning of paragraph (a) of the definition of **Authorised Person**.

BidCo Information means such information regarding BidCo that is provided by or on behalf of BidCo, or any of its Advisers, to Target or the Independent Expert:

- (a) to enable the Explanatory Booklet to be prepared and completed in compliance with all applicable laws;
- (b) to enable applications for Regulatory Approvals to be made; and
- (c) otherwise in compliance with BidCo's obligations under clause 6.2(a).

BidCo Parties means the members of the BidCo Group and their respective Authorised Persons.

to written questions or requests for information) to BidCo or any of its respective Authorised Persons prior to the date of this deed as evidenced by the index contained in Schedule 4.

EBITDA means earnings from ordinary, continuing activities of the Target Group before interest, tax, depreciation and amortisation calculated in accordance with the accounting policies and practices applied by Target as at the date of this deed.

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

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

End Date means:

- (a) 31 December 2019; or
- (b) such other date and time agreed in writing between BidCo and Target.

Excluded Shareholder means:

- (a) any Target Shareholder who is a member of the BidCo Group; and
- (b) any other Target Shareholder but only in respect of any Target Shares that that other Target Shareholder holds on behalf of, or for the benefit of, any member of the BidCo Group.

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

- (a) the End Date;
- (b) the Effective Date of the Scheme; and
- (c) the date this deed is terminated in accordance with its terms.

Explanatory Booklet means the explanatory booklet to be prepared by Target in respect of the Proposed Transaction in accordance with the terms of this deed and to be dispatched to Target Shareholders.

Fairly Disclosed has the meaning given in clause 1.2(p).

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

General Meeting means the extraordinary general meeting of Target Shareholders to be held immediately after the conclusion or adjournment of the Scheme Meeting.

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX and any regulatory organisation established under statute or any financial market.

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Target Shareholders present and voting, either in person or by proxy.

Implementation Date means, with respect to the Scheme, the fifth Business Day, or such other Business Day as the parties agree, following the Record Date for the Scheme

Independent Expert means an expert, independent of the parties, engaged by Target in good faith to prepare the Independent Expert's Report.

Independent Expert's Report means the report from the Independent Expert commissioned by Target for inclusion in the Explanatory Booklet, which includes an opinion from the Independent Expert on whether the Scheme is in the best interest of Target Shareholders, and includes any update of that report by the Independent Expert.

Ineligible Foreign Shareholder means a Target Shareholder whose address as shown in the Target's members' register is located outside of:

- (a) Australia and its external territories;
- (b) New Zealand; and
- (c) any other jurisdictions as may be agreed in writing by Target and BidCo (unless BidCo is satisfied that it is permitted to allot and issue New BidCo Shares to that Target Shareholder under the Scheme by the laws of that place).

Ineligible Shareholder means:

- (a) an Ineligible Foreign Shareholder; or
- (b) a Small Shareholder.

Insolvency Event means in relation to a person:

- (a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments**: the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business**: the person ceases or threatens to cease to carry on business;
- (f) **insolvency**: the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration**: the person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement**: the person executing a deed of company arrangement;
- (i) **person as trustee or partner**: the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events**: anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

and a person shall be **Insolvent** if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

Key Executives mean Peter Law, Kristen Pickering, David Schelling, Peter Lourey and Kane Law.

Listing Rules means the official listing rules of ASX as amended from time to time.

Material Adverse Change means an event or circumstance (including a change in law) that occurs, is announced or becomes known to BidCo or the Target Board (in each case whether or

not it becomes public) after the date of this deed which has or could reasonably be expected to have individually or when aggregated with all such events or circumstances the effect of:

- (a) diminishing the net assets of the Target Group by \$2 million or more or
- (b) reducing the net revenue of the Target Group by \$2 million or more;
- (c) resulting in the business of the Target Group being unable to be carried on in substantially the same manner as it is carried on at the date of this deed; or
- (d) resulting in the business of the Target Group only being able to be carried on in substantially the same manner as it is carried on at the date of this deed at a materially increased cost or liability,

but does not include any event or circumstance:

- (e) required to be done or procured by Target under this deed or the Scheme;
- (f) which BidCo has previously approved in writing;
- (g) to the extent that it was Fairly Disclosed in the Due Diligence Material, or in documents that were publicly available prior to the date which is 2 Business Days prior to the date of this deed from public filings of Target with ASIC, Target's website or public registers; or
- (h) relating to payment by Target of the Target Final Dividend or a Permitted Special Dividend.

Material Contracts means the contracts listed in an exchange of letters or by email prior to the execution of this deed.

New BidCo Shares means the new BidCo Shares to be issued under the terms of the Scheme as Scheme Consideration.

Permitted Special Dividend means the special dividend referred to in clause 6.5.

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

PPSR means the personal property securities register maintained under the PPSA.

Proposed Transaction means:

- (a) the proposed acquisition by BidCo in accordance with the terms and conditions of this deed, of all of the Target Shares (other than the Target Shares held by an Excluded Shareholder) through the implementation of the Scheme; and
- (b) all associated transactions and steps contemplated by this deed.

Record Date means, in respect of the Scheme, 7.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Regulatory Approvals means the approvals set out in clause 3.1(a).

Relevant Interest has the meaning given in the Corporations Act.

RG 60 means Regulatory Guide 60 issued by ASIC.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Target and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as the parties agree in writing, subject to any alterations or conditions that are:

- (a) agreed to in writing by Target and BidCo, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by each party.

Scheme Consideration has the meaning given in the Scheme.

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

Scheme Share means a Target Share on issue as at the Record Date other than any Target Share then held by an Excluded Shareholder (but including any such Target Share held on behalf of one or more third parties or otherwise in a fiduciary capacity).

Scheme Shareholder means a person who holds one or more Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard.

Senior Manager means an employee of any member of the Target Group reporting directly to the managing director, chief financial officer or group chief operating officer of Target.

Share Splitting means the splitting by a holder of Target Shares into two or more parcels of Target Shares whether or not it results in any change in beneficial ownership of the Target Shares.

Small Shareholder means a Scheme Shareholder who would be entitled to receive total Share Consideration of a value of less than \$500.

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Superior Proposal means a bona fide Competing Proposal which in the determination of the Target Board acting in good faith in order to satisfy what the Target Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the Competing Proposal; and
- (b) would if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to Target Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the Competing Proposal, including consideration, conditionality, funding, certainty and timing.

Target Board means the board of directors of Target (or any committee of the board of directors of Target constituted to consider the Proposed Transaction on behalf of Target).

Target Director means a director of Target.

Target Final Dividend means a cash dividend, not exceeding 25 cents per Target Share, to be paid by Target (in its absolute discretion), with or without a declaration, between the date of this deed and the Implementation Date in respect of the year ended 30 June 2019 and which is not franked in excess of the then available franking credits of Target.

Target Group means Target and its Subsidiaries.

Target Parties means each member of the Target Group and its Related Bodies Corporate and Authorised Persons.

Target Information means information to be included by Target in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by Target Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of the Target Board and has not previously been disclosed to Target Shareholders, other than the BidCo Information and the Independent Expert's Report.

Target Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed:

- (a) Target converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) any member of the Target Group resolves to reduce its share capital in any way;

- (c) any member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the Target Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a right or an option other than under the valid exercise of an option or performance right on issue immediately before the date of this deed;
- (e) any member of the Target Group issues, or agrees to issue, convertible notes;
- (f) any member of the Target Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) any member of the Target Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (h) an Insolvency Event occurs in relation to any member of the Target Group;
- (i) Target pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution other than in respect of any Target Final Dividend or any Permitted Special Dividend;
- (j) any member of the Target Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the Target Group other than as agreed with BidCo or contemplated by this deed;
- (k) any member of the Target Group ceases, or threatening to cease to, carry on the business conducted as at the date of this deed;
- (l) any member of the Target Group (other than a dormant, non-operating member of the Target Group) being deregistered as a company or being otherwise dissolved;
- (m) any disposal of shares or securities by a member of the Target Group in any member of the Target Group other than to a member of the Target Group; or
- (n) any member of the Target Group directly or indirectly authorising, committing or agreeing to take or announcing any of the actions referred to in paragraphs (a) to (m) above insofar as it applies to the member of the Target Group the subject of such direct or indirect authorisation, commitment, agreement or announcement;

provided that a Target Prescribed Occurrence will not include any matter:

- (o) required to be done or procured by the Target Group under this deed or the Scheme;
- (p) required by law or by an order of a court or Governmental Agency;
- (q) to the extent it is Fairly Disclosed in the Due Diligence Material; or
- (r) the undertaking of which BidCo has previously approved in writing.

Target Reporting Documents means the most recent copies of the documents required to be lodged with ASIC under sections 319 and 320 of the Corporations Act.

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

Target Shareholder means each person who is registered in the register maintained by Target under section 168(1) of the Corporations Act as a holder of Target Shares.

Target Warranties means the representations and warranties of Target set out in clause 9.3.

Timetable means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

Transaction means the acquisition by BidCo of the Scheme Shares for the Scheme Consideration under the Scheme.

1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) a reference to time is to Victoria, Australia time;
- (h) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (p) a reference to **Fairly Disclosed** means disclosed to any of BidCo, the Target (as applicable) or any of their respective Authorised Persons in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction and experienced in transactions similar to the Proposed Transaction in the rural supplies and merchandise industry, to identify the nature and scope of the relevant matter, event or circumstance.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.5 Consents or approvals

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

1.6 Listing requirements included as law

A listing rule or operating rule of a financial market or of a clearing and settlement facility will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.7 Reasonable endeavours

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

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Governmental Agency; or
 - (b) to commence any legal action or proceeding against any person,
- except where that provision specifies otherwise.

2. Agreement to propose Scheme

- (a) Target agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (b) BidCo agrees to assist Target in proposing and implementing the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.

3. Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(Regulatory Approvals):**
 - (i) **(ASIC and ASX)** before the Delivery Time on the Second Court Date, ASIC and ASX issue or provide such consents or approvals as are necessary or which Target and BidCo agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date; and
 - (ii) **(ACCC Approval)** BidCo has received written notice from the ACCC to the effect that the ACCC does not propose to oppose, intervene or seek to prevent the implementation of, or undertake a public review in relation to, the Scheme under or by reference to section 50 of the Competition Act, which notification is either unconditional or is on or requires conditions or undertakings acceptable to the parties;
- (b) **(No Target Prescribed Occurrence)** no Target Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (c) **(No change of Target Board recommendation)** between the date of this deed and the date of the Scheme Meeting, none of the Directors of Target changing, qualifying or withdrawing their unanimous recommendation to Target Shareholders to vote in favour of the Scheme, which recommendation may be expressed to be given:
 - (i) in the absence of a Superior Proposal; and
 - (ii) subject to the Independent Expert opining that the Scheme is in the best interest of Target Shareholders;

- (d) (**Target Warranties**) the Target Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;
- (e) (**BidCo Warranties**) the BidCo Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;
- (f) (**Shareholder approvals**) the:
 - (i) Scheme is approved by Target Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act; and
 - (ii) Constitution Replacement Resolution is passed by Target Shareholders at the General Meeting as a special resolution by the necessary majority required under the Constitution and the Corporations Act.
- (g) (**Court approval**) the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (acting reasonably); and
- (h) (**Independent Expert**) the Independent Expert concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interest of Target Shareholders and the Independent Expert maintaining that opinion (including by not withdrawing, qualifying or changing that opinion) at all times up to the Second Court Date.
- (i) (**Target material breach**) before the Delivery Time on the Second Court Date, Target has not breached any provision of this deed to a material extent in the context of the Scheme taken as a whole;
- (j) (**BidCo material breach**) before the Delivery Time on the Second Court Date, BidCo has not breached any provision of this deed to a material extent in the context of the Scheme taken as a whole;
- (k) (**No Material Adverse Change**) no Material Adverse Change occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (l) (**Capital Raising**) by 7.00pm on the date that is 3 Business Days after BidCo announces the Proposed Transaction and the Capital Raising, confirmations have been issued with respect to the Placement and the institutional offer component of the Rights Issue and not later than 10 Business Days after BidCo announces the Proposed Transaction and the Capital Raising, BidCo:
 - (i) receives in cleared funds not less than \$105 million by way of applications for BidCo Shares under the Capital Raising; and
 - (ii) issues BidCo Shares to the applicants who are allocated BidCo Shares under the Capital Raising, raising not less than that amount.
- (m) (**Restraining orders**) no judgment, order, decree, statute, law, ordinance, rule of regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Governmental Agency of competent jurisdiction in Australia remains in effect as at the Delivery Time on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme;
- (n) (**Employment Agreements**) new employment agreements between Target or BidCo (or its nominee) and the Key Executives are entered into before the Second Court Date and in a form acceptable to BidCo, Target and the Key Executives; and
- (o) (**Voluntary Escrow Agreements**) voluntary escrow agreements between BidCo, Target Directors and Key Executives in relation to the BidCo Shares to be issued to Scheme Shareholders comprising the Target Directors or the Key Executives or to closely related parties of the Target Directors or the Key Executives under the Scheme for a period of two years from the Implementation Date are entered into before the Second Court Date and in a form acceptable to BidCo.

3.2 Benefit and waiver of conditions precedent

- (a) The Condition in clause 3.1(a) (Regulatory Approvals) is for the benefit of each party and any breach or non-fulfilment of it may only be waived (if capable of waiver) with the written consent of both parties, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(b) (No Target Prescribed Occurrences), 3.1(c) (No change of Target Board recommendation), 3.1(d) (Target Warranties), 3.1(f) (Shareholder approvals), 3.1(i) (Target material breach), 3.1(k) (No Material Adverse Change), 3.1(l) (Capital Raising), 3.1(m) (Restraining orders), 3.1(n) (Employment Agreements) and 3.1(o) (Voluntary Escrow Agreements) are for the sole benefit of BidCo and any breach or non-fulfilment of them may only be waived by BidCo giving its written consent.
- (c) The Conditions in clauses 3.1(e) (BidCo Warranties), 3.1(h) (Independent Expert) and 3.1(j) (BidCo material breach) are for the sole benefit of Target and any breach or non-fulfilment of them may only be waived by Target giving its written consent.
- (d) A party entitled to waive a Condition under this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to the Delivery Time on the Second Court Date. The Conditions in clauses 3.1(f) (Shareholder approval) and 3.1(g) (Court approval) cannot be waived.
- (e) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other party for any breach of this deed including a breach that resulted in the non-fulfilment of the Condition that was waived.

3.3 Reasonable endeavours

- (a) Target and BidCo will use their respective reasonable endeavours to procure that each of the Conditions (as applicable) is satisfied as soon as reasonably practicable after the date of this deed or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).
- (b) Without limiting clauses 3.4 and 3.5 below, each of Target and BidCo must:
 - (i) consult and co-operate fully with the other party in relation to the satisfaction of the Conditions, including in relation to all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (ii) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (iii) take all the steps for which it is responsible as part of the Regulatory Approvals process;
 - (iv) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time;
 - (v) provide the other with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals; and
 - (vi) so far as it is able, allow the other and its Authorised Persons the opportunity to be present and make submissions at any meetings with any regulatory body relating to the Regulatory Approvals in respect of the Scheme.

3.4 Notifications

Each of BidCo and Target must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other in writing if it becomes aware that any Condition has been satisfied; and

- (c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

On the Second Court Date:

- (a) BidCo and Target will provide a joint certificate to the Court confirming whether or not the Condition set out in clause 3.1(a) (Regulatory Approvals) has been satisfied or waived in accordance with the terms of this deed;
- (b) Target will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(b) (No Target Prescribed Occurrences), 3.1(c) (No change of Target Board recommendation), 3.1(d) (Target Warranties), 3.1(f) (Shareholder approvals), 3.1(h) (Independent Expert), 3.1(i) (Target material breach), 3.1(k) (No Material Adverse Change) and 3.1(m) (Restraining orders) have been satisfied or waived in accordance with the terms of this deed;
- (c) BidCo will provide a certificate to the Court confirming whether or not the Conditions set out in clause 3.1(e) (BidCo Warranties), 3.1(j) (BidCo material breach), 3.1(l) (Capital Raising), 3.1(n) (Employment Agreements) and 3.1(o) (Voluntary Escrow Agreements) have been satisfied or waived in accordance with the terms of this deed;
- (d) Target will provide a certificate to BidCo confirming whether or not Target has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
- (e) BidCo will provide a certificate to Target confirming whether or not BidCo has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches.

3.6 Scheme voted down

If the Scheme is not approved by Target Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and BidCo considers acting reasonably that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then Target must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as Counsel engaged by Target to represent it in Court proceedings related to the Scheme, in consultation with BidCo, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Act by making an order to disregard the Headcount Test.

3.7 Conditions not capable of being fulfilled

- (a) If:
 - (i) any Condition is not satisfied or (where capable of waiver) waived by the date specified in this deed for its satisfaction (or an event occurs which would or is likely to prevent a condition precedent being satisfied by the date specified in this deed);
 - (ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the Condition within 5 Business Days after the occurrence of the circumstance and before the Delivery Time on the Second Court Date; or
 - (iii) the Scheme does not become Effective by the End Date,

and neither of the following has occurred:

- (i) the Independent Expert opines to the effect that the Scheme is not in the best interest of Target Shareholders; or
- (ii) a Superior Proposal has been publicly announced,

then Target and BidCo must consult in good faith with a view to determining whether:

- (i) the Scheme may proceed by way of alternative means or methods;
- (ii) to extend the relevant time or date for satisfaction of the Condition;
- (iii) to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties; or
- (iv) to extend the End Date.

(b) Subject to clause 3.7(c), if a Condition becomes incapable of being satisfied before the End Date and Target and BidCo are unable to reach agreement under clause 3.7(a) within 5 Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:

- (i) in relation to the Conditions in clauses 3.1(a) (Regulatory Approvals) and 3.1(f) (Shareholder approvals), either BidCo or Target may terminate this deed by giving the other notice without any liability to any party by reason of that termination alone;
- (ii) in relation to the Conditions in clauses 3.1(b) (No Target Prescribed Occurrences), 3.1(c) (No change of Target Board recommendation) and 3.1(d) (Target Warranties), 3.1(i) (Target material breach), 3.1(k) (No Material Adverse Change), 3.1(l) (Capital Raising), 3.1(m) (Restraining orders), 3.1(n) (Employment Agreements) and 3.1(o) (Voluntary Escrow Agreements), BidCo may terminate this deed by giving Target notice without any liability to any party by reason of that termination alone; and
- (iii) in relation to the Conditions in clauses 3.1(e) (BidCo Warranties), 3.1(h) (Independent Expert) and 3.1(j) (BidCo material breach), Target may terminate this deed by giving BidCo notice without any liability to any other party by reason of that termination alone.

(c) A party will not be entitled to terminate this deed under clause 3.7(b) if the relevant Condition has not been satisfied as a result of:

- (i) a breach of this deed by that party; or
- (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

- (a) in the case of a Condition relating to the Regulatory Approvals – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

4. Transaction Steps

4.1 Scheme

Target must propose the Scheme under which:

- (a) all of the Scheme Shares will be transferred to BidCo; and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration.

4.2 Scheme Consideration

BidCo undertakes and warrants to Target (in its own right and as trustee on behalf of the Scheme Shareholders) that, in consideration of the transfer to BidCo (or its nominee) of each Scheme Share under the terms of the Scheme, on the Implementation Date:

- (a) it will procure that BidCo accepts that transfer; and
- (b) in exchange, BidCo will provide each Scheme Shareholder the Scheme Consideration.

4.3 Allotment and issue of New BidCo Shares and Payment of Cash

- (a) Subject to the Scheme becoming Effective, BidCo must:
 - (i) allot and issue the New BidCo Shares to Scheme Shareholders in accordance with the Scheme on terms such that each BidCo Share will rank equally in all respects with each existing BidCo Share;
 - (ii) pay the cash component of the Scheme Consideration to the Scheme Shareholders in accordance with the Scheme;
 - (iii) do everything necessary to ensure that the New BidCo Shares are approved for official quotation on ASX and that trading in the New BidCo Shares commences by the first Business Day after the Implementation Date; and
 - (iv) ensure that on issue, each New BidCo Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.
- (b) Unless BidCo is satisfied that the:
 - (i) laws of an Ineligible Foreign Shareholder's country of residence (as shown in the register of Target Shareholders) permit the issue of New BidCo Shares to the Ineligible Foreign Shareholder either unconditionally or after compliance with terms which BidCo reasonably regards as acceptable and practical; and
 - (ii) Scheme Shareholder is not a Small Shareholder,

BidCo will not issue any New BidCo Shares to Ineligible Shareholders, and instead will issue the New BidCo Shares that would otherwise have been issued to the Ineligible Shareholders to a nominee appointed by BidCo. BidCo will procure that the nominee sells those New BidCo Shares on-market and remits the proceeds from that sale (after deducting any selling costs and taxes) to BidCo. BidCo will then remit the proceeds it receives to the Ineligible Shareholders in accordance with their entitlement.

- (c) Any fractional entitlement of a Scheme Shareholder to a part of a New BidCo Share will be rounded up or down to the nearest whole number of New BidCo Shares (rounded up if the fractional entitlement is equal to or greater than one half, and rounded down if the fractional entitlement is less than one half). The Scheme will contain standard provisions under which BidCo will have the discretion to deem the holdings of two or more Scheme Shareholders to be held by one Scheme Shareholder to prevent any Share Splitting designed to obtain unfair advantage by reference to such rounding.

4.4 Deed Poll

BidCo covenants in favour of Target (in Target's own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform the Deed Poll prior to the dispatch of the Explanatory Booklet.

5. Recommendation, intentions and announcements

5.1 Target Board Recommendation and Voting Intention

- (a) Target must use all reasonable endeavours to ensure that the Announcement and the Explanatory Booklet state that each Target Director recommends that Target Shareholders vote in favour of the Scheme (**Recommendation**) which Recommendation 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 that the Scheme is in the best interest of Target Shareholders'.
- (b) BidCo acknowledges that each Target Director may, subject to the terms of this deed, publicly (or otherwise) withdraw, change or in any way qualify their Recommendation if:
 - (i) a Superior Proposal is made;
 - (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interest of the Target Shareholders; or
 - (iii) prior to the Scheme Meeting BidCo undergoes a change of the CEO of BidCo (**Change of Management Event**).
- (c) Target warrants that each Target Director has indicated to Target that they intend to cause any Target Shares in which they have a Relevant Interest to be voted in favour of the Scheme (**Voting Intention**), subject to:
 - (i) there being no Superior Proposal;
 - (ii) the Independent Expert concluding that the Scheme is in the best interest of Target Shareholders; and
 - (iii) BidCo not undergoing a Change of Management Event prior to the Scheme Meeting,and that the Explanatory Booklet will state that Voting Intention to the extent to which it is current as at the date of the Explanatory Booklet.
- (d) BidCo acknowledges that each Target Director may, subject to the terms of this deed, publicly (or otherwise) withdraw, change or qualify their Voting Intention.

5.2 Announcements

- (a) Immediately after the execution of this deed Target must make the Announcement and BidCo may release the Announcement to the ASX.
- (b) Any further public announcements by Target or BidCo in relation to, or in connection with, the Transaction or any other transaction related to this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably). Where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with the Transaction or any other transaction related to this deed or the Scheme, it may do so to the extent legally required and only then after it has given the other party as much notice as possible and has consulted to the extent possible in the circumstances with the other party.

5.3 Promotion of Scheme

During the Exclusivity Period, Target must procure that the senior executives of Target or its Related Bodies Corporate as reasonably requested by BidCo participate in efforts to promote the merits of the Scheme, including:

- (a) meeting with key Target Shareholders;

- (b) communicating with Target's employees, customers and suppliers and the employees, customers and suppliers of Target's Related Bodies Corporate; and
- (c) communicating with the public to promote the merits of the Scheme, subject only to:
 - (i) the Independent Expert not having concluded in the Independent Expert's Report that the Scheme is not in the best interest of Target Shareholders;
 - (ii) there being no Superior Proposal; and
 - (iii) BidCo not undergoing a Change of Management Event prior to the Scheme Meeting.

6. Scheme – parties' respective implementation obligations

6.1 Target's obligations

Target must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable and after the date of this deed and substantially in accordance with the Timetable, including taking each of the following steps:

- (a) (**Explanatory Booklet**) prepare the Explanatory Booklet in accordance with clause 6.3;
- (b) (**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;
- (c) (**approval of draft for ASIC**) as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
- (d) (**liaison with ASIC**) as soon as reasonably practicable after the date of this deed:
 - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 6.1(c) and 6.2(f), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep BidCo reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with BidCo, to resolve any such matters;
- (e) (**approval of Explanatory Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving the Explanatory Booklet for dispatch to the Target Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (f) (**section 411(17)(b) statements**) apply to ASIC for the production of statements in writing under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (g) (**first Court hearing**) lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 6.1(e) and 6.2(g) have been received, 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;
- (h) (**registration of explanatory statement**) request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

- (i) (**convene Scheme Meeting**) take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the Target Shareholders and convening and holding the Scheme Meeting;
- (j) (**call General Meeting**) call the General Meeting so that it is held immediately after the conclusion or adjournment of the Scheme Meeting and propose at the General Meeting the Constitution Replacement Resolution;
- (k) (**Court approval application if parties agree that conditions are capable of being satisfied**) 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) or under the Constitution, the Constitution Replacement Resolution is passed at the General Meeting with the requisite majority and, if necessary, the parties agree on the Business Day immediately following the General Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the proposed Second Court Date, apply to the Court for orders approving the Scheme;
- (l) (**implementation of Scheme**) if the Scheme is approved by the Court:
 - (i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
 - (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to BidCo on the Implementation Date; and
 - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (m) (**Regulatory notifications**) in relation to the Regulatory Approvals, lodge with any Governmental Agency within the relevant periods all documentation and filings required by law to be so lodged by Target in relation to the Proposed Transaction;
- (n) (**BidCo Information**) without the prior written consent of BidCo, not use the BidCo Information for any purposes other than those contemplated by this deed or the Scheme;
- (o) (**Documents**) consult with BidCo in relation to the content of the documents required for the purpose of the Scheme including originating process, affidavits, submissions and draft minutes of Court orders;
- (p) (**Shareholder support**) promote to Target Shareholders the merits of the Scheme and the Proposed Transaction, including reasonably soliciting proxy votes in favour of the Scheme and the Constitution Replacement Resolution; and
- (q) (**Compliance with laws**) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

6.2 BidCo's obligations

BidCo must take all steps reasonably necessary to assist Target to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including taking each of the following steps:

- (a) (**BidCo Information**) provide to Target, in a form appropriate for inclusion in the Explanatory Booklet, all BidCo Information that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Explanatory Booklet, which information must without limiting the above:
 - (i) contain all information necessary to enable Target to ensure that the Explanatory Booklet complies with the requirements of RG 60;
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and

- (iii) be updated by all such further or new material information which may arise after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting and the General Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) (**Regulatory notifications**) in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by BidCo in relation to the Proposed Transaction;
- (c) (**ASX quotation**) do everything reasonably necessary to ensure that the New BidCo Shares are approved for official quotation on ASX and that trading in the New BidCo Shares commences by the first Business Day after the Implementation Date;
- (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;
- (e) (**review of Explanatory Booklet**) as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by Target and provide comments on those drafts in good faith;
- (f) (**approval of draft for ASIC**) as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate representatives of BidCo is held to consider approving those sections of that draft that relate to BidCo as being in a form appropriate for provision to ASIC for review;
- (g) (**approval of Explanatory Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate representatives of BidCo is held to consider approving those sections of the Explanatory Booklet that relate to BidCo as being in a form appropriate for dispatch to Target Shareholders, subject to approval of the Court;
- (h) (**Deed Poll**) on or before the First Court Date, execute the Deed Poll and deliver it to Target;
- (i) (**Representation**) procure that BidCo is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (j) (**Target Information**) without the prior written consent of Target, not use Target Information for any purposes other than those contemplated by this deed or the Scheme; and
- (k) (**Compliance with laws**) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

From the date of this deed until the date the Independent Expert's Report is received, BidCo will ensure that BidCo and its Authorised Persons do not publicly (or otherwise to third parties) denigrate the Proposed Transaction or Target in any way (whether expressly or implied).

6.3 Mutual obligations

BidCo and Target must take all steps reasonably necessary and provide reasonable assistance to the other party to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including taking each of the following steps:

- (a) (**appeal process**) if the Court refuses to make any orders directing Target to convene the Scheme Meeting or approving the Scheme, Target and BidCo must:
 - (i) consult with each other in good faith as to whether to appeal the Court's decision; and
 - (ii) appeal the Court's decision unless the parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success; and

- (b) **(Third party consents)** all consents, approvals or waivers of rights by parties other than Target under any Material Contracts that in the reasonable opinion of BidCo are necessary or desirable are obtained.

6.4 Explanatory Booklet - preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, Target must prepare the Explanatory Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act and RG 60; and
 - (ii) this clause 6.3.
- (b) The Explanatory Booklet will include:
 - (i) the terms of the Scheme;
 - (ii) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting including the General Meeting;
 - (iii) the Target Information;
 - (iv) the BidCo Information;
 - (v) a copy of this deed (without the schedules or annexures);
 - (vi) a copy of the executed Deed Poll; and
 - (vii) a copy of the Independent's Expert Report.
- (c) The Explanatory Booklet must include a statement that:
 - (i) other than the BidCo Information and the Independent Expert's Report, the Explanatory Booklet has been prepared by Target and is the responsibility of Target, and that BidCo assumes no responsibility for the accuracy or completeness of the Explanatory Booklet (other than BidCo Information) and
 - (ii) the BidCo Information has been provided by BidCo and is the responsibility of BidCo, and Target assumes no responsibility for the accuracy or completeness of the BidCo Information.
- (d) Target must make available to BidCo drafts of the Explanatory Booklet (excluding any draft of the Independent Expert's Report), consult with BidCo in relation to the content of those drafts (other than the BidCo Information), and consider in good faith, for the purpose of amending those drafts, comments from BidCo on those drafts. BidCo acknowledges and agrees that Target has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as provided in this deed with respect to the BidCo Information.
- (e) Target must seek approval from BidCo for the form and context in which the BidCo Information appears in the Explanatory Booklet, which approval BidCo must not unreasonably withhold or delay.
- (f) If Target and BidCo disagree on the form or content of the Explanatory Booklet, they must consult in good faith to try to settle an agreed form of the Explanatory Booklet. If complete agreement is not reached after reasonable consultation, then:
 - (i) if the disagreement relates to the form or content of any information appearing in the Explanatory Booklet other than the BidCo Information, the Target Board will, acting in good faith, decide the final form or content of the disputed part of the Explanatory Booklet; and
 - (ii) if the disagreement relates to the form or content of the BidCo Information, Target will make such amendments to the form or content of the disputed part of the BidCo Information as BidCo reasonably requires.

- (g) Target must take all reasonable steps to ensure that the Explanatory Booklet (other than the BidCo Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is dispatched to Target Shareholders.
- (h) BidCo must take all reasonable steps to ensure that the BidCo Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is dispatched to Target Shareholders.
- (i) Target must provide to BidCo all such further or new information of which Target becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting and the General Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act and RG 60.
- (j) BidCo must provide to Target all such further or new information of which BidCo becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting and the General Meeting where this is or may be necessary to ensure that the BidCo Information continues to comply with the Corporations Act and RG 60.
- (k) Target and BidCo each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of Target Shareholders and BidCo and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 6.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

6.5 Payment of Permitted Special Dividend and internal payments

- (a) Despite any other provision of this deed, Target may in, its sole discretion, declare and pay a dividend of up to \$2.85 per Target Share *minus* any amount per share paid or payable by Target as a Target Final Dividend (**Permitted Special Dividend**) to Target Shareholders, provided that:
 - (i) the Permitted Special Dividend is to be declared on or prior to the Effective Date, but declared such that the record date to determine the entitlements of Target Shareholders to that dividend is the Record Date;
 - (ii) the payment date for the Permitted Special Dividend will be determined by Target at its discretion, provided that the Permitted Special Dividend is paid only after the Record Date and not later than the Implementation Date;
 - (iii) the Permitted Special Dividend will be fully franked, subject to the franking account of Target not being less than \$20.022 million less the aggregate amount of franking credits attached to any Target Final Dividend and not being in deficit after the payment of the Permitted Special Dividend;
 - (iv) the Target must obtain a tax ruling from the Commissioner of Taxation regarding the Permitted Special Dividend which is in a form acceptable to BidCo (acting reasonably); and
 - (v) the Permitted Special Dividend is to be paid from accumulated profits of the Target Group existing immediately prior to the declaration of that dividend.
- (b) Despite any other provision of this deed, Target may make any intra group distributions and payments between members of the Target Group, in order to be able to declare and pay the Permitted Special Dividend in accordance with clause 6.5(a).
- (c) The parties acknowledge and agree that:
 - (i) if the Permitted Special Dividend is declared or paid in accordance with clause 6.5(a), the cash component of the Scheme Consideration per Target Share will be reduced by the amount of the Permitted Special Dividend; and
 - (ii) any Target Final Dividend will reduce the cash component of the Scheme Consideration per Target Share by the amount of the Target Final Dividend.
- (d) Target must give at least 5 Business Days' notice to BidCo of any Target Final Dividend and any Permitted Special Dividend.

6.6 Funding of Permitted Special Dividend

- (a) BidCo agrees that, if Target declares a Permitted Special Dividend in accordance with clause 6.5(a), BidCo (or a member of the BidCo Group) will provide an unsecured, interest free loan to Target in an amount equal to the aggregate cash amount of the Permitted Special Dividend.
- (b) The loan provided under clause 6.6(a) must:
 - (i) be paid by BidCo to Target at least 1 Business Day prior to the payment date for the Permitted Special Dividend; and
 - (ii) subject to clause 6.6(d), not be repayable for at least 12 months following the payment date for the Permitted Special Dividend.
- (c) BidCo's obligation to make the payment referred to in clause 6.6(b)(i) will be satisfied by the payment of the relevant amount in immediately available funds to the account nominated by Target for the purposes of this clause.
- (d) If the transactions which form part of the Scheme are not implemented on the Implementation Date (other than as a result of a failure by BidCo to pay the Scheme Consideration to Target in accordance with clause 8.2(a)), then:
 - (i) the loan provided under clause 6.5(a) will be repayable by Target no later than the date which is 100 days after the date of payment of the loan by BidCo to Target under clause 6.6(b)(i) (the **Mandatory Repayment Date**); and
 - (ii) if Target does not repay the loan in full to BidCo on or before the Mandatory Repayment Date, interest will accrue on any outstanding monies under the loan at an interest rate of 10% per annum.

7. Conduct of business before the Implementation Date

7.1 Conduct of Target business

- (a) Subject to clause 7.2(a), from the date of this deed up to and including the Implementation Date, Target must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:
 - (i) operate those businesses consistent with past practice, in substantially the same manner as previously conducted;
 - (ii) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them;
 - (iii) use reasonable endeavours to retain the services of all key employees;
 - (iv) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (v) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the Target Group is a party, and with laws, authorisations and licences applicable to each member of the Target Group; and
 - (vi) not take or fail to take any action that constitutes a Target Prescribed Occurrence or that could reasonably be expected to result in a Target Prescribed Occurrence.
- (b) Without limiting clause 7.1(a) but subject to clause 7.2(a), Target must not, and must procure that its Subsidiaries do not, from the date of this deed up to and including the Implementation Date do any of the following (or agree or offer to do any of the following):
 - (i) have financial indebtedness of more than \$2 million (in aggregate), excluding normal working capital balances and draw-downs on existing banking facilities and to the extent it is above \$2 million the Scheme Consideration will be reduced by that amount in aggregate;

- (ii) incur any additional financial indebtedness (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the Target Group, other than in the usual and ordinary course of business and consistent with past practice;
- (iii) (except as required by law or as provided in an existing contract in place as at the date of this deed) make any material change to the terms of employment of (including increasing the remuneration or compensation of), or grant or pay any bonus, retention, severance or termination payment to, any director, executive or Senior Manager;
- (iv) (except under contractual arrangements in effect on the date of this deed) enter into any enterprise bargaining agreement or similar collective employment agreement;
- (v) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking, the value of which exceeds \$200,000, individually or when aggregated with all such businesses, real property, entities or undertakings the subject of the transaction or series of related or similar transactions;
- (vi) incur or enter into commitments involving capital expenditure of more than \$200,000 whether in one transaction or a series of related transactions; or
- (vii) enter into, vary or terminate any contract, joint venture, partnership or commitment for a duration of over 2 years involving total expenditure by the Target Group greater than \$200,000 per year, individually or when aggregated with all such contracts, joint ventures, partnerships or commitments.
- (viii) enter into, vary or terminate any contract, joint venture, partnership or commitment (or any series of related contracts, joint ventures, partnerships or commitments):
 - (A) involving total expenditure by the Target Group greater than \$200,000, individually or when aggregated with all such related contracts, joint ventures, partnerships or commitments;
 - (B) waiving any third party default which has a financial impact upon the Target Group, or accepting as a compromise anything less than the full compensation due to the Target Group, in each case where the applicable expenditure or impact is or will be in excess of \$200,000 in any financial year;
 - (C) restraining any material member of the Target Group from competing with any person or conducting activities in any market; or
 - (D) with any related party or entity of any member or director of the Target Group (other than a member of the Target Group);
- (ix) enter into any new financing arrangement, agreement or otherwise provide financial accommodation other than with members of the Target Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;
- (x) enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this deed;
- (xi) issue, or agree to issue, or grant an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been Fairly Disclosed in the Due Diligence Materials;

- (xii) alter in any material respect any accounting policy of any Member of the Target Group other than any change required by AIFRS or IFRS (as applicable); or
- (xiii) amend in a material respect or terminate any existing shareholders agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.

7.2 Permitted activities

- (a) The obligations of Target under clause 7.1 do not apply in respect of any matter:
 - (i) undertaken by a member of the Target Group in conducting its businesses in the usual and ordinary course and consistent with past practice, but this exception does not apply to the activities contemplated by clause 7.1(b)(viii)(D);
 - (ii) required to be done or procured by Target under, or which is otherwise contemplated by, this deed or the Scheme;
 - (iii) required by law or by an order of a court or Governmental Agency;
 - (iv) subject to clause 7.2(b), Fairly Disclosed in the Due Diligence Material as being actions that the Target Group may carry out between the date of this deed and the Implementation Date; or
 - (v) the undertaking of which BidCo has approved in writing (which approval must not be unreasonably withheld or delayed).
- (b) Target must in respect of any matter referred to in clause 7.2(a)(iv) above that it proposes to undertake:
 - (i) not undertake that matter (or commit to undertake that matter) without first providing notice to BidCo; and
 - (ii) promptly provide BidCo with any information regarding the matter reasonably requested by BidCo.

Clause 7.2(b) does not operate to provide BidCo with a veto right in respect of any matter referred to in clause 7.2(a)(iv).

7.3 Access

- (a) In the period from the date of this deed to the Implementation Date and for so long as the Target Board continues to publicly recommend that Target Shareholders vote in favour of the Scheme, Target must:
 - (i) procure members of Target's executive management team meet with representatives of BidCo on a monthly basis to assist with, among other things:
 - (A) keeping BidCo fully informed of the matters contemplated by clause 7.3(a)(ii) below; and
 - (B) providing BidCo with access to information and people it has requested under clause 7.3(a)(iii) below;
 - (ii) keep BidCo fully informed of all material developments relating to the Target Group and provide to BidCo monthly management, financial and operational reports provided to the Target Board;
 - (iii) promptly following a reasonable request by BidCo, provide BidCo (and its Authorised Persons) with access to:
 - (A) documents and information relating to the Target Group; and
 - (B) executives and Senior Management of the Target Group,
 for the purpose of or in connection with:
 - (C) planning the transition of the Target Group and other matters relating to the conduct of the Target Group following the Implementation Date;

- (D) the financing arrangements in respect of the Proposed Transaction, including any refinancing of existing financial indebtedness of the Target Group;
 - (E) holding discussions with third parties, with the consent of Target (such consent not to be unreasonably withheld or delayed) that BidCo and its Authorised Persons reasonably wish to enter into with respect to the Proposed Transaction prior to the Implementation Date, including procuring that employees of any member of Target Group participate in such discussions; and
 - (F) otherwise facilitating the Proposed Transaction; and
- (iv) provide BidCo with complete copies of monthly accounts of the Target Group prepared by management of the Target Group to the extent such accounts are prepared (which must be prepared in accordance with IFRS, AIFRS or GAAP (as applicable) applied to the entities on a basis consistent with past practice) as soon as practicable after those materials have been provided to the Target Board.
- (b) Nothing in this clause 7.3 obliges Target to provide to BidCo or its Authorised Persons any information:
- (i) concerning the Target Directors' consideration of the Scheme; or
 - (ii) which would breach an obligation of confidentiality to any person or any applicable privacy laws.
- (c) Target will provide reasonable assistance to BidCo for the purpose of satisfying Target's obligations under this clause 7.3 but nothing in this clause 7.3 requires Target to provide access to its people or documentation or to take any other action which would involve refreshing or updating the Due Diligence Material or which would unreasonably disrupt the usual and ordinary course of Target's businesses and operations.

7.4 Change of control rights

- (a) As soon as practicable after the date of this deed, Target and BidCo must seek to identify any change of control or similar provisions in leases and material contracts to which Target or a Target Group company is a party which may be triggered by the implementation of the Proposed Transaction. In respect of those leases and contracts, the parties agree as follows:
- (i) Target and BidCo will agree a proposed course of action and then jointly initiate contact with the relevant landlords and other counter-parties and request that they provide any consents required. None of BidCo, or any of their Authorised Persons may contact any landlords or other counter-parties without Target's approval; and
 - (ii) Target must cooperate with, and provide reasonable assistance to, BidCo to obtain such consents as expeditiously as possible, including by:
 - (A) promptly provide any information reasonably required by landlords or counterparties; and
 - (B) make representatives available, where necessary, to meet with landlords or counterparties to deal with issues arising in relation to the change of control of Target.

A failure by a member of the Target Group to obtain any landlord or third party consent will not constitute a breach of this deed by Target and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

- (b) In respect of Material Contracts, the parties agree as follows:
- (i) Target must, as soon as practicable after the date of this deed, apply to the counterparties to these contracts for any consents in relation to the Proposed Transaction.

- (ii) Target must use reasonable endeavours to obtain the consents referred to in clause 7.4(b)(i) as expeditiously as possible and, in any event, prior to the Second Court Date and to ensure that once obtained, the consents are not withdrawn, cancelled or revoked, including by:
 - (A) cooperating with, and doing all things reasonably requested by, Target, BidCo or the counterparty to a Material Contract;
 - (B) promptly provide any information reasonably required by a counterparty to a Material Contract, including providing any information requested by Target or those counterparties from BidCo or in relation to a BidCo Related Person; and
 - (C) make representatives of Target available, where necessary, to meet with counterparties to Material Contracts to deal with issues arising in relation to the change of control of Target.
- (iii) BidCo must provide any assistance (including providing factual information regarding BidCo and attending relevant meetings) reasonably requested by Target for the purposes of Target complying with its obligations under this clause 7.4, except that BidCo is not responsible for any costs incurred in connection with any application for or granting of consent from the counterparties to the Material Contracts.
- (iv) BidCo must use reasonable endeavours to procure releases for Directors and Senior Managers of Target from any guarantees Fairly Disclosed in the Due Diligence Materials and given to support the business of Target.
- (v) Target must not, without the prior written consent of BidCo, which must not be unreasonably withheld or delayed, incur any unreasonable costs in connection with performing its obligations under this clause 7.4(b).

8. Actions on and following Implementation Date

8.1 Reconstitution of the board of each member of the Target Group

- (a) On the Implementation Date, but subject to compliance by BidCo and Target with their obligations under clauses 8.2(a) and 8.2(b) respectively and receipt by Target of signed consents to act, Target must take all actions necessary (and in accordance with the constitution of the Target Group member and the Corporations Act) to appoint the persons nominated by BidCo as new Target Directors and new directors of each Subsidiary.
- (b) Without limiting clause 8.1(a), on the Implementation Date, but subject to receipt by Target of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Target Group, Target must procure that:
 - (i) all outgoing Target Directors resign from the Target Board; and
 - (ii) all outgoing directors of each Subsidiary of Target resign from their office, other than those directors who consent at BidCo's request to remain directors of Target or any subsidiaries of Target.

8.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:

- (a) BidCo will provide or procure that the Scheme Consideration is provided to Target or Target Shareholders in accordance with the Scheme;
- (b) Target will disburse the cash component of the Scheme Consideration to Scheme Shareholders in accordance with the Scheme;
- (c) the Target Board and the board of each Subsidiary of Target will be reconstituted in accordance with clause 8.1; and

- (d) BidCo will acquire all of the Scheme Shares in accordance with the Scheme.

9. Representations and warranties

9.1 BidCo representations

- (a) BidCo represents and warrants to Target (on Target's own behalf and separately as trustee for each of the other Target Parties) each of the matters set out in clause 9.1(b) as at the date of this deed and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date.
- (b) BidCo represents and warrants that:
- (i) BidCo is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed has been properly authorised by all necessary corporate action and BidCo has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
 - (iii) this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which BidCo is a party or is bound;
 - (iv) the BidCo Information provided to Target in accordance with clause 6.2(a) for inclusion in the Explanatory Booklet will:
 - (A) comply in all material respects with the requirements of the Corporations Act and RG 60;
 - (B) not:
 - (I) be false or misleading in a material particular; or
 - (II) have omitted from it a matter or thing the omission of which renders the BidCo Information misleading in a material respect; and
 - (C) be provided on the understanding that each of the Target Indemnified Parties will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;
 - (v) all information provided by or on behalf of BidCo to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith, will not:
 - (A) be false or misleading in a material particular; or
 - (B) have omitted from it a matter or thing the omission of which renders the BidCo Information misleading in a material respect,and will be provided on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report;
 - (vi) as at the date the Explanatory Booklet is dispatched to Target Shareholders, the BidCo Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
 - (vii) BidCo will, as a continuing obligation, provide to Target all such further or new information which may arise after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting and the General Meeting which is necessary

to ensure that the BidCo Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);

- (viii) all factual information BidCo has provided to Target prior to this deed is, to the best of BidCo's knowledge, accurate in all material respects and not misleading in any material respect;
- (ix) as at the date of this deed BidCo has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy BidCo's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (x) by the Delivery Time on the Second Court Date, BidCo will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of BidCo) sufficient cash amounts (whether from internal cash resources or external funding arrangements including debt and equity financing or a combination of both) to satisfy BidCo's obligations under this deed, the Scheme and the Deed Poll, including its obligation to pay the cash component of the Scheme Consideration;
- (xi) BidCo will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources or external funding including debt and equity financing arrangements or a combination of both) to satisfy BidCo's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll; and
- (xii) between the date of this deed and the Record Date, BidCo will not, and will procure that each other member of the BidCo Group does not, enter into any arrangement under which it obtains the beneficial interest in any Target Shares, unless the Target Shares are registered in the name of BidCo.

9.2 BidCo's indemnity

BidCo agrees with Target (on Target's own behalf and separately as trustee or nominee for each of the other Target Parties) to indemnify and keep indemnified the Target Parties from and against all Claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Target Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 9.1(a) or 9.1(b).

9.3 Target representations

- (a) Target represents and warrants to BidCo each of the matters set out in clause 9.3(b) as at the date of this deed and on each subsequent day until on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Target represents and warrants that:
 - (i) Target is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed by Target has been properly authorised by all necessary corporate action and Target has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
 - (iii) this deed constitutes legal, valid and binding obligations on Target and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which Target or any of its Subsidiaries is a party or to which they are bound;

- (iv) the Target Information contained in the Explanatory Booklet will comply in all material respects with the requirements of the Corporations Act and RG 60;
- (v) as at the date the Explanatory Booklet is dispatched to Target Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the BidCo Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (vi) as at the date of this deed, the total issued capital of Target is 14,500,000 Target Shares and there are no other Target options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);
- (vii) between 3 June 2019 and the date of this deed Target has not taken any action, or failed to take any action which if it had taken, or failed to take (as applicable) after the date of this deed it would have been a breach of clause 7 of this deed (subject to any matter permitted under clause 7.2) or constituted a Target Prescribed Occurrence;
- (viii) any Controlled Entity of Target is as set out in the Target Reporting Documents and there is no other company, partnership, trust or other enterprise which any member of the Target Group owns or has an interest in;
- (ix) as at the date of this deed, there is no judgment, injunction, order or decree binding on any member of the Target Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of Target Group as presently being conducted;
- (x) as at the date of this deed, no member of the Target Group, nor the assets, properties or business of any member of the Target Group, is subject to any judgment, order, writ, injunction or decree of any court, Governmental Agency or arbitration tribunal and so far as Target is aware:
 - (A) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the Target Group; and
 - (B) no member of the Target Group is the subject of any pending investigation, other than as Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
- (xi) so far as the Target Board and the Senior Managers of the Target are aware after due and diligent inquiry, there is no material breach by Target or any of its Authorised Persons of any Australian law or regulation applicable to them or order of any Australian or foreign Governmental Agency having jurisdiction over them that:
 - (A) has or could reasonably be expected to have a materially adverse implication in relation to:
 - (I) the conduct of the business of the Target Group;
 - (II) the value of the Target Group; or
 - (III) the reputation of the Target Group, including any implication in relation to its good standing with any Governmental Agency having jurisdiction over the conduct of business of the Target Group; or
 - (B) has resulted or could reasonably be expected to result in any criminal liability of any member of the Target Group involving proof of intention or any criminal penalty exceeding \$50,000;
- (xii) so far as the Target Board and the senior managers of any member of the Target Group are aware after due and diligent inquiry, there is no material breach by Target or any of its Authorised Persons of any Australian or foreign law or regulation applicable to them or order of any Australian or foreign Governmental Agency having jurisdiction over them, which breach, alone or together with any

other breaches of law, has or could reasonably be expected to have the effect of causing:

- (A) any contract to be terminable or terminated;
 - (B) Target or any of its Authorised Persons to be restricted in doing business in any jurisdiction or with any customer or supplier, or being subject to criminal liability; or
 - (C) any other material adverse effect on the Target Group;
- (xiii) each member of the Target Group has all material licenses, permits and authorities necessary for it to conduct its business;
 - (xiv) as at the date of this deed, ASIC has not made a determination against any member of the Target Group for any contravention of the requirements of the Corporations Act or any rules, regulations, policy statements or regulatory guides under the Corporations Act;
 - (xv) Target's financial statements as lodged with ASIC have been prepared in accordance with AIFRS or IFRS (as applicable) on a basis consistent with past practice financial statements and, so far as Target is aware, there has not been any event, change, effect or development which would require Target to restate its financial statements as lodged with ASIC;
 - (xvi) except for registered securities (as identified in a letter or email exchange between the parties prior to the execution of this deed) and as registered with the PPSR as at 5 July 2019 or as disclosed in the Due Diligence Materials, there is no security interest over all or a substantial part of its or its Subsidiaries' present or future assets or revenues of its business or its Subsidiaries' businesses;
 - (xvii) the Due Diligence Materials have been disclosed in good faith and, so far as the Target Board and the Senior Managers of Target are aware after due enquiry, Target has not knowingly or recklessly:
 - (A) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (B) included anything materially false or misleading in such information;
 - (xviii) as at the date of this deed, and so far as the Target Board and the Senior Managers of the Target Group are aware after due and diligent inquiry, there are no agreements to which any member of the Target Group is a party which contain any change of control provision that may be triggered by the implementation of the Proposed Transaction (except as otherwise Fairly Disclosed in the Due Diligence Materials); and
 - (xix) all entities within the Target Group have a financial and tax year end date of 30 June.

9.4 Target's indemnity

Target agrees with BidCo (on BidCo's own behalf and separately as trustee for each of the BidCo Indemnified Parties) to indemnify and keep indemnified the BidCo Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the BidCo Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 9.3(a) or 9.3(b).

9.5 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 9.

9.6 Survival of representations

Each representation and warranty in clauses 9.1 and 9.3:

- (a) is severable;
- (b) will survive the termination of this deed; 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 deed.

9.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 9.2 and 9.4) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survive the termination of this deed.

10. Releases

10.1 Target Parties

- (a) Without limiting BidCo's rights under clause 9, BidCo (for itself and as agent of every member of the BidCo Group) releases all rights against and agrees with Target that it will not make a Claim against, any Target Party (other than Target) in connection with:
 - (i) Target's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of Target in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any Target Party including in the Due Diligence Material that contains any statement which is false or misleading whether in content or by omission,except to the extent the relevant Target Party has not acted in good faith or has engaged in wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Target receives and holds the benefit of this clause as trustee for each other Target Party.

10.2 BidCo Parties

- (a) Without limiting Target's rights under clause 9, Target releases its rights against, and agrees with BidCo that it will not make a Claim against any BidCo Party (other than BidCo) in connection with:
 - (i) BidCo's execution or delivery of this deed
 - (ii) any breach of any representation, covenant and warranty of BidCo in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any BidCo Party that contains any statement which is false or misleading whether in content or by omission,except to the extent that the relevant BidCo Party has not acted in good faith or has engaged in wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. BidCo receives and holds the benefit of this clause as trustee for each other BidCo Party.

10.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, BidCo undertakes in favour of Target and each other person who is a Target Party that it will:
 - (i) subject to clause 10.3(b), for 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such or similar rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Target Group; and
 - (ii) procure that Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
- (b) The undertakings contained in clause 10.3(a) are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (c) Target receives and holds for the benefit of clause 10.3(a), to the extent it relates to the other Target Parties, as trustee for them.
- (d) The undertakings contained in clause 10.3(a) are given:
 - (i) in the case of clause 10.3(a)(i), until the earlier of 7 years from the Implementation Date or the relevant member of the Target Group ceasing to be part of the BidCo Group; or
 - (ii) in the case of clause 10.3(a)(ii), until the earlier of 7 years from the retirement of each director and officer or the relevant member of the Target Group ceasing to be part of the BidCo Group.

10.4 Directors' and officers' insurance

BidCo acknowledges that Target will in respect of Target and all other members of the Target Group:

- (a) prior to the Effective Date, arrange for the cover currently provided under the directors' and officers' insurance policy for Target and all other members of the Target Group (**Policy**) to be extended for a further 12 months; and
- (b) by no later than the Implementation Date, arrange for and maintain in full force and effect 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 7 years from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

10.5 Obligations in relation to directors' and officers' insurance

- (a) From the Implementation Date, BidCo must not and must ensure that Target does not:
 - (i) vary or cancel the Policy unless it is replaced with a materially equivalent policy; or
 - (ii) commit any act or omission that may prejudice any claim by a director or officer of Target under the Policy as extended under clause 10.4(b) above.
- (b) Nothing in clause 10.4 or 10.5 shall require Target to not fulfil its contractual obligations under the Policy.

11. Confidentiality and public announcement

11.1 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Agreement save that the terms of this deed will prevail over the Confidentiality Agreement to the extent of any inconsistency.

11.2 Required announcement

Where a party is required by applicable law, the ASX Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Proposed Transaction or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other party before making the relevant disclosure and must give the other party as much notice as reasonably practicable.

11.3 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clause 11.2 apply to any such statements or disclosures.

12. Termination

12.1 Termination by notice

- (a) BidCo or Target may, by notice in writing to the other, terminate this deed at any time prior to the Second Court Date:
- (i) if the other is in material breach of any of its obligations under this deed (including a material breach of a representation or warranty and in the case of BidCo includes any failure by it to pay an amount when due (including an amount of damages or amounts due under an indemnity) and the other party has failed to remedy that breach within 5 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach;
 - (ii) in accordance with clause 3.7;
 - (iii) if the Court refuses to make any order either directing Target to convene the Scheme Meeting or approving the Scheme provided that both Target and BidCo have met and consulted in good faith and agreed that they do not wish to proceed with the Scheme; or
 - (iv) if the Effective Date for the Scheme has not occurred on or before the End Date.
- (b) Target may, by notice in writing to BidCo, terminate this deed at any time prior to the Delivery Time on the Second Court Date if each of that number of Target Directors as constitutes a majority of the Target Board publicly recommend a Superior Proposal and do not, within 2 Business Days, reinstate their recommendation of the Proposed Transaction.
- (c) BidCo may, by notice in writing to Target, terminate this deed:
- (i) at any time prior to Delivery Time on the Second Court Date if at any time before then any director of Target withdraws or adversely modifies their recommendation of the Proposed Transaction or recommends or supports a Competing Proposal; or
 - (ii) at any time prior to the Delivery Time on the Second Court Date if at any time before then:
 - (A) any director of Target:
 - (I) withdraws or adversely modifies their recommendation of the Proposed Transaction or recommends or supports a Competing Proposal;
 - (II) does not recommend in the Explanatory Booklet that Target Shareholders approve the Scheme in the absence of a Superior Proposal; or
 - (III) makes any public statement to the effect that the Scheme is not, or is no longer, recommended; or

- (B) a Competing Proposal is announced or made and is recommended or supported by any director of Target.

12.2 Automatic termination

Without limiting any other term of this deed but subject to clause 3.6, this deed will terminate automatically if the Scheme is not approved by the necessary majorities at the Scheme Meeting.

12.3 Effect of termination

- (a) In the event of termination of this deed under clause 3.7, 12.1 or 12.2, this deed will become void and have no effect, except that the provisions of clauses 9.6, 9.7, 12, 13 and 18.3 to 18.16 (inclusive) survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

13. Target Break Fee

13.1 Background

- (a) Target and BidCo agree that, if they enter into this deed and the Scheme is subsequently not implemented, BidCo will incur significant costs including those described in clause 13.2.
- (b) In the circumstances referred to in clause 13.1(a), BidCo has requested that provision be made for the payments outlined in clause 13.3, without which BidCo would not have entered into this deed.
- (c) The Target Board believes that the Scheme will provide benefit to Target and Target Shareholders and that it is appropriate for Target to agree to the payments referred to in this clause 13 in order to secure BidCo's participation in the Proposed Transaction.

13.2 Costs incurred by BidCo

- (a) The fee payable under clause 13.3 has been calculated to reimburse BidCo for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction;
 - (v) costs associated with the financing arrangements in respect of the Proposed Transaction; and
 - (vi) any damage to the BidCo's reputation associated with a failed transaction and the implications of those damages if BidCo seeks to execute alternative acquisitions in the future,in each case, incurred by BidCo directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.
- (b) The parties agree that:
 - (i) the amount of fees, costs and losses referred to in this clause 13.2 is inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained; and

- (ii) the amount of the costs payable under clause 13.3 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

13.3 Payment by Target to BidCo

- (a) Target agrees to pay to BidCo \$1,573,250 (exclusive of GST) (**Target Break Fee**) in any of the following circumstances:
 - (i) (**Competing Proposal Succeeds**) both of the following occur:
 - (A) a Competing Proposal is publicly announced during the period commencing on the date of this deed and ending on:
 - (I) if this deed is terminated by Target, the End Date; or
 - (II) if this deed is terminated by BidCo, the earlier of the End Date and the date of termination of this deed by BidCo; and
 - (B) within 12 months from the date of the public announcement of such Competing Proposal:
 - (I) the Competing Proposal is implemented or completed substantially in the terms described in the public announcement; or
 - (II) without limiting clause 13.3(a)(i)(B)(I), the proponent of that Competing Proposal acquires a relevant interest in at least 50% of Target Shares and the Competing Proposal is (or becomes) free of any defeating condition.
 - (ii) (**Change of Recommendation**) At any time prior to the Second Court Date, any director of Target:
 - (A) withdraws or adversely modifies their recommendation of the Proposed Transaction or recommends or supports a Competing Proposal;
 - (B) does not recommend in the Explanatory Booklet that Target Shareholders approve the Scheme; or
 - (C) makes any public statement to the effect that the Scheme is not, or is no longer, recommended,except where this is as a result of the Independent Expert opining that the Scheme is not in the best interest of Target Shareholders.
 - (iii) (**Material Breach**) Target is in breach of any of its obligations under this deed or of a representation and warranty given by it under clause 9.3 and BidCo terminates this deed in accordance with (and subject to the cure periods specified in) clause 12.1(a)(i);
 - (iv) (**Material Adverse Change**) the Condition in clause 3.1(k) is breached or not satisfied prior to the Delivery Time on the Second Court Date (except if that Condition is breached as a result of a change in any applicable law.
 - (v) (**Prescribed Occurrence**) the Condition in clause 3.1(b) is breached or not satisfied prior to the Delivery Time on the Second Court Date.
 - (vi) (**Proposed Transaction not implemented**) the Proposed Transaction has not otherwise been implemented by 11.50pm on the End Date except where that is as a result of a Condition in clause 3.1(a), 3.1(c), 3.1(e), 3.1(f), 3.1(g), 3.1(j) or 3.1(l) not being satisfied or waived within 10 Business Days of the End Date or a party terminates this deed under clause 3.7 in respect of such condition
- (b) Target must pay BidCo the Target Break Fee within 5 Business Days of receipt by Target of a demand for payment from BidCo made after the occurrence of the event referred to in clause 13.3(a).
- (c) The Target Break Fee is not payable because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.

- (d) The Target Break Fee is only payable once and the maximum amount payable by Target under this clause 13.3 is \$1,573,250 (exclusive of GST) and with the effect that the payment of the Target Break Fee represents the sole and exclusive remedy of any BidCo Group Member.

14. BidCo Break Fee

- (a) BidCo agrees to pay to Target \$1,573,250 (exclusive of GST) (**BidCo Break Fee**) if:
 - (i) Target terminates this deed in accordance with clause 12.1(a)(i); or
 - (ii) BidCo does not pay the Scheme Consideration in accordance with the terms and conditions of the Scheme, this deed and the Deed Poll.
- (b) BidCo must pay Target the BidCo Break Fee within 5 Business Days of receipt by BidCo of a demand for payment from Target made after the occurrence of the event referred to in clause 14(a).
- (c) The maximum aggregate amount which BidCo is required to pay in relation to a breach of this deed by BidCo is the BidCo Break Fee and in no event will the aggregate liability of BidCo under or in connection with a breach of this deed exceed the BidCo Break Fee.
- (d) The BidCo Break Fee is only payable once and the maximum amount payable by BidCo under clause 14(a) is \$1,573,250 (exclusive of GST) and is the sole and exclusive remedy of any member of the Target Group.

15. Exclusivity

15.1 No existing discussions

Other than in relation to the discussions with BidCo in connection with the Proposed Transaction, Target represents and warrants to BidCo that, as at the date of this deed:

- (a) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is a party to any agreement with a third party entered into for the purpose of facilitating a Competing Proposal; and
- (b) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is participating in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a Competing Proposal.

15.2 No shop restriction

During the Exclusivity Period, except with the prior written consent of BidCo, Target must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, directly or indirectly solicit, invite, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

15.3 No talk restriction

Subject to clause 15.5, during the Exclusivity Period, Target must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, (whether directly or indirectly):

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
 - (b) communicate any intention to do any of these things,
- in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:
- (c) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Target or any of its Related Bodies Corporate; or
 - (d) that person has publicly announced the Competing Proposal.

15.4 No due diligence

- (a) During the Exclusivity Period, except with the prior written consent of BidCo, Target must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:
 - (i) solicit, invite, initiate, or encourage, or (subject to clause 15.5) facilitate or permit, any person (other than BidCo) to undertake due diligence investigations in respect of Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
 - (ii) subject to clause 15.5, make available to any person (other than BidCo) or permit any such person to receive any non-public information relating to Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.
- (b) If Target proposes that any non-public information be provided to a Third Party, then:
 - (i) before Target provides such information, the Third Party must enter into an Acceptable Confidentiality Agreement; and
 - (ii) any non-public information provided to that Third Party must also be provided to BidCo (unless the information has already been provided to BidCo or an Authorised Person).

15.5 Exceptions

Clauses 15.3 and 15.4 do not apply if the Target Board, acting in good faith, determines:

- (a) where there is a written Competing Proposal, that the Competing Proposal is a Superior Proposal or the steps which the Target Board proposes to take may reasonably be expected to lead to a Competing Proposal which is a Superior Proposal; and
- (b) after receiving written legal advice from Target's external legal advisers, that failing to respond to the Competing Proposal may constitute a breach of its fiduciary or statutory duties.

15.6 Target warranty and undertakings

- (a) Target warrants as at the date of this deed:
 - (i) that it has, and its Authorised Persons have, ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal; and
 - (ii) that it has requested the return of Target's confidential information in accordance with the terms of any relevant confidentiality agreement from all third parties conducting due diligence investigations on the Target Group prior to the date of this deed.
- (b) During the Exclusivity Period, without limiting clause 15.4, Target must not provide any non-public information to a person in connection with or to directly or indirectly encourage a Competing Proposal unless:
 - (i) that person has entered into an Acceptable Confidentiality Agreement; and
 - (ii) any non-public information provided to that person is also provided to BidCo (unless the information has already been provided to BidCo or an Authorised Person).
- (c) During the Exclusivity Period, Target must:
 - (i) diligently enforce all its rights under each confidentiality agreement entered into in connection with a Competing Proposal (before the date of this deed), including its rights to require the return of confidential information as referred to in clause 15.6(a)(ii), and keep BidCo fully informed of its progress in doing so;

- (ii) as soon as reasonably practicable, ensure that the electronic data room access granted to any third party prior to the date of this deed in connection with a Competing Proposal is withdrawn; and
- (iii) not grant any waivers or agree to any amendments under any confidentiality agreements entered into in connection with a Competing Proposal (before the date of this deed).

15.7 Notice of Competing Proposal

- (a) Subject to clause 15.8, during the Exclusivity Period, Target must promptly notify BidCo in writing of:
 - (i) any approach, inquiry or proposal made by any person to Target, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Competing Proposal; and
 - (ii) any request made by any person to Target, any of its Related Bodies Corporate or any of their respective Authorised Persons, for any information relating to Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of a Competing Proposal,

(Competing Proposal Notice).
- (b) Subject to clause 15.6, a Competing Proposal Notice must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 15.7(a)(i) or who made the relevant request for information referred to in clause 15.7(a)(ii); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and any break fee) of any Competing Proposal or any proposed Competing Proposal (to the extent known).
- (c) If Target gives BidCo a Competing Proposal Notice, BidCo agrees that the notice will be Confidential Information of Target (as defined in the Confidentiality Agreement).

15.8 Target's response to Competing Proposal and BidCo's right to respond

- (a) If Target receives a Competing Proposal and as a result, any Target Director proposes to either:
 - (i) change, withdraw or modify his or her recommendation of the Scheme; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Proposal with the person who has made the applicable Competing Proposal (**Rival Acquirer**) (other than an Acceptable Confidentiality Agreement),

Target must ensure that no Target Director does so:

- (iii) unless the Competing Proposal is bona fide; and
- (iv) until each of the following has occurred:
 - (A) Target has given BidCo written notice (**Relevant Notice**) of the Target Director's proposal to take the action referred to in clause 15.8(a)(i) or 15.8(a)(ii) (subject to BidCo's rights under clause 15.8(b)), including details of the grounds on which the Target Directors propose to take such action;
 - (B) subject to clause 15.6(b), Target has given BidCo all information that would be required by clause 15.7(b); and
 - (C) BidCo's rights under clause 15.8(b) have been exhausted; and
- (b) If Target gives a Relevant Notice to BidCo under clause 15.8(a)(iv)(A), BidCo will have the right, but not the obligation, at any time during the 5 Business Days following the receipt of

the Relevant Notice, to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing another form of transaction (each a **Counter Proposal**), and if it does so then the Target Directors must review the Counter Proposal in good faith. If the Target Directors determine that the Counter Proposal would be more favourable, or at least no less favourable, to Target and the Target Shareholders than the Competing Proposal, then Target and BidCo must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Counter Proposal, and to enter into an amended deed to give effect to those amendments and to implement the Counter Proposal, and Target must use its best endeavours to procure that the Target Directors recommend the Counter Proposal to the Shareholders and not recommend the applicable Competing Proposal.

- (c) For the purposes of this clause 15.8, each successive material modification of any third party expression of interest, offer or proposal in relation to a Competing Proposal will constitute a new Competing Proposal.

16. Modification of Target Break Fee or exclusivity arrangements

16.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Governmental Agency finds that all or any part of the payment required to be made under clause 13 or an exclusivity arrangement under clause 15 is unacceptable or unenforceable; or
- (b) as a result of an application to the Takeovers Panel, the Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the amount of the Target Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 15, it will make a declaration of unacceptable circumstances,

then, subject to clause 16.2:

- (c) the parties must amend clause 13 and/or 15 to the extent required to give effect to the requirements of the Governmental Agency or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 16.1(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clauses 16.1(a) or 16.1(b) nor the amendment of clause 13 and/or 15 will be taken to be a breach of, or permit any party to terminate, this deed.

16.2 No requirement to act unless decision final

The parties are only required to take steps under 16.1(c) in relation to any requirement of a Governmental Agency or the Takeovers Panel if BidCo and Target agree in writing not to appeal or seek review of the decision to impose that requirement.

16.3 Appeals and review of regulatory decisions

Nothing in this deed requires either party to appeal or seek review of any decision of a Governmental Agency or the Takeovers Panel referred to in clauses 16.1(a) or 16.1(b). If either BidCo and Target wishes to appeal or seek review of any such decision then the other must make submissions in the course of those proceedings supporting the review made by the first party.

16.4 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the Target Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the Target Board (**Impugned Amount**) and either no appeal from that determination is available

or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of Target to pay the Target Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if BidCo has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the period for lodging has expired, whichever is later.

17. Notices

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be sent to the address for service of the addressee specified in the Details;
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with the Details; and
- (e) will be deemed to be received by the addressee:
 - (i) **(in the case of prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and
 - (iii) **(in the case of email)** immediately after the time sent (as recorded on the device from which the receiver receives the email) unless the sender receives an automated message that the email has not been delivered or it is received after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day. If it is received between midnight and 8.59am on a Business Day, it will be deemed to be received at 9.00am on that Business Day.

18. General

18.1 Further acts

Each party will promptly do and perform 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 any other party to give effect to this deed.

18.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties.

18.3 Payments

Unless otherwise provided in this deed, where an amount is required to be paid to a party (**Receiving Party**) by another party under this deed, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off.

18.4 Interest

- (a) If a party fails to pay any amount payable under this deed on the due date for payment, that party must pay interest on the amount unpaid at the higher of the Interest Rate plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.
- (b) The interest payable under clause 18.4(a):
 - (i) accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
 - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

18.5 GST

- (a) Any reference in this clause 18.5 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 18.5(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. This clause 18.5(c) does not apply to any taxable supply under or in connection with this deed that is stated to include GST.
- (d) The amount on account of GST payable in accordance with this clause 18.5 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- (e) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

18.6 Stamp duty

BidCo must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including without limitation the acquisition or transfer of Scheme Shares under the Scheme).

18.7 Expenses

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this deed and the Explanatory Booklet and the proposed, attempted or actual implementation of this deed and the Scheme.

18.8 Amendments

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

18.9 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.

18.10 Business Day

Except where otherwise expressly provided, where under this deed the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

18.11 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

18.12 Counterparts

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by facsimile machine to the facsimile number of the other party specified in clause 17, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

18.13 Entire agreement

- (a) This deed:
 - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite clause 18.13(a), the Confidentiality Agreement continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

18.14 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement set out in this deed.

18.15 No merger

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

18.16 Governing law

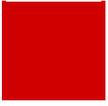
- (a) This deed is governed by and will be construed according to the laws of Victoria.

- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts.

Schedule 1 - Indicative timetable

| Event | Date |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Enter into Scheme Implementation Deed | Monday, 15 July 2019 |
| Lodge Explanatory Booklet with ASIC for review and comment | Monday, 26 August 2019 |
| First Court Date | Monday, 16 September 2019 |
| Explanatory Booklet registered with ASIC | Thursday, 19 September 2019 |
| Dispatch Explanatory Booklet to Target Shareholders | Friday, 20 September 2019 |
| Scheme Meeting | Friday, 25 October 2019 |
| Second Court Date | Tuesday, 29 October 2019 |
| Effective Date – lodge office copy of Court order approving the Scheme with ASIC | Wednesday, 30 October 2019 |
| Record Date | Wednesday, 6 November 2019 |
| Implementation Date: Issue and allot BidCo Shares, dispatch cheques or electronically transfer funds to participants in the Scheme (depending on participants election as to Scheme Consideration). Reconstitute boards of each Target Group company | Wednesday, 13 November 2019 |

Schedule 2 - Deed Poll



Deed poll

—
Elders Limited (**BidCo**)
AIRR Holdings Limited (**Target**)
—

Deed poll

| | |
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Details

Date

Parties

Name **Elders Limited** ACN 004 336 636
Short form name **BidCo**
Notice details 80 Grenfell Street
Adelaide SA 5000
Email: Mark.Allison@elders.com.au / companysecretary@elders.com.au
Attention: Mark Allison / Company Secretary

Name **AIRR Holdings Limited** ACN 129 875 190
Short form name **Target**
Notice details 74-76 Drummond Road
Shepparton VIC 3630
Email: clf@brentnalls-sa.com.au; Peter.Law@airr.com.au
Attention: Craig Farrow / Peter Law

Background

- A On 15 July 2019, BidCo and Target entered into the Scheme Implementation Deed to provide for (among other matters) the implementation of the Scheme.
- B The effect of the Scheme will be to transfer all Scheme Shares to BidCo in return for the Scheme Consideration.
- C BidCo enters this deed poll to covenant in favour of Scheme Shareholders to:
 - (i) perform the steps attributed to it under the Scheme; and
 - (ii) provide the Scheme Consideration in accordance with the Scheme.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this document:

Scheme Implementation Deed means the Scheme Implementation Deed dated 15 July 2019 between BidCo and Target.

Target means AIRR Holdings Limited ACN 129 875 190 as trustee for the Scheme Shareholders.

Trust Account has the meaning given in the Scheme.

1.2 Terms defined in Scheme Implementation Deed

Words and phrases defined in the Scheme Implementation Deed have the same meaning in this deed poll unless the context requires otherwise.

1.3 Incorporation by reference

The provisions of clauses 1.2, 1.3 and 1.4 of the Scheme Implementation Deed form part of this deed poll as if set out at length in this deed poll but with 'deed poll' substituted for 'deed' and with any reference to 'party' being taken to include the Scheme Shareholders.

2. Nature of this deed poll

BidCo acknowledges that 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.

3. Conditions

3.1 Conditions

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

3.2 Termination

BidCo's obligations under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective on or before the End Date or any later date as the Court, with the consent of the parties, may order,

unless Target and BidCo otherwise agree.

3.3 Consequences of termination

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to them:

- (a) BidCo is released from its obligations to further perform this deed poll; and
- (b) Scheme Shareholders retain the rights they have against BidCo in respect of any breach of this deed poll which occurred before it terminated.

4. Performance of obligations

4.1 Generally

Subject to clause 3, BidCo covenants in favour of Scheme Shareholders to perform the actions attributed to it under, and otherwise comply with, the Scheme as if BidCo was a party to the Scheme.

4.2 Provision of Scheme Consideration

- (a) Subject to clause 3, BidCo undertakes in favour of each Scheme Shareholder to provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme.
- (b) The obligations of BidCo under clause 4.2(a) will be satisfied if, in respect of the Scheme Consideration:
 - (i) BidCo deposits, no later than the Business Day before the Implementation Date, an amount equal to the aggregate of the total Cash Consideration comprised in the Scheme Consideration in cleared funds to the Trust Account; and
 - (ii) on or before 5.00pm on the Implementation Date, it issues all of the New BidCo Shares which it is obliged to issue to Scheme Shareholders and to the Sale Agent under the Scheme, and provides Target with written confirmation that it has done so,

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

5. Warranties

BidCo represents and warrants to each Scheme Shareholder that:

- (a) (**status**) it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) (**power**) it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) (**corporate authorisations**) it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) (**documents binding**) this deed poll is its valid and binding obligation enforceable in accordance with its terms;
- (e) (**transactions permitted**) the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree of a Regulatory Authority binding on it;
 - (ii) its constitution or other constituent documents; or
 - (iii) any other document which is binding on it or its assets; and
- (f) (**solvency**) it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

6. Continuing Obligations

6.1 Deed poll irrevocable

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

- (a) BidCo having fully performed its obligations under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

6.2 Variation

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

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

in which event BidCo will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

7. Notices

Any notice, demand or other communication (a **Notice**) to BidCo in respect of this deed poll:

- (a) must be in writing and signed by the sender or a person duly authorised by it;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address specified in the Details;
- (c) will be conclusively taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered at the address of the addressee as provided in clause 7(b), unless that delivery is not made on a Business Day, or is made after 5.00pm on a Business Day, in which case that Notice will be deemed to be received at 9.00am on the next Business Day;
 - (ii) in the case of delivery by post, 2 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of email, immediately unless the sender receives notification that the email has not been delivered to the intended recipient or unless it is received on a day which is not a Business Day for the recipient, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day. If the email is received between midnight and 8.59am on a Business Day it will be deemed to be received at 9.00am on that Business Day.

8. General Provisions

8.1 Assignment

- (a) The rights and obligations of BidCo and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of BidCo and Target.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

8.2 Cumulative rights

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

8.3 No waiver

- (a) BidCo may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) If a Scheme Shareholder does not exercise a right arising from a breach of this deed poll at a given time, it may, unless it has waived that right in writing, exercise the right at a later point in time.
- (c) No Scheme Shareholder may rely on words or conduct of BidCo as a waiver of any right unless the waiver is in writing and signed by BidCo, as appropriate.
- (d) The meanings of the terms used in this clause 8.4 are set out below.

conduct includes delay in the exercise of a right.

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

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

8.4 Stamp duty

BidCo:

- (a) must pay or procure the payment of all stamp duty (if any) any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll; and
- (b) indemnifies and undertakes to keep indemnified each Scheme Shareholder against any liability arising from failure to comply with clause 8.4(a).

8.5 Further assurances

BidCo will, at its own expense, do all things reasonably required of it to give full effect to this deed poll.

8.6 Governing law and jurisdiction

This deed poll is governed by the laws of the State of Victoria. In relation to it and related non-contractual matters BidCo irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

Signing page

EXECUTED as a deed poll.

Executed by Elders Limited in accordance with
Section 127 of the *Corporations Act 2001*

Signature of director

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

Schedule 3 - Scheme



Scheme of arrangement

AIRR Holdings Limited ACN 129 875 190

—

Scheme shareholders

—

Scheme of arrangement

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Details

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

Name **AIRR Holdings Limited** ACN 129 875 190

Short form name **Target**

Address details 74-76 Drummond Road
Shepparton VIC 3630

Email: clf@brentnalls-sa.com.au; Peter.Law@airr.com.au

Attention: Craig Farrow / Peter Law

Each Scheme Shareholder

1. Definitions and interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

Adjusted Cash Amount means \$5.425 less the sum of any Final Dividend per Share and any Permitted Additional Dividend per Share recommended, declared, paid or resolved to be recommended, declared or paid by Target on or after the date of the Scheme Implementation Deed where the record date for that Final Dividend and the record date for that Permitted Additional Dividend occur prior to the provision of the Scheme Consideration on the Implementation Date.

Aggregate Cash Consideration Requirement means the total cash amount comprising the sum of the cash component of the Default Consideration for all Scheme Shares in respect of which valid Elections have not been made and the cash required to satisfy in full all Cash Elections.

Aggregate Share Consideration Requirement means the total number of New BidCo Shares comprising the New BidCo Shares component of the Default Consideration for all Scheme Shares in respect of which valid Elections have not been made and the New BidCo Shares required to satisfy in full all Share Elections.

Announcement Date means 15 July 2019, being the date of the Scheme Implementation Deed.

ASIC means the Australian Securities and Investments Commission.

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

BidCo means Elders Limited (ACN 004 336 636).

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

BidCo Share Register means the register of holders of BidCo Shares maintained by or on behalf of BidCo.

Board means the board of directors of Target as constituted from time to time.

Business Day has the meaning given in the Listing Rules.

Cash Consideration means the cash component of the Scheme Consideration.

Scheme of arrangement

Cash Consideration Cap means the product derived by multiplying the Adjusted Cash Amount by the total number of Scheme Shares.

Cash Election has the meaning given in clause 5.1(b)(ii).

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

Close of Trading means 4.00pm on the Effective Date.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act determined by Target and BidCo.

Deed Poll means the Deed Poll executed by BidCo, pursuant to which BidCo covenants in favour of the Scheme Shareholders to:

- (a) perform the steps attributed to BidCo under, and otherwise comply with, this Scheme as if BidCo were a party to this Scheme; and
- (b) comply with its obligations under the Scheme Implementation Deed, in so far as that Deed relates to this Scheme do all things necessary or expedient on its part to implement this Scheme.

Default Consideration means:

- (a) cash consideration equal to the Adjusted Cash Amount; and
- (b) New BidCo Shares of a number (including any fractional component) (**Number**) calculated in accordance with the following formula:

$$N = \frac{(\$10.85/2)}{PAP}$$

where:

N means the Number; and

PAP means the Pre-agreed Price.

for every one (1) Scheme Share transferred to BidCo under this Scheme.

Delivery Time has the meaning given in the Scheme Implementation Deed.

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the Scheme Order in relation to the Scheme.

Effective Date, with respect to the Scheme, means the date on which the Scheme becomes Effective.

Election has the meaning given in clause 5.1(b).

Election Date means 5.00pm on the date that is 3 clear Business Days before the date of the Scheme Meeting or such other date as BidCo and Target agree in writing.

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

End Date means 31 December 2019.

Excluded Share means any Share held by an Excluded Shareholder.

Excluded Shareholder means any Shareholder who is BidCo or a Related Body Corporate of BidCo.

Explanatory Booklet means the information to be despatched to Shareholders in accordance with clause 7.3 of the Scheme Implementation Deed.

Final Dividend means up to \$0.25 per Share.

Scheme of arrangement

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

Implementation Date means the date that this Scheme will be implemented according to its terms, being the fifth Business Day, or such other Business Day as the parties to the Scheme Implementation Deed agree, following the Record Date.

Ineligible Foreign Shareholder means a Target Shareholder whose address as shown in the Target's members' register is located outside of:

- (a) Australia and its external territories;
- (b) New Zealand; and
- (c) any other jurisdictions as may be agreed in writing by Target and BidCo (unless BidCo is satisfied that it is permitted to allot and issue New BidCo Shares to that Target Shareholder pursuant to the Scheme by the laws of that place).

Ineligible Shareholder means:

- (a) an Ineligible Foreign Shareholder; or
- (b) a Small Shareholder.

Listing Rules means the official listing rules of ASX.

New BidCo Share means the new BidCo Shares to be issued under the terms of the Scheme as Scheme Consideration.

Permitted Additional Dividend means up to \$2.85 per Share less the amount (if any) of any Final Dividend per Share recommended, declared or paid by Target on or after the date of the Scheme Implementation Deed where the record date for that Final Dividend occurs prior to the provision of the Scheme Consideration on the Implementation Date.

Pre-agreed Price means \$6.03 per BidCo Share.

Record Date means, in respect of the Scheme, 5.00pm on the fifth Business Day (or such other Business Day as Target and BidCo agree) following the Effective Date.

Register means Target's register of members maintained under and in accordance with section 169 of the Corporations Act.

Registered Address means the address of each Shareholder as recorded on the Register.

Registrar means PrimaryMarkets Limited ACN 136 368 244.

Related Body Corporate of a person has the meaning given to that term in the Scheme Implementation Deed.

Sale Nominee means the person nominated by BidCo and approved by Target to sell the New BidCo Shares that are attributable to Ineligible Shareholders under the terms of this Scheme.

Scaleback Arrangements means the provisions of this Scheme providing for the scaleback of New BidCo Shares issued and cash paid pursuant to this Scheme in accordance with clause 5.9.

Scheme means this scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Target and Scheme Shareholders in respect of all Scheme Shares, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by Target and BidCo.

Scheme Consideration in respect of a Scheme Shareholder means the consideration to be provided for the transfer to BidCo of the Scheme Shares held by the Scheme Shareholder, being, subject to the Election (if any) made by the Scheme Shareholder and the Scaleback Arrangements, the Default Consideration.

Scheme of arrangement

Scheme Implementation Deed means the deed entered into between Target and BidCo dated 15 July 2019, under which each party undertakes specific obligations to give effect to this Scheme.

Scheme Meeting means the meeting of Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Order means the orders of the Court approving the Scheme pursuant to section 411(4)(b) of the Corporations Act.

Scheme Shareholder means a person who holds one or more Scheme Shares.

Scheme Share means a Share on issue as at the Record Date, other than an Excluded Share.

Scheme Share Transfer means for each Scheme Shareholder, a proper instrument of transfer of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

Second Court Hearing means the hearing of the application to the Court for the Scheme Order approving the Scheme.

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

Share Consideration means the New BidCo Shares component of the Scheme Consideration comprising for each Scheme Share the number (including any fractional component) of New BidCo Shares calculated by dividing the relevant amount of Scheme Consideration by the Pre-agreed Price.

Share Consideration Cap means the number (rounded up to the next whole number) (**Number**) of New BidCo Shares calculated by the following formula:

$$N = \left\lceil \frac{(\$10.85/2)}{PAP} \right\rceil \times \text{NOSS},$$

where:

N means the Number;

PAP means the Pre-agreed Price; and

NOSS means the total number of Scheme Shares.

Share Election has the meaning given in clause 5.1(b)(i).

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

Small Shareholder means a Scheme Shareholder who would be entitled to receive total Share Consideration of a value of less than \$500.

Trust Account has the meaning given under clause 5.3(a).

1.2 Interpretation

In this Scheme, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Scheme, and a reference to this Scheme includes any schedule or annexure;

Scheme of arrangement

- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to South Australia, Australia time;
- (g) a reference to a party is to a party to this Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it; and
- (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Preliminary

2.1 Target

Target is a public company incorporated in Australia and registered in Victoria and is a company limited by shares. Its registered office is at 74-76 Drummond Road, Shepparton, Victoria, 3630.

2.2 Target securities

As at the date of the Explanatory Booklet, Target has on issue [14,500,000] Shares.

2.3 BidCo

BidCo is a company incorporated in Australia and is a company limited by shares. Its registered office is at 80 Grenfell Street, Adelaide, South Australia, 5000.

2.4 Agreement to implement the Scheme

Each of Target and BidCo have agreed, by executing the Scheme Implementation Deed, to implement the terms of this Scheme and the steps contemplated to follow the implementation of this Scheme, to the extent those steps are required to be done by each of them.

2.5 Deed Poll

BidCo has executed the Deed Poll in favour of Scheme Shareholders.

2.6 Summary of Scheme

If the Scheme becomes Effective:

- (a) all of the Scheme Shares (together with all rights and entitlements attaching to the Scheme Shares) will be transferred to BidCo and Target will become a subsidiary of BidCo;

Scheme of arrangement

- (b) in consideration of the transfer of the Scheme Shares, BidCo will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with the terms of this Scheme;
- (c) Target will enter the name of BidCo in the Register as the holder of all the Scheme Shares;
- (d) it will bind Target and all Scheme Shareholders, including those who do not attend the Scheme Meeting, those who do not vote at that meeting and those who vote against this Scheme at that meeting; and
- (e) it will override the constitution of Target, to the extent of any inconsistency.

3. Conditions precedent

3.1 Conditions precedent

The conditions precedent to this Scheme are:

- (a) all the conditions precedent in clause 3 of the Scheme Implementation Deed (other than the condition precedent in clause 3.1(g)) having been satisfied or waived in accordance with the Scheme Implementation Deed as at the Delivery Time on the Second Court Date or such other time specified in that condition precedent;
- (b) neither the Scheme Implementation Deed nor the Deed Poll being terminated, as at the Delivery Time on the Second Court Date; and
- (c) this Scheme being approved for the purposes of section 411(4)(b) of the Corporations Act at the Second Court Hearing, subject to the matters noted in clause 7.10.

3.2 Effect of conditions precedent

The satisfaction or waiver of each condition precedent in clause 3.1 is a condition precedent to the operation of clause 4 and the binding effect of this Scheme.

3.3 Certificate

Target and BidCo will provide to the Court at the Second Court Hearing certificates, or such other evidence as the Court requests, confirming whether or not the conditions precedent to this Scheme (other than the condition precedent in clause 3.1(c) above and the condition precedent in clause 3.1(g) of the Scheme Implementation Deed) have been satisfied or waived.

3.4 End date

This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date unless BidCo and Target otherwise agree in writing.

3.5 Termination

Without limiting any rights under the Scheme Implementation Deed, if the Scheme Implementation Deed is terminated in accordance with its terms before this Scheme becomes Effective, each of BidCo and Target is released from:

- (a) any further obligation to take steps to implement this Scheme; and
- (b) any liability with respect to this Scheme.

4. The Scheme

4.1 Lodgement of Scheme Order with ASIC

If the conditions in clause 3.1 of this Scheme are satisfied or, where applicable, waived, Target will lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of

Scheme of arrangement

the Scheme Order as soon as practicable, and in any event by no later than 5.00pm on the first Business Day (or on such other Business Day as Target and BidCo agree) after the date on which the Court makes that Scheme Order. This Scheme will be Effective on and from the Effective Date.

4.2 Transfer of Scheme Shares

Subject to this Scheme becoming Effective in accordance with clause 4.1, the following actions will occur (in the order set out below) on the Implementation Date:

- (a) on or before 10.00am on the Implementation Date, and in consideration for the transfer of the Scheme Shares to BidCo under the Scheme, BidCo must provide or procure provision of the Scheme Consideration in accordance with clause 5.3;
- (b) after 10.00am on the Implementation Date, and subject to BidCo fulfilling its obligations under clause 5.3, all of the Scheme Shares held by Scheme Shareholders, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date must be transferred to BidCo without the need for any further act by any Scheme Shareholder, by:
 - (i) Target delivering to BidCo a duly completed Scheme Share Transfer executed by Target as transferor (acting as the attorney and agent of each Scheme Shareholder under clause 7.1); and
 - (ii) BidCo duly executing the Scheme Share Transfer as transferee and delivering it to Target for registration; and
- (c) immediately after receipt of the duly executed Scheme Share Transfer from BidCo under clause 4.2(b)(ii), Target must enter the name of BidCo in the Register in respect of all of the Scheme Shares the subject of the Scheme Share Transfer.

4.3 Timing

Notwithstanding any other provision of this Scheme, while New BidCo Shares included in the Scheme Consideration must be issued (and relevant register updated to record their issuance) on the Implementation Date, any requirements under clause 5 for the sending of share certificates, holding statements or allotment advices may be satisfied within 10 Business Days after the Implementation Date.

4.4 Provision of Scheme Consideration to holders of Excluded Shares

Nothing in this Scheme requires BidCo to provide Scheme Consideration to any holder of Excluded Shares.

5. Scheme Consideration

5.1 Scheme Consideration

- (a) Subject to clause 5.1(b), the Scheme consideration will be the Default Consideration.
- (b) Despite clause 5.1(a) but subject to the Scaleback Arrangements, a Scheme Shareholder:
 - (i) other than an Ineligible Shareholder, may elect to receive all of their Scheme Consideration as Share Consideration, if the Scheme Shareholder has validly completed and returned an Election Form electing Share Consideration (**Share Election**); and
 - (ii) may elect to receive all of their Scheme Consideration as Cash Consideration, if the Scheme Shareholder has validly completed and returned an Election Form electing Cash Consideration (**Cash Election**),

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(either such election, **Election**) in accordance with the instructions specified on the Election Form, so that it has been received by the Registrar on or before the Election Date.

5.2 Rounding entitlements

Any fractional entitlement of a Scheme Shareholder to a part of a New BidCo Share will be rounded up or down to the nearest whole number of New BidCo Shares (rounded up if the fractional entitlement is equal or greater than one half, and rounded down if the fractional entitlement is less than one half).

5.3 Provision of Scheme Consideration

Subject to clause 4.3, the obligation of BidCo to provide or procure the provision of the Scheme Consideration pursuant to clause 4.2(a) is to be satisfied by BidCo, before 10.00am on the Implementation Date:

- (a) depositing in cleared funds into an account established by, or on behalf of, Target and in the name of Target (**Trust Account**) an amount equal to the aggregate amount of the Cash Consideration payable to all Scheme Shareholders in accordance with this clause 5, such amount to be held by Target on trust for the Scheme Shareholders (except that any interest on the amount will be for the account of BidCo) and for the purpose of sending the aggregate Cash Consideration to the Scheme Shareholders;
- (b) in the case of New BidCo Shares which are required to be issued to Scheme Shareholders as Share Consideration under this clause 5 – by BidCo procuring that:
 - (i) the name and address of each such Scheme Shareholder is entered into the BidCo Share Register on the Implementation Date in respect of the New BidCo Shares to which it is entitled under this clause 5; and
 - (ii) a holding statement is sent to the Registered Address of each such Scheme Shareholder representing the number of New BidCo Shares issued to the Scheme Shareholder pursuant to this Scheme; and
- (c) in the case of New BidCo Shares to be issued in respect of Share Consideration due to Ineligible Shareholders – by BidCo procuring that:
 - (i) the name and address of the Sale Nominee is entered into the BidCo Share Register on the Implementation Date in respect of the New BidCo Shares required to be issued to it under this clause 5;
 - (ii) a holding statement in the name of the Sale Nominee is sent to the Sale Nominee representing the number of New BidCo Shares so issued to it; and
 - (iii) the Sale Nominee sells those New BidCo Shares on behalf of the Ineligible Shareholders, and pays the proceeds in accordance with clause 5.7.

5.4 Despatch of Cash Consideration

- (a) Subject to BidCo complying with its obligations under clause 5.3(a), Target must within five Business Days after the Implementation Date pay or procure payment from the Trust Account to each Scheme Shareholder an amount equal to the Cash Consideration due to that Scheme Shareholder in accordance with this Scheme by:
 - (i) despatching or procuring the despatch to the Scheme Shareholder of a cheque, by pre-paid ordinary post (or, if the Registered Address of the Scheme Shareholder is outside Australia, by pre-paid airmail post) in an envelope addressed to the Registered Address as at the Record Date; or
 - (ii) making a deposit in an account with an Australian ADI notified by the Scheme Shareholder to Target and recorded in or for the purposes of the Register as at the Record Date.

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- (b) To the extent that, following satisfaction of Target's obligations under clause 5.4(a), there is a surplus in the Trust Account, Target must pay or procure payment of that surplus to BidCo.
- (c) To the extent that a cheque properly dispatched by or on behalf of Target pursuant to this clause 5 is returned to Target as undelivered or the cheque is not presented by a Scheme Shareholder earlier than six months after the Implementation Date (**Unclaimed Consideration**):
 - (i) Target must deal with the Unclaimed Consideration in accordance with any applicable unclaimed moneys legislation; and
 - (ii) subject to Target complying with its obligations under clause 5.4(c)(i), Target is discharged from liability to any Scheme Shareholder in respect of the Unclaimed Consideration.

5.5 Elections

- (a) Each Target Shareholder will be entitled to make an Election. All Elections will take effect in accordance with this Scheme to the extent that any Target Shareholder who makes an Election qualifies as a Scheme Shareholder.
- (b) A Target Shareholder which makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received on or before the Election Date.
- (c) An Election must be made in accordance with the terms and conditions of the Election Form and this clause 5.5, and an Election not so made will not be a valid election for the purpose of this Scheme and will not be recognised by BidCo or Target for any purpose (provided that BidCo may, with the agreement of Target, waive this requirement and may, with the agreement of Target, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Election, and any such decision will be conclusive and binding on BidCo, Target and the relevant Scheme Shareholder).
- (d) Subject to clause 5.5(e), if a Target Shareholder makes an Election, that Election will be deemed to apply in respect of the Target Shareholder's entire registered holding of Target Shares at the Record Date regardless of whether the Target Shareholder's holding is greater or less than the Target Shareholder's holding at the time of its Election.
- (e) A Target Shareholder who is noted on the Share Register as holding one or more parcels of Target Shares as trustee or nominee for, or otherwise, on account of, another person, may make separate Elections under this clause 5.5 in relation to each of those parcels of Shares (subject to it providing to BidCo and Target any substantiating information they reasonably require), and if it does so it will be treated as a separate Target Shareholder in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holding), provided that if, at the Record Date, it holds fewer Shares than it held at the time it made the Election, then, unless it has at the time of any sale of Target Shares notified Target whether the Shares sold relate to any such separate Election (and if so which separate Election the Shares sold relate to), it will be treated as not having made a valid Election in respect of any of its Target Shares (or will be treated in any other manner that BidCo and Target agree is fair to the Target Shareholder in all the circumstances acting reasonably).

5.6 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be paid to Scheme Shareholders must be payable to the joint holders and be forwarded to the holder whose name appears first in the Register as at the Record Date;

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- (b) any New BidCo Shares to be issued under this Scheme will be issued to and registered in the names of the joint holders and holding statements or notices confirming the issue of the New BidCo Shares will be forwarded to the holder whose name appears first in the BidCo Share Register as at the Record Date; and
- (c) any other document required to be sent under this Scheme will be forwarded to either, at the discretion of Target, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

5.7 Ineligible Shareholders

- (a) An Ineligible Shareholder may not make a valid Share Election.
- (b) BidCo will be under no obligation to issue, and must not issue, any New BidCo Shares under the Scheme to Ineligible Shareholders. BidCo will issue the New BidCo Shares to which that Ineligible Shareholder would otherwise be entitled to the Sale Nominee, and BidCo will be under no obligation under this Scheme to issue, and will not issue, any New BidCo Shares to any such Ineligible Shareholder.
- (c) BidCo will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the Sale Nominee:
 - (i) sells on ASX all of the New BidCo Shares issued to the Sale Nominee pursuant to this clause 5.7 in such manner, at such price and on such other terms as the Sale Nominee determines in good faith and at the risk of the Ineligible Shareholders; and
 - (ii) remits to BidCo the proceeds of sale (after converting the proceeds of sale to Australian dollars and deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (d) Promptly after the last sale of New BidCo Shares in accordance with clause 5.7(c), BidCo will pay to each Ineligible Shareholder the proportion of the net proceeds of sale received by BidCo pursuant to clause 5.7(c)(ii) to which that Ineligible Shareholder is entitled (calculated on an average basis so that all Ineligible Shareholders receive the same price per Scheme Share subject to rounding).
- (e) BidCo will pay the relevant fraction of the proceeds of sale referred to in clause 5.7(d) to each Ineligible Shareholder in accordance with any current notification made by each such Ineligible Shareholder for the payment of any BidCo dividends by deposit to a nominated bank account or, where there is no such current notification, by sending, or procuring the despatch to each such Ineligible Shareholder by prepaid post to the registered address of the Ineligible Shareholder on the Record Date, a cheque in the name of that Ineligible Shareholder for the relevant amount (denominated in Australian dollars).
- (f) Each Ineligible Shareholder appoints Target as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) that the Sale Nominee is required to provide to Ineligible Shareholders under the Corporations Act.

5.8 Status of New BidCo Shares

Subject to this Scheme becoming Effective, BidCo will:

- (a) issue the New BidCo Shares required to be issued by it under this Scheme on terms such that each such New BidCo Share will rank equally in all respects with each existing BidCo Share then on issue; and
- (b) ensure that each New BidCo Share issued as Scheme Consideration is duly issued and is fully paid, non-assessable and free from any mortgage, charge, lien, encumbrance or other security interest.

5.9 Scaleback Arrangements

- (a) If the Aggregate Share Consideration Requirement is equal to or less than the Share Consideration Cap, each Scheme Shareholder who has made a Share Election will receive the New BidCo Shares the subject of their Share Election in full, subject to the other conditions of this Scheme.
- (b) If the Aggregate Cash Consideration Requirement is equal to or less than the Cash Consideration Cap, each Scheme Shareholder who has made a Cash Election will receive the cash the subject of their Cash Election in full, subject to the other conditions of this Scheme.
- (c) If the Aggregate Share Consideration Requirement exceeds the Share Consideration Cap, each Scheme Shareholder who has made a Share Election will receive the number of New BidCo Shares calculated in accordance with the formula below (**Scaleback BidCo Shares**) and that Scheme Shareholder will receive Cash Consideration instead of the remaining New BidCo Shares that would otherwise have been issued to that Scheme Shareholder:

$$\text{Scaleback BidCo Shares} = D \times \frac{(B-C)}{A},$$

where:

A is the aggregate number of New BidCo Shares the subject of all Share Elections disregarding both the application of the Scaleback Arrangements and the New BidCo Shares to be issued as the New BidCo Shares component of all Default Consideration to be provided to Scheme Shareholders who have not made valid Elections;

B is the Share Consideration Cap;

C is the aggregate number of New BidCo Shares to be issued as the New BidCo Shares component of all Default Consideration to be provided to Scheme Shareholders who have not made valid Elections; and

D is the number of New BidCo Shares that would have resulted from the Scheme Shareholder's Share Election, had the Scaleback Arrangements not applied.

- (d) If the Aggregate Cash Consideration Requirement exceeds the Cash Consideration Cap, each Scheme Shareholder who has made a Cash Election will receive the amount of cash calculated in accordance with the formula below (**Scaleback Cash**) and that Scheme Shareholder will receive New BidCo Shares instead of the remaining Cash Consideration that would otherwise have been paid to that Scheme Shareholder:

$$\text{Scaleback Cash} = D \times \frac{(B-C)}{A},$$

where:

A is the aggregate amount of cash the subject of all Cash Elections disregarding both the application of the Scaleback Arrangements and the cash to be paid as the cash component of all Default Consideration to be provided to Scheme Shareholders who have not made valid Elections;

B is the Cash Consideration Cap;

C is the aggregate amount of cash to be paid as the cash component of all Default Consideration to be provided to Scheme Shareholders who have not made valid Elections; and

D is the amount of cash that would have resulted from the Scheme Shareholder's Cash Election, had the Scaleback Arrangements not applied.

5.10 Orders of a court or Government Agency

If written notice is given to Target (or the Registrar) or BidCo of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

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- (a) requires consideration to be provided to a third party (either through payment of a sum or the issue of a security) in respect of some Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by Target in accordance with this clause 5, then Target will be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents Target from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the payment or issue of such consideration is otherwise prohibited by applicable law, Target may be entitled to (as applicable) retain an amount, in Australian dollars equal to 50% of the number of Scheme Shares held by that Scheme Shareholder multiplied by the Cash Consideration and refrain from issuing Share Consideration to that Scheme Shareholder until such time as provision of the Scheme Consideration in accordance with this clause 5 is permitted by that (or another) order or direction or otherwise by law.

6. Entitlement to participate and dealings in Shares

6.1 Entitlement to participate

Each Scheme Shareholder will be entitled to participate in this Scheme.

6.2 Recognised dealings

For the purposes of determining who is a Scheme Shareholder, dealings in Shares will be recognised if share transfer forms in registerable form or transmission applications in respect of those dealings are received at the place where the Register is kept by the Record Date.

6.3 Target's obligation to register

Target must register any registrable transfers or transmission applications received in accordance with clause 6.2 by, or as soon as practicable after, the Record Date.

6.4 Transfer requests received after Record Date

Target will not accept for registration or recognise for any purpose any transfer, transmission or application in respect of Shares received after 5.00pm on the Record Date, other than a transfer to BidCo in accordance with this Scheme.

6.5 No disposal after Close of Trading

No Shareholder shall dispose of or purport to agree to dispose of any Shares or any interest therein after the Close of Trading. Any dealings in Shares after Close of Trading shall not be recognised by the Registrar.

6.6 Maintaining the Register

For the purpose of determining entitlements to Scheme Consideration, Target must, until the Scheme Consideration has been paid, maintain, or cause the Registrar to maintain, the Register in accordance with the provisions of this clause 6 and entitlements to the Scheme Consideration will be determined solely on the basis of the Register.

6.7 Share certificates cease to have any effect

After 5.00pm on the Record Date, any share certificate for Shares (other than certificates in favour of BidCo and its successors in title) will cease to have any effect as a document of title in respect of those shares and each current entry on the Register as at 7.00pm on the Record Date will cease to have any effect other than as evidence of entitlement of Scheme Shareholders to the Scheme Consideration (other than the entries in respect of BidCo).

6.8 Provision of Scheme Shareholder's details

As soon as practicable after the Record Date, and in any event at least three Business Days before the Implementation Date, Target must ensure that a complete copy of the Register as at 5.00pm on the Record Date, including details of the names, registered addresses and holdings of Shares for each Scheme Shareholder are available to BidCo in the form BidCo reasonably requires.

7. General provisions

7.1 Authority given to Target

On the Scheme becoming Effective, each Scheme Shareholder, without the need for any further act, irrevocably appoints Target and all of its directors and officers (jointly and severally) as its attorney and agent for the purposes of:

- (a) enforcing the Deed Poll against BidCo; and
- (b) executing any document necessary or taking any other act necessary to give effect to this Scheme and the transactions contemplated by it including, without limitation, executing a proper instrument of transfer of its Shares for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all the Shares held by Scheme Shareholders,

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 7.1 to all or any of its directors and officers (jointly, severally or jointly and severally).

7.2 Status of Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under the Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) Each Scheme Shareholder is deemed to have warranted to Target, and appointed and authorised Target as its attorney and agent to warrant to BidCo, that:
 - (i) all their Shares (including any rights and entitlements attaching to those shares) transferred to BidCo under this Scheme will, at the date of transfer, be fully paid and free from mortgages, charges, liens, encumbrances, pledges, security interests (including security interests as defined in section 51A of the Corporations Act) and other interests of third parties of any kind, whether legal or otherwise, and that they have full power and capacity to sell and transfer their Shares (including any rights and entitlements attaching to those shares) to BidCo under this Scheme; and
 - (ii) they have no right or option to be issued any Shares.

7.3 Further assurances

Target will execute documents and do all things and acts necessary or expedient in order to implement this Scheme.

7.4 Authority of Target

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

7.5 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Government Agency), all instructions, notifications or elections by a Scheme Shareholder to

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Target that are binding or deemed binding between the Scheme Shareholder and Target relating to Target or Shares, including instructions, notifications or elections relating to:

- (a) whether dividends are to be paid by cheque or into a specific bank account;
- (b) payment of dividends on Shares; and
- (c) notices or other communications from Target (including by email),

will be deemed from the Implementation Date (except to the extent determined by BidCo in its sole and absolute discretion), by reason of this Scheme, to be made by the Scheme Shareholder to BidCo and to be a binding instruction, notification or election to, and accepted by, BidCo until that instruction, notification or election is revoked or amended in writing addressed to BidCo at its registry.

7.6 Scheme binding

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

7.7 Variation, cancellation or modification of rights

The Scheme Shareholders agree to the transfer of their Shares in accordance with this Scheme and agree to the variation, cancellation or modification of the rights attached to their Shares constituted or resulting from this Scheme (if any).

7.8 Beneficial entitlement to Scheme Shares

On the provision of the Scheme Consideration to each Scheme Shareholder as provided in clause 5, pending registration by Target of BidCo in the Register as the holder of the Scheme Shares:

- (a) BidCo will be beneficially entitled to the Scheme Shares transferred to it under this Scheme; and
- (b) each Scheme Shareholder:
 - (i) irrevocably appoints BidCo as its sole proxy and, where appropriate, its corporate representative to attend shareholder meetings of Target, exercise the votes attached to the Scheme Shares registered in the name of the Scheme Shareholder and sign any shareholders resolution of Target, and the Scheme Shareholder may not itself attend or vote at any such meetings or sign any such resolutions, whether in person, by proxy or by corporate representative;
 - (ii) must take all other actions in the capacity of a registered holder of Scheme Shares as BidCo reasonably requests; and
 - (iii) agrees that in exercising the powers referred to in paragraph (i), BidCo may act in its own best interests.

7.9 Notices

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

7.10 Alterations and conditions

If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act:

- (a) Target may, by its counsel on behalf of all persons concerned consent to only such of those conditions or alterations to this Scheme to which BidCo has consented, such consent not to be unreasonably withheld or delayed; and

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- (b) each Scheme Shareholder agrees to any such conditions or alterations which Target has approved.

7.11 Stamp duty

All stamp duty, and any related fines and penalties (if any) payable in connection with this Scheme and each transaction effected by or made under this Scheme will be payable by BidCo.

7.12 Governing Law

- (a) The governing law of the Scheme is the law in force in the State of Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts.

7.13 No liability when acting in good faith

Each Scheme Shareholder agrees that neither Target nor BidCo nor any director, officer, secretary or employee of any of those companies will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Schedule 4 – Due Diligence Materials Index

**THIS SCHEDULE HAS BEEN REDACTED
FOR RELEASE ON THE ASX**

Signing page

EXECUTED as a deed.

BidCo

Executed by **Elders Limited** in accordance with
Section 127 of the *Corporations Act 2001*



Signature of director 13/07/2019 9:29 AM

Mark Allison

Name of director (print)

Not Cast

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

Target

Executed by **AIRR Holdings Limited** in
accordance with Section 127 of the *Corporations
Act 2001*

Signature of director

Signature of director/company secretary
(Please delete as applicable)

Name of director (print)

Name of director/company secretary (print)

Signing page

EXECUTED as a deed.

BidCo

Executed by Elders Limited in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

Peter Hastings
Company Secretary
Elders Limited

Name of director/company secretary (print)

Target

Executed by AIRR Holdings Limited in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

Signing page

EXECUTED as a deed.

BidCo

Executed by **Elders Limited** in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

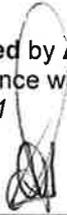
Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

Target

Executed by **AIRR Holdings Limited** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

PETER JOHN LAW

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

Craig Farrow

Name of director/company secretary (print)