



21 December 2022

Australian Securities Exchange (ASX) Announcement

Proposed voluntary delisting from ASX

Further to the announcement of Total Brain Limited (**Total Brain, TTB** or the **Company**) on 1 November 2022 that the Company has completed the sale of substantially all of the assets of the business of Total Brain and its subsidiaries to SonderMind Inc. pursuant to an asset sale agreement (**Agreement**), Total Brain advises that it has submitted a formal application to ASX requesting ASX to remove TTB from the official list of the ASX (**Official List**), subject to receipt of shareholder approval.

Conditional approval for de-listing from ASX

Further to the Company's announcement to ASX on 1 November 2022, following completion of the sale of the Company's business under the Agreement, Total Brain proposes to undertake a transaction to:

- (a) conduct a capital return to shareholders via an equal capital reduction enabling shareholders to substantially realise their economic interest in the Company;
- (b) delist from the Official List; and
- (c) commence a voluntary winding up process.

The Company has received advice from ASX that it would be likely to remove TTB from the Official List on a date to be determined by ASX in consultation with TTB, subject to compliance with the following conditions:

- (a) TTB's removal from the Official List is approved by a special resolution of the ordinary shareholders of TTB;
- (b) the notice of meeting seeking shareholder approval for TTB's removal from the Official List must include a statement, in form and substance, satisfactory to ASX, setting out:
 - (i) a timetable of key dates, including the time and date at which TTB will be removed from the Official List if that approval is given;
 - (ii) a statement to the effect that the removal will take place no earlier than one month after approval is granted;
 - (iii) details of the processes that will exist after the Company is removed from the Official List to allow shareholders to dispose of their holdings and how they can access those processes; and
 - (iv) the information prescribed in section 2.11 of ASX Guidance Note 33.

In order to satisfy the condition set out in paragraph (a) above, TTB will hold an extraordinary general meeting, currently scheduled for 1 February 2023 (**Meeting**), to consider the proposal to delist from the Official List. The notice for the Meeting will be released shortly and will contain the necessary statements to satisfy the condition set out in paragraph (b) above.



If shareholders approve the removal of TTB from the Official List, it is expected that TTB will be removed from the Official List on 1 March 2023.

Reasons for de-listing from ASX

The key reasons for Total Brain seeking to be removed from the Official List are:

- (a) following the sale of the Company's business under the Agreement, the Company no longer has an operating business;
- (b) the Board considers that the trading volume of TTB's shares on ASX is insufficient to provide shareholders with an efficient mechanism to realise their investment in the Company; and
- (c) the Board considers that the costs of Total Brain remaining listed on the Official List are unjustified, taking into account the Company's operating costs and revenues and the liquidity of TTB's shares.

Capital return

To enable shareholders to realise substantially all of their economic interest in the Company prior to the delisting of TTB from the Official List, the Company intends to use the purchase consideration received under the Agreement, less the amounts necessary to pay transaction fees and all outstanding liabilities and expected operational costs of the Company and its subsidiaries, to undertake a capital return to shareholders via an equal capital reduction. The implementation of the capital return will be subject to the receipt of shareholder approval. It is intended that any remaining value in the shares following the capital return and delisting (if any) be distributed to shareholders by a winding up to be conducted after the delisting occurs.

More details regarding the proposed capital return will be provided to shareholders in the notice of the Meeting.

Consequences of delisting

The consequences for Total Brain and its shareholders if Total Brain is removed from the Official List are:

- (a) Total Brain's shares will no longer be quoted on ASX and shareholders will no longer be able to trade their shares on ASX;
- (b) Total Brain's shares will only be capable of being traded by off-market private transactions, which will require shareholders to identify and agree terms with potential purchasers of shares;
- (c) as an unlisted public company, Total Brain will not have the ability to raise capital from the issue of securities by means of limited disclosure fundraising documents. Therefore, the

main means for Total Brain to raise equity funds will be by way of an offer of securities pursuant to a full form prospectus or by way of a placement to sophisticated and other investors who do not require a prospectus;

- (d) for so long as Total Brain has at least 50 members, the Company will remain subject to the takeover provisions set out in Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**);
- (e) for so long as Total Brain has at least 100 members, the Company will be classified as an “unlisted disclosing entity” and will therefore still be required to give continuous disclosure of material matters in accordance with the Corporations Act by filing notices with ASIC under section 675 of the Corporations Act. Total Brain will also still be required to lodge annual audited and half-yearly financial statements in accordance with the Corporations Act. However, if Total Brain ceases to be an “unlisted disclosing entity”, the Company will have no ongoing requirement to give continuous disclosure of material matters under section 675 or lodge half-yearly financial statements reviewed by an auditor, but, as a public company, Total Brain will continue to be required to lodge annual audited financial statements;
- (f) a reduction of obligations associated with being included on the Official List, which include relief from some reporting and disclosure requirements, removal of restrictions on the issue of shares by Total Brain and requirements concerning significant changes to Total Brain’s activities and, as an unlisted company, the ASX Corporate Governance Principles and Recommendations will no longer apply to Total Brain; and
- (g) following delisting from the Official List, the Company intends to commence a voluntary winding up process.

Remedies available to shareholders

If a shareholder of Total Brain considers the delisting to be contrary to the interests of the shareholders of Total Brain as a whole or oppressive to, unfairly prejudicial to, or unfairly discriminatory against a shareholder or shareholders, it may apply to the court for an order under Part 2F.1 of the Corporations Act. Under section 233 of the Corporations Act, the court can make any order that it considers appropriate in relation to Total Brain, including an order that the Company be wound up or an order regulating the conduct of the Company’s affairs in the future.

If a shareholder of Total Brain considers that the delisting involves “unacceptable circumstances”, it may apply to the Takeovers Panel for a declaration of unacceptable circumstances and other orders under Part 6.10 Division 2 Subdivision B of the Corporations Act (refer also to *Guidance Note 1: Unacceptable Circumstances* issued by the Takeovers Panel). Under section 657D of the Corporations Act, if the Takeovers Panel has declared circumstances to be unacceptable, it may make any order that it thinks appropriate to protect the rights or interests of any person or group of



persons, where the Takeovers Panel is satisfied that those rights or interests are being affected, or will be or are likely to be affected, by the circumstances.

Authorised for release to ASX by:

Mr Matthew Morgan
Non-Executive Director
Total Brain Limited