

15 NOVEMBER 2022: ASX RELEASE

MSL Solutions Limited to be acquired by Pemba Capital Partners at an equity value of \$119 million, equivalent to 29.5 cents per share via a Scheme of Arrangement

Key Highlights

- MSL Solutions (**ASX:MSL**) ("**MSL**") today announces that it has entered into a Scheme Implementation Agreement ("**SIA**") with Plutus Bidco Pty Ltd (ACN 663 418 184) ("**Plutus Bidco**"), an entity controlled by Pemba Capital Partners ("**Pemba**"), under which Plutus Bidco has agreed to acquire 100% of the issued share capital of MSL at \$0.295 per share by way of a scheme of arrangement ("**Scheme**").
- The total cash consideration of \$0.295 per share payable by Plutus Bidco ("**Scheme Consideration**") implies an equity value of \$119 million (on a fully diluted basis) and represents a significant premium of 80.7% to the one-month volume weighted average price of MSL shares up to and including 14 November 2022 (being the last trading day prior to this announcement).
- MSL's Board of Directors considers the Scheme to be in the best interests of MSL shareholders, and unanimously recommend that MSL shareholders vote in favour of the Scheme and intend to vote or cause to be voted all MSL shares held or controlled by him or her in favour of the Scheme, in each case, in the absence of a Superior Proposal and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of MSL shareholders.
- The Scheme is subject to a number of conditions which must be satisfied (or waived, if applicable) before the Scheme can be implemented.
- MSL shareholders do not need to take any action at this present time.

Overview of the Scheme

MSL has entered into a SIA with Plutus Bidco under which Plutus Bidco will acquire 100% of the issued share capital of MSL for a cash price of \$0.295 per share by way of a scheme of arrangement. This is subject to all conditions being satisfied or waived (if applicable) including the Scheme being approved by MSL shareholders at the Scheme Meeting.

MSL Board Unanimously Recommend the Scheme

The MSL Board has carefully considered the Scheme and concluded that it is in the best interests of MSL shareholders because it offers immediate and certain value at a significant premium to MSL's recent share prices.

The MSL Board believes that the Scheme is compelling for MSL shareholders for the following reasons:

- **Attractive premium:** The Scheme Consideration of \$0.295 per MSL share represents a significant premium to the recent historical MSL share prices:
 - 63.9% premium to the ASX closing share price of \$0.180 on 14 November 2022 (being the last trading day prior to this announcement);
 - 80.7% premium to the \$0.163 one-month volume weighted average price of MSL shares up to and including 14 November 2022;
 - 78.0% premium to the \$0.166 three-month volume weighted average price of MSL shares up to and including 14 November 2022; and

- 81.4% premium to the \$0.163 six-month volume weighted average price of MSL shares up to and including 14 November 2022.
- **Certainty of value:** The total cash Scheme Consideration provides MSL shareholders with certainty of value and the opportunity to realise their investment in MSL for cash.
- **Limited conditionality:** The Scheme is subject to limited, customary conditions for a transaction of this nature (set out in more detail below).

The MSL Board of Directors unanimously recommend that MSL shareholders vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of MSL shareholders.

Subject to the same qualifications, each Director of MSL intends to vote or cause to be voted all MSL shares held or controlled by him or her¹ in favour of the Scheme.

Executive Chairman of MSL, Mr Tony Toohey said:

“Our board of directors has undertaken lengthy negotiations with Pemba (a leading investor in small and mid-sized businesses in Australia and New Zealand) to secure an offer which delivers certainty of consideration to our shareholders at a significant premium to the recent historical MSL share prices.”

Scheme Implementation Agreement (SIA)

Implementation of the Scheme is subject to customary conditions, including MSL shareholder approval, Court approval, Foreign Investment Review Board approval, no Target Prescribed Events occurring, no Material Adverse Effect occurring, no material breach of warranty by MSL or Plutus Bidco, an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of MSL shareholders, certain Convertible Notes issued by MSL being converted to MSL shares, consent of certain contractual counterparties to the change in control of MSL, no Performance Rights remaining on issue in MSL, no Court or Regulatory Authority issuing an order, injunction, decree or ruling or taking any action enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Scheme and relevant ASIC and ASX consents, waivers, relief or approvals being obtained.

Plutus Bidco has secured sufficient funding for the Scheme Consideration through binding equity and debt commitments. Implementation of the Scheme is not subject to a financing or funding condition.

The SIA contains customary exclusivity provisions including no shop, no talk and no due diligence restrictions, a notification obligation, and a matching right. MSL is required to pay Pemba a break fee of \$1,195,000 in certain circumstances.

Full details of the conditions to the Scheme, as well as other agreed terms are set out in the SIA, a copy of which is attached to this announcement. Capitalised terms which are otherwise not defined in this announcement have the meaning given in the SIA.

Indicative timetable and next steps

MSL shareholders do not need to take any action at this present time.

A Scheme Booklet will be prepared by MSL and provided to all MSL shareholders. The Scheme Booklet will set out the detailed reasons for the MSL Board’s recommendation,

¹ Mr Tony Toohey holds 2,341,667 MSL performance rights. If the conditions precedent to the Scheme are satisfied or waived (if applicable), these performance rights will vest prior to implementation of the Scheme. The MSL Board (excluding Mr Toohey) does not consider that these benefits are materially sufficient as to preclude him from providing his recommendation in favour of the Scheme.

reasons to vote for or against the Scheme, information about the Scheme Meeting (including how to vote on the Scheme), as well as other important information about the Scheme (including a copy of the Independent Expert's Report). The Independent Expert's Report will be prepared by Leadenhall Corporate Advisory Pty Ltd, which will set out whether, in their opinion, the Scheme is in the best interests of MSL shareholders. The Scheme Booklet is expected to be sent to MSL Shareholders in mid December 2022.

It is expected that MSL shareholders will have the opportunity to vote on the Scheme at the Scheme Meeting in early February 2023. Subject to MSL shareholder approval being obtained and the other conditions of the Scheme being satisfied (or, if applicable, waived), the Scheme is expected to be implemented in mid February 2023.

An indicative timetable for the Scheme is set out below:

Event	Expected Date
First Court Date	Mid December 2022
Dispatch of Scheme Booklet to MSL shareholders	Mid December 2022
Scheme Meeting	Early February 2023
Second Court Date	Early February 2023
Implementation Date	Mid February 2023

These dates are indicative, subject to Court availability and the satisfaction (or, if applicable, waiver) of the conditions precedent to the Scheme, and subject to change.

Miles Advisory Partners is acting as financial advisor and Talbot Sayer as legal advisor to MSL.

This announcement has been approved for distribution by the Board of Directors of MSL Solutions Limited.

For further information, please contact:

Patrick Howard (CEO) / David Marshall (CFO)

MSL Solutions Limited

Email: investor@mslsolutions.com

Website: <https://www.mslsolutions.com/investors/>

About MSL Solutions Limited

MSL Solutions Limited is a leading SaaS technology provider to the sports, leisure and hospitality sectors. We help some of the world's most iconic venues around the world - stadiums & arenas, pubs & member clubs, sporting associations, golf federations and more – to deliver outstanding customer experiences during every engagement.



MSL develops and delivers fully integrated and modular systems that connect customers to venues through mobile and contactless entry, ordering and payment solutions. We seamlessly connect front-of-house to back-office, offering an end-to-end guest engagement platform which provides actionable insights on key success metrics to venues of all sizes.

MSL Solutions has over 8,500 customers with offices in Australia, UK and Denmark. To discover more about MSL, please visit www.mslsolutions.com.

About Pemba Capital Partners

Established in 1998, Pemba Capital Partners is a leading investor in small and mid-sized businesses in Australia and New Zealand. Since inception, the investment firm has specialised in partnering with the owners and managers of businesses to help them accelerate growth. Pemba has to date completed over 170 transactions. Their primary sector focus is Education & Training, Business Services, Healthcare, Non-Bank Financial Services and Technology.

Scheme Implementation Agreement

Dated 14 November 2022

Plutus Bidco Pty Ltd (ACN 663 418 184) ("**Bidder**")
MSL Solutions Limited (ACN 120 815 778) ("**Target**")

King & Wood Mallesons

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Scheme Implementation Agreement

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Scheme Implementation Agreement

Details

Parties

Bidder	Name	Plutus Bidco Pty Ltd
	ACN	ACN 663 418 184
	Address	C/- Pemba Capital Partners Level 45, Gateway, 1 Macquarie Place Sydney NSW 2000
	Email	MarkB@pemba.com.au
	Attention	Mark Bryan

Target	Name	MSL Solutions Limited
	ACN	120 815 778
	Address	Level 1, 307 Queen Street Brisbane Queensland 4000
	Email	pat.howard@mslsolutions.com
	Attention	Pat Howard

Governing law New South Wales

Recitals	A	Target and Bidder have agreed to merge by means of a members' scheme of arrangement under Part 5.1 of the Corporations Act.
	B	At the request of Bidder, Target intends to propose the Scheme and issue the Scheme Booklet.
	C	Target and Bidder have agreed to implement the Scheme on the terms and conditions of this document.

Scheme Implementation Agreement

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

Affiliate means in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person;
- (c) directly or indirectly under the common Control of the Primary Person and another person or persons.

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

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

and, for the avoidance of doubt, and, solely for the purposes of this definition:

- (f) a general partner is deemed to Control a limited partnership;
- (g) a fund, client or account advised or managed, directly or indirectly, by a person will also be deemed to be Controlled by such person; and
- (h) a fund, client or account will be deemed to be an Affiliate of the Primary Person if the fund, client or account is advised or managed, directly or indirectly, by a person Controlling directly or indirectly the Primary Person or a person directly or indirectly under the common Control of the Primary Person and another person or persons.

ASIC means the Australian Securities & Investments Commission.

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

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

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

Bidder Board means the board of directors of Bidder.

Bidder Indemnified Parties means:

- (a) the Bidder and each of its Affiliates; and
- (b) each director, officer, employee and Representative of the Bidder and each of its Affiliates.

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

Bidder Nominee means any Affiliate of Bidder nominated by Bidder to acquire Scheme Shares under the Scheme in accordance with clause 2.2.

Bidder Representations and Warranties means the representations and warranties of Bidder set out in clause 11.6.

Break Fee means \$1,195,000.

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

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

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

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

Confidentiality Agreement means the Confidentiality Deed between Target and Pemba Capital Partners Pty Ltd (ACN 121 906 045) dated 16 August 2022.

Consent Contract means the document titled "Amended and Restated Technology Services Agreement" between Golf Link Partners Pty Ltd (ACN 081 497 154) and Golf Australia Ltd (ACN 118 151 894) dated 19 November 2016.

Consent Counterparty means Golf Australia Ltd (ACN 118 151 895) (in respect of the document titled Amended and Restated Technology Services Agreement between Golf Link Partners (ACN 105 657 154) and Golf Australia Ltd (ACN 118 151 895) dated 19 November 2016.

Controller has the meaning it has in the Corporations Act.

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

Convertible Notes mean the 4,500,000 convertible notes issued by Target to TC LLC having a maturity date of 30 September 2024.

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

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

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

Court means the Supreme Court of New South Wales, Sydney Registry, or such other court of competent jurisdiction under the Corporations Act agreed by the parties.

Data Room means the electronic data room established by Target in connection with the Scheme, hosted by Ansarada and made available to the Bidder and its Representatives.

Debt Commitment Letter means a credit approved, executed commitment letter and accompanying term sheet from certain banks or other financial institutions addressed to Bidder and dated on or about the date of this document.

Debt Facility means each of the debt facilities to be made available to Bidder under the Debt Facility Agreement.

Debt Facility Agreement means a debt facility agreement entered into or to be entered into pursuant to a Debt Commitment Letter.

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

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

Disclosed Pipeline Deals means the potential contracts or commitments (or any series of related contracts or commitments) disclosed by the Target to the Bidder in the Data Room at document identifier 02.08.04.

Due Diligence Materials means the written information disclosed by or on behalf of the Target and its Subsidiaries (including management presentations and all written responses provided in response to written questions or requests for information) to Bidder or any of its Representatives in the Data Room prior to the date of this document, as evidenced by the Ansarada 'Project Mondello' electronic archive provided by Target to Bidder prior to or promptly after the execution of this document (a copy of such archive to be sent by USB to the Bidder's lawyers immediately following execution of this document).

Disclosed means fairly disclosed:

- (a) by Target in the Due Diligence Material; or
- (b) in any announcement made by Target on ASX prior to the date of this document.

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

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

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

End Date means 30 June 2023 or such other date as is agreed in writing by Bidder and Target.

Equity Commitment Letter means a binding executed commitment letter addressed to Bidder from:

- (a) Pemba Capital Fund II, LP and Pemba Trusco 1 as trustee for the Pemba Fund II Senior GP Commitment Trust;
- (b) Pemba Trusco 1 as trustee for the Pemba Plutus Co-Invest Trust 1; and
- (c) Pemba Trusco 2 as trustee for the Pemba Plutus Co-Invest Trust 2,

in each case dated on or about the date of this document, agreed to and accepted by the Target.

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

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

FIRB means the Foreign Investment Review Board.

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

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

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 the 5th Business Day following the Record Date or such other date as Target and Bidder agree in writing.

Incoming Directors means Mark Bryan, Mark Summerhayes and Magnus Hildingsson.

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

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update or supplementary report, stating whether in the Independent Expert's opinion the Scheme is in the best interests of Target Shareholders.

A person is **Insolvent** if:

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

Intellectual Property Rights means all intellectual property rights, including all current and future registered and unregistered rights in respect of copyright, trademarks, designs, circuit layouts, trade secrets, know-how, confidential information, plant breeders rights, patents, inventions, discoveries, business names and domain names and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.

Licensed IP means all Intellectual Property Rights owned by a third party and licensed to the Target Group.

Listing Rules means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

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

Material Adverse Effect means a Specified Event which has, has had, or is reasonably likely to have, either individually or when aggregated with any Specified Events of a similar kind or category, the effect of:

- (a) the value of consolidated net tangible assets of the Target Group (taken as a whole) being reduced by at least \$3,000,000; or
- (b) the value of consolidated EBITDA of the Target Group being reduced by at least \$650,000,

in the 12 month period following the Specified Event (provided that the impact of the Specified Event or Specified Events (as applicable) must be determined after taking into account that are of the same or substantially the same nature which offset, or are reasonably likely to offset, the impact of the Specified Event or Specified Events (as applicable) but does not include:

- (a) any matter Disclosed;
- (b) any matter, event or circumstance arising from changes in general economic or political conditions, the securities market in general or law.
- (c) any change in generally accepted accounting principles of the interpretation of them;
- (d) any matter arising from the Coronavirus or Covid-19 pandemic (or any mutation, variation, or derivative thereof) including in connection with lockdowns, travel restrictions, quarantining, closures, social distancing restrictions of and on activities, venues and gatherings;
- (e) any matter arising from any act of terrorism, outbreak or escalation of war (whether or not declared) or major hostilities, an act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, other natural disaster or adverse weather conditions or the like; or
- (f) any change occurring directly or indirectly as a result of any matter, event or circumstance required by this document, the Scheme or the transactions contemplated by them.

Material Contract means a contract or commitment (or any series of related contracts or commitments) excluding the Disclosed Pipeline Deals:

- (a) having a total contract value to the Target Group (determined in accordance with the historical accounting policies and principles applied by Target as at the date of this document) of more than \$500,000 excluding any revenue booked by a member of the Target Group prior to the date of this document;
- (b) having an annual cost to the Target Group (determined in accordance with the historical accounting policies and principles applied by Target as at the date of this document) of more than \$100,000; and
- (c) under which any member of the Target Group supplies a third party on an exclusive basis.

Oak Holdco means Oak Holdco Pty Ltd (ACN 636 124 313).

Outgoing Directors means Richard Holzgrefe, David Trude, Earl Eddings, Anthony Toohey, David Usasz and Sarah Kelly.

Pemba Fund II Acquisition means the acquisition of shares in Oak Holdco by the Pemba Fund II Entities.

Pemba Fund II Entities means each of Pemba Capital Fund II, LP, Pemba Trusco 1 as trustee for the Pemba Fund II Senior GP Commitment Trust, Pemba Trusco 1 as trustee for the Pemba Plutus Co-Invest Trust 1 and Pemba Trusco 2 as trustee for the Pemba Plutus Co-Invest Trust 2.

Pemba Trusco 1 means Pemba Trusco 1 Pty Ltd (ACN 648 986 832).

Pemba Trusco 2 means Pemba Trusco 1 Pty Ltd (ACN 663 671 083).

Performance Rights means the following performance rights:

- (a) 600,000 unlisted performance rights issued by Target expiring 23 September 2023;
- (b) 1,275,000 unlisted performance rights issued by Target expiring 1 September 2024;
- (c) 1,611,665 unlisted performance rights issued by Target expiring 21 July 2023;
- (d) 300,000 unlisted performance rights issued by Target expiring 15 February 2023;
- (e) 3,133,333 unlisted performance rights issued by Target expiring 21 July 2024; and
- (f) 7,050,000 unlisted performance rights issued by Target expiring 31 August 2025.

Plutus Acquisition means the acquisition of 100% of the shares in Plutus Holdco by Willow Bidco or a Related Body Corporate of Willow Bidco and the issue of ordinary shares in Oak Holdco to the Pemba Fund II Entities in consideration for that acquisition.

Plutus Holdco means Plutus Holdco Pty Ltd (ACN 663 417 749).

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

Record Date means 5.00pm on the 2nd Business Day following the Effective Date or such other date as Target and Bidder agree.

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

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

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

Regulatory Authority includes:

- (a) ASX, ACCC, ASIC and the Takeovers Panel;
- (b) a government or governmental, semi-governmental or judicial entity or authority;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (d) any regulatory organisation established under statute.

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

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

Representative means, in relation to a party:

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

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

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

Scheme Consideration means the consideration payable by Bidder for the transfer of Target Shares held by a Scheme Participant to Bidder, being, in respect of each Target Share, \$0.295.

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

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

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

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.

Specified Event means an event, occurrence or matter that:

- (a) occurs after the date of this document;
- (b) occurs before the date of this document but is only announced or publicly disclosed after the date of this document; or
- (c) will or is likely to occur after the date of this document and which has not been publicly announced prior to the date of this document.

Subsidiary of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act; and
- (b) is part of a consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares or would be, if the first entity was required to prepare consolidated financial statements.

A trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body

corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.

Superior Proposal means a Competing Transaction which the Target Board, acting in good faith, and after taking advice from its legal and financial advisers, determines is:

- (a) reasonably capable of being completed taking into account all aspects of the Competing Transaction, including its conditions, the identity, reputation and financial condition of the person making such proposal, and all relevant legal, regulatory and financial matters; and
- (b) of a higher financial value and is more favourable to Target Shareholders than the Scheme, taking into account all aspects of the Competing Transaction, including the identity, reputation and financial condition of the person making such proposal, and relevant legal, regulatory and financial matters;

Target Board means the board of directors of Target.

Target Group means Target and its Subsidiaries.

Target Group IP means all Intellectual Property Rights owned by the Target Group.

Target Indemnified Parties means:

- (a) the Target and each of its Affiliates; and
- (b) each director, officer, employee and Representative of the Target and each of its Affiliates.

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

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

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

- (iii) agrees to make such an issue or grant such an option,
 - in each case to a person outside the Target Group other than as Disclosed, including (for the avoidance of doubt) any issue of shares by the Target in order to:
- (iv) comply with its obligations in clause 4.4 in respect of the Performance Rights; or
- (v) to satisfy the conditions in clause 3.1(g) in respect of the Convertible Notes;
- (f) **(securities or other instruments)** Target or another member of the Target Group issues or agrees to issue securities or other instruments convertible into shares or debt securities in each case to a person outside the Target Group;
- (g) **(constitution)** Target adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (h) **(disposals)** Target or another member of the Target Group disposes, or agrees to dispose of, the whole or a substantial part of its business or property;
- (i) **(acquisitions, disposals or tenders)** Target or another member of the Target Group
 - (i) acquires or disposes of;
 - (ii) agrees to acquire or dispose of; or
 - (iii) offers, proposes, announces a bid or tenders for,
 - any business, assets, entity or undertaking the value of which exceeds \$150,000;
- (j) **(cash balance)** Target, on the Business Day immediately prior to the Second Court Date, has a cash balance of less than \$10,000,000 net of any financial indebtedness arising from borrowings from any bank or other financial institution as calculated in a manner which is consistent with past practice, provided that, in calculating the cash balance for the purpose of this provision, all third party costs included as estimated transaction costs in the Transaction Costs Amount and actually paid by Target are added to the Target's cash balance;
- (k) **(holdback earn out payment)** Target or another member of the Target Group accelerates payment of the "Holdback Earn-out Payment" as defined in the Share Sale Agreement between Grahame Day and Target dated 17 November 2020;
- (l) **(capital expenditure)** undertake or commit to any capital expenditure in respect of which the cost of the item (or series of related items) exceeds \$150,000 (excluding capitalised research and development costs incurred in the ordinary course of business and in a manner which is consistent with past practice);
- (m) **(Material Contracts)** Target or another member of the Target Group enters into a contract covered by paragraph (b) of the definition of Material Contract or a contract covered by paragraph (a) of the definition of Material Contract is terminated;

- (n) **(Encumbrances)** Target or another member of the Target Group creates, or agrees to create, any Encumbrance over or declares itself the trustee of the whole or a substantial part of its business or property; or
- (o) **(Insolvency)** the Target or another member of the Target Group becomes Insolvent,

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

Target Representations and Warranties means the representations and warranties of Target set out in clauses 9.1 and 11.1.

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

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

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

Tax Return means any return relating to Tax including any document which must be lodged with a Taxing Authority or which a taxpayer must prepare and retain under any law with respect to or imposing any Tax (such as an activity statement, schedule or election and any attachment), excluding an amended return.

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

Taxing Authority means any Regulatory Authority responsible for the administration of any Taxes.

Timetable means the timetable set out in Schedule 1 subject to any amendments agreed by the parties in writing.

Transaction Costs Amount means the total estimated transaction costs specified in the Data Room at document identifier 06.03.04.

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

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

Treasurer means the Treasurer of Australia.

Willow Bidco means Willow Bidco Pty Ltd (ACN 636 125 463).

1.2 General interpretation

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

- (a) the singular includes the plural and vice versa;

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

2 Agreement to propose and implement Scheme

2.1 Target to propose Scheme

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

2.2 Nomination of acquirer Affiliate

At any time prior to the Business Day before the First Court Date, Bidder may nominate any Affiliate of Bidder (“**Bidder Nominee**”) to acquire Target Shares under the Scheme by providing a written notice which sets out the details of Bidder Nominee to Target. If Bidder decides to nominate Bidder Nominee to acquire Target Shares:

- (a) the parties must procure that Target Shares transferred under the Scheme are transferred to Bidder Nominee rather than Bidder;
- (b) Bidder must procure that Bidder Nominee complies with all of the relevant obligations of Bidder under this document and the Scheme; and

- (c) any such nomination will not relieve Bidder of its obligations under this document, including the obligation to provide (or procure the provision of) the Scheme Consideration in accordance with the terms of the Scheme provided that Bidder will not be in breach of this document for failing to perform an obligation of Bidder if that obligation is fully discharged by Bidder Nominee.

2.3 Agreement to implement Scheme

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

3 Conditions Precedent

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder under clause 4.3 are not binding, until each of the following Conditions Precedent are satisfied or waived to the extent and in the manner set out in this clause.

Condition Precedent	Party entitled to benefit	Party responsible
<p>(a) (FIRB approval)</p> <p>If notice and a no objection notification are required under the FIRB Act to implement the Scheme, before 5.00pm on the Business Day before the Second Court Date either:</p> <p>(i) the Treasurer (or the Treasurer's delegate) has provided a written no objection notification to the Scheme either without conditions or with conditions acceptable to the Bidder; or</p> <p>(ii) following notice of the proposed Scheme having been given to the Treasurer under the FIRB Act, the Treasurer has ceased to be empowered to make any order under Part 3 of the FIRB Act because the applicable time limit on making orders and decisions under the FIRB Act has expired;</p> <p>If notice and a no objection notification are required under the FIRB Act to implement the Pemba Fund II Acquisition, before 5.00pm on</p>	<p>Cannot be waived</p>	<p>Bidder</p>

Condition Precedent	Party entitled to benefit	Party responsible
<p>the Business Day before the Second Court Date either:</p> <p>(iii) the Treasurer (or the Treasurer's delegate) has provided a written no objection notification to the Pemba Fund II Acquisition either without conditions or with conditions acceptable to the Pemba Fund II Entities; or</p> <p>(iv) following notice of the proposed Pemba Fund II Acquisition having been given to the Treasurer under the FIRB Act, the Treasurer has ceased to be empowered to make any order under Part 3 of the FIRB Act because the applicable time limit on making orders and decisions under the FIRB Act has expired; and</p> <p>If notice and a no objection notification are required under the FIRB Act to implement the Plutus Acquisition, before 5.00pm on the Business Day before the Second Court Date either:</p> <p>(v) the Treasurer (or the Treasurer's delegate) has provided a written no objection notification to the Plutus Acquisition either without conditions or with conditions acceptable to the Pemba Fund II Entities; or</p> <p>(vi) following notice of the proposed Plutus Acquisition having been given to the Treasurer under the FIRB Act, the Treasurer has ceased to be empowered to make any order under Part 3 of the FIRB Act because the applicable time limit on making orders and decisions under the FIRB Act has expired.</p>		
<p>(b) (ASIC and ASX) before 8.00am on the Second Court Date, ASIC and ASX issue or provide any consents, waivers, relief or approvals, or have done any other acts, which the parties agree are reasonably necessary or desirable to implement the Scheme, and those consents, waivers, relief or approvals or</p>	Both	Both

Condition Precedent	Party entitled to benefit	Party responsible
	other acts have not been withdrawn or revoked at that time.	
(c)	(Shareholder approval) Target Shareholders approve the Scheme by the requisite majorities in accordance with the Corporations Act.	Cannot be waived Target
(d)	(Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.	Cannot be waived Target
(e)	(Regulatory intervention) no Court or Regulatory Authority has issued or taken steps to issue an order, temporary restraining order, preliminary or permanent injunction, decree or ruling or taken any action enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Scheme, the Pemba Fund II Acquisition or the Plutus Acquisition and no such order, decree, ruling, other action or refusal is in effect as at 8.00am on the Second Court Date.	Both Both
(f)	(Independent Expert) the Independent Expert issues a report which concludes that the Scheme is in the best interests of Scheme Participants before the date on which the Scheme Booklet is lodged with ASIC and does not publicly change its conclusion in any written update to the Independent Expert's Report or withdraw the Independent Expert's Report prior to 8.00am on the Second Court Date.	Target Target
(g)	(Convertible Note) before 8.00am on the Second Court Date the Convertible Notes are converted into Target Shares, such that no Convertible Notes remain on issue.	Bidder Target
(h)	(Performance Rights) before 8.00am on the Second Court Date, Target has taken all necessary steps to ensure that the Performance Rights are dealt with in accordance with clause 4.4 such that no Performance Rights are in existence at that time.	Bidder Target
(i)	(Change of control) before 8.00am on the Second Court Date, in respect of each Consent Contract to which a member of the Target Group is a party, each Consent	Bidder Target

Condition Precedent	Party entitled to benefit	Party responsible
(j) (No Target Prescribed Event) no Target Prescribed Event occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(k) (No Material Adverse Effect) no Material Adverse Effect occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(l) (Target Representations and Warranties) the Target Representations and Warranties are true and correct in all material respects at all times between the date of this document and as at 8.00am on the Second Court Date, except where expressed to be operative at another date.	Bidder	Target
(m) (Bidder Representations and Warranties) the Bidder Representations and Warranties are true and correct in all material respects at all times between the date of this document and as at 8.00am on the Second Court Date, except where expressed to be operative at another date.	Target	Bidder

3.2 Reasonable endeavours

Each of Target and Bidder agree to use reasonable endeavours to procure that:

- (a) each of the Conditions Precedent for which it is a party responsible (as noted in clause 3.1):
 - (i) is satisfied as soon as practicable after the date of this document; and
 - (ii) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
- (b) there is no occurrence that would prevent the Condition Precedent for which it is a party responsible being satisfied.

3.3 Regulatory matters

Without limiting clause 3.2, each party:

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

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

3.4 FIRB conditions

The parties acknowledge that the standard tax conditions published at the date of this document in items 1-6 of Part D (D: Examples of Tax Conditions) in Guidance Note 12 issued by the Foreign Investment Review Board are accepted if imposed on the no objections notifications.

3.5 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by the party or parties entitled to the benefit of that Condition Precedent as noted in clause 3.1 and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.5 may do so in its absolute discretion.
- (c) If either Target or Bidder waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause 3.5, then:
 - (i) subject to clause 3.5(c)(ii), that waiver precludes that party from suing the other for any breach of this document arising as a result of the breach or non-fulfilment of that Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that Condition Precedent; but

- (ii) if the waiver of the Condition Precedent is itself conditional and the other party:
 - (A) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with clause 3.5(c)(i); or
 - (B) does not accept the condition, the Condition Precedent has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
 - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.6 Notices in relation to Conditions Precedent

Each party must:

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

3.7 Consultation on failure of Condition Precedent

If:

- (a) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this document by the time or date specified in this document for the satisfaction of the Condition Precedent;
- (b) there is an act, failure to act or occurrence which will prevent a Condition Precedent being satisfied by the time or date specified in this document for the satisfaction of the Condition Precedent (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this document); or
- (c) the Scheme has not become Effective by the End Date,

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

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

- (f) to extend the End Date.

3.8 Failure to agree

If the parties are unable to reach agreement under clause 3.7 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):

- (a) subject to clause 3.8(b), either party may terminate this document (and that termination will be in accordance with clause 12.1(f)(i)); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this document (and that termination will be in accordance with clause 12.1(f)(ii)),

in each case before 8.00am on the Second Court Date.

A party will not be entitled to terminate this document under this clause if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of a breach of this document by that party or a deliberate act or omission of that party.

3.9 Scheme voted down because of Headcount Test

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 Target and Bidder consider, 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 Bidder, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

4 Outline of Scheme

4.1 Scheme

Target must propose a scheme of arrangement under which:

- (a) all the Target Shares held by Scheme Participants at the Record Date will be transferred to Bidder; and
- (b) each Scheme Participant will be entitled to receive the Scheme Consideration,

subject to and in accordance with this document, the Scheme and the Deed Poll.

4.2 Scheme Consideration

Subject to and in accordance with this document and the Scheme, each Scheme Participant is entitled to receive the Scheme Consideration in respect of each Target Share held by that Scheme Participant.

4.3 Payment of Scheme Consideration

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

- (a) accept that transfer; and
- (b) pay or procure the payment of the Scheme Consideration in accordance with the Scheme.

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

4.4 Performance Rights

- (a) Target must ensure that, by no later than the Effective Date, there are no outstanding Performance Rights.
- (b) In order to comply with its obligation under clause 4.4(a), Target must:
 - (i) cause some or all of the outstanding Performance Rights to vest and, following such vesting, cause the relevant number of Target Shares to be transferred or issued (as applicable) to the relevant former holder in sufficient time to allow the relevant former holders of the relevant Performance Rights to participate in the Scheme; and
 - (ii) take such action as may be necessary to cancel any outstanding Performance Rights which it does not cause to vest in accordance with clause 4.4(b)(i) (if any).

4.5 No amendment to the Scheme without consent

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

5 Implementation

5.1 General obligations

Target and Bidder must each:

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

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

5.2 Target's obligations

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

- (a) **(announcement)** following execution of this document, announce, in a form agreed between Target and Bidder (on the basis of statements made to Target by each member of the Target Board) that:
- (i) the Target Board intends to unanimously recommend to Scheme Participants that the Scheme be approved; and
 - (ii) each director of Target who holds Target Shares, intends to vote his or her Target Shares in favour of the Scheme,

subject to:

- (iii) the Independent Expert concluding, and continuing to conclude, that the Scheme is in the best interests of Target Shareholders; and
 - (iv) there being no Superior Proposal.
- (b) **(preparation of Scheme Booklet)** subject to clause 5.2(e)(i), as soon as practicable after the date of this document, prepare and despatch the Scheme Booklet:
- (i) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules; and
 - (ii) which includes a statement:
 - (A) by the Target Board unanimously recommending that Target Shareholders vote in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal; and
 - (B) that each Target Board member who holds Target Shares intends to vote his or her Target Shares in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal,

unless there has been a change or withdrawal of recommendation under clause 6.2;

- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide any assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare its report for the Scheme Booklet as soon as practicable;
- (d) **(section 411(17)(b) statement)** apply to ASIC for the production of:

- (i) an indication of intent letter stating that it does not intend to make submissions to the Court, or intervene to oppose the Scheme, on the First Court Date; and
 - (ii) a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (e) **(consultation with Bidder)** consult with Bidder as to the content and presentation of:
- (i) the Scheme Booklet, which includes:
 - (A) allowing Bidder a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet (accepting that any review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to Bidder);
 - (B) taking any reasonable comments made by Bidder into account in good faith when producing a revised draft of the Scheme Booklet;
 - (C) providing to Bidder a revised draft of the Scheme Booklet within a reasonable time before the draft of the Scheme Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised; and
 - (D) obtaining Bidder's consent to the inclusion of the Bidder Information (including in respect of the form and context in which the Bidder Information appears in the Scheme Booklet); and
 - (ii) documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating processes, affidavits, submissions and draft minutes of Court orders), and consider in good faith any comments on, or suggested amendments to, those documents from Bidder prior to filing those documents with the Court;
- (f) **(lodgement of Regulator's Draft)**
- (i) no later than 18 days before the First Court Date, provide the Regulator's Draft to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder immediately thereafter; and
 - (ii) keep Bidder reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Bidder in good faith prior to taking any steps or actions to address those material issues (provided that, where those issues relate to Bidder Information, Target must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld);
- (g) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, Target becomes aware:

- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
- (ii) of information that is required to be disclosed to Target Shareholders under any applicable law but was not included in the Scheme Booklet,

promptly consult with Bidder in good faith as to the need for, and the form of, any supplementary disclosure to Target Shareholders, and make any disclosure that Target considers reasonably necessary in the circumstances, having regard to applicable laws and to ensure that there would be no breach of clause 11.1(g) if it applied as at the date that information arose;

- (h) **(Court application)** apply to the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting;
- (i) **(representation)** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at the Court hearings in relation to the Scheme;
- (j) **(registration of Scheme Booklet)** after the Court orders Target to convene the Scheme Meeting, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (k) **(send Scheme Booklet)** send the Scheme Booklet to Target Shareholders as soon as practicable after the Court orders Target to convene the Scheme Meeting;
- (l) **(Scheme Meeting)** convene the Scheme Meeting to agree to the Scheme in accordance with any orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (m) **(promotion of Scheme)** participate in efforts reasonably requested by Bidder to promote the merits of the Scheme, including:
 - (i) procuring that relevant senior management endeavour to meet with key Target Shareholders and communicate with employees of the Target Group in a manner which is supportive of the Scheme;
 - (ii) providing Bidder with such information and assistance that Bidder reasonably requests to enable it to promote the Scheme; and
 - (iii) in consultation with Bidder, undertaking reasonable Target Shareholder engagement and proxy solicitation actions so as to promote the Scheme and encourage Target Shareholders to vote on the Scheme in accordance with the recommendation of the Target Board, subject to applicable law and ASIC policy;
- (n) **(information)** provide to Bidder all necessary information, and procure that the Registry provides to Bidder all necessary information, in each case in a form reasonably requested by Bidder, about the Scheme, the Scheme Participants and Target Shareholders, which Bidder reasonably requires in order to:

- (i) understand the legal and beneficial ownership of Target Shares (including the results of directions by Target to Target Shareholders under Part 6C.2 of the Corporations Act);
 - (ii) facilitate the provision by, or on behalf of, Bidder of the Scheme Consideration and to otherwise enable Bidder to comply with the terms of this document, the Scheme and the Deed Poll; or
 - (iii) review the tally of proxy appointments and directions received by Target before the Scheme Meeting, and Target must comply with any reasonable request of Bidder for Target to give directions to Target Shareholders pursuant to Part 6C.2 of the Corporations Act from time to time for one of the purposes referred to in clause 5.2(n)(i) or 5.2(n)(ii) above;
- (o) **(director's voting)** use its reasonable endeavours to procure that each member of the Target Board votes any Target Shares in which they have a Relevant Interest in favour of the Scheme;
- (p) **(Court approval)** subject to all Conditions Precedent, other than paragraph (d) in clause 3.1, being satisfied or waived in accordance with this document, apply to the Court for an order approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (q) **(Conditions Precedent certificate)** at the hearing on the Second Court Date, provide to the Court (through its counsel):
- (i) a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of matters within Target's knowledge) whether or not the Conditions Precedent for which it is responsible, as noted in clause 3.1 (other than paragraph (d)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Bidder by 5.00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Bidder under clause 5.3(f);
- (r) **(lodge copy of Court order)** lodge with ASIC an office copy of the Court order approving the Scheme as approved by the Target Shareholders at the Scheme Meeting in accordance with section 411(10) of the Corporations Act on the day after that office copy is received (or any later date agreed in writing by Bidder);
- (s) **(Register)** close the Register as at the Record Date to determine the identity of Scheme Participants and their entitlements to Scheme Consideration;
- (t) **(instruments of transfer)** subject to Bidder satisfying its obligations under clause 4.3, on the Implementation Date:
- (i) execute proper instruments of transfer and effect the transfer of Target Shares to Bidder in accordance with the Scheme; and
 - (ii) register all transfers of Target Shares held by Scheme Participants to Bidder;
- (u) **(Suspension of trading)** apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date;

- (v) **(listing)** take all reasonable steps to maintain Target's listing on ASX, notwithstanding any suspension of the quotation of Target Shares, up to and including the Implementation Date, including making appropriate applications to ASX and ASIC; and
- (w) **(other steps)** do all other things necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

5.3 Bidder's obligations

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

- (a) **(Bidder Information)**
 - (i) prepare and promptly provide to Target for inclusion in the Scheme Booklet the Bidder Information (in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules) and consent to the inclusion of that information in the Scheme Booklet;
 - (ii) provide Target with drafts of the Bidder Information in a timely manner and, acting reasonably in good faith and subject to clause 5.5, take into account all reasonable comments from Target and its Representatives;
- (b) **(confirmation of Bidder Information)** subject to Target complying with clauses 5.2(e), 5.2(f) and 5.5(a), promptly after Target requires that it does so, confirm in writing to Target that it consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which the Bidder Information appears;
- (c) **(further Bidder Information)** promptly provide to Target any further or new Bidder Information as may arise after the Scheme Booklet has been sent to Target Shareholders and until the date of the Scheme Meeting as may be necessary to ensure that the Bidder Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and to ensure that there would be no breach of clause 11.6(g) if it applied as at the date on which such further or new Bidder Information arose;
- (d) **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (e) **(Deed Poll)** prior to the Scheme Booklet being sent, sign and deliver the Deed Poll;
- (f) **(Conditions Precedent certificate)** before 8.00am on the Second Court Date, provide to Target for provision to the Court at the hearing on that date a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of matters within Bidder's knowledge) whether or not the Conditions Precedent for which Bidder is responsible, as noted in clause 3.1 (other than paragraph (d)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Target by 5.00pm on the Business Day prior to the Second Court Date;

- (g) **(Share transfer)** if the Scheme becomes Effective, accept a transfer of the Target Shares as contemplated by clause 4.3(a); and
- (h) **(Scheme Consideration)** if the Scheme becomes Effective, pay or procure the payment of the Scheme Consideration in the manner and amount contemplated by clause 4.3(b) and the terms of the Scheme.

5.4 Scheme Booklet responsibility statement

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

- (a) Target has prepared, and is responsible for, the content of the Scheme Booklet other than, to the maximum extent permitted by law, the Bidder Information, the Independent Expert's Report or any other report or letter issued to Target by a third party; and
- (b) Bidder has prepared, and is responsible for, the Bidder Information in the Scheme Booklet (and no other part of the Scheme Booklet) and that Target and its directors and officers do not assume any responsibility for the accuracy or completeness of the sections of the Scheme Booklet that Bidder has prepared and has responsibility for.

5.5 Disagreement on content of Scheme Booklet

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

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

5.6 Verification

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

5.7 Conduct of Court proceeding

Target and Bidder are entitled to separate representation at all Court proceedings relating to the Scheme. This document does not give Target or Bidder any right or power to give undertakings to the Court for or on behalf of the other party without that party's written consent. Target and Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this document.

5.8 Appeal process

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

- (a) the parties agree otherwise; or

- (b) an independent senior counsel admitted to the bar in New South Wales advises that, in their opinion, an appeal would have no reasonable prospect of success before the End Date,

in which case either party may terminate this document in accordance with clause 12.1(f)(iii).

5.9 Transaction Implementation Committee

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

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

5.10 No partnership or joint venture

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

6 Target Board recommendations and intentions

6.1 Target Board Recommendation and Voting Intention

Target must ensure that any public announcement made by Target which refers to the transaction contemplated by this document and the Scheme Booklet states that:

- (a) the Target Board considers that the Scheme is in the best interests of Target Shareholders and that the Target Board unanimously recommend that Target Shareholders vote in favour of the Scheme (**Recommendation**); and
- (b) each director of Target intends to cause any Target Shares in which they have a Relevant Interest to be voting in favour of the Scheme (**Voting Intention**);

unless:
 - (c) there is a Superior Proposal; or
 - (d) the Independent Expert concludes that the Scheme is not in the best interests of Target Shareholders, or adversely changes its previously given opinion that the Scheme is in the best interests of Target Shareholders.

6.2 Notification of withdrawal or change of Recommendation or Voting Intention

Without limiting clause 9, if a member of the Target Board proposes to withdraw or change its Recommendation or its Voting Intention in accordance with clause 6.1:

- (a) Target must notify Bidder in writing immediately; and
- (b) the parties must consult in good faith for 1 Business Day after the date on which the notification in clause 6.2(a) is given to consider and determine whether the Recommendation and Voting Intention in place at the time can be maintained. The Recommendation and Voting Intention cannot be withdrawn or changed in accordance with clause 6.1 until the end of the consultation period.

6.3 Confirmation

Target represents and warrants to Bidder that each member of the Target Board has confirmed that they intend to provide the Recommendation and the Voting Intention.

7 Releases and other matters

7.1 Release of Target Indemnified Parties

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

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

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.1 limits Bidder's rights to terminate this document under clause 12.1.

7.2 Benefit for Target Indemnified Parties

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

7.3 Release of Bidder Indemnified Parties

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

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

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except whether the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.3 limits Target's rights to terminate this document under clause 12.1.

7.4 Benefit for Bidder Indemnified Parties

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

7.5 Appointment/retirement of Target directors

On the Implementation Date, but subject to the Scheme Consideration having been paid to the Scheme Participants and receipt by Target of signed consents to act, Target must use its reasonable endeavours to:

- (a) cause the appointment of each Incoming Director to the Target Board; and
- (b) procure that each of the Outgoing Directors retire from the Target Board and provide written notice to the effect that they have no claim outstanding for loss of office, remuneration or otherwise against Target,

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

7.6 Directors' and officers' insurance

- (a) Subject to the Scheme becoming Effective and subject to applicable laws (including the Corporations Act), Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will to the extent permitted by law:
 - (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this document that provide for each member of the Target Group 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 relevant member of the Target Group to any person other than Bidder; 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 and without limiting the foregoing, ensure that the directors' and officers' run-off insurance cover for those directors and officers is maintained, for a period of 7 years from the retirement date of each director and officer.
- (b) Notwithstanding any other provision of this document, Target must, subject to Bidder's approval of the relevant quotation, at Target's cost, prior to the Implementation Date, enter into arrangements to secure separate directors' and officers' run-off insurance for a period of up to 7 years on and from the Implementation Date for the retiring directors and officers and other individuals and entities who are insured under the existing directors' and officers' insurance policy for the Target Group, on terms no less favourable than such current policy in force or expiring as at the Implementation Date, in respect of acts or omissions occurring in the period up to and including the Implementation Date, including in

connection with the Scheme (**D&O Run-Off Insurance**). Before entering into D&O Run-Off Insurance, Bidder must first approve such quotation (such approval not to be unreasonably withheld, conditioned or delayed) before Target may enter into that contract of insurance.

- (c) To the extent permitted by law and unless otherwise agreed, Bidder must not, and from the Implementation Date must procure that each member of the Target Group must not, amend or cancel any D&O Run-Off Insurance or Other Run-Off Insurance at any time after the Implementation Date, or do anything or fail to do anything within its reasonable control which would prejudice or adversely affect any D&O Run-Off Insurance or Other Run-Off Insurance (or the cover under such) at any time after the Implementation Date.

7.7 Period of undertaking

The undertakings contained in clause 7.6 are given until the earlier of the end of the relevant period specified in that clause or the relevant member of the Target Group ceasing to be a Subsidiary of the Bidder.

7.8 Benefit of undertaking for Target Group

Target acknowledges that it receives and holds the benefit of clause 7.6 to the extent it relates to each director and officer of a member of the Target Group on behalf of each of them.

8 Conduct of business

8.1 Overview

From the date of this document up to and including the Implementation Date, Target must, and must ensure each member of the Target Group:

- (a) conduct its business in the ordinary course, in substantially the same manner as previously conducted and in accordance with all applicable laws; and
- (b) promptly notify Bidder in writing if it becomes aware of any events, facts, matters or circumstances which would or would reasonably be expected to:
- (i) have a Material Adverse Effect or constitute a Target Prescribed Event;
 - (ii) constitute a breach of clause 8; or
 - (iii) constitute a breach of one or more of the Target Representations and Warranties.

8.2 Specific obligations

Without limiting clause 8.1 and other than with the prior approval of Bidder or as required by this document, Target must use, and must ensure that each member of the Target Group use, during the period contemplated by clause 8.1, all reasonable endeavours to:

- (a) **(business and assets)** maintain the condition of its business and assets, including maintaining at least its current level of insurance;

- (b) **(officers and employees)** keep available the services of its officers and employees;
- (c) **(contractual obligations)** perform and comply, in all material respects, with all contractual obligations;
- (d) **(relationships)** preserve its relationships with customers, suppliers, licensors, licensees, joint venturers and others with whom it has business dealings;
- (e) **(Taxes)** pay to the relevant Taxing Authority where due all taxes which become due and payable before the Implementation Date;
- (f) **(cash)** ensure there is no material decrease in the amount of cash in the Target other than as:
 - (i) used in the ordinary course of business and consistent with forecast cash utilisation; or
 - (ii) a result of reasonable Costs incurred directly in relation to the transactions contemplated by the Scheme; and
- (g) **(transaction costs)** ensure that Target and each member of the Target Group does not incur transaction costs in connection with the Scheme (including in respect of financial advisory fees, accounting fees, tax fees, legal fees, Independent Expert fees, printing and registry expenses and costs in respect of D&O Run-Off Insurance) in excess of the Transaction Costs Amount.

8.3 Prohibited actions

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

- (a) **(employment agreements)** increase the remuneration of (including with regard to superannuation benefits) or benefits provided to or pay any bonus (other than in accordance with existing arrangements or in the ordinary course of business consistent with past practice) or issue any securities or options to, or otherwise vary any employment agreements with, any of its directors or employees;
- (b) **(accelerate rights)** accelerate the rights of any of its directors or employees to benefits of any kind;
- (c) **(termination payments)** pay a director or employee a termination payment, other than in accordance with existing arrangements;
- (d) **(new employees)** engage any new employee or independent contractor, including an officer, director, executive or other employee, whose total employment or engagement cost exceeds \$150,000, and must not engage any new employees or independent contractors whose total employment or engagement costs exceed \$300,000 in aggregate excluding any replacement of an employee of a member of the Target Group as at the date of this document who ceases to be employed by a member of the Target Group after the date of this document, provided that the replacement employee is employed on terms that are not materially more favourable to the replacement employee than the terms on which the prior employee was employed;

- (e) **(collective bargaining)** enter into, or vary, any collective bargaining agreement or other agreement with a union or other organisation representing employees;
- (f) **(financial indebtedness)** incur any additional, or increase the Target Group's financial indebtedness (including incur any contingency liability by requesting new, or increasing the face value of any existing bank guarantees, letters of credit or like instruments);
- (g) **(indemnities)** guarantee, provide an indemnity for, provide security in respect of, or otherwise accept liability in respect of, the obligations or liabilities of any person who is not a member of the Target Group;
- (h) **(financial arrangements)** amend in any material respect any arrangement with its financial advisers in respect of the transactions contemplated by this document;
- (i) **(tax policies and accounting policies)** not make any change in the tax policies or the accounting policies, principles and practices used by it for the purpose of preparing its financial statements for the year ending 30 June 2022, except if specifically required by a change in applicable law or accounting standards;
- (j) **(tax)**
 - (i) make, change or revoke any material Tax election;
 - (ii) file any amended Tax return;
 - (iii) settle any Tax claim, audit or action;
 - (iv) surrender any right to claim a material Tax refund, offset or other reduction in Tax liability; or
 - (v) change its method of Tax accounting,

in each case, if such action would have the effect of increasing the Tax liabilities of the Target Group by an amount that exceeds \$100,000;
- (k) **(dividends)** announce, declare or pay any dividends;
- (l) **(litigation)** commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding that relates to potential costs or liability of more than \$100,000, other than pursuing debts in the ordinary course of business;
- (m) **(restraints)** enter into any restraint of trade, non-competition undertaking or similar agreement which places a material restriction on any member of the Target Group's ability to carry on business activities which it undertakes in the ordinary course of business or vary any existing restraint of trade, non-competition undertaking or similar agreement which places a material restriction on any member of the Target Group's ability to carry on business activities where such variation increases the term, nature or scope of the restriction;
- (n) **(information technology)** take any action in respect of its information technology systems which would have a material adverse impact on those systems; or
- (o) **(agree)** agree to do any of the matters set out above.

8.4 Exceptions to conduct of business provisions

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

- (a) is expressly required or permitted by this document, the Scheme, or otherwise required by law, the rules of a recognised stock exchange or a Regulatory Authority;
- (b) has been Disclosed to Bidder; or
- (c) has been agreed to in writing by Bidder (and the Bidder acknowledges that in determining whether or not to grant prior approval in respect of a prohibited matter listed in clause 8.3 it must take into account any submissions provided to it by the Target relating to the subject matter of the approval).

8.5 Access to people and Target Information

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

- (a) as soon as reasonably practicable provide Bidder and its officers and advisers with any documents, records, and other information (subject to any existing confidentiality obligations owed to third parties or applicable privacy and competition laws) reasonably requested by them, unless such documents, records or other information are materially commercially sensitive, in which case the commercially sensitive material in such documents, records or other information may be redacted by the Target and the other material in such documents, records or other information provided to Bidder and its officers and advisers; and
- (b) provide Bidder and its officers and advisers with reasonable access to Target's officers and advisers which Bidder reasonably requires for the purposes of:
 - (i) understanding Target's financial position and financial performance (including its cash flow and working capital position), trading performance and management control systems;
 - (ii) implementing the Scheme; and
 - (iii) preparing for carrying on the business of Target following implementation of the Scheme,

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

The use of this information provided in accordance with clause 8.5 is limited to the purposes in clause 8.5(b) and subject to applicable competition laws.

8.6 Change of control provisions

- (a) As soon as practicable after the date of this document, Target and Bidder must seek to identify any change of control or unilateral termination rights in any significant contracts (including all Material Contracts or insurance policies) to which Target or any other member of the Target Group member is party which may be triggered by or exercised in response to the implementation of the Scheme.

- (b) In respect of those contracts:
- (i) the parties will agree a proposed course of action, adopting the reasonable requests of Bidder, and then Target will initiate contact, including joint discussions if required by Bidder, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate, including confirmation that the counterparties will not terminate those contracts because of a change in control in Target or as a result of the implementation of the Scheme;
 - (ii) Target must take all reasonable action necessary to obtain such consents or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by counterparties and must consult with Bidder in good faith in relation to the actions proposed to be taken, including the form and content of any notices or consents. Target must use reasonable endeavours to resist any requirements of landlords or contract counterparties that new or increased bank guarantees or security deposits be provided and ensure that no directors or other personal guarantees are offered or agreed to; and
 - (iii) Bidder must cooperate with, and provide all reasonable assistance to, Target to obtain such consents or confirmations, including by promptly providing any information reasonably required by counterparties,
- provided nothing in this clause 8.6 or any other provision of this document requires Bidder to agree to any new conditions or to provide any new guarantees or security to a contract or lease counterparty which are not reasonably acceptable to Bidder.
- (c) As soon as practicable after the date of this document, Target and Bidder must seek to identify any change of control notification obligations in any significant contracts (including all Material Contracts) to which Target or any other member of the Target Group member is party which may be triggered response to the implementation of the Scheme and the Target must promptly notify the relevant counterparty in accordance with the relevant contract.

8.7 No amendment or waiver of Commitment Letters

As a continuing obligation Bidder will not, without Target's prior written consent, amend or permit the amendment of the Equity Commitment Letter or the Debt Commitment Letter nor waive any of its rights under the Equity Commitment Letter or the Debt Commitment Letter in any respect which will, or would reasonably be expected to, materially prejudice Bidder's ability to pay the Scheme Consideration in accordance with this document, the Scheme and the Deed Poll.]

9 Exclusivity

9.1 No existing discussions

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

9.2 No-shop

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

- (a) solicits, invites, encourages or initiates any enquiries, expressions of interest, offers, proposals, negotiations or discussions with any person; or
- (b) communicates any intention to do any of these things,

with a view to, or that may be reasonably expected to encourage or lead to, obtaining any offer, proposal or expression of interest from any person in relation to a Competing Transaction.

9.3 No-talk

Subject to clause 9.5, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives:

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

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

9.4 Due diligence information

Subject to clauses 9.5 and 9.6, during the Exclusivity Period, Target must not, and must procure that its Representatives do not, in relation to any Competing Transaction or for the purpose of any other person making, formulating, developing or finalising a Competing Transaction:

- (a) take any action which enables any other person (other than Bidder and its Representatives and any other person nominated by Bidder) to undertake due diligence investigations on any member of the Target Group or their businesses or operations;
- (b) makes available to any other person, or facilitate access to (other than Bidder and its Representatives and any other person nominated by Bidder) (in the course of due diligence investigations or otherwise) any non-public information relating to any member of the Target Group or their businesses or operations; or
- (c) make available to any other person, or facilitate access to (other than Bidder and its Representatives and any other person nominated by Bidder) (in the course of due diligence investigations or otherwise) any officers or employees of the Target Group.

9.5 Exceptions

Clause 9.3 and clause 9.4 do not apply to the extent that they restrict Target or the Target Board from taking or refusing to take any action with respect to a genuine Competing Transaction (which was not solicited, invited, encouraged or initiated by Target in contravention of clause 9.2) provided that the Target Board has determined, in good faith that:

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

9.6 Further exceptions

Nothing in this document prevents Target from:

- (a) engaging with Target Shareholders (in their capacity as a shareholder of the Target) in relation to the Target Group, provided that such engagement does not relate to the Target soliciting, inviting, encouraging or initiating an actual, proposed or potential Competing Transaction;
- (b) continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme or its business generally;
- (c) merely acknowledging receipt of a Competing Transaction; or
- (b) fulfilling its continuous disclosure requirements.

9.7 Notice of unsolicited approach

During the Exclusivity Period, Target must promptly inform Bidder if it or any of its Representatives:

- (a) receives any unsolicited approach with respect to any Competing Transaction and must disclose to Bidder all material details of the Competing Transaction, including details of the proposed bidder or acquirer;
- (b) receives any request for information relating to Target or any of its Related Bodies Corporate or any of their businesses or operations or any request for access to the books or records of Target or any of its Related Bodies Corporate, which Target has reasonable grounds to suspect may relate to a current or future Competing Transaction; and
- (c) provides any information relating to Target or any of its Related Bodies Corporate or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Transaction.

9.8 Matching right

Without limiting clauses 9.2 and 9.3, during the Exclusivity Period, Target:

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

unless:

- (c) the Target Board acting in good faith and in order to satisfy what the Target Board considers to be its statutory or fiduciary duties (having received written advice from its external legal advisers), determines that the Competing Transaction would be or would be likely to be an actual, proposed or potential Superior Proposal;
- (d) Target has provided Bidder with the material terms and conditions of the actual, proposed or potential Competing Transaction, including price and the identity of the third party making the actual, proposed or potential Competing Transaction;
- (e) Target has given Bidder at least 5 Business Days after the date of the provision of the information referred to in clause 9.8(d) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction; and
- (f) Bidder has not announced a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction by the expiry of the 5 Business Day period referred to in clause 9.8(e).

Target acknowledges and agrees that each successive modification of any actual, proposed or potential Competing Transaction will constitute a new actual, proposed or potential Competing Transaction for the purposes of the requirements under clause 9.8(e) and accordingly Target must comply with clause 9.8(e) and clause 9.8(f) of this clause in respect of any new actual, proposed or potential Competing Transaction unless clause 9.8(c) to 9.8(f) (inclusive) apply.

9.9 Bidder counterproposal

If Bidder proposes to Target, or announces amendments to the Scheme or a new proposal that constitute a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction (“**Bidder Counterproposal**”) by the expiry of the 5 Business Day period referred to in clause 9.8(e), Target must procure that the Target Board considers the Bidder Counterproposal and if the Target Board, acting reasonably and in good faith, determines that the Bidder Counterproposal would provide an equivalent or superior outcome for the Target Shareholders as a whole compared with the Competing Transaction, taking into account all of the terms and conditions of the Bidder Counterproposal, then:

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

9.10 Legal advice

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

10 Break Fee

10.1 Background

This clause has been agreed in circumstances where:

- (a) Bidder and Target believe that the Scheme will provide significant benefits to Bidder, Target and their respective shareholders, and Bidder and Target acknowledge that, if they enter into this document and the Scheme is subsequently not implemented, Bidder will incur significant costs, including those set out in clause 10.5;
- (b) Bidder requested that provision be made for the Break Fee, without which Bidder would not have entered into this document;
- (c) both the Bidder Board and Target Board believe that it is appropriate for both parties to agree to the payment referred to in this clause to secure Bidder's participation in the Scheme; and
- (d) both parties have received legal advice on this document and the operation of this clause.

10.2 Payment by Target to Bidder

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

- (a) **(Competing Transaction)** on or before the End Date a Competing Transaction is announced and within 12 months of the End Date the third party who announced or made the Competing Transaction (or any of its Associates):
 - (i) completes a Competing Transaction; or
 - (ii) acquires a Relevant Interest in, an economic interest in or voting power of more than 50% of the Target Share or otherwise acquires Control free of any defeating condition;
- (b) **(change of recommendation)** any Target Director fails to recommend the Scheme or withdraws their recommendation, adversely changes or qualifies their recommendation or otherwise makes a public statement indicating that he or she no longer supports the Scheme, except where:
 - (i) the change of recommendation or statement is made after the Independent Expert concludes that in the opinion of the Independent Expert the Scheme is not in the best interests of Target Shareholders (other than where a Competing Transaction has been proposed or announced before the report is issued which the Independent Expert may reasonably regard to be on more favourable terms than the transaction contemplated by this document);
 - (ii) Target validly terminates this document in accordance with clause 12.1(c); or
 - (iii) Target validly terminates this document in accordance with clause 12.1(f) and the failure to satisfy the relevant Condition Precedent resulted directly from:
 - (A) a breach of this document by the Bidder; or

- (B) a deliberate act or omission of the Bidder;
- (c) **(termination)** Bidder validly terminates this document in accordance with:
 - (i) clause 12.1(c); or
 - (ii) clause 12.1(f) and the failure to satisfy the relevant Condition Precedent resulted from a breach of this document by the Target or a deliberate act or omission of the Target.

10.3 No amount payable if Scheme becomes Effective

- (a) Notwithstanding the occurrence of any event in clause 10.2, if the Scheme becomes Effective:
 - (i) no amount is payable by Target under clause 10.2; and
 - (ii) if any amount has already been paid under clause 10.2 it must be refunded by Bidder.
- (b) In no circumstances can Target be required to pay the Break Fee more than once.

10.4 Timing of payment

- (a) A demand by Bidder for payment of the Break Fee under clause 10.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of Bidder into which Target must pay the Break Fee.
- (b) Target must pay the Break Fee to Bidder under clause 10.2 without withholding or set off within 5 Business Days of receipt by Target of a valid demand for payment from Bidder under clause 10.4(a).

The demand may only be made after the occurrence of an event referred to in clause 10.2.

10.5 Nature of payment

The Break Fee is an amount to compensate Bidder for:

- (a) advisory costs
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of Bidder's management from conducting Bidder's business as usual caused by pursuing the Scheme;

- (e) reasonable opportunity costs incurred by Bidder in pursuing the Scheme or in not pursuing alternative acquisitions or strategic initiatives which Bidder could have developed to further its business and objectives; and
- (f) damage to Bidder's reputation associated with a failed transaction and the implications of that damage to Bidder's business.

The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under clause 10.2.

10.6 Reduction in amount payable

- (a) The Break Fee is reduced by an amount equal to the amount which is recovered by Bidder as a result of a claim against Target pursuant to any other remedies available to Bidder under this document including pursuant to clause 11.1.
- (b) Where the Break Fee has already been paid, Bidder must, within 2 Business Days of the event contemplated by clause 10.6(a) which would have reduced the amount payable, refund an amount to Target which is equivalent to that calculated under clause 10.6(a).

10.7 Target's limitation of liability

Notwithstanding any other provision of this document but subject to clauses 4.2 and 10.8:

- (a) the maximum liability of Target to Bidder under or in connection with this document including in respect of any breach of this document will be the Break Fee; and
- (b) the payment by Target of the Break Fee represents the sole and absolute amount of liability of Target under or in connection with this document and no further damages, fees, expenses or reimbursements of any kind will be payable by the Target in connection with this document.

10.8 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the amount payable under clause 10.2:

- (a) is unlawful or would if performed be, unlawful;
- (b) involves a breach of the duties of the Target Board; or
- (c) constitutes unacceptable circumstances within the meaning of the Corporations Act,

then Target's obligation to pay the applicable amount or part of the amount payable under clause 10.2 does not apply and if Bidder has received any such part of the payment due under clause 10.2 it must refund it within 5 Business Days of such final determination.

The parties must not make or cause or permit to be made any application to a Court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in this clause 10.8.

11 Representations and warranties

11.1 Target's representations and warranties

Target represents and warrants to Bidder (on its own behalf and separately as trustee or nominee for each of the Bidder directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date (unless that representation and warranty is expressed to be given at a particular time, in which case it is given at that time):

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Target Information contained in the Scheme Booklet will be included in good faith and on the understanding that Bidder and its directors will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (g) **(Target Information)** the Target Information provided in accordance with this document and included in the Scheme Booklet as at the date of the Scheme Booklet will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(disclosure)** Target has provided to Bidder all information known to it (having made reasonable enquiries of the persons listed in clause 11.3) as at the date of this document regarding matters affecting or relating to it:
 - (i) which is not already in the public domain; and
 - (ii) the disclosure of which might reasonably be expected to have resulted in Bidder not entering into this document at all or only entering into this document on materially different terms;

- (i) **(continuous disclosure)** Target is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure (other than the transaction contemplated by this document);
- (j) **(complete and accurate)** all the information provided to Bidder by Target in connection with this document, including the Due Diligence Materials, has been collated and prepared in good faith, is complete and accurate and is not false or misleading in any material respect, whether by way of omission or otherwise as at the date of collation or preparation;
- (k) **(no contravention)** so far as Target is aware, since 1 July 2021, no document required to be lodged or filed by a member of the Target Group with ASIC or ASX, including any notice required to be filed under Target's continuous disclosure obligations under the Listing Rules, has contained any material statement which was inaccurate in any material respect, misleading or deceptive or omitted to state a material fact required to be stated in it, except to the extent that such statements have been modified or superseded by a later filed document;
- (l) **(compliance)** the Target Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licenses, permits and franchises necessary for it to conduct its respective businesses as presently being conducted;
- (m) **(opinions)** any statement of opinion or belief contained in the Target Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (n) **(provision of information to Independent Expert)** all information provided by or on behalf of Target to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (o) **(no default)** neither Target nor any of its Subsidiaries is in default under any document, agreement or instrument binding on, and material to, it or its assets nor has anything occurred which is or would with the giving of notice or lapse of time constitute an event of default, prepayment event or similar event, or give another party a termination right or right to accelerate any right or obligation, under any such document or agreement with such an effect;
- (p) **(securities)** Target's issued securities as at the date of this document are: 369,130,362 Target Shares, the Performance Rights and the Convertible Notes, and other than as Disclosed it has not issued or agreed to issue any other securities or instruments which are still outstanding, and which may convert into Target Shares;
- (q) **(no Encumbrances)** there are no Encumbrances over all or any of its assets or revenues;
- (r) **(financial statements)** the audited consolidated financial statements of the Target Group for the financial year ended 30 June 2022 were prepared in accordance with the requirements of the Corporations Act (as applicable) and any other applicable laws and in accordance with the accounting standards and give a true and fair view of the consolidated

financial position of target as of 30 June 2022 and the consolidated results of its operations and cash flows for the financial year ended 30 June 2022;

- (s) **(Insolvency event)** no member of the Target Group is Insolvent;
- (t) **(no litigation)** no member of the Target Group is:
 - (i) a party to, or the subject of, any;
 - (ii) the subject of any ruling, order, judgement or determination by any Regulatory Authority or any other person; or
 - (iii) as far as Target is aware, the subject of any investigation, inquiry, prosecution or enforcement proceedings by any Regulatory Authority,

which if decided against any member of the Target Group (or otherwise compromised or settled), would give rise to a liability of more than \$100,000 for any member of the Target Group;

- (u) **(no unsatisfied orders)** as at the date of this document there are no unsatisfied orders, judgements or determinations against any member of the Target Group or any of their assets;
- (v) **(intellectual property)** the Target Group IP and the Licensed IP comprise all the Intellectual Property Rights necessary for the Target Group to operate its business as it has been operated in the 12 months before the date of this document and the use of the Target Group IP and Licensed IP by the Target Group does not infringe the Intellectual Property Rights of any third party;
- (w) **(Insurance):**
 - (i) the Target Group maintains insurance in such amounts and against accident, physical loss or damage, third party liability (including general liability) and all other normal risks incidental to the operation of the business of the Target Group as required by law ;
 - (ii) each material policy of insurance is currently in full force and effect and all applicable premiums that are due and payable have been paid;
 - (iii) the Target Group has not received any current written notice that it is not in compliance with the current insurance policies covering the Target Group;
 - (iv) as of the date of this document, no written notice of cancellation, termination or revocation of a policy of insurance has been received by a member of the Target Group that remains outstanding;
 - (v) so far as Target is aware, nothing has been done, or failed to be done, which would make any Target Group insurance policy void or voidable or would permit an insurer to cancel any Target Group insurance policy or refuse or reduce a claim or materially increase the premiums payable under any Target Group insurance policy and, as far as the Target is aware, no other matter exists that might under any Target Group insurance

policy void or unenforceable or otherwise limit, prejudice or reduce recovery under any Target Group insurance policy;

- (x) **(Taxes)** no member of the Target Group:
- (i) is currently the subject of a Tax audit or examination or other administrative or judicial proceeding arising therefrom, and to Target's knowledge, no such audit, examination or proceeding is threatened or contemplated, or
 - (ii) has received from any Taxing Authority any written notice of a proposed adjustment, deficiency or underpayment of Taxes which has not been satisfied by payment or been withdrawn that would reasonably be likely to give rise to any Material Adverse Effect on the overall Target Group business or financial position,
- and all Tax Returns required to be filed by any member of the Target Group, have been timely filed and all Taxes shown as due and payable on such Tax Returns, and all amounts of Taxes required to have been paid by the relevant member of the Target Group have been paid or appropriate reserves have been recorded in the financial statements of Target;
- (y) **(Target Shares not indirect Australian real property interests)** the relevant Target Shares held by each Scheme Participant are not, and until (and including) the Implementation Date will not be, indirect Australian real property interests within the meaning of Division 855 of the Tax Act for the Scheme Participant;
- (z) **(change of control provisions)** Target has Disclosed all contracts which result in, or could result in:
- (i) any monies borrowed by any member of the Target Group being or becoming repayable or being capable of being declared repayable immediately or earlier than the repayment date stated in such agreement;
 - (ii) any such agreement being terminated or modified or any action being taken or arising thereunder;
 - (iii) the interest of any member of the Target Group in any firm, joint venture, trust, corporation or other entity (or any arrangements relating to such interest) being terminated or modified; or
 - (iv) the business of any member of the Target Group with any other person being materially adversely affected, and
- (aa) **(no knowledge of Material Adverse Effect)** Target is not aware of any information relating to the Target Group or its respective businesses or operations as at the date of this document that has or could reasonably be expected to give rise to a Material Adverse Effect that has not been Disclosed.

11.2 Target's indemnity

Target indemnifies the Bidder Indemnified Parties against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 11.1 not being true and correct.

11.3 Target awareness

For the purpose of the Target Representations and Warranties, Target will be deemed to know or be aware of a particular matter if a director of the Target or any person holding the role of Chairperson, Chief Executive Officer, Chief Financial Officer, Chief Revenue Officer, Chief Operations Officer, Chief Technology Officer or General Manager, Verteda.

11.4 Qualification of representations, warranties and indemnities

- (a) Each representation and warranty by Target in clause 11.1 and each indemnity by Target in clause 11.2 is qualified to the extent:
 - (i) expressly required or permitted by this document or the Scheme or the transaction contemplated by either; or
 - (ii) Disclosed.

11.5 Notifications

Target will promptly advise Bidder in writing if Target becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by Target under this clause 11.

11.6 Bidder's representations and warranties

Bidder represents and warrants to Target (on its own behalf and separately as trustee or nominee for each of the Target directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date (unless that representation and warranty is expressed to be given at a particular time, in which case it is given at that time):

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Bidder Information provided to Target for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that Target and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;

- (g) **(Bidder Information)** the Bidder Information provided in accordance with this document and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(opinions)** any statement of opinion or belief contained in the Bidder Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (i) **(no dealing with Target Shareholders)** neither it nor any of its associates has any agreement, arrangement or understanding with any Target Shareholder under which that Target Shareholder (or an associate of that Target Shareholder) would be entitled to receive consideration for their Target Shares different from the Scheme Consideration or under which the Target Shareholder agrees to vote in favour of the Scheme or against any Competing Transaction;
- (j) **(provision of information to Independent Expert)** all information provided by or on behalf of Bidder to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (k) **(Commitment Letters)** Bidder has given to Target true, correct and complete copies of the Equity Commitment Letter and the Debt Commitment Letter as at the date they were given;
- (l) **(due execution and enforceability of the Debt Commitment Letter)** the Debt Commitment Letter has been duly executed by Bidder and constitutes legally binding obligations of Bidder that are enforceable against Bidder in accordance with its terms;
- (m) **(due execution and enforceability of the Equity Commitment Letter)** the Equity Commitment Letter has been duly executed by each party to it and constitutes legally binding obligations of those parties that are enforceable in accordance with their terms;
- (n) **(No termination of Commitment Letters)** neither the Equity Commitment Letter nor the Debt Commitment Letter has been terminated;
- (o) **(reasonable basis)** as at the date of this document, it has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll;
- (p) **(unconditional cash reserves on the Second Court Date and the Implementation Date)** by 8.00am on the Second Court Date and on the Implementation Date, Bidder will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions (including under the Debt Facility Agreement) within the control of Bidder) sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt

financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll; and

- (q) **(Insolvency event)** Bidder is not Insolvent.

11.7 Bidder's indemnity

The Bidder indemnifies the Target Indemnified Parties against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 11.6 not being true and correct.

12 Termination

12.1 Termination events

This document may be terminated:

- (a) **(End Date)** by either party, if the Scheme has not become Effective on or before the End Date;
- (b) **(lack of support)** by Bidder at any time prior to 8.00am on the Second Court Date if any member of the Target Board changes its Recommendation, including any adverse modification to its Recommendation, or otherwise makes a public statement indicating that it no longer supports the Scheme (excluding a statement that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal by the Target Board);
- (c) **(material breach)** by either Bidder or Target at any time prior to 8.00am on the Second Court Date, if the other is in material breach of a term of this document (including any representation and warranty not being true and correct), taken in the context of the Scheme as a whole, provided that Bidder or Target (as the case may be) has, if practicable, given notice to the other setting out the relevant circumstances and the relevant circumstances continue to exist 5 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time such notice is given;
- (d) **(competing interest)** by Bidder at any time prior to 8.00 am on the Second Court Date, if a person (other than Bidder or its Associates or Microequities Asset Management Pty Ltd (or any person who has a Relevant Interest in the Target Shares held by Microequities Asset Management Pty Ltd as at the date of this document) has a Relevant Interest in more than 10% of the Target Shares;
- (e) **(Superior Proposal)** by Target at any time prior to 8.00 am on the Second Court Date if the Target Board determines that a Competing Transaction that was not solicited, invited, encouraged or initiated in breach of clause 9.2 is a Superior Proposal, and provided that Target may not terminate this document pursuant to this clause 12.1(e) if the matching right process under clauses 9.8 and 9.9 has not been completed;
- (f) **(consultation or appeal failure)** in accordance with and pursuant to:
- (i) clause 3.8(a);
 - (ii) clause 3.8(b); or

(iii) clause 5.8; or

(g) **(agreement)** if agreed to in writing by Bidder and Target.

12.2 Termination

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

12.3 Effect of Termination

If this document is terminated by either party, or if this document otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this document, other than the obligations set out in this clause and in clauses 10.2, and 13 to 18 (inclusive) will immediately cease to be of further force and effect without further liability of any party to the other, provided that nothing in this clause releases any party from liability for any pre-termination breach of this document.

12.4 Damages

In addition to the right of termination under clause 12.1 where there is no appropriate remedy for the breach in this document (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this document. This clause does not prejudice the Target's right to obtain an order for specific performance in respect of the Bidder's obligations under this document.

13 Public announcements

13.1 Public announcement of Scheme

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

13.2 Required disclosure

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

13.3 Other announcements

Subject to clauses 13.1 and 13.2, no party may make any public announcement or disclosure in connection with the Scheme (including disclosure to a Regulatory Authority) other than in a form approved by each party (acting reasonably). Each party will use all reasonable endeavours to provide such approval as soon as practicable.

14 Confidential information

14.1 Confidential information

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

15 Notices and other communications

15.1 Form

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

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

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

15.2 Delivery

Communications must be:

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

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

15.3 When effective

Communications take effect from the time they are received or taken to be received under clause 15.4 (whichever happens first) unless a later time is specified in the communication.

15.4 When taken to be received

Communications are taken to be received:

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

whichever happens first.

15.5 Receipt outside business hours

Despite anything else in this clause 15, if communications are received or taken to be received under clause 15.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

16 GST

16.1 Definitions and interpretation

For the purposes of this clause:

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

16.2 GST exclusive

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

16.3 Payment of GST

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

16.4 Adjustment events

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

16.5 Reimbursements

Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this document which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 16.3 will apply to the reduced payment.

17 Costs

17.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document, except for amounts covered by clause 17.2.

17.2 Stamp duty and registration fees

Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnifies Target against, and agrees to reimburse and compensate it for, any liability in respect of stamp duty under clause 17.2(a).

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

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

18 General

18.1 Variation and waiver

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

18.2 Consents, approvals or waivers

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

18.3 Discretion in exercising rights

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

18.4 Partial exercising of rights

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

18.5 Conflict of interest

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

18.6 Remedies cumulative

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

18.7 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document.

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

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

18.8 Inconsistent law

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

18.9 Supervening law

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

18.10 Counterparts

This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the document.

18.11 Electronic exchange of documents

In relation to the electronic exchange of documents:

- (a) parties may exchange executed counterparts of this document, or any other document required to be executed under this document, by delivery from one party to the other party by emailing a pdf (portable

document format) copy of the executed counterpart to that other party (“**Electronic Delivery**”); and

- (b) Electronic Delivery of an executed counterpart will be deemed effective delivery of the original executed counterpart, from the date and time of receipt by the other party.

18.12 Entire agreement

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

18.13 Further steps

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

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

18.14 No liability for loss

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

18.15 Severability

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

18.16 Rules of construction

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

18.17 Assignment

- (a) A party may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of the other party, subject to clause 18.17(b) below.
- (b) Bidder may grant an Encumbrance over its rights under this document to:
 - (i) any secured lender or other person providing debt financing (including the Debt Facility) to Bidder or an Affiliate of Bidder (each a “**Finance Party**”); or
 - (ii) any person or persons acting as security trustee or agent for a Finance Party in respect of facilities made available to Bidder or an Affiliate of Bidder,

and any such Encumbrance may be enforced or released.

18.18 Enforceability

For the purpose of this document:

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

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

18.19 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document, except for representations or inducements expressly set out in this document;
- (b) it does not enter into this document in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this document; and
- (c) clauses 18.19(a) and 18.19(b) above do not prejudice any rights a party may have in relation to information which had been filed by the other party with ASIC or ASX.

19 Governing law

19.1 Governing law and jurisdiction

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

19.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address for service of notices under clause 15.2 ("**Delivery**").

EXECUTED as an agreement

Scheme Implementation Agreement

Schedule 1 Timetable (clause 5.1)

Event	Date
Lodge Scheme Booklet with ASIC and ASX	Mid-November 2022
Application in respect of the Court hearing to be held on the First Court Date, filed with the Court, served on ASIC	Late November 2022
First Court Date	Mid-December 2022
Scheme Meeting held	Early February 2023
Second Court Date	Early February 2023
Lodge Court order with ASIC (Effective Date)	Early February 2023
Record Date	Early February 2023
Implementation Date	Mid-February 2023

Scheme Implementation Agreement

Signing page

DATED: 14 November 2022

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

Signature of director

Anthony Toohey

Name of director (block letters)

EXECUTED by Plutus Bidco Pty Ltd (ACN 663 418 184) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

Signature of director

Name of director (block letters)

David Usasz

Signature of director/company secretary*

*delete whichever is not applicable

DAVID EDWARD USASZ

Name of director/company secretary* (block letters)

*delete whichever is not applicable

Signature of director/company secretary*

*delete whichever is not applicable

Name of director/company secretary* (block letters)

*delete whichever is not applicable

Scheme Implementation Agreement

Signing page

DATED: 14 November 2022

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


.....
Signature of director

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


.....
Signature of director/company secretary*
*delete whichever is not applicable

.....
Name of director/company secretary* (block letters)
*delete whichever is not applicable

EXECUTED by **Plutus Bidco Pty Ltd** (ACN 663 418 184) in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:


.....
Signature of director

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


.....
Signature of director/company secretary*
*delete whichever is not applicable

Mark Bryan
.....
Name of director/company secretary* (block letters)
*delete whichever is not applicable

Scheme Implementation Agreement

Annexure A Scheme of Arrangement

Scheme of Arrangement

Dated 2022

MSL Solutions Limited (ACN120 815 778) ("**Target**")

Scheme Participants

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Scheme of Arrangement

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Scheme of Arrangement

Details

Parties

Target	Name	MSL Solutions Limited
	ACN	120 815 778
	Formed in	Queensland, Australia
	Address	Level 1, 307 Queen Street Brisbane Queensland 4000
	Email	pat.howard@mslsolutions.com
	Attention	Pat Howard

Scheme Participants	Each person registered as a holder of fully paid ordinary shares in Target as at 5.00pm on the Record Date.
----------------------------	---

Governing law	New South Wales
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General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

Affiliate means in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person;
- (c) directly or indirectly under the common Control of the Primary Person and another person or persons.

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

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

and, for the avoidance of doubt, and, solely for the purposes of this definition:

- (f) a general partner is deemed to Control a limited partnership;
- (g) a fund, client or account advised or managed, directly or indirectly, by a person will also be deemed to be Controlled by such person; and
- (h) a fund, client or account will be deemed to be an Affiliate of the Primary Person if the fund, client or account is advised or managed, directly or indirectly, by a person Controlling directly or indirectly the Primary Person or a person directly or indirectly under the common Control of the Primary Person and another person or persons.

ASIC means the Australian Securities & Investments Commission.

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

Bidder means Plutus Bidco Pty Ltd (ACN 663 418 184).

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

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

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

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

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

Deed Poll means the deed poll dated on or about the date of this Scheme executed by Bidder substantially in the form of Annexure B of the Scheme Implementation Agreement or as otherwise agreed by Bidder and Target under which Bidder covenants in favour of each Scheme Participant to perform its obligations under this Scheme.

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

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

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

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

End Date means 30 June 2023 or such other date as is agreed by Bidder and Target.

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

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

Listing Rules means the Listing Rules of the ASX.

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

Record Date means the second Business Day following the Effective Date or such other date as Target and Bidder agree.

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

Registry means the provided or share registry services to Target.

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

Regulatory Authority includes:

- (a) ASX, ACCC, ASIC and the Takeovers Panel;

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

Scheme means this scheme of arrangement between Target and Scheme Participants under which all of the Scheme Shares will be transferred to Bidder under Part 5.1 of the Corporations Act as described in clause 6 of this Scheme, in consideration for the Scheme Consideration, subject to any amendments or conditions that are:

- (a) agreed in writing by Target and Bidder (with any such amendments to be in accordance with the principles in the definition of 'Scheme' in the Scheme Implementation Agreement), and approved by the Court; or
- (b) made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Target and Bidder.

Scheme Consideration means \$0.295 paid in respect of each Scheme Share to be provided by Bidder to Scheme Participants under the terms of this Scheme for the transfer to Bidder of their Scheme Shares.

Scheme Implementation Agreement means the scheme implementation agreement dated 14 November 2022 between Target and Bidder under which, amongst other things, Target has agreed to propose this Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to this Scheme.

Scheme Meeting means the meeting of Target Shareholders, ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act at which Target Shareholders will vote on this Scheme.

Scheme Participant means each person who is a Target Shareholder as at 5.00pm on the Record Date.

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

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

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

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

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

Trust Account means the trust account operated by or on behalf of Target to hold the Scheme Consideration on trust for the purpose of paying the Scheme Consideration to the Scheme Participants in accordance with clause 6.2 of this Scheme.

1.2 General interpretation

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

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

2 Preliminary

2.1 Target

Target is:

- (a) a public company limited by shares;
- (b) incorporated in Australia and registered in Queensland; and

- (c) admitted to the official list of the ASX and Target Shares are officially quoted on the stock market conducted by ASX.

As at the date of the Scheme Implementation Agreement, Target's issued securities are:

- (d) Target Shares: 369,130,362;
- (e) performance rights: 13,969,998; and
- (f) convertible notes: 4,500,000.

2.2 Bidder

Bidder is:

- (a) a proprietary company limited by shares; and
- (b) incorporated in Australia and registered in New South Wales, Australia.

2.3 If Scheme becomes Effective

If this Scheme becomes Effective:

- (a) in consideration of the transfer of each Scheme Share to Bidder, Target will procure Bidder to provide the Scheme Consideration to Target on behalf of each Scheme Participant in accordance with the terms of this Scheme;
- (b) all Scheme Shares, together with all rights and entitlements attaching to Scheme Shares as at the Implementation Date, will be transferred to Bidder on the Implementation Date; and
- (c) Target will enter the name of Bidder in the Register in respect of all Scheme Shares transferred to Bidder in accordance with the terms of this Scheme with the result that Bidder will hold all Target Shares.

2.4 Scheme Implementation Agreement

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

2.5 Deed Poll

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

3 Conditions precedent

3.1 Conditions precedent to Scheme

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

- (a) as at 8.00am on the Second Court Date, the Deed Poll not having been terminated;

- (b) all of the conditions precedent in clause 3.1 of the Scheme Implementation Agreement having been satisfied or waived (other than the conditions precedent in clause 3.1(d) (Court approval) of the Scheme Implementation Agreement) in accordance with the terms of the Scheme Implementation Agreement;
- (c) the Court having approved this Scheme, with or without any modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, Target and Bidder having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act; and
- (d) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

3.2 Conditions precedent and operation of clause 5

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the operation of clause 5 of this Scheme.

3.3 Certificate in relation to conditions precedent

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

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

4 Scheme

4.1 Effective Date

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

4.2 End Date

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

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

unless Target and Bidder otherwise agree in writing.

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

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

5.2 Transfer and registration of Target Shares

On the Implementation Date, but subject to the provision of the Scheme Consideration for the Scheme Shares in accordance with clauses 6.1 to 6.3 of this Scheme and Bidder having provided Target with written confirmation of the provision of the Scheme Consideration:

- (a) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Bidder without the need for any further act by any Scheme Participant (other than acts performed by Target as attorney and agent for Scheme Participants under clause 8 of this Scheme) by:
 - (i) Target delivering to Bidder a duly completed and executed Share Scheme Transfer executed on behalf of the Scheme Participants; and
 - (ii) Bidder duly executing the Share Scheme Transfer and delivering it to Target for registration; and
- (b) as soon as practicable after receipt of the duly executed Share Scheme Transfer, Target must enter the name of Bidder in the Register in respect of all Scheme Shares transferred to Bidder in accordance with the terms of this Scheme.

5.3 Entitlement to Scheme Consideration

On the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clause 6 of this Scheme.

5.4 Title and rights in Target Shares

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

5.5 Scheme Participants' agreements

Under this Scheme, each Scheme Participant agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with the terms of this Scheme. In relation to such transfer, each Scheme Participant also provides the authorities and acknowledgements in clause 10.3.

5.6 Warranty by Scheme Participants

Each Scheme Participant warrants to Bidder and is deemed to have authorised Target to warrant to Bidder as agent and attorney for the Scheme Participant by virtue of this clause 5.6, that:

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

5.7 Transfer free of encumbrances

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

5.8 Appointment of Bidder as sole proxy

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clauses 5.2 and 6.3 of this Scheme, on and from the Implementation Date until Target registers Bidder as the holder of all of the Target Shares in the Register, each Scheme Participant:

- (a) irrevocably appoints Target as attorney and agent (and directs Target in such capacity) to appoint Bidder and each of its directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable corporate representative, to attend shareholders' meetings, exercise the votes attaching to Target Shares registered in its name and sign any shareholders resolution, and no Scheme Participant may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.8(a)); and
- (b) must take all other actions in the capacity of the registered holder of Target Shares as Bidder directs.

Target undertakes in favour of each Scheme Participant that it will appoint Bidder and each of its directors from time to time (jointly and each of them individually) as that Scheme Participant's proxy or, where applicable, corporate representative in accordance with clause 5.8(a) of this Scheme.

6 Scheme Consideration

6.1 Consideration under the Scheme

On the Implementation Date, Target must procure Bidder to pay (or procure the payment of) the Scheme Consideration to the Scheme Participants in accordance with clauses 6.2, 6.3 and 6.4 of this Scheme.

6.2 Satisfaction of obligations

The obligation of Target to procure payment of the Scheme Consideration pursuant to clause 6.1 of this Scheme will be satisfied by Target procuring Bidder no later than the Business Day before the Implementation Date to deposit (or procure the deposit) in Immediately Available Funds the aggregate amount of the Scheme Consideration payable to all Scheme Participants into the Trust Account (except that the amount of any interest on the amount deposited will be to Bidder's account).

6.3 Payment of Scheme Consideration

On the Implementation Date, subject to receipt of the Scheme Consideration from Bidder in accordance with clause 6.2 of this Scheme, Target must pay to each Scheme Participant an amount equal to the Scheme Consideration for each Scheme Share transferred to Bidder on the Implementation Date by that Scheme Participant from the Trust Account.

Unless otherwise directed by the Scheme Participants before the Record Date, the amounts referred to in this clause 6.3 of this Scheme must be paid by direct credit or sending a cheque drawn on an Australian bank in Australian currency on the Implementation Date to each Scheme Participant by pre-paid ordinary post (or, if the address of the Scheme Participant in the Register is outside Australia, by pre-paid airmail post) to their address recorded in the Register at 5.00pm on the Record Date.

6.4 Unclaimed monies

Target may cancel a cheque issued under clause 6.3 of this Scheme if the cheque:

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

During the period of 1 year commencing on the Implementation Date, on request from a Scheme Participant, Target must reissue a cheque that was previously cancelled under this clause 6.4. Bidder is entitled to the benefit of any interest accruing on unclaimed Scheme Consideration.

6.5 Orders of a court or Regulatory Authority

In the case of notice having been given to Target (or the Registry) of an order made by a court of competent jurisdiction or other Regulatory Authority:

- (a) which requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant in accordance with clause 6.3 of this Scheme, then Target must procure that payment is made in accordance with that order or otherwise by law; or
- (b) which would prevent Target from dispatching payment to any particular Scheme Participant in accordance with clause 6.3 of this Scheme, Target will retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration until such time as payment in accordance with clause 6.3 of this Scheme is permitted by that order or otherwise by law,

and the payment or retention by Target (or the Registry) will constitute full discharge of Target's obligations under clause 6.3 with respect of the amount so

paid or retained until, in the case of clause 6.6(b), it is no longer required to be retained.

6.6 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be paid to Scheme Participants by Bidder must be payable to the joint holders and be sent to the holder whose name appears first in the Register as at 5.00pm on the Record Date; and
- (b) any other document required to be sent under this Scheme must be sent to the holder whose name appears first in the Register as at 5.00pm on the Record Date.

6.7 Fractional entitlements

Where the calculation of the Scheme Consideration to be provided to a Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up or down to the nearest cent and, for the avoidance of doubt, fractional entitlements of 0.5 of a cent will be rounded up.

6.8 Foreign resident capital gains withholding

- (a) If Bidder determines, having regard to legal advice, that Bidder is liable to pay an amount to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) in respect of the acquisition of Transferring Shares from a Scheme Participant (being the **Relevant Amount**), then Bidder is entitled to withhold the Relevant Amount before making the payment to the Scheme Participant, and payment of the reduced amount and payment of the Relevant Amount to the relevant taxation authority pursuant to clause 6.8 will be taken to be full payment of the Relevant Amount for the purpose of this Scheme, including clause 6.3.
- (b) Bidder must pay the Relevant Amount so withheld to the relevant taxation authority within the time permitted by law, and, if requested in writing by the relevant Scheme Participant, provide a receipt or other appropriate evidence (or procure the provision of such receipt or other evidence) of such payment to the relevant Scheme Participant.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Participants

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

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant Scheme Shares on or before 5.00pm on the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings are received on or before 5.00pm on the Record Date at the place where the Register is kept,

and Target will not accept for registration, nor recognise for any purpose (except a transfer to Bidder under this Scheme and any subsequent transfer by Bidder or

its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

7.2 Register

Target must register any registrable transmission applications or transfers of the Scheme Shares received in accordance with clause 7.1(b) of this Scheme on or before 5.00pm on the Record Date.

7.3 No disposals after Effective Date

If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Effective Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever.

Target will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Shares received after 5.00pm on the Record Date (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title).

7.4 Maintenance of Target Register

For the purpose of determining entitlements to the Scheme Consideration, Target will maintain the Register in accordance with the provisions of clause 7 until the Scheme Consideration has been paid to the Scheme Participants and Bidder has been entered in the Register as the holder of all the Scheme Shares. The Register in this form will solely determine entitlements to the Scheme Consideration.

7.5 Effect of certificates and holding statements

Subject to provision of the Scheme Consideration and registration of the transfer to Bidder contemplated in clauses 5.2 and 7.4 of this Scheme, any statements of holding in respect of Scheme Shares will cease to have effect after 5.00pm on the Record Date as documents of title in respect of those shares (other than statements of holding in favour of Bidder and its successors in title). After 5.00pm on the Record Date, each entry current on the Register as at 5.00pm on the Record Date (other than entries in respect of Bidder or its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration.

7.6 Details of Scheme Participants

Within 3 Business Days after the Record Date Target will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Register at 5.00pm on the Record Date are available to Bidder in such form as Bidder reasonably requires.

7.7 Quotation of Target Shares

Suspension of trading on ASX in Target Shares will occur from the close of trading on ASX on the Effective Date.

7.8 Termination of quotation of Target Shares

After the Scheme has been fully implemented, Target will apply:

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

8 Power of attorney

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

- (a) executing any document necessary or expedient to give effect to this Scheme including the Share Scheme Transfer;
- (b) enforcing the Deed Poll against Bidder,

and Target accepts such appointment. The Target, as attorney and agent of each Scheme Participant, may sub-delegate its functions, authorities or powers under this clause 8 to all or any of its directors or officers (jointly, severally or jointly and severally).

9 Notices

9.1 No deemed receipt

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

9.2 Accidental omission

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

10 General

10.1 Variations, alterations and conditions

Target may, with the consent of Bidder (which cannot be unreasonably withheld), by its counsel or solicitor consent on behalf of all persons concerned to any variations, alterations or conditions to this Scheme which the Court thinks fit to impose, and each Scheme Participant agrees to such variations, alterations or conditions which Target has consented to.

10.2 Further action by Target

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

10.3 Authority and acknowledgement

Each Scheme Participant:

- (a) irrevocably consents to Target and Bidder doing all things necessary or expedient for or incidental to the implementation of this Scheme;
- (b) agrees to the variation, cancellation or modification of the rights attached to their Target Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any holding statements or share certificates relating to their Target Shares; and
- (d) acknowledges that this Scheme binds Target and all Scheme Participants (including those who do not attend the Scheme Meeting or do not vote at that meeting or vote against the Scheme at that meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Target.

10.4 No liability when acting in good faith

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

10.5 Enforcement of Deed Poll

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

10.6 Stamp duty

Bidder will pay all stamp duty (including any fines, penalties and interest) payable in connection with this Scheme, and will indemnify each Scheme Participant against any liability arising from its failure to pay such stamp duty.

11 Governing law

11.1 Governing law and jurisdiction

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

11.2 Serving documents

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

Scheme Implementation Agreement

Annexure B Deed Poll

Deed Poll

Dated 2022

Given by Plutus Bidco Pty Ltd (ACN 663 418 184) ("**Bidder**")

In favour of each registered holder of fully paid ordinary shares in MSL Solutions Limited (ACN 120 815 778) ("**Target**") as at 5.00 pm on the Record Date ("**Scheme Participants**")

King & Wood Mallesons
Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Deed Poll

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Deed Poll

Details

Parties

Bidder	Name	Plutus Bidco Pty Ltd
	ACN	ACN 663 418 184
	Address	C/- Pemba Capital Partners Level 45, Gateway, 1 Macquarie Place Sydney NSW 2000
	Email	MarkB@Pemba.com.au
	Attention	Mark Bryan

In favour of Each registered holder of fully paid ordinary shares in Target as at 5.00 pm on the Record Date.

Governing law New South Wales

- Recitals**
- A** The directors of Target have resolved that Target should propose the Scheme.
 - B** The effect of the Scheme will be that all Scheme Shares will be transferred to Bidder.
 - C** Target and Bidder have entered into the Scheme Implementation Agreement.
 - D** In the Scheme Implementation Agreement, Bidder agreed (amongst other things) to provide the Scheme Consideration to Target on behalf of the Scheme Participants, subject to the satisfaction of certain conditions and on the terms and conditions of the Scheme Implementation Agreement.
 - E** Bidder is entering into this deed poll for the purpose of covenanting in favour of Scheme Participants to perform its obligations in relation to the Scheme and to provide the Scheme Consideration in accordance with the Scheme.
-

Deed Poll

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

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

A person is **Insolvent** if:

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

Details means the section of this Deed Poll headed “Details”.

Scheme means the proposed scheme of arrangement between Target and Scheme Participants under which all the Scheme Shares will be transferred to Bidder under Part 5.1 of the Corporations Act, substantially in the form of Annexure A to this deed poll, or as otherwise agreed by Bidder and Target, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act, to the extent they are approved in writing by Target and Bidder in accordance with clause 10.1 of the Scheme.

Scheme Implementation Agreement means the scheme implementation agreement dated 14 November 2022 between Target and Bidder under which, amongst other things, Target has agreed to propose this Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to this Scheme.

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

1.2 General interpretation

Clause 1.2 of the Scheme applies to this document.

1.3 Nature of deed poll

Bidder acknowledges that:

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

2 Conditions precedent and termination

2.1 Conditions precedent

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

2.2 Termination

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

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

2.3 Consequences of termination

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

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

3 Performance of obligations generally

Bidder must comply with its obligations under the Scheme Implementation Agreement and do all acts and things necessary or desirable on its part to give full effect to the Scheme, subject to and in accordance with the terms of the Scheme Implementation Agreement and the Scheme.

4 Scheme Consideration

4.1 Scheme Consideration

Subject to clause 2, Bidder undertakes in favour of each Scheme Participant to pay the Scheme Consideration to the Trust Account on behalf of each Scheme Participant in accordance with the Scheme, and undertakes to perform all other actions attributed to it under the Scheme.

4.2 Manner of payment

Bidder's obligation to provide the Scheme Consideration to Target on behalf of each Scheme Participant is satisfied by Bidder, no later than the Business Day before the Implementation Date, depositing (or procuring the deposit of) in Immediately Available Funds the aggregate amount of the Scheme Consideration payable to all Scheme Participants into the Trust Account (except that the amount of any interest on the amount deposited will be to Bidder's account).

4.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent to Scheme Participants by Bidder must be payable to the joint holders and be sent to the holder whose name appears first in the Register as at 5.00pm on the Record Date; and
- (b) any other document required to be sent under the Scheme must be sent to the holder whose name appears first in the Register as at 5.00pm on the Record Date.

5 Representations and warranties

Bidder represents and warrants that:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (ii) any law binding on or applicable to it or its assets; or

- (iii) any Encumbrance or document binding on or applicable to it;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms; and
- (f) **(solvency)** is not Insolvent.

6 Continuing obligations

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

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

7 Costs

7.1 Costs

Bidder agrees to pay all costs in respect of the Scheme (including, in connection with the transfer of Target Shares to Bidder in accordance with the terms of the Scheme) except for amounts covered by clause 7.2.

7.2 Stamp duty and registration fees

Bidder:

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

8 Notices

Notices and other communications in connection with this document must be in writing. They must be sent to the address or email address referred to in the Details and (except in the case of email) marked for the attention of the person referred to in the Details. If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

9 General

9.1 Variation

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

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

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

9.2 Partial exercising of rights

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

9.3 Remedies cumulative

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

9.4 Assignment or other dealings

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

9.5 Further steps

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

10 Governing law and jurisdiction

10.1 Governing law and jurisdiction

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

10.2 Serving documents

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

EXECUTED as a deed poll

Deed Poll

Annexure A - Scheme