

Market Announcements Office  
ASX Limited

**Updated to include Transaction Implementation Deed as an attachment**

## **Eumundi enters into Transaction Implementation Deed with SEQ to acquire 100% of Eumundi for \$1.55 cash per share**

- Eumundi Group Limited (**Eumundi**) and SEQ Hospitality Group Pty Ltd (**SEQ**) have entered into a transaction implementation deed (**TID**) under which SEQ undertakes to acquire all Eumundi shares by way of both:
  - an off-market takeover offer at \$1.55 cash per Eumundi share (**Takeover Offer**); and
  - a scheme of arrangement at \$1.55 cash per Eumundi share (**Scheme**),(together the **SEQ Transaction**)
- **Eumundi's directors, in aggregate representing 43.34% of Eumundi shares, unanimously recommend the SEQ Transaction.** The Eumundi directors' recommendations are made in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable and the Scheme is in the best interests of Eumundi shareholders
- The price of \$1.55 per Eumundi share represents a premium of circa 23% to the closing price of Eumundi shares on 29 October 2024 of \$1.26

### **Eumundi directors' recommendations and intentions**

Eumundi's directors, in aggregate representing 43.34% of Eumundi shares as at the date of this announcement,<sup>1</sup> unanimously recommend that Eumundi shareholders **accept the Takeover Offer and vote in favour of the Scheme**, in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable and that the Scheme is in the best interests of Eumundi shareholders.

Each Eumundi director has informed Eumundi that they will:

- accept, or procure the acceptance of, the Takeover Offer in respect of any Eumundi shares they own or control; and
- cause all Eumundi shares held or controlled by them to be voted in favour of the Scheme,

in each case in the absence of a superior proposal, and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable and that the Scheme is in the best interests of Eumundi shareholders.

<sup>1</sup> As at the date of this announcement, Mr Joe Gamin has a direct or indirect interest in 13,021,572 Eumundi shares (or 26.16%) and Mr Gilbert De Luca has a direct or indirect interest in 8,548,118 Eumundi shares (or 17.18%).

## SEQ's proposal

Each of the Takeover Offer and the Scheme provides Eumundi shareholders with an attractive, liquid and immediate premium for their Eumundi shares. The price of \$1.55 cash per Eumundi share represents a premium of:

- 23.0% to the last close price of \$1.26, being the price of Eumundi shares on ASX at the close of trading on 29 October 2024 (the last trading day before this announcement);
- 32.2% to Eumundi's 30-day volume weighted average price (**VWAP**) of \$1.17 up to and including 29 October 2024; and
- 32.7% to Eumundi's 90-day VWAP of \$1.17 up to and including 29 October 2024.

## Commenting on the SEQ Transaction, Eumundi Chairman Joe Ganim said:

*"We are pleased to recommend the SEQ Transaction, which offers Eumundi shareholders an opportunity to realise their investments at a substantial premium to the current market price. The Board has carefully considered the SEQ Transaction in the context of other available alternatives as well as the continued uncertainty facing wider global markets. We believe this transaction not only provides shareholders with an attractive exit, but also secures the continued success of Eumundi's current business operations."*

*SEQ is part of an established group with an excellent understanding of the hospitality industry. The Board is confident that SEQ's leadership team, with their proven industry expertise and track record of effective management, is well-equipped to manage Eumundi's operations and drive continued growth. Their values align with our commitment to operational excellence and the well-being of our dedicated employees, ensuring both a seamless transition and a bright future for the business under their stewardship."*

## Transaction implementation deed and conditions

The TID sets out the respective rights and obligations of Eumundi and SEQ in relation to both the Takeover Offer and the Scheme, including certain "ordinary course of business" obligations and warranties and representation on terms which are customary or market standard for transactions of this nature.

The TID also contains customary deal protection mechanisms including "no shop", "no talk" and "no due diligence" restrictions, as well as notification and matching rights in the event of a competing proposal. A break-fee may also be payable by one party to the other in certain circumstances. The TID contains a customary fiduciary out provision, which allows the Eumundi board to fully consider any competing proposal that may reasonably be expected to lead to a superior proposal.

Full details of these arrangements are set out in the TID, a copy of which is attached to this announcement.

The SEQ Transaction outlined in the TID is fully funded and binding. Each of the Takeover Offer and the Scheme are subject to a limited number of conditions, which are set out in full in the TID, including:

- No prescribed occurrences for Eumundi
- No material acquisitions, disposals or other events for Eumundi
- No regulatory action is taken which adversely effects the Takeover Offer or the Scheme
- Third-party consents to the change in control of Eumundi with respect to material contracts
- Receipt of any applicable regulatory approvals

The Takeover Offer is also subject to a 90% minimum acceptance by Eumundi shareholders and the Scheme not being implemented.

The Scheme is also conditional on Eumundi shareholder approval, Court approval and the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Eumundi shareholders.

Pursuant to the terms of the TID, Eumundi has agreed to the reconstruction of the Eumundi board, as directed by SEQ, following SEQ receiving acceptances under the Takeover Offer of at least 50.1% and having declared the Takeover Offer unconditional.

## **Suspension of Dividend Reinvestment Plan (DRP)**

In accordance with ASX Listing Rule 3.10.8, Eumundi also announces the suspension of its DRP with immediate effect until further notice. Under clause 12.1 of the DRP, the Eumundi board may suspend the DRP at any time. While the DRP is suspended, participants in the DRP will receive cash distributions, including for the Special Dividend (if any). Eumundi reminds shareholders to review and, if necessary, update their bank account details with the Share Registry. No action is required by shareholders in relation to the DRP. Should the suspension of the DRP be lifted, then, under clause 12.5 of the DRP, each shareholder's existing DRP status will be reinstated upon the Eumundi board providing the requisite notice.

## **Interim Dividend**

Pursuant to the terms of the TID the Eumundi board is entitled to, and may, declare an interim dividend of up to 2.4 cents per Eumundi share. Any interim dividend that the Eumundi board may declare will be paid in cash at any time on or before:

- 31 March 2025;
- the date which is 5 business days after the Takeover Offer has become or is declared unconditional; and
- the Effective Date of the Scheme<sup>2</sup>.

Any payment of an interim dividend will not reduce the price of \$1.55 per Eumundi share under the Takeover Offer or the Scheme.

## **Next steps**

Eumundi shareholders do not need to take any action at this stage.

Detailed information relating:

- to the Takeover Offer will be set out in SEQ's Bidder's Statement and Eumundi's Target's Statement, which are each expected to be dispatched to Eumundi shareholders before the end of the calendar year; and
- to the Scheme will be set out in the Scheme Booklet, which is expected to be dispatched to Eumundi shareholders in early January 2025.

Eumundi will continue to keep its shareholders and the market informed of developments in accordance with its continuous disclosure obligations.

## **Advisers**

Eumundi has appointed Taylor Collison as its financial advisor and HopgoodGanim Lawyers as its legal advisor.

SEQ has appointed Morgans as its financial advisor and Clayton Utz as its legal advisor.

## **About SEQ**

SEQ is a part of the Fortitudo Group.

The Fortitudo Group, an independent hotel and liquor retail operator based in South East Queensland, owns and operates several popular venues, including the QA Hotel in New Farm and Treetops Tavern in Burleigh, as well as an additional 3 hotels and 17 bottle shops.

## **About EBG**

EBG is an independent hotel, retail liquor and investment property company based predominantly in South East Queensland. The EBG Group owns and operates the Ashmore Tavern and Aspley Central Tavern,

---

<sup>2</sup> The Effective Date of the Scheme is defined in the TID.

and owns hotel and retail investment properties including The Plough Inn, located in Brisbane's South Bank Parklands, the Courthouse Hotel, Murwillumbah, and the Aspley Central Shopping Centres.

This announcement was authorised for release by the Eumundi board.

For further information, please contact:

**Duncan Cornish**

Company Secretary

Ph. (07) 3212 6299

E. [dcornish@corpservices.com.au](mailto:dcornish@corpservices.com.au)

CLAYTON UTZ

# Implementation Deed

SEQ Hospitality Group Pty Ltd  
SEQ

Eumundi Group Limited  
EBG

Clayton Utz  
Level 28, Riparian Plaza  
71 Eagle Street  
Brisbane QLD 4000  
GPO Box 9806  
Brisbane QLD 4001  
Tel +61 7 3292 7000  
Fax +61 7 3221 9669  
**[www.claytonutz.com](http://www.claytonutz.com)**

Our reference 23561/81041954

L355528583.9

## CLAYTON UTZ

**Contents**

<b>1.</b>	<b>Definitions and interpretation .....</b>	<b>1</b>
1.1	Definitions .....	1
1.2	Interpretation.....	8
<b>2.</b>	<b>Agreement to proceed with the Transactions.....</b>	<b>10</b>
2.1	Overview .....	10
2.2	Scheme Transaction.....	10
2.3	Takeover Bid Transaction.....	10
2.4	EBG Board recommendation and intentions .....	10
<b>3.</b>	<b>Conditions .....</b>	<b>11</b>
3.1	Scheme Conditions.....	11
3.2	General obligations in relation to Conditions.....	13
3.3	Obligations in relation to Regulatory Approvals .....	13
3.4	Waiver of Scheme Conditions .....	14
3.5	Consultation on failure of Conditions .....	15
3.6	Failure to agree.....	15
<b>4.</b>	<b>Disclosure documents.....</b>	<b>16</b>
4.1	Definitions .....	16
4.2	Primary Party's Obligations .....	16
4.3	Secondary Party's obligations .....	17
4.4	Responsibility statements .....	18
4.5	Disagreement on content .....	18
<b>5.</b>	<b>Steps relevant to the Scheme.....</b>	<b>18</b>
5.1	Scheme.....	18
5.2	Scheme Consideration .....	18
5.3	EBG's obligations .....	19
5.4	SEQ's obligations .....	21
5.5	Conduct of Court proceedings.....	22
5.6	Appeal process .....	22
<b>6.</b>	<b>Facilitating the Takeover Bid .....</b>	<b>22</b>
6.1	Promotion of Takeover Bid .....	22
6.2	Registers.....	22
6.3	Dispatch of Offers .....	23
6.4	ASX listing .....	23
<b>7.</b>	<b>Provisions relevant to both Transactions .....</b>	<b>23</b>
7.1	Interim Dividend.....	23
7.2	Conduct of EBG business .....	24
7.3	Agreed Fee Payment.....	25
7.4	Access to information .....	25
7.5	Change of control provisions.....	26
7.6	Appointment of directors.....	27
7.7	Undertakings by Nominee Directors.....	27
7.8	Directors' and officers' liability .....	28
<b>8.</b>	<b>Representations and warranties .....</b>	<b>28</b>
8.1	SEQ Representations and Warranties .....	28
8.2	SEQ indemnity .....	28
8.3	EBG Representations and Warranties .....	29
8.4	EBG indemnity.....	29
8.5	Qualification of EBG Representations and Warranties and indemnity .....	29
8.6	Survival of representations and warranties .....	29
8.7	Survival of indemnities.....	29
8.8	Timing of representations and warranties .....	29

## CLAYTON UTZ

8.9	Notification .....	30
<b>9.</b>	<b>Public announcements .....</b>	<b>30</b>
9.1	Agreed Public Announcement .....	30
9.2	Subsequent announcements and disclosure .....	30
<b>10.</b>	<b>Confidentiality Agreement .....</b>	<b>30</b>
<b>11.</b>	<b>Exclusivity .....</b>	<b>30</b>
11.1	No shop and no talk .....	30
11.2	Fiduciary exception .....	31
11.3	Notification of approaches .....	31
11.4	Matching right .....	32
11.5	Cease discussions .....	33
11.6	Provision of information by EBG .....	34
11.7	Compliance with law .....	34
<b>12.</b>	<b>Break Fee .....</b>	<b>34</b>
12.1	EBG payment triggers .....	34
12.2	SEQ payment triggers .....	35
12.3	Timing of payment of Break Fee .....	35
12.4	Qualifications .....	36
12.5	Basis and calculation of Break Fee .....	36
12.6	Acknowledgment .....	37
12.7	Compliance with law .....	37
12.8	Break Fee payable only once .....	37
12.9	Limitation of liability .....	37
<b>13.</b>	<b>Termination .....</b>	<b>38</b>
13.1	General rights .....	38
13.2	Termination by SEQ .....	38
13.3	Termination by EBG .....	39
13.4	Termination by agreement .....	39
13.5	Effect of termination .....	39
13.6	Notice of termination .....	39
<b>14.</b>	<b>GST .....</b>	<b>39</b>
<b>15.</b>	<b>Notices .....</b>	<b>40</b>
15.1	How Notice to be given .....	40
15.2	When Notice taken to be received .....	41
15.3	Notices sent by more than one method of communication .....	42
<b>16.</b>	<b>Costs and expenses .....</b>	<b>42</b>
16.1	Stamp duty .....	42
16.2	Expenses .....	42
<b>17.</b>	<b>General .....</b>	<b>43</b>
17.1	Service of process .....	43
17.2	No merger .....	43
17.3	Invalidity and enforceability .....	43
17.4	Waiver .....	43
17.5	Amendment .....	43
17.6	Assignment, novation and other dealings .....	43
17.7	Acknowledgement .....	44
17.8	Further acts .....	44
17.9	Entire agreement .....	44
17.10	Withholding tax .....	44
17.11	Counterparts .....	45
17.12	Electronic signatures and exchange .....	45
17.13	Relationship of the parties .....	45
17.14	Remedies cumulative .....	46

CLAYTON UTZ

17.15      Exercise of rights ..... 46

17.16      Governing law and jurisdiction..... 46

**Schedule 1 Agreed Bid Terms..... 47**

**Schedule 2 Prescribed Occurrences and Material Events ..... 52**

**Schedule 3 SEQ Representations and Warranties..... 55**

**Schedule 4 EBG Representations and Warranties ..... 56**



CLAYTON UTZ

## Implementation Deed

**Date** 30 October 2024

**Parties** **SEQ Hospitality Group Pty Ltd ACN 681 115 471** of 64 James Street, New Farm Queensland 4005 (**SEQ**)  
**Eumundi Group Limited ABN 30 010 947 476** of 161 Cotlew Street, Ashmore Queensland 4214 (**EBG**)

### Background

- A. SEQ is proposing to acquire all EBG Shares by means of:
- a recommended scheme of arrangement under Part 5.1 of the Corporations Act between EBG and its shareholders; or
  - if the Scheme does not become Effective, a recommended takeover bid under Chapter 6 of the Corporations Act.
- B. The parties have agreed to propose the Scheme and the Takeover Bid to EBG Shareholders on the terms and conditions set out in this deed.

### Operative provisions

## 1. Definitions and interpretation

### 1.1 Definitions

In this deed:

**Acceptance Form** means the acceptance form that will be enclosed with the Bidder's Statement.

**Acceptance Period** means the period commencing on the start of the Offer Period and ending on the date which is the later of:

- (a) 10 Business Days after the Offer is open for acceptance;
- (b) 5:00pm (Brisbane time) on the date of dispatch of the Target's Statement; and
- (c) where a Competing Proposal is announced prior to either of the dates set out above, the date that is 2 Business Days after the EBG Directors determine that:
  - (i) such Competing Proposal is not likely to be a Superior Proposal; or
  - (ii) following compliance with the matching rights process set out in clause 11.4, the SEQ Counterproposal is more favourable or no less favourable to EBG and the EBG Shareholders than the Competing Proposal.

**Agreed Bid Terms** means the terms and conditions set out in Schedule 1.

**Agreed Public Announcement** means the public announcement concerning the Takeover Bid, substantially in the form set out in Annexure A, or as otherwise agreed by the parties in writing.

**Announcement Date** means the date on which the Transactions are publicly announced.

## CLAYTON UTZ

**ASIC** means the Australian Securities and Investments Commission.

**Associate** means has the meaning set out in section 12 of the Corporations Act.

**ASX** means ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.

**ASX Listing Rules** means the official listing rules of ASX, as amended and waived by ASX from time to time.

**Bidder's Statement** means the bidder's statement to be prepared by SEQ in relation to the Takeover Bid in compliance with Part 6.5 of the Corporations Act.

**Break Fee** means \$771,400 (exclusive of GST).

**Business Day** means a day that is not a Saturday, Sunday or a public holiday and on which banks are open for business generally in Queensland.

**Change of Control Contract** has the meaning given in clause 7.5.

**Claim** means any claim, demand, legal proceedings or cause of action, including any claim, demand, legal proceedings or cause of action:

- (a) based in contract (including breach of warranty);
- (b) based in tort (including misrepresentation or negligence);
- (c) under common law or equity; or
- (d) under statute (including the Australian Consumer Law (being Schedule 2 of the *Competition and Consumer Act 2010* (Cth) or Part VI of the *Competition and Consumer Act 2010* (Cth), or like provision in any state or territory legislation),

in any way relating to this deed, and includes a claim, demand, legal proceedings or cause of action arising under an indemnity in this deed.

**Competing Proposal** means any expression of interest, offer, proposal, agreement, arrangement or transaction, whether existing before, on or after the date of this deed which, if entered into or completed substantially in accordance with its terms, could mean that a Third Party (either alone or together with an Associate) would:

- (a) directly or indirectly acquire a Relevant Interest in, or having a right to acquire, a legal, beneficial or economic interest (including by way of an equity swap, contract for difference or similar transaction or arrangement) in, or control of, 10% or more of the EBG Shares or any material Subsidiary of EBG;
- (b) acquire Control of EBG or any Subsidiary of EBG;
- (c) directly or indirectly acquire or become the holder of, or otherwise acquire or having a right to acquire, a legal, beneficial or economic interest in, or control of, all or substantially all or a material part of EBG's business or assets or the business or assets of the EBG Group;
- (d) otherwise directly or indirectly acquire or merge with EBG or any Subsidiary of EBG; or
- (e) require EBG to abandon, or otherwise fail to proceed with, a Transaction,

whether by way of takeover bid, members' or creditors' scheme of arrangement, shareholder approved acquisition, capital reduction, buy-back, sale or purchase of shares, other securities

## CLAYTON UTZ

or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement. Each successive material modification or variation of any expression of interest, offer, proposal, agreement, arrangement or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.

**Condition** means each of the Scheme Conditions and the Takeover Bid Conditions.

**Confidentiality Agreement** means the confidentiality deed between SEQ and EBG dated 9 October 2024.

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

**Corporations Act** means the *Corporations Act 2001* (Cth) as amended by any applicable class order, legislative instrument or relief granted or issued by ASIC.

**Court** means the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act agreed to in writing by the parties.

**Deed Poll** means a deed poll to be executed by SEQ in favour of the EBG Shareholders, substantially in the form set out in Annexure C or in such other form as the parties agree in writing.

**Disclosure Letter** means the letter from EBG qualifying the EBG Representations and Warranties, provided to SEQ on or before the date of this deed.

**Disclosure Materials** means all information relating to the assets, liabilities, operations, business, financial position, prospects and affairs of the EBG Group given or made available by or on behalf of EBG to SEQ or any Associates or Representatives of SEQ on or before the date of this deed, including without limitation the Disclosure Letter.

**Due Diligence Information** has the meaning set out in clause 11.1(b)(iii).

**EBG Board** means the board of directors of EBG.

**EBG Director** means a director of EBG.

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

**EBG Indemnified Parties** means EBG, its Subsidiaries and their respective directors, officers, advisers and employees.

**EBG Representations and Warranties** means the representations and warranties of EBG set out in Schedule 4.

**EBG Share** means an ordinary share in the capital of EBG, including all shares on issue as at the end of the Offer Period.

**EBG Share Register** means the register of members of EBG maintained by or on behalf of EBG in accordance with the Corporations Act.

**EBG Shareholder** means a person who is registered as the holder of a EBG Share in the EBG Share Register.

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

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

## CLAYTON UTZ

**End Date** means the date that is 6 months after the date of the Offer or such other date agreed in writing between the parties.

**Exclusivity Period** means the period from and including the date of this deed until the earlier of:

- (a) the date of termination of this deed; and
- (b) the End Date.

**Fairly Disclosed** means disclosed in writing and in sufficient detail and context so as to enable a reasonable and sophisticated person experienced in transactions similar to the Transactions and familiar with the industry in which the EBG Group operates to identify the nature and scope of the relevant matter, event or circumstance.

**First Court Date** means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act that the Scheme Meeting be convened is heard or, if the application is adjourned for any reason, the day on which the adjourned application is heard.

**Government Agency** means any government or any governmental or semi-governmental entity, authority, agency, commission, corporation or body (including those constituted or formed under any Statute), local government authority, administrative or judicial body or tribunal or stock exchange.

**Implementation Date** means, in respect of the Scheme, the date that is five Business Days after the Scheme Record Date or such other date as SEQ and EBG agree in writing or as ordered by the Court.

**Independent Expert** means the independent expert to be engaged by EBG to prepare the Independent Expert's Report for inclusion in the Scheme Booklet and the Target's Statement.

**Independent Expert's Report** means the report (including any written updates to such report) of the Independent Expert which includes a statement on whether, in its opinion:

- (a) the Offer is fair and reasonable to the EBG Shareholders; and
- (b) the Scheme is in the best interests of EBG Shareholders.

**Insolvency Event** means:

- (a) a controller (as defined in section 9 of the Corporations Act), administrator or similar officer is appointed in respect of a person or any asset of a person;
- (b) a liquidator or provisional liquidator is appointed in respect of a person;
- (c) any application (not withdrawn or dismissed within 7 days) is made to a court for an order, an order is made, a meeting is convened or a resolution is passed, for the purpose of:
  - (i) appointing a person referred to in paragraph (a) or (b) of this definition;
  - (ii) winding up or deregistering a person; or
  - (iii) proposing or implementing a scheme of arrangement, other than with the prior approval of SEQ under a solvent scheme of arrangement pursuant to Part 5.1 of the Corporations Act;
- (d) any application (not withdrawn or dismissed within 7 days) is made to a court for an order, a meeting is convened, a resolution is passed or any negotiations are commenced, for the purpose of implementing or agreeing:
  - (i) a moratorium of any debts of a person;

## CLAYTON UTZ

- (ii) any other assignment, composition or arrangement (formal or informal) with a person's creditors; or
  - (iii) any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee,
- or any agreement or other arrangement of the type referred to in this paragraph (d) is ordered, declared or agreed to;
- (e) as a result of the operation of section 459F(1) of the Corporations Act, a person is taken to have failed to comply with a statutory demand (as defined in the Corporations Act);
  - (f) any writ of execution, garnishee order, mareva injunction or similar order, attachment or other process is made, levied or issued against or in relation to any asset of a person;
  - (g) anything analogous to anything referred to in paragraphs (a) to (f) (inclusive) of this definition, or which has a substantially similar effect, occurs with respect to a person under any law; or
  - (h) a person is, or admits in writing that it is, or is declared to be, or is taken under any applicable law to be (for any purpose), insolvent or unable to pay its debts.

**Interim Dividend** means an interim dividend that EBG may declare to EBG Shareholders who hold EBG Shares as at the Interim Dividend Record Date on the terms, manner and conditions set out in clause 7.1.

**Interim Dividend Payment Date** means the earliest of:

- (a) 31 March 2025;
- (b) the date which is 5 Business Days after the Offer has become or is declared unconditional; and
- (c) the Effective Date.

**Interim Dividend Record Date** means the date being 4 Business Days after the announcement of declaration of the Interim Dividend in accordance with Appendix 6A of the Listing Rules provided the date is no later than the last day of the Acceptance Period.

**Matching Date** means the date that is 5 Business Days after the date of the provision of the information referred to in clause 11.4(a)(iv).

**Material Event** means any of the events set out in paragraph 2 of Schedule 2.

**Nominee Directors** means those directors nominated by SEQ to be appointed to the EBG Board as contemplated in clause 7.6.

**Offer** has the meaning given in clause 2.3.

**Offer Period** means the period during which the Offer is open for acceptance.

**OLGR** means the Office of Liquor and Gaming Regulation.

**OLGR Approval** means any approval, consent, authorisation, registration, filing, lodgement, permit, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with the OLGR as are necessary or desirable in relation to any director or directors who SEQ proposes to be appointed to the board of the relevant member of the EBG Group which holds a licence or authority from, or issued by, the OLGR.

## CLAYTON UTZ

**Prescribed Occurrence** means any of the occurrences set out in paragraph 1 of Schedule 2 (being the occurrences listed in section 652C of the Corporations Act).

**Register Date** means the date and time identified as the "Register Date" in the Timetable, which will be the relevant date and time that will be set by SEQ for the purposes of section 633(2) of the Corporations Act.

**Regulatory Approval** means any approval, consent, authorisation, registration, filing, lodgement, permit, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with a Government Agency is necessary or desirable to permit:

- (a) the implement the Scheme and Takeover Bid or any aspect of them;
- (b) each member of the EBG Group to be in material compliance with each of its permits, licences, contracts and other agreements,

provided that, for the avoidance of doubt, SEQ acknowledges that any OLGR Approvals will not be granted, given, made or obtained unconditionally (or on the basis of conditions that impose only non-material requirements incidental to the Regulatory Approval), prior to the end of the Offer Period.

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

**Relevant Condition** means the following Conditions which the parties acknowledge are within the control of EBG and the EBG Board:

- (a) *(no Prescribed Occurrence)* the Scheme Condition in clause 3.1(g) and the Takeover Bid Condition in paragraph 7.2 of the Agreed Bid Terms; and
- (b) *(no Material Event)* the Scheme Condition in clause 3.1(h) and the Takeover Bid Condition in paragraph 7.3 of the Agreed Bid Terms.

**Relevant Document** has the meaning given to that term in clause 4.1.

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

**Representative** in respect of a party or its Related Bodies Corporate means each director, officer, employee, agent, adviser or financier of that party or its Related Bodies Corporate and, in the case of advisers and financiers, includes employees, officers, consultants and agents of the adviser or financier (as applicable).

**Rights** means all rights or benefits of whatever kind attaching to or arising from or in respect of EBG Shares, whether directly or indirectly, after the date of this deed, including but not limited to, all dividends or other distributions, other than:

- (a) voting rights attaching to EBG Shares during the period commencing on the date of this deed and expiring at the later of the end of the Scheme Meeting and the day after the date on which all of the Takeover Bid Conditions have been satisfied or waived;
- (b) the Interim Dividend, and any franking credits attaching to the Interim Dividend.

**Savills Agreement** means the agreement between EBG and Savills (QLD) Pty Ltd in relation to the provision of introduction and associated services dated on or before the date of this deed.

**Scheme** means a scheme of arrangement under Part 5.1 of the Corporations Act between EBG and the EBG Shareholders substantially in the form set out in Annexure B or in such

## CLAYTON UTZ

other form as EBG and SEQ agree in writing, subject to any alterations or conditions made or required by the Court.

**Scheme Booklet** means the Scheme Booklet to be prepared by EBG pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of this deed for despatch to EBG Shareholders.

**Scheme Conditions** means the conditions set out in clause 3.1 and **Scheme Condition** means any one of them.

**Scheme Consideration** has the meaning given in clause 5.2.

**Scheme Meeting** means the meeting of EBG Shareholders to be convened pursuant to section 411(1) of the Corporations Act to consider and, if thought fit, to approve the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

**Scheme Recommendation** has the meaning given in clause 2.4(c)(i).

**Scheme Record Date** means 7:00 pm on the date that is 2 Business Days after the Effective Date or such other time and date agreed to in writing between SEQ and EBG (or as otherwise required by the ASX Listing Rules).

**Scheme Shareholder** means each person registered in the EBG Share Register as the holder of one or more Scheme Shares as at the Scheme Record Date.

**Scheme Shares** means an EBG Share on issue as at the Scheme Record Date, other than any EBG Shares held by SEQ or a Related Body Corporate of SEQ as at the Scheme Record Date.

**Scheme Transaction** means the proposed acquisition by SEQ, in accordance with the terms and conditions of this deed, of all of the EBG Shares through the implementation of the Scheme.

**Scheme Voting Intention** has the meaning given in clause 2.4(c)(ii).

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

**SEQ Counterproposal** has the meaning set out in clause 11.4(a)(v).

**SEQ Indemnified Parties** means SEQ, its Related Bodies Corporate and their respective directors, officers, advisers and employees.

**SEQ Information** means information about SEQ and its Related Bodies Corporate provided or approved by SEQ or any of its advisers to EBG in writing for inclusion in a Relevant Document and for which it is responsible in accordance with clause 4.4.

**SEQ Representations and Warranties** means the representations and warranties of SEQ set out in Schedule 2.

**Statute** means any legislation of the Parliament of the Commonwealth of Australia, of any State or Territory of the Commonwealth of Australia or of any other jurisdiction or Government Authority in force at any time.

**Subsidiary** has the meaning given in Division 6 of Part 1.2 of the Corporations Act.



## CLAYTON UTZ

**Superior Proposal** means a bona fide Competing Proposal received by EBG from a Third Party which:

- (a) is not the result of a breach by EBG of any of its obligations under clause 11 (it being understood that any actions by any Representative of EBG in breach of clause 11 will be deemed to be a breach by EBG for the purposes of this deed); and
- (b) the EBG Board, acting in good faith, and after receiving written legal advice from its external legal adviser and, if appropriate, its financial adviser, determines:
  - (i) is reasonably capable of being valued and completed; and
  - (ii) would be, or would be reasonably likely to be, if completed substantially in accordance with its terms, more favourable to EBG Shareholders (as a whole) than the Transactions (as the terms of the Transactions may be amended or varied following the application of the matching right set out in clause 11.4),

in each case, taking into account all terms and conditions and other aspects of the Competing Proposal and the latest proposal provided by SEQ (including the identity, reputation and financial condition of the person making it and any timing considerations, any conditions precedent or other matters affecting the probability of the Competing Proposal being completed).

**Takeover Acceptance Intention** has the meaning given in clause 2.4(b)(ii).

**Takeover Bid** means an off-market takeover bid by SEQ for all of the EBG Shares that satisfies the requirements in clause 2.3.

**Takeover Bid Conditions** means the conditions to the Offer under the Takeover Bid set out in paragraph 5 of the Agreed Bid Terms.

**Takeover Bid Consideration** has the meaning given in paragraph 1(b) of the Agreed Bid Terms.

**Takeover Bid Transaction** means the acquisition of EBG Shares by SEQ under the Takeover Bid.

**Takeover Recommendation** has the meaning given in clause 2.4(b)(i).

**Target's Statement** means the target's statement to be prepared by EBG in relation to the Takeover Bid in compliance with Part 6.5 of the Corporations Act.

**Third Party** means a person other than EBG, SEQ or their respective Related Bodies Corporate.

**Timetable** means the indicative timetable for implementation of the Transactions agreed between and initialled by the parties for the purpose of identification on or about the date of this deed, as amended from time to time by the agreement of the parties (each acting reasonably).

**Transactions** means the Scheme Transaction and the Takeover Bid Transaction (and each a Transaction).

**Undertakings** has the meaning set out in clause 7.7.

## 1.2 Interpretation

In this deed:



## CLAYTON UTZ

- (a) headings and bold type are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (a) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust, in each case whether or not comprising a separate legal entity;
  - (b) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
  - (c) a reference to a Statute or any part of it includes its delegated legislation, regulations and other instruments under it, and any consolidations, amendments, re-enactments and replacements (whether passed by the same or another Government Agency with legal power to do so);
  - (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
  - (e) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
  - (f) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - (g) if anything is required to be done under this deed on or by a day that is not a Business Day, it must be done on or by the next Business Day;
  - (h) if an act prescribed under this deed to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day;
  - (i) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1.1, has the same meaning when used in this deed;
  - (j) a reference to the ASX Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
  - (k) a reference to a time is to that time in Brisbane;
  - (l) "includes" in any form is not a word of limitation;
  - (m) "\$" or "dollar" refers to Australian currency;
  - (n) a reference to a Condition being breached includes a reference to the Condition not being, or not being capable of being, satisfied;
  - (o) anything in this deed specified after the terms "include", "including", "includes", "for example", "such as" or any similar expression does not limit the sense of the words, description, definition, phrase or term preceding those terms unless there is express wording to the contrary; and
  - (p) 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 deed or any part of it.

## CLAYTON UTZ

## 2. Agreement to proceed with the Transactions

### 2.1 Overview

On and subject to the terms of this deed:

- (a) SEQ proposes to acquire all of the EBG Shares under the Scheme pursuant to which EBG Shareholders will receive the Scheme Consideration per EBG Share; and
- (b) in a dual process, SEQ will make the Takeover Bid for all of the EBG Shares at the Takeover Bid Consideration per EBG Share, which will be conditional on, amongst other matters, the Scheme not becoming Effective.

### 2.2 Scheme Transaction

- (a) EBG agrees to propose and implement the Scheme on and subject to the terms of this deed.
- (b) SEQ agrees to assist EBG to propose and implement the Scheme on and subject to the terms of this deed.

### 2.3 Takeover Bid Transaction

SEQ agrees to make offers pursuant to an off-market takeover bid under Chapter 6 of the Corporations Act to acquire all the EBG Shares on terms and conditions no less favourable to EBG Shareholders than the Agreed Bid Terms (together, the **Offers** and each, an **Offer**).

### 2.4 EBG Board recommendation and intentions

- (a) EBG represents and warrants to SEQ that:
  - (i) the EBG Board has:
    - A. received advice from EBG's legal advisers in relation to the Transactions and this deed; and
    - B. approved the terms of this deed; and
  - (ii) each of the EBG Directors has informed EBG that they will act in accordance with this clause 2.4.
- (b) EBG must, subject to clause 2.4(d) and, in each case, in the absence of a Superior Proposal, procure that the EBG Directors:
  - (i) unanimously recommend that EBG Shareholders accept the Offers to be made to them under the Takeover Bid (**Takeover Recommendation**); and
  - (ii) accept, or procure the acceptance of, the Offer to be made under the Takeover Bid in respect of any EBG Shares that they own or control within the Acceptance Period (**Takeover Acceptance Intention**),

in each case subject to the Independent Expert concluding (and continuing to conclude) in the Independent Expert's Report that the Offer is fair and reasonable and not publicly changing or withdrawing that conclusion.
- (c) Subject to clause 2.4(d), EBG must procure that the EBG Directors:

## CLAYTON UTZ

- (i) unanimously recommend that EBG Shareholders vote in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal, and subject to the Independent Expert concluding (and continuing to conclude) in the Independent Expert's Report that the Scheme is in the best interests of EBG Shareholders and not publicly changing or withdrawing that conclusion (**Scheme Recommendation**); and
  - (ii) cause all EBG Shares held or controlled by them to be voted in favour of the resolution to approve the Scheme at the Scheme Meeting, in the absence of a Superior Proposal, and subject to the Independent Expert concluding (and continuing to conclude) in the Independent Expert's Report that the Scheme is in the best interests of EBG Shareholders and not publicly changing or withdrawing that conclusion (**Scheme Voting Intention**).
- (d) EBG must ensure that no EBG Director:
  - (i) changes, withdraws or modifies his Takeover Recommendation, Takeover Acceptance Intention, Scheme Recommendation or Scheme Voting Intention; or
  - (ii) makes any public statement or recommendation that is inconsistent with his Takeover Recommendation, Takeover Acceptance Intention, Scheme Recommendation or Scheme Voting Intention,
 except where:
  - (iii) in each case, EBG receives, other than as a result of a breach of clause 11, a Competing Proposal and the EBG Board determines, after all of SEQ's rights under clause 11.4 have been exhausted, that the Competing Proposal constitutes a Superior Proposal; or
  - (iv) in respect of the Takeover Recommendation and Takeover Acceptance Intention, the Independent Expert's conclusion in the Independent Expert's Report is other than that the Offer is fair and reasonable; or
  - (v) in respect of the Scheme Recommendation and Scheme Voting Intention, the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of EBG Shareholders.
- (e) Despite anything to the contrary in this clause 2.4, a statement made by EBG or the EBG Directors to the effect that no action should be taken by the EBG Shareholders pending the assessment of a Competing Proposal by the EBG Board or the completion of the matching right process set out in clause 11.4, and any other statement referred to in clause 11.4(c), does not constitute a breach of this clause 2.4.

### 3. Conditions

#### 3.1 Scheme Conditions

Subject to this clause 3.1, the Scheme will not become Effective, and the obligations of the parties with respect to implementation of the Scheme (including SEQ's obligations under clause 5.2 to provide, or procure the provision of, the Scheme Consideration) will not be binding, unless and until each of the conditions precedent listed in the first column of the following table are either satisfied or waived (to the extent and in the manner set out in this clause 3):

## CLAYTON UTZ

Scheme Condition	Right to benefit and waive	Responsibility to satisfy
(a) <b>(Scheme Shareholder approval)</b> SEQ Shareholders approve the Scheme by the majorities required under section 411(4)(a)(ii) of the Corporations Act;	None	EBG
(b) <b>(Court approval)</b> the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;	None	EBG
(c) <b>(Regulatory Approvals)</b> all Regulatory Approvals (if any), other than the OLGR Approvals, are granted or obtained unconditionally (or on the basis of conditions that impose only non-material requirements incidental to the Regulatory Approval), and none of those Regulatory Approvals have been withdrawn, cancelled or revoked before 8:00am on the Second Court Date;	EBG and SEQ	In respect of each Regulatory Approval, the party who has the legal obligation to obtain it
(d) <b>(no restraint)</b> no temporary restraining order, preliminary or permanent injunction or other temporary, preliminary or final order issued by any court of competent jurisdiction, no preliminary or final decision, determination, notice of objection, or order issued by any Government Agency or any other legal restraint preventing, restraining, prohibiting or materially adversely affecting the Scheme is in effect as at 8:00am on the Second Court Date;	EBG and SEQ	EBG and SEQ
(e) <b>(Independent Expert's Report)</b> the Independent Expert provides an Independent Expert's Report to EBG, stating that in its opinion the Scheme is in the best interests of EBG Shareholders, on or before the date on which the Scheme Booklet is registered with ASIC under the Corporations Act, and the Independent Expert does not publicly change or withdraw that conclusion before 8:00am on the Second Court Date;	EBG	EBG
(f) <b>(Change of Control Contracts)</b> EBG has received a copy of each consent or waiver required under the Change of Control Contracts to the change of control of EBG resulting from the Scheme, and such consents or waivers have not been withdrawn, suspended or revoked before 8:00am on the Second Court Date;	SEQ	EBG
(g) <b>(no Prescribed Occurrence)</b> no Prescribed Occurrence occurs between (and including) the date of this deed and 8.00am on the Second Court Date;	SEQ	EBG
(h) <b>(no Material Event)</b> no Material Event occurs, or is announced or otherwise becomes known to SEQ between (and including) the date of this deed and 8:00am on the Second Court Date;	SEQ	EBG

## CLAYTON UTZ

Scheme Condition	Right to benefit and waive	Responsibility to satisfy
(i) <b>(EBG Representations and Warranties)</b> the EBG Representations and Warranties are true and correct and not misleading as if given at all times between (and including) the date of this deed and 8.00am on the Second Court Date; and	SEQ	EBG
(j) <b>(SEQ Representations and Warranties)</b> the SEQ Representations and Warranties are true and correct and not misleading as if given at all times between (and including) the date of this deed and 8.00am on the Second Court Date.	EBG	SEQ

### 3.2 General obligations in relation to Conditions

Without prejudice to any other obligations of SEQ and EBG under this deed, each party must:

- (a) to the extent it is within their power to do so, use its best endeavours (other than waiver) to ensure and procure that:
  - (i) the Conditions are satisfied as soon as practicable after the date of this deed and continue to be satisfied at all times up until the last time they are to be satisfied (as the case may require);
  - (ii) there is no occurrence that would prevent any Condition being satisfied and no party will take any action or that will or is likely to hinder or prevent the satisfaction of any Condition, except to the extent that such action is required to be done or procured pursuant to, or is otherwise permitted by, this deed, the Scheme or the Takeover Bid, or is required by law;
- (b) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (c) promptly notify the other party in writing if it becomes aware that any Condition has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition has been satisfied; and
- (d) promptly notify the other party in writing of a failure to satisfy a Condition or of any fact or circumstance that results in that Condition becoming incapable of being satisfied or that is reasonably likely to result in that Condition not being satisfied in accordance with its terms.

### 3.3 Obligations in relation to Regulatory Approvals

Without limiting clause 3.2, each party must:

- (a) promptly identify and (in relation to those Regulatory Approvals for which it is responsible) apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals made by it, redacting confidential information or providing such information to the other party on an 'external counsel only' basis;
- (b) take all the steps which it is responsible for, or which are otherwise reasonably necessary or desirable on its part in order to obtain the Regulatory Approvals;

## CLAYTON UTZ

- (c) (as far as practicable and permissible) consult with the other party in advance of, and before sending, all communications with, or submissions or applications to, any Government Agency relating to any Regulatory Approval and, without limitation:
  - (i) provide the other party with a draft copy of such communications, submissions or applications as soon as practicable and consider in good faith any reasonable comments received from the other party;
  - (ii) provide copies of any written communications sent to or received from a Government Agency to the other party promptly upon despatch or receipt (as the case may be);
- (d) keep the other party informed of progress in relation to each such Regulatory Approvals and of any material matters raised by, or conditions, material actions or other arrangements proposed by, or to, any Government Agency which relate to any such Regulatory Approval; and
- (e) provide copies, on a confidential basis, to the other party of all documents and other communications provided to and received from each relevant Government Agency in relation to each such Regulatory Approval (including before the date of this deed),

provided that:

- (f) nothing in this clause 3.3 requires a party to disclose confidential information of a Third Party or materially commercially sensitive information to the other party and such information can be redacted;
- (g) the party applying for the Regulatory Approval will not be prevented from taking procedural steps or communicating with or providing documents to a Government Agency if the other party has not responded promptly under clause 3.3(c); and
- (h) SEQ acknowledges that any necessary OLGR Approvals may not be granted, given, made or obtained unconditionally (or on the basis of conditions that impose only non-material requirements incidental to the Regulatory Approval), prior to the Effective Date.

### 3.4 Waiver of Scheme Conditions

- (a) Any breach or non-satisfaction of any of the Scheme Conditions in clauses 3.1(a) (*Scheme Shareholder approval*) and 3.1(b) (*Court approval*) cannot be waived.
- (b) A Scheme Condition is only for the benefit of:
  - (i) if one party is specified in the second column of the table in clause 3.1 opposite that Scheme Condition, that party; or
  - (ii) if both EBG and SEQ are specified in the second column of the table in clause 3.1 opposite that Scheme Condition, both parties.
- (c) If a Scheme Condition has been included for the benefit of:
  - (i) one party, only that party may, in its sole and absolute discretion, waive the breach or non-fulfilment of the Scheme Condition by written notice to the other party; or
  - (ii) both parties, the breach or non-fulfilment of the Scheme Condition may be waived only by written agreement between the parties.

## CLAYTON UTZ

- (d) If a party waives the breach or non-satisfaction of a Scheme Condition, that waiver will not preclude it from suing the other party for any breach of this deed constituted by the same event that gave rise to the breach or non-satisfaction of the Scheme Condition.
- (e) Waiver of a breach or non-fulfilment in respect of one Scheme Condition does not constitute:
  - (i) a waiver of breach or non-fulfilment of any other Scheme Condition resulting from the same event; or
  - (ii) a waiver of breach or non-fulfilment of that Scheme Condition resulting from any other event.

### 3.5 Consultation on failure of Conditions

If:

- (a) there is a breach or non-fulfilment of a Condition which is not waived in accordance with this deed by the time or date specified in this deed for the satisfaction of the Condition;
- (b) there is an act, failure to act, event or occurrence which does, will, or which either party becomes aware does or will, prevent a Condition being satisfied by the time or date specified in this deed for the satisfaction of the Condition (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this deed),

then either party may serve a written notice on the other party, and the parties must promptly consult in good faith with a view to determining whether:

- (c) the Transactions may proceed by way of alternative means or methods so as to achieve a commercial outcome which reflects the Transactions;
- (d) to extend the relevant time or date for satisfaction of the Condition;
- (e) to change the First Court Date or to adjourn the application for orders pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting to another date agreed by the parties;
- (f) to change the Second Court Date or to adjourn the application for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme to another date agreed by the parties;
- (g) to extend the End Date; or
- (h) do all, or any combination of, the matters listed in clauses 3.5(c) to 3.5(g) (inclusive).

### 3.6 Failure to agree

If EBG and SEQ are unable to reach an agreement under clause 3.5 within 5 Business Days after the delivery of the notice under that clause (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date), either party may terminate this deed by notice in writing to the other party, provided that:

- (a) the Condition to which the notice relates is for the benefit of that party (whether or not the Condition is also for the benefit of the other party); and



## CLAYTON UTZ

- (b) there has been no failure by that party to comply with its obligations under this deed, where that failure contributed in a material respect to the Condition to which the notice relates becoming incapable of satisfaction, or being breached or not fulfilled before the End Date,

in which case clause 13.5 will have effect.

## 4. Disclosure documents

### 4.1 Definitions

In this clause 4, the following definitions apply:

**Primary Party** means:

- (a) in the case of the Scheme Booklet and the Target's Statement, EBG; and
- (b) in the case of the Bidder's Statement, SEQ.

**Relevant Document** means each of the Scheme Booklet, the Target's Statement and the Bidder's Statement.

**Secondary Party** means:

- (a) in the case of the Scheme Booklet and the Target's Statement, SEQ; and
- (b) in the case of the Bidder's Statement, EBG.

**Secondary Party Information** means in relation to a Relevant Document, means information regarding the Secondary Party provided by the Secondary Party or its Representatives to the Primary Party in writing for inclusion in the Relevant Document, being:

- (a) information about the Secondary Party, its Associates (in the case of SEQ) or its Related Bodies Corporate (in the case of EBG), assets, businesses and interests, and dealings in EBG Shares, its intentions for EBG's employees and the implications of each of those matters for the EBG Group (in the case of SEQ); and
- (b) any other information required under the Corporations Act, ASIC Regulatory Guide 60 or the ASX Listing Rules (as applicable) to enable the Relevant Document to be prepared, which the parties agree is "Secondary Party Information" in relation to the Relevant Document and is identified in the Relevant Document as such.

### 4.2 Primary Party's Obligations

The Primary Party in respect of each Relevant Document must:

- (a) **(preparation)** prepare the Relevant Document in compliance with all applicable laws, including the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules;
- (b) **(consultation with the Secondary Party)** make available to the Secondary Party advanced drafts of the Relevant Document, consult with the Secondary Party in relation to the content of those drafts, and consider in good faith and acting reasonably, for the purpose of amending those drafts, comments from the Secondary Party on those drafts (noting that any review of the Independent Expert's Report by SEQ is limited to review for factual accuracy of those parts that include information relating to SEQ);
- (c) **(verification)** take reasonable verification processes in relation to the information contained in the Relevant Document (other than the Secondary Party Information



## CLAYTON UTZ

and the Independent Expert's Report) so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise);

- (d) **(approval of the Secondary Party Information)** seek approval from the Secondary Party on the form and context in which the Secondary Party Information appears in the Relevant Document, which approval the Secondary Party must not unreasonably withhold or delay;
- (e) **(updating information)** as a continuing obligation:
  - (i) provide to the Secondary Party any information that arises after the Relevant Document has been despatched and until, in the case of the Scheme Booklet, the date of the Scheme Meeting and, in the case of the Target's Statement or the Bidder's Statement, the end of the Offer Period, that may be necessary to ensure that the Relevant Document, in relation to the information for which the Primary Party is responsible in accordance with clause 4.4, continues to comply with the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules; and
  - (ii) ensure that the Relevant Document (but in respect of the information for which the Secondary Party will be described as responsible in that Relevant Document in accordance with clause 4.4, subject to the Secondary Party complying with its obligations to update such information) will be updated by all such further or new information which may arise after the Relevant Document has been despatched until the Scheme Meeting or end of the Offer Period (as applicable) which is necessary to ensure that Relevant Document continues to comply with the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules.

### 4.3 Secondary Party's obligations

The Secondary Party in respect of each Relevant Document must:

- (a) **(Secondary Party Information)** provide to the Primary Party all Secondary Party Information for inclusion in the Relevant Document and consult with the Primary Party as to the content and presentation of the Secondary Party Information in the Relevant Document and (in good faith) take into account any comments on drafts of the Secondary Party Information provided by or on behalf of the Primary Party;
- (b) **(verification)** take reasonable verification processes in relation to the Secondary Party Information contained in the Relevant Document so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (c) **(confirmation of Secondary Party Information)** promptly after the Primary Party requests that it does so, confirm in writing to the Primary Party that:
  - (i) it consents to the inclusion of the Secondary Party Information in the Relevant Document, in the form and context in which the Secondary Party Information appears; and
  - (ii) the Secondary Party Information in the Relevant Document is not misleading or deceptive in any material respect (whether by omission or otherwise), and the inclusion of such Secondary Party Information, in that form and context, has been approved by the board of the Secondary Party; and
- (d) **(update Secondary Party Information)** promptly advise the Primary Party in writing if it becomes aware:

## CLAYTON UTZ

- (i) of information which should have been but was not included in the Secondary Party Information in the Relevant Document (including if known at the time), and promptly provide the Primary Party with the omitted information; or
- (ii) that the Secondary Party Information in the Relevant Document is misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide the Primary Party with any information required to correct the misleading or deceptive statements.

### 4.4 Responsibility statements

The parties agree that the Relevant Documents will include a responsibility statement to the effect that:

- (a) the Primary Party is responsible for the content of the Relevant Document (other than, to the maximum extent permitted by law, the Secondary Party Information, the Independent Expert's Report or any other report or letter issued to the Primary Party by a Third Party) and that neither the Secondary Party nor its Representatives assume any responsibility for the accuracy or completeness of the Relevant Document other than Secondary Party Information; and
- (b) the Secondary Party is responsible for the Secondary Party Information (and no other part of the Relevant Document) and that neither the Primary Party nor its Representatives assume any responsibility for the accuracy or completeness of the Secondary Party Information.

### 4.5 Disagreement on content

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

- (a) if the disagreement relates to the form or content of any information appearing in the Relevant Document other than the Secondary Party Information, the Primary Party will, acting in good faith, decide the final form or content of the disputed part of the Relevant Document; and
- (b) if the disagreement relates to the form or content of the Secondary Party Information, the Primary Party will make such amendments to the form or content of the disputed part of the Secondary Party Information as the Secondary Party reasonably requires.

## 5. Steps relevant to the Scheme

### 5.1 Scheme

EBG must propose a scheme of arrangement under which:

- (a) all the Scheme Shares will be transferred to SEQ; and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration, subject to the Scheme becoming Effective on the Implementation Date.

### 5.2 Scheme Consideration

- (a) The **Scheme Consideration**, in respect of a Scheme Shareholder, means \$1.55 cash per Scheme Share held by that Scheme Shareholder.

## CLAYTON UTZ

- (b) Subject to the terms of the Scheme, SEQ undertakes and warrants to EBG (in EBG's own right and separately as trustee for each of the Scheme Shareholders) that, in consideration of the transfer to SEQ of each Scheme Share held by a Scheme Shareholder under the terms of the Scheme, on the Implementation Date, SEQ will accept that transfer and provide, or procure the provision, to each Scheme Shareholder the Scheme Consideration for each Scheme Share in accordance with the Scheme and the Deed Poll.

### 5.3 EBG's obligations

EBG must take all steps reasonably necessary to propose and implement the Scheme as soon as is reasonably practicable after the date of this deed and must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step, including by doing any acts it is authorised and able to do on behalf of EBG Shareholders and each of the following:

- (a) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (including any updates to such report) and any other materials to be prepared by the Independent Expert for inclusion in the Target's Statement and Scheme Booklet (including any updates thereto);
- (b) **(Scheme Booklet)** as soon as reasonably practicable after the date of this deed, prepare the Scheme Booklet (excluding the SEQ Information and the Independent Expert's Report) in accordance with all applicable laws, Regulatory Guide 60, applicable Takeovers Panel guidance notes and the ASX Listing Rules;
- (c) **(ASIC review)** as soon as reasonably practicable after the date of this deed, and no later than 14 days before the First Court Date, and following SEQ giving confirmation or providing changes as contemplated by clause 4.3(c), provide an advanced draft of the Scheme Booklet (**Regulator's Draft**) to ASIC, for its review and approval for the purposes of section 411(2) of the Corporations Act and liaise with ASIC during the period of its consideration of the Regulator's Draft and keep SEQ reasonably informed of any matters raised by ASIC in relation to the Regulator's Draft and use reasonable endeavours, in consultation with SEQ, to resolve any such matters;
- (d) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Regulator's Draft, procure that a meeting of the EBG Board is convened to approve the Scheme Booklet for registration with ASIC and despatch to EBG Shareholders;
- (e) **(section 411(17)(b) statement)** apply to ASIC for the production of:
  - (i) a letter stating that ASIC does not intend to appear before the Court on the First Court Date; and
  - (ii) a letter stating that, pursuant to section 411(17)(b) of the Corporations Act, ASIC has no objection to the Scheme;
- (f) **(Court documents)** prepare, and consult with SEQ in relation to the content of, all 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 SEQ or its Representatives prior to filing those documents with the Court;

## CLAYTON UTZ

- (g) **(representation)** procure that it is represented by legal counsel at the Court hearings convened for the purposes of the Scheme, at which, through its legal counsel and, if requested by the Court, EBG will undertake to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (h) **(First Court Date)** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for an order under section 411(1) of the Corporations Act directing EBG to convene the Scheme Meeting;
- (i) **(register Scheme Booklet)** request that ASIC registers the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (j) **(Scheme Meeting)** convene the Scheme Meeting to seek EBG Shareholders' approval of the Scheme and despatch the Scheme Booklet to EBG Shareholders in accordance with the orders made by the Court pursuant to subsection 411(1) of the Corporations Act;
- (k) **(proxy reports)** keep SEQ reasonably informed on the status of proxy forms received for the Scheme Meeting, including on a daily basis over the period commencing 15 Business Days before the Scheme Meeting and ending on the deadline for receipt of proxy forms, and such other information EBG and its Representatives may receive concerning the voting intentions of EBG Shareholders;
- (l) **(proxy solicitation)** consider in good faith SEQ's suggestions regarding shareholder engagement and proxy solicitation actions so as to promote the merits of the Transactions and encourage EBG Shareholders to vote on the Scheme in accordance with the recommendation of the EBG Board, subject to applicable law and ASIC policy;
- (m) **(Court approval)** subject to all Scheme Conditions (other than the Scheme Condition in clause 3.1(b) (*Court approval*)) being satisfied or waived in accordance with this deed, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (n) **(certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Scheme Conditions (other than the Scheme Condition in clause 3.1(b) (*Court approval*)) have been satisfied or waived in accordance with this deed and provide a draft of that certificate to SEQ by 5:00 pm on the Business Day prior to the Second Court Date;
- (o) **(adjournment or postponement)** not adjourn or postpone the Scheme Meeting or request the Court to adjourn or postpone the Scheme Meeting, First Court Date or Second Court Date, in each case without the prior written consent of SEQ;
- (p) **(SEQ representation)** allow, and not oppose, any application by SEQ for leave of the Court to be represented by counsel at the Court hearings in relation to the Scheme;
- (q) **(Implementation)** if the Scheme is approved by the Court:
  - (i) lodge with ASIC an office copy of the Court order approving the Scheme as agreed to by the Scheme Shareholders at the Scheme Meeting by no later than the first Business Day after the day such office copy is received (or such later date as agreed in writing by SEQ);

## CLAYTON UTZ

- (ii) close the EBG Share Register at the Scheme Record Date to determine the identity of Scheme Shareholders and their entitlements to the Scheme Consideration;
- (iii) execute proper instruments of transfer of the Scheme Shares and subject to the Scheme Consideration having been provided in accordance with the Scheme and the Deed Poll, register all transfers of EBG Shares held by Scheme Shareholders to SEQ on the Implementation Date;
- (iv) apply to ASX to suspend trading in EBG Shares with effect from the close of trading on the Effective Date;
- (v) use its best endeavours to ensure that the EBG Shares continue to be quoted on ASX (even if suspended from trading) until the close of trading on the Implementation Date, including making appropriate applications to ASX and ASIC;
- (r) **(other things)** promptly do all other things contemplated by or necessary to give effect to the Scheme and, if the Scheme is approved by the Court, the orders of the Court approving the Scheme; and
- (s) **(compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed in relation to the Scheme are effected in compliance with all applicable laws and regulations.

#### 5.4 SEQ's obligations

SEQ must take all steps reasonably necessary to assist EBG to propose and implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step, including by doing each of the following:

- (a) **(Assistance with Scheme Booklet)** provide all assistance and information reasonably requested by EBG or its advisers in connection with the preparation of the Scheme Booklet and any documents required to be filed with the Court in respect of the Scheme;
- (b) **(Independent Expert information)** provide all assistance and information reasonably requested by EBG or by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **(Deed Poll)** by the date which is 2 Business Days prior to the First Court Date, enter into the Deed Poll and deliver the executed Deed Poll to EBG;
- (d) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of the Scheme, at which, through its counsel and, if requested by the Court, SEQ will undertake to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (e) **(certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Scheme Conditions (other than the Scheme Condition in clause 3.1(b) (*Court approval*)) have been satisfied or waived in accordance with this deed and provide a draft of that certificate to EBG by 5:00 pm on the Business Day prior to the Second Court Date;

## CLAYTON UTZ

- (f) **(Scheme Consideration)** if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration on the Implementation Date in accordance with clause 5.2 and the terms of the Scheme and the Deed Poll;
- (g) **(compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

### 5.5 Conduct of Court proceedings

- (a) SEQ is entitled to separate representation at all Court proceedings affecting the Scheme.
- (b) Nothing in this deed gives SEQ or EBG any right or power to give undertakings to the Court for or on behalf of the other party without that party's written consent.

### 5.6 Appeal process

If the Court refuses to make any orders convening the Scheme Meeting or approving the Scheme:

- (a) EBG and SEQ must consult with each other in good faith as to whether to appeal the Court's decision; and
- (b) EBG may appeal the Court's decision (unless SEQ considers that an appeal would have no reasonable prospect of success before the End Date or is otherwise not supportive of an appeal).

## 6. Facilitating the Takeover Bid

### 6.1 Promotion of Takeover Bid

During the Offer Period:

- (a) EBG must, in the absence of a Superior Proposal, procure that the EBG Directors and such other senior executives of EBG as reasonably requested by SEQ support the Takeover Bid and participate in efforts reasonably requested by SEQ to promote the merits of the Takeover Bid, including meeting with EBG Shareholders, analysts, management, customers, press and other parties if requested by SEQ to do so; and
- (b) SEQ will participate in efforts reasonably requested by EBG to promote the merits of the Takeover Bid and the Takeover Bid Consideration, including, where requested by EBG, meeting with key EBG Shareholders.

### 6.2 Registers

EBG must provide to SEQ on the Business Day after the date of this deed and reasonably promptly following each reasonable request thereafter until the end of the Offer Period, at no cost to SEQ, such information about EBG Shareholders as reasonably requested by SEQ to make the Offers under the Takeover Bid and solicit acceptances, including:

- (a) the EBG Share Register and any updates to it; and
- (b) the register of information that is required to be maintained in accordance with section 672DA of the Corporations Act, along with any consolidated reporting held or received by EBG in relation to the information contained in that register or analysis.



## CLAYTON UTZ

### 6.3 Dispatch of Offers

- (a) EBG agrees that, and the EBG Board has consented to, the Bidder's Statement and Offers (and accompanying documents to be sent by SEQ under item 6 of section 633(1) of the Corporations Act) being sent to EBG Shareholders as at the Register Date on, or within a 3 day period commencing on:
- (i) the fifth Business Day after a copy the Bidder's Statement and Offers were sent to EBG in accordance with item 3 of section 633(1) of the Corporations Act (**Earliest Dispatch Date**); or
  - (ii) such date after the Earliest Dispatch Date as specified by SEQ to EBG in writing at or after the time SEQ sends a copy of those documents to EBG in accordance with item 3 of section 633(1) of the Corporations Act,
- even though the date so specified by SEQ is earlier than the date otherwise prescribed by item 6 of section 633(1) of the Corporations Act.
- (b) Subject to the fiduciary and statutory duties of the EBG Directors, EBG must use its reasonable endeavours to procure that:
- (i) the Target's Statement is dispatched to EBG Shareholders together with the Bidder's Statement (that is, in a single envelope and with a common covering page or sheet); and
  - (ii) the dispatch of both the Bidder's Statement and the Target's Statement therefore commences contemporaneously and in accordance with the timing contemplated by clause 6.3(a).
- (c) Despite clause 6.3(b), SEQ may, in its absolute discretion, elect to dispatch the Bidder's Statement and Offers (and accompanying documents to be sent by SEQ under item 6 of section 633(1) of the Corporations Act) to those EBG Shareholders (other than SEQ) as at the relevant date separately from the dispatch of the Target's Statement if SEQ is not satisfied as at the Earliest Dispatch Date or any time thereafter that EBG will be able to achieve a contemporaneous dispatch of those documents in a fashion acceptable to SEQ and upon exercise of such discretion, SEQ shall be deemed to have released EBG from any obligation or liability pursuant to this clause 6.3.

### 6.4 ASX listing

EBG must take all reasonable steps to maintain EBG's listing on ASX, notwithstanding any suspension of the quotation of EBG Shares, up to and including the date SEQ compulsorily acquires any EBG Shares it does not already own under Chapter 6A of the Corporations Act, including making appropriate applications to ASX and ASIC.

## 7. Provisions relevant to both Transactions

### 7.1 Interim Dividend

- (a) SEQ agrees that EBG may announce and determine or declare an Interim Dividend, without any consequent reduction in either the Bid Consideration or Scheme Consideration (as applicable), if done so in a manner consistent with the ASX Listing Rules (and Appendix 6A as to the timing of each step in that process), provided that:
- (i) the Interim Dividend must comply with the requirements of section 254T of the Corporations Act;

## CLAYTON UTZ

- (ii) the Interim Dividend is not in breach of the 'benchmark rule' as defined in section 203-25 of the Tax Act; and
  - (iii) the Interim Dividend may be franked to the maximum extent possible, subject to the franking account of EBG is not in deficit immediately after the payment of the Interim Dividend.
- (b) For the avoidance of doubt, there shall be no restriction on EBG determining the Interim Dividend as a partially franked or unfranked dividend.
- (c) If EBG determines or declares an Interim Dividend in accordance with clause 7.1(a) the Interim Dividend will be:
  - (i) paid in cash to those EBG Shareholders who held EBG Shares as at the Interim Dividend Record Date at any time on or before the Interim Dividend Payment Date; and
  - (ii) no more than 2.4 cents per EBG Share.
- (d) EBG may apply for such class ruling (on behalf of EBG Shareholders) or private ruling from the Australian Taxation Office as it considers is appropriate (provided SEQ first agrees, acting reasonably, to that application being made) in respect of the Special Dividend.
- (e) From and including the date of this deed up to the termination of this deed, EBG must suspend the operation of its dividend reinvestment plan.

## 7.2 Conduct of EBG business

- (a) Subject to clause 7.2(b), from the date of this deed up to and including the earlier of the Implementation Date, the close of the Offer Period or the termination of this deed, and without limiting any other obligations of EBG under this deed, EBG must:
  - (i) conduct its businesses and operations, and must cause each EBG Group Member to conduct its respective business and operations, in the ordinary and usual course generally consistent with the manner in which each such business and operations have been conducted in the 12-month period prior to the date of this deed;
  - (ii) keep SEQ informed of any material developments concerning the conduct of business;
  - (iii) not enter into any line of business or other activities in which the EBG Group is not engaged as of the date of this deed;
  - (iv) not announce, declare, pay or distribute any dividend, bonus or other share of its profits or assets or return or agree to return any capital to its shareholders (other than the Interim Dividend);
  - (v) ensure that there is no occurrence within its control or the control of any other EBG Group Member or their respective boards that would constitute or be likely to constitute a breach of any Condition; and
  - (vi) make all reasonable efforts, and procure that each other EBG Group Member makes all reasonable efforts, to:
    - A. preserve and maintain the value of the businesses and assets of the EBG Group;



## CLAYTON UTZ

- B. keep available the services of the directors, officers and employees of each member of the EBG Group; and
  - C. maintain and preserve their relationships with Government Agencies, customers, suppliers, lessors, lessees, licensors, licensees and others having business dealings with any EBG Group Member.
- (b) Nothing in clause 7.2(a) restricts the ability of EBG to take any action:
- (i) which is required by any applicable law or Government Agency;
  - (ii) which is required or expressly permitted by this deed or the Transactions;
  - (iii) which has been agreed to in writing by SEQ;
  - (iv) which is related to the appointment of any financial or corporate adviser for the purpose of either the Offer or the Scheme; or
  - (v) which has been fully and frankly disclosed in public filings made by EBG to the ASX prior to the date of this deed.
- (c) Nothing in clause 7.2(a) obliges EBG to disclose any information which the EBG Directors consider is commercially sensitive provided that any material developments concerning the conduct of business shall be disclosed in accordance with 7.2(a)(ii).

### 7.3 Agreed Fee Payment

- (a) SEQ acknowledges and agrees, for the purposes of clause 7.2(b)(ii) and for all other purposes, that EBG is or will be bound to and shall be authorised to make payment of:
- (i) certain agency fees after the date of this deed pursuant to the terms of the Savills Agreement;
  - (ii) certain fees after the date of this deed pursuant to the terms of engagement of a financial or corporate adviser;
  - (iii) other fees, costs and charges associated with, or incurred in respect of, the Offer;
- (b) Without limitation, SEQ agrees to cause and procure EBG to satisfy its obligations in respect of the obligations referred to in clause 7.3(a) provided the maximum liability under each of the Savills Agreement and the appointment of a corporate adviser is no greater than the amount disclosed in the Disclosure Letter.

### 7.4 Access to information

- (a) During the period from the date of this deed up to and including the Implementation Date and the end of the Offer Period (whichever is later), subject to clause 7.4(c), EBG must, and must procure each of its Related Bodies Corporate to, respond to reasonable requests from SEQ and its Representatives for information concerning the EBG Group and their businesses, operations and affairs as soon as reasonably practicable after such requests are made, and give SEQ and its Representatives reasonable access to EBG's premises, senior executive team and records, and otherwise provide reasonable co-operation to SEQ and its Representatives, in each case for the purposes of:

## CLAYTON UTZ

- (i) applying for all relevant Regulatory Approvals;
- (ii) the implementation of the Transactions;
- (iii) keeping SEQ informed of material developments relating to the EBG Group; or
- (iv) any other purpose agreed between the parties,

provided that:

- (v) nothing in this clause 7.4 will require EBG to provide materially commercially sensitive information or information concerning its directors' and management's consideration of, or advice received in relation to, the Takeover Bid or a Competing Proposal; and
  - (vi) information need not be provided if, in EBG's reasonable opinion, that would result in unreasonable disruptions to EBG's business, would breach an existing confidentiality obligation owed to a Third Party or any applicable law or require EBG to make any disclosure that would compromise legal privilege.
- (b) The parties acknowledge that their investigations and obligations under this clause 7.4 are subject to the Confidentiality Agreement.
  - (c) EBG obligations under clause 7.4(a) cease to operate upon a majority of the EBG Directors changing or withdrawing their Scheme Recommendation or Takeover Bid Recommendation.

## 7.5 Change of control provisions

- (a) As soon as practicable after the date of this deed, the parties must seek to identify any change of control or unilateral termination rights in material contracts to which EBG or another EBG Group Member is party which may be triggered by or exercised in response to, or as a result of, the announcement or implementation of the Transactions (**Change of Control Contracts**).
- (b) In respect of each of those Change of Control Contracts:
  - (i) the parties will agree a proposed course of action and then EBG will initiate contact, including joint discussions if agreed, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate;
  - (ii) EBG must use reasonable efforts to obtain such consents or confirmations as expeditiously as possible in accordance with the agreed course of action, including by promptly providing any information reasonably required by counterparties; and
  - (iii) SEQ must cooperate with, and provide all reasonable assistance to, EBG to obtain such consents or confirmations as expeditiously as possible in accordance with the agreed course of action, including by promptly providing any information reasonably required by counterparties and taking all action necessary to comply with any reasonable requirements of the counterparties,

provided that nothing in this clause 7.5 or any other provision of this deed requires SEQ 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 SEQ.

## CLAYTON UTZ

### 7.6 Appointment of directors

- (a) On the Implementation Date, but subject to the Undertakings being provided (if applicable) and the Scheme Consideration having been paid by SEQ in accordance with the Scheme, EBG must:
- (i) take all actions necessary to appoint the persons nominated by SEQ in writing as new directors of EBG and each of its Subsidiary (provided that each such person is not ineligible to act as a director under any applicable laws, holds (or has applied for) a Director Identification Number and signs consents to act as a director of the relevant member(s) of the EBG Group); and
  - (ii) procure that, as nominated by SEQ before the Implementation Date, directors on the EBG Board resign from the EBG Board or any other board of a member of the EBG Group (provided that nothing in this clause 7.6(a)(ii) requires any such director to forego any rights they may have under and subject to any deed of access and indemnity or policy of directors' and officers' insurance).
- (b) Subject to clause 7.6(c) and the Undertakings being provided (if applicable), no later than two Business Days after the later of:
- (i) SEQ acquiring a Relevant Interest in more than 50.1% of the EBG Shares; and
  - (ii) the Offers being declared or becoming unconditional,
- if requested by SEQ (and subject to receipt by EBG of signed consents to act), EBG must
- (iii) take all actions necessary to appoint the persons nominated by SEQ as new directors of EBG and each of its Subsidiary (provided that each such person is not ineligible to act as a director under any applicable laws and holds (or has applied for) a Director Identification Number) (**Nominee Directors**);
  - (iv) procure that any existing EBG Directors nominated by SEQ resign as directors from the EBG Board and the board of each other member of the EBG Group,
- so that those Nominee Directors comprise a majority of the EBG Board and the board of each other member of the EBG Group.
- (c) After appointments are made under clause 7.6(b), SEQ must procure that its Nominee Directors on the EBG Board do not participate in any discussions or decisions of that board which relate to the Takeover Bid during the Offer Period or the Interim Dividend (other than in respect of causing payment of the Interim Dividend in accordance with this deed), unless otherwise approved by the EBG Directors (other than the Nominee Directors).

### 7.7 Undertakings by Nominee Directors

If at any time prior to the appointment of the Nominee Directors as contemplated in clause 7.6 the EBG Board has determined or declared and announced an Interim Dividend in accordance with clause 7.1 each of the Nominee Directors must undertake in writing to EBG and the EBG Directors that, upon their appointment to the EBG Board (**Appointment**), those Nominee Directors will:

## CLAYTON UTZ

- (a) not take any action which would result in, directly or indirectly, the Interim Dividend being withdrawn, modified or otherwise not being payable;
- (b) where the Appointment is before the Interim Dividend Payment Date, on and from the date of their Appointment until the first Business Day after the Interim Dividend Payment Date, conduct the businesses and operations of the EBG Group in the ordinary and usual course generally consistent with the manner in which each such business and operations have been conducted in the 12-month period prior to the date of this deed; and
- (c) take all steps reasonably required to cause the Interim Dividend to be paid in accordance with this deed.

### **(Undertakings).**

## **7.8 Directors' and officers' liability**

- (a) Subject to SEQ acquiring Control of EBG, SEQ undertakes that it will procure that SEQ, and each Related Body Corporate of SEQ (including without limitation each EBG Group Member) complies with any deeds of indemnity, access and insurance made by SEQ or any Related Body Corporate of SEQ in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained (subject to any Corporations Act restrictions), for a period of 7 years from the retirement date of each director and officer so long as it is available on commercially reasonable terms.
- (b) Subject to the Corporations Act, none of the directors or officers of EBG will be liable for anything done or purported to be done in connection with the Transactions, but nothing in this clause excludes any liability that may arise from misconduct, fraud, misrepresentation (including by omission) or bad faith on the part of such a person. EBG receives and holds the benefit of this clause as agent for the EBG Directors and EBG officers.
- (c) Subject to the Corporations Act, none of the directors or officers of SEQ will be liable for anything done or purported to be done in connection with the Transactions, but nothing in this clause excludes any liability that may arise from misconduct, fraud, misrepresentation (including by omission) or bad faith on the part of such a person. SEQ receives and holds the benefit of this clause as agent for each director and officer of SEQ.

## **8. Representations and warranties**

### **8.1 SEQ Representations and Warranties**

SEQ represents and warrants to EBG (in its own right and separately as trustee for each of the other EBG Indemnified Parties) each of the SEQ Representations and Warranties.

### **8.2 SEQ indemnity**

SEQ agrees with EBG (in its own right and separately as trustee for each of the other EBG Indemnified Parties) to indemnify and keep indemnified EBG and each of the other EBG Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which EBG or any of the other EBG Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the SEQ Representations and Warranties.

## CLAYTON UTZ

### 8.3 EBG Representations and Warranties

EBG represents and warrants to SEQ (in its own right and separately as trustee for each of the other SEQ Indemnified Parties) each of the EBG Representations and Warranties.

### 8.4 EBG indemnity

Subject to clause 8.5, EBG agrees with SEQ (in its own right and separately as trustee for each of the other SEQ Indemnified Parties) to indemnify and keep indemnified SEQ and each of the other SEQ Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which SEQ or any of the other SEQ Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the EBG Representations and Warranties.

### 8.5 Qualification of EBG Representations and Warranties and indemnity

The EBG Representations and Warranties and indemnity in clause 8.4 are subject to any matter or circumstance which:

- (a) is expressly provided for in this deed;
- (b) is discoverable by searching the public registers maintained by Government Agencies; or
- (c) has been Fairly Disclosed to SEQ in the Disclosure Materials.

### 8.6 Survival of representations and warranties

Each representation and warranty in clauses 8.1 or 8.2:

- (a) is severable; and
- (b) survives the termination of this deed.

### 8.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 8.2 and 8.4):

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

### 8.8 Timing of representations and warranties

Each representation and warranty made or given under clauses 8.1 or 8.2 is given

- (a) at the date of this deed;
- (b) at 8:00am on the Second Court Date; and
- (c) at all times during the Offer Period,

## CLAYTON UTZ

unless that representation or warranty is expressed to be given at a particular time, in which case it is given at that time.

### 8.9 Notification

Each party must promptly advise the other in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations and warranties given by it under this deed (including those representations and warranties in clauses 8.1 and 8.3).

## 9. Public announcements

### 9.1 Agreed Public Announcement

Immediately after the execution of this deed, EBG must issue the Agreed Public Announcement, which must include statements consistent with the Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation and Takeover Acceptance Intention.

### 9.2 Subsequent announcements and disclosure

Where a party proposes to make any public announcement or public disclosure about the Transaction (which, for the avoidance of doubt, does not include a public announcement in relation to a Competing Proposal), it must to the extent practicable and lawful to do so, consult with the other party prior to making the relevant disclosure and take account of any reasonable comments received from the other party in relation to the form and content of the announcement or disclosure.

## 10. Confidentiality Agreement

This deed is not intended to affect the operation of the Confidentiality Agreement.

## 11. Exclusivity

### 11.1 No shop and no talk

During the Exclusivity Period, EBG must not, and must ensure that each of its Representative do not, except with SEQ's prior written consent, directly or indirectly:

- (a) **(no shop)** entertain, solicit, invite, encourage or initiate (including by the provision of non-public information to any Third Party) any inquiry, expression of interest, offer, proposal or discussion by any or with person in relation to, or which would reasonably be expected to encourage or lead to the making of, or with a view to obtaining, an actual, proposed or potential Competing Proposal or communicate to any person an intention to do anything referred to in this clause 11.1(a); or
- (b) **(no talk and no due diligence)** subject to clauses 11.1(c) and 11.2:
  - (i) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Proposal or participate in or continue any negotiations or discussions with respect to any actual, proposed or potential Competing Proposal;
  - (ii) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Proposal;

## CLAYTON UTZ

- (iii) disclose or otherwise provide any non-public information about the business or affairs of the EBG Group to a Third Party (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to encourage or lead to receipt of, an actual, proposed or potential Competing Proposal (including providing such information for the purposes of the conduct of due diligence investigations in respect of the EBG Group whether by that Third Party or another person) (**Due Diligence Information**); or
  - (iv) communicate to any person an intention to do any of the things referred to this clause 11.1(b).
- (c) Nothing in this clause 11.1 prevents EBG or any of its Representatives from:
- (i) making normal presentations to, or responding to enquiries from, brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transactions or its business generally;
  - (ii) providing information to its auditors, advisors, lenders, customers, contractors and suppliers acting in that capacity and in the ordinary and usual course of business; or
  - (iii) providing information required to be provided by law, including to satisfy its obligations of disclosure under the ASX Listing Rules or to any Government Agency.

### 11.2 Fiduciary exception

- (a) Clause 11.1(b) does not prohibit any action or inaction by EBG or any of its directors in relation to any actual, proposed or potential Competing Proposal, which the EBG Board acting in good faith determines, having regard to written advice from its external legal advisors, is or could reasonably be expected to become a Superior Proposal and the failure to take or not take such action would constitute, or would be reasonably likely to constitute, a breach of the fiduciary or statutory duties of the EBG Board, provided the actual, proposed or potential Competing Proposal was not directly or indirectly brought about by, or facilitated by, a breach of clause 11.1(a).
- (b) If EBG proposes to provide a Third Party with Due Diligence Information during the Exclusivity Period pursuant to the operation of clause 11.2(a), EBG must first enter into a binding confidentiality agreement with that Third Party on terms which are not inconsistent with EBG's obligations under this deed and otherwise on customary terms which are no more favourable to the Third Party (when taken as a whole) than the Confidentiality Agreement.

### 11.3 Notification of approaches

- (a) During the Exclusivity Period, EBG must as soon as possible (and in any event within 48 hours) notify SEQ in writing if it, or any of its Representatives, becomes aware of any:
  - (i) negotiations or discussions, approach or attempt to initiate any negotiations or discussions, or intention to make such an approach or attempt to initiate any negotiations or discussions in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to an actual, proposed or potential Competing Proposal;
  - (ii) proposal made to EBG or any of its Representatives, in connection with, or in respect of any exploration or completion of, an actual, proposed or potential Competing Proposal; or



## CLAYTON UTZ

- (iii) provision by EBG or any of its Representatives of any non-public information concerning the business or operations of EBG or the EBG Group to any a Third Party (other than a Government Agency) in connection with an actual, proposed or potential Competing Proposal,

whether direct or indirect, solicited or unsolicited, and in writing or otherwise.

- (b) A notification given under clause 11.3(a) must include:

- (i) details of the relevant person making or proposing the relevant actual, proposed or potential Competing Proposal unless the EBG Board has first determined, in good faith, and in what the EBG Board considers to be in the interests of EBG and its shareholders (as a whole), and after receiving written advice from its external lawyers, that providing details would, or would be reasonably likely to, constitute a breach of any of the EBG Board's fiduciary or statutory duties; and
- (ii) all material terms and conditions of the actual, proposed or potential Competing Proposal.

- (c) Commencing upon the provision of any notice referred to in clause 11.3(a), EBG must as soon as possible advise SEQ of any material developments in relation to an actual, proposed or potential Competing Proposal, including material amendments or proposed amendments to the terms of such actual, proposed or potential Competing Proposal.

#### 11.4 Matching right

- (a) Without limiting clause 11.1, during the Exclusivity Period, EBG:

- (i) must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a Third Party, EBG or both proposes or propose to undertake or give effect to an actual, proposed or potential Competing Proposal other than EBG entering into a confidentiality agreement with a Third Party consistent with the provisions of clause 11.2(b); and
- (ii) must use reasonable endeavours to procure that none of its directors change their Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention or publicly recommend an actual, proposed or potential Competing Proposal or makes any public statement or recommendation that is inconsistent with his Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation or Takeover Acceptance Intention or that suggests he no longer supports the Scheme, the Takeover Bid or either of them (provided that a statement that no action should be taken by EBG Shareholders pending the assessment of a Competing Proposal by the EBG Board and its advisers shall not contravene this clause),

unless before doing so:

- (iii) the EBG Board determines that the Competing Proposal constitutes a Superior Proposal;
- (iv) EBG has provided SEQ with all known terms and conditions of the actual, proposed or potential Competing Proposal, including price and the identity of the Third Party making the actual, proposed or potential Competing Proposal;



## CLAYTON UTZ

- (v) EBG has given SEQ until the Matching Date to provide a counterproposal to the Competing Proposal (**SEQ Counterproposal**); and
- (vi) either:
  - A. SEQ has not announced or otherwise formally proposed to EBG a SEQ Counterproposal on or before the Matching Date; or
  - B. SEQ has announced or provided to EBG a SEQ Counterproposal on or before the Matching Date, that the EBG Board, acting in good faith, determines would not provide a matching or superior outcome for EBG Shareholders as a whole compared with the Competing Proposal, taking into account all of the terms and conditions of the SEQ Counterproposal.
- (b) If SEQ provides to EBG, or announces, an SEQ Counterproposal on or before the Matching Date, EBG must procure that the EBG Board considers the SEQ Counterproposal and if the EBG Board, acting in good faith, determines that the SEQ Counterproposal would provide an equivalent or superior outcome for EBG Shareholders (as a whole) compared with the Competing Proposal, then EBG and SEQ must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the SEQ Counterproposal and to implement the SEQ Counterproposal, in each case as soon as reasonably practicable, and EBG must use its best endeavours to procure that each of the members of the EBG Board continues to recommend the Transactions (as modified by the SEQ Counterproposal) to EBG Shareholders.
- (c) Despite any other provision of this deed, a statement by EBG or the EBG Board to the effect that:
  - (i) EBG has commenced the matching rights process in this clause 11.4;
  - (ii) the EBG Shareholders should take no action pending the completion of the matching rights process in this clause 11.4; or
  - (iii) EBG has taken any steps permitted by clause 11.2 in relation to a Competing Proposal,
 does not of itself:
  - (iv) constitute a change, withdrawal, modification or qualification of any recommendation by the EBG Board or any EBG Director or an endorsement of a Competing Proposal;
  - (v) contravene this deed;
  - (vi) give rise to an obligation for EBG to pay the Break Fee under clause 12; or
  - (vii) give rise to a termination right under clause 13.2.

## 11.5 Cease discussions

EBG must, and must procure that its Representatives, cease any discussions or negotiations existing as at the date of this deed relating to:

- (a) any actual, proposed or potential Competing Proposal; or

## CLAYTON UTZ

- (b) any transaction that would, or would reasonably be expected to, reduce the likelihood of success of the Takeover Bid or the Scheme.

### 11.6 Provision of information by EBG

- (a) Subject to clause 11.6(b), during the Exclusivity Period, EBG must as soon as reasonably practicable provide SEQ with:
  - (i) in the case of written materials, a copy of; and
  - (ii) in any other case, a written statement of,

any material non-public information about the business or affairs of EBG or the EBG Group disclosed or otherwise provided to any Third Party in connection with an actual, proposed or potential Competing Proposal that has not previously been provided to SEQ.
- (b) EBG will not, and will procure that none of its Representatives provide any Due Diligence Information to a Third Party, unless:
  - (i) permitted by clause 11.1(c) or clause 11.2(a); and
  - (ii) that Third Party has entered into a confidentiality agreement with EBG consistent with the provisions of clause 11.2(b).

### 11.7 Compliance with law

- (a) If it is finally determined by a court of component jurisdiction, or the Takeovers Panel, that the agreement by the parties under this clause 11 or any part of it:
  - (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the EBG Board;
  - (ii) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
  - (iii) was, or is, or would be, unlawful for any other reason,

then, to that extent (and only to that extent) EBG will not be obliged to comply with that provision of clause 11.
- (b) The parties must not make or cause to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 11.7.

## 12. Break Fee

### 12.1 EBG payment triggers

Subject to clauses 12.4, 12.6, and 12.7, EBG must pay the Break Fee to SEQ without set-off or withholding if:

- (a) at any time before:
  - (i) in the case of the Scheme Recommendation and the Scheme Voting Intention, the Effective Date; or
  - (ii) in the case of the Takeover Recommendation and Takeover Acceptance Intention, the earlier of the end of the Offer Period and the End Date,

## CLAYTON UTZ

any one or more EBG Director:

- (iii) fails to provide, withdraws, adversely revises or modifies or adversely qualifies his Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention (or otherwise makes any public statement or recommendation that is inconsistent with his Scheme Recommendation, Scheme Voting Intention, Takeover Recommendation or Takeover Acceptance Intention or that suggests he no longer supports the Scheme, the Takeover Bid or either of them);
- (iv) recommends that EBG Shareholders accept or vote in favour of, or otherwise supports or endorses (including support by way of accepting or voting, or by way of stating an intention to accept or vote, in respect of any EBG Shares held or controlled by them or held on their behalf), a Competing Proposal of any kind that is announced (whether or not such proposal is stated to be subject to any pre-conditions),

other than in circumstances where:

- (v) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of EBG Shareholders (except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Proposal); or
- (vi) the Independent Expert's conclusion in the Independent Expert's Report is other than that the Offer is fair and reasonable (except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Proposal);
- (b) a Competing Proposal is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and, within 6 months after the date of such announcement, the Competing Proposal results in a Third Party obtaining control of EBG or acquiring (either alone or in aggregate) a legal, beneficial or economic interest in, or control of, 50.1% or more of the EBG Shares;
- (c) EBG does or the EBG Directors do (or omit to do) anything (whether or not it may be permitted by the terms of this deed) which results in any of the Relevant Conditions being breached, unless SEQ waives the Relevant Condition or declares the Takeover Bid free of the breached Relevant Condition, as applicable (which it may do so in its absolute discretion); or
- (d) SEQ has terminated this deed pursuant to clause 13.1(a) (*Material breach*).

## 12.2 SEQ payment triggers

Subject to clause 12.7, SEQ must pay the Break Fee to EBG without set-off or withholding if EBG has terminated this deed pursuant to clause 13.1(a) (*Material breach*) prior to the occurrence of any event in clause 12.1.

## 12.3 Timing of payment of Break Fee

- (a) A demand by a party (**Receiving Party**) for payment of the Break Fee under clause 12.1 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

## CLAYTON UTZ

- (iv) nominate an account into which the other party (**Paying Party**) is to pay the Break Fee.
- (b) The Paying Party must pay the Break Fee into the account nominated by the Receiving Party, without set-off or withholding, within 5 Business Days after receiving a demand for payment where the Receiving Party is entitled under clause 12.1 to the Break Fee.

## 12.4 Qualifications

- (a) No amount will be payable under clause 12.1 or clause 12.2 if:
  - (i) the Scheme becomes Effective; or
  - (ii) SEQ becomes the holder of a Relevant Interest in at least 90% of the EBG Shares and the Offer has been declared or becomes unconditional.
- (b) To the extent that any amounts have already been paid to the Paying Party under this clause 12 and:
  - (i) the Scheme becomes Effective; or
  - (ii) SEQ becomes the holder of a Relevant Interest in at least 90% of the EBG Shares and the Offer has been declared or becomes unconditional,

such amounts must be immediately refunded to the Paying Party.
- (c) Notwithstanding the occurrence of:
  - (i) an event referred to in clause 12.1(a)(iii) or 12.1(a)(iv), no amount is payable under clause 12.1(a) if, prior to the event occurring:
    - A. EBG has already terminated this deed in accordance with clause 13.1(a) (*Material breach*); or
    - B. either party has already terminated this deed in accordance with:
      - 1) clause 13.1(b) (*Failure to agree regarding failed Conditions*);
      - 2) clause 13.1(c)(i) (*Effective Date does not occur by End Date*); or
      - 3) clause 13.1(c)(ii) (*Withdrawal or lapse of Takeover Bid*) but only to the extent that such right of termination is not due to the non-satisfaction of a Relevant Condition;
  - (ii) an event referred to in clause 12.1(b), no amount is payable under clause 12.1(b) if, prior to the event occurring, EBG has already terminated this deed in accordance with clause 13.1(a) (*Material breach*).

## 12.5 Basis and calculation of Break Fee

The parties acknowledge and agree that:

- (a) the Break Fee is purely and strictly compensatory in nature and has been calculated to reimburse the parties for costs including:

## CLAYTON UTZ

- (i) fees for legal, financial and other professional advice in planning and implementing the Transactions (excluding success fees);
  - (ii) reasonable opportunity costs incurred in engaging in the Transactions or in not engaging in other alternative transactions or strategic initiatives;
  - (iii) costs of management and directors' time in planning and implementing the Transactions; and
  - (iv) out of pocket expenses incurred by the parties and their officers, employees, advisers and agents in planning and implementing the Transactions;
- (b) the costs actually incurred by the parties will be of such a nature that they cannot all be accurately ascertained; and
- (c) the Break Fee is a genuine and reasonable pre-estimate of those costs.

### 12.6 Acknowledgment

Each party represents and warrants that:

- (a) it has received advice from its external legal advisers on this deed and the operation of this clause 12; and
- (b) it and each of its board of directors consider this clause 12 to be reasonable and appropriate to secure the benefits to the respective parties (and the EBG Shareholders) resulting from the Transactions.

### 12.7 Compliance with law

- (a) This clause 12 does not impose an obligation on the Paying Party to pay the Break Fee to the extent (and only to the extent) that the obligation to pay the Break Fee:
  - (i) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or
  - (ii) is determined to be unenforceable or unlawful by a court of component jurisdiction,

provided that, in either case, all lawful avenues of appeal and review, judicial and otherwise, have been exhausted. For the avoidance of doubt, any part of the Break Fee that would not constitute 'unacceptable circumstances' or that is not unenforceable or unlawful (as applicable) must be paid by the Paying Party.
- (b) The parties must not make or cause to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 12.7(a).

### 12.8 Break Fee payable only once

Where the Break Fee becomes payable to SEQ under clause 12.1 or to EBG under clause 12.2 and is actually paid to the Receiving Party, the Receiving Party cannot make any claim against the Paying Party for payment of any subsequent Break Fee.

### 12.9 Limitation of liability

Despite any other provision of this deed, except in relation to a wilful or intentional breach of this deed:

## CLAYTON UTZ

- (a) the maximum liability of the parties in relation to this deed, including in respect of any breach of this deed, will be the amount of the Break Fee and in no event will the aggregate liability of the parties under of in connection with this deed or any Claim exceed the amount of the Break Fee; and
- (b) a payment by a parties in accordance with this clause 12 represents the sole and absolute liability of that parties under this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by that party under this deed.

## 13. Termination

### 13.1 General rights

Either party may terminate this deed by written notice to the other party:

- (a) at any time before the later of 8:00am on the Second Court Date and the end of the Offer Period if:
  - (i) either:
    - A. the other party has materially breached this deed (other than in respect of a breach of either an SEQ Representation and Warranty or EBG Representation and Warranty); or
    - B. a representation and warranty given by the other party (being the SEQ Representations and Warranties where the "other party" is SEQ, and being the EBG Representations and Warranties where the "other party" is EBG) is not true and correct, where that breach of representation and warranty is material in the context of the Transactions as a whole; and
  - (ii) the party entitled to terminate has given written notice to the other party in breach of this deed setting out the relevant circumstances and stating an intention to terminate this deed; and
  - (iii) if capable of remedy, the breach or relevant circumstances are not remedied by the breaching party to the non-breaching party's satisfaction within 5 Business Days (or any shorter period ending at 5.00 pm on the day before the Second Court Date or the end of the Offer Period) after the date on which the notice is given;
- (b) in the circumstances set out in, and in accordance with, clause 3.6; or
- (c) at any time if:
  - (i) the Effective Date for the Scheme has not occurred, or will not occur, on or before the End Date; and
  - (ii) SEQ withdraws the Takeover Bid or the Takeover Bid lapses for any reason, including non-satisfaction of a Takeover Bid Condition.

### 13.2 Termination by SEQ

SEQ may terminate this deed by written notice to EBG at any time before the later of 8:00am on the Second Court Date and the end of the Offer Period if any member of the EBG Board:

- (a) fails to provide, or withdraws, adversely revises or adversely modifies his Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention;

## CLAYTON UTZ

- (b) makes a public statement or recommendation that is inconsistent with his Scheme Recommendation, Takeover Recommendation, Scheme Voting Intention or Takeover Acceptance Intention or that suggests that he no longer supports the Scheme, the Takeover Bid or either of them; or
- (c) recommends, supports or endorses a Competing Proposal,

provided that a statement that no action should be taken by EBG Shareholders pending the EBG Board undertaking further assessment of, or obtaining further advice in relation to, a Competing Proposal (or words to that effect) does not constitute a change, withdrawal, modification or qualification of any recommendation by the EBG Board or any EBG Director or an endorsement of a Competing Proposal for the purposes of this clause 13.2.

### 13.3 Termination by EBG

EBG may terminate this deed by written notice to SEQ at any time before the later of 8:00am on the Second Court Date and the end of the Offer Period if a majority of the EBG Board has changed, withdrawn or modified their Scheme Recommendation or Takeover Recommendation provided such withdrawal is expressly permitted under clause 11.2.

### 13.4 Termination by agreement

The parties may terminate this deed by another written agreement between them.

### 13.5 Effect of termination

If this deed is terminated under this clause 13:

- (a) each party will be released from its obligations under this deed, other than this clause 13 and clauses 1 (*Definitions and interpretation*), 8 (*Representations and warranties*), 12 (*Break Fee*), 14 (*GST*), 15 (*Notices*) and 17 (*General*) (except clause 17.8) which will survive termination and remain in force;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this deed; and
- (c) in all other respects, all future obligations of the parties under this deed will immediately terminate and be of no further force or effect, including, without limitation, any further obligations in respect of the Transactions.

### 13.6 Notice of termination

Where a party has a right to terminate this deed, 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 deed and the provision under which it is terminating this deed.

## 14. GST

- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 14(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 14(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must



## CLAYTON UTZ

provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.

- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 14(b):
  - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
  - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this deed if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term starting with a capital letter that is not defined in this deed has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

## 15. Notices

### 15.1 How Notice to be given

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

- (a) must be given to a party:
  - (i) using one of the following methods (and no other method) namely, hand delivery, courier service, prepaid express post or email; and
  - (ii) using the address or other details for the party set out below (or as otherwise notified by that party to each other party from time to time under this clause 15.1):

**EBG**

Attention: Suzanne Jacobi



## CLAYTON UTZ

Address: c/- HopgoodGanim Lawyers, Level 8, 1 Eagle Street, Brisbane QLD 4000  
 Email address: [sjacobilee@eumundigroup.com.au](mailto:sjacobilee@eumundigroup.com.au)  
 With a copy to: HopgoodGanim Lawyers  
 Attention: Luke Dawson and Rebecca Rutland  
 Address: Level 8, 1 Eagle Street, Brisbane QLD 4000  
 Email address: [l.dawson@hopgoodganim.com.au](mailto:l.dawson@hopgoodganim.com.au) and [r.rutland@hopgoodganim.com.au](mailto:r.rutland@hopgoodganim.com.au)

### SEQ

Attention: Andrew Prothero  
 Address: 64 James Street, New Farm QLD 4005  
 Email address: [andrew@capitalinmotion.com.au](mailto:andrew@capitalinmotion.com.au)  
 With a copy to: Clayton Utz  
 Attention: Jim Peterson and Lisa Houston  
 Address: Level 28, 71 Eagle Street, Brisbane QLD 4000  
 Email address: [jpeterson@claytonutz.com](mailto:jpeterson@claytonutz.com) and [lhouston@claytonutz.com](mailto:lhouston@claytonutz.com)

- (b) must be in legible writing and in English;
- (c) must be signed by the party giving the Notice (**Sending Party**) or by a person duly authorised by the Sending Party; and
- (d) (in the case of email) must:
  - (i) clearly indicate that the email is a Notice under or in connection with this deed;
  - (ii) state the name of the Sending Party and be sent by the Sending Party or a person duly authorised by the Sending Party; and
  - (iii) if the email contains attachments, ensure the attachments are in a format the receiving party can download, open and view at no additional cost,

and Notices sent by email are taken to be signed by the Sending Party.

## 15.2 When Notice taken to be received

Without limiting the ability of a party to prove that a Notice has been given and received at an earlier time, each Notice under or in connection with this deed is taken to be given by the sender and received by the recipient:

- (a) (in the case of delivery by hand or courier service) on delivery;
- (b) (in the case of prepaid express post sent to an address in the same country) on the second Business Day after the date of posting;
- (c) (in the case of prepaid express post sent to an address in a different country) on the fourth Business Day after the date of posting; and
- (d) (in the case of email) on the earlier of:
  - (i) the time sent (as recorded by the device or service from which the sender sent the email) unless, within 4 hours of sending the email, the

## CLAYTON UTZ

sender receives an automated message that the email has not been delivered;

- (ii) receipt by the sender of an automated message confirming delivery; and
- (iii) the time of receipt as acknowledged by the recipient (either orally or in writing),

provided that:

- (e) the Notice will be taken to be so given by the sender and received by the recipient regardless of whether:
  - (i) the recipient is absent from the place at which the Notice is delivered or sent;
  - (ii) the Notice is returned unclaimed; or
  - (iii) (in the case of email) the email or any attachment is opened by the recipient;
- (f) if the Notice specifies a later time as the time of delivery then that later time will be taken to be the time of delivery of the Notice; and
- (g) if the Notice would otherwise be taken to be received on a day that is not a working day or after 5.00 pm on any day, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the Notice is delivered or sent).

### 15.3 Notices sent by more than one method of communication

If a Notice delivered or sent under this clause 15 is delivered or sent by more than one method, the Notice is taken to be given by the sender and received by the recipient whenever it is taken to be first received in accordance with clause 15.2.

## 16. Costs and expenses

### 16.1 Stamp duty

SEQ:

- (a) must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this deed or the steps to be taken under, performance or enforcement of this deed; and
- (b) indemnifies EBG and the EBG Directors against, and agrees to reimburse and compensate them for, any liability in respect of stamp duty under clause 16.1(a).

### 16.2 Expenses

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

## CLAYTON UTZ

### 17. General

#### 17.1 Service of process

Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of Notices under clause 15.

#### 17.2 No merger

The rights and obligations of the parties do not merge on completion of the Transactions. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transactions.

#### 17.3 Invalidity and enforceability

- (a) If any provision of this deed is invalid under the law of any jurisdiction, the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 17.3(a) does not apply where enforcement of the provision of this deed in accordance with clause 17.3(a) would materially affect the nature or effect of the parties' obligations under this deed.

#### 17.4 Waiver

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

#### 17.5 Amendment

Unless this deed expressly states otherwise, this deed may only be amended by a document signed by each party.

#### 17.6 Assignment, novation and other dealings

- (a) A party may not assign, novate, declare a trust over or otherwise transfer or deal with any of its rights or obligations under this deed without the prior written consent of the other party, which consent may be withheld at the absolute discretion of the party from whom consent is sought.
- (b) A breach of clause 17.6(a) by a party will be deemed to be a material breach for the purposes of clause 13.1(a)(i).
- (c) Clause 17.6(b) does not affect the construction of any other part of this deed.

## CLAYTON UTZ

**17.7 Acknowledgement**

Each party acknowledges that the remedy of damages may be inadequate to protect the interests of the parties for a breach of clause 11 and that either party is entitled to seek and obtain without limitation injunctive relief if the other party breaches or threatens to breach clause 11.

**17.8 Further acts**

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

**17.9 Entire agreement**

To the extent permitted by law, in relation to its subject matter, this deed together with the Confidentiality Agreement and all other documents referred to in this deed:

- (a) constitutes the entire agreement and understanding of the parties; and
- (b) supersedes any prior agreement or understanding of the parties (whether written or otherwise), other than the Confidentiality Agreement.

**17.10 Withholding tax**

- (a) If SEQ determines, having regard to professional advice, that SEQ is required by law to withhold any amount from a payment to an EBG Shareholder or 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) (**Subdivision 14-D**) in respect of the acquisition of EBG Shares from an EBG Shareholder pursuant to the Transactions (**the Relevant Amount**), then SEQ shall be entitled to withhold an amount, in Australian dollars, equal to the amount of the Relevant Amount from the amount otherwise required to be paid to the EBG Shareholder (**Withholding Amount**) and payment of the reduced amount (being the Scheme Consideration or Takeover Bid Consideration (as the case may be) less the Withholding Amount) by SEQ in accordance with this deed or by EBG to the relevant EBG Shareholder in accordance with the Scheme, will constitute the full discharge of each of SEQ's and EBG's obligations under the Scheme or the Takeover Bid with respect to the payment of the Scheme Consideration or the Takeover Bid Consideration to the relevant EBG Shareholder, subject to SEQ paying the Withholding Amount to the relevant taxation authority and providing evidence of the payment in accordance with clause 17.10(b).
- (b) SEQ must pay any Withholding Amount so withheld to the relevant taxation authority in accordance with and in the time required by law, and, if requested in writing by the relevant EBG Shareholder provide a receipt or other appropriate evidence (or procure the provision of such receipt or other evidence) of such payment to the relevant EBG Shareholder.
- (c) SEQ acknowledges and agrees that it shall not pay any amounts to the Commissioner of Taxation under clause 17.10(a) with respect to an EBG Shareholder where it receives an entity declaration from the EBG Shareholder prior to the Implementation Date or date for payment of the Takeover Bid Consideration (**Relevant Date**), where:
  - (i) the entity declaration is made in accordance with the requirements in section 14-225 of Subdivision 14-D and covers the Relevant Date (**Entity Declaration**); and
  - (ii) SEQ does not know that the Entity Declaration is false.

## CLAYTON UTZ

- (d) If SEQ forms the view that it has knowledge that an Entity Declaration it has received is false, and SEQ received the Entity Declaration more than 30 days before the Relevant Date, SEQ shall not pay any amounts to the Commissioner of Taxation in respect of that EBG Shareholder until it has:
  - (i) provided information upon which it relied to form that view to the EBG Shareholder who has provided that Entity Declaration no less than 20 days before the Relevant Date;
  - (ii) provided the EBG Shareholder by notice in writing the opportunity to review the information provided to it and respond with their views no less than 10 days before the Relevant Date; and
  - (iii) reviewed any responses from the EBG Shareholder and, after having reconsidered its view, still be of the view that it has knowledge that the Entity Declaration is has received is false.
- (e) SEQ agrees that it will notify EBG in writing in the event that it contacts any EBG Shareholder in connection with the application of Subdivision 14-D to the Transaction.
- (f) EBG and SEQ agree to consult in good faith as to the application of Subdivision 14-D and agree to take all actions that they agree (each acting reasonably) are necessary or desirable following that consultation which may include, without limitation, making amendments to this deed, the Scheme or the Deed Poll to ensure that relevant representations are obtained from EBG Shareholders.

### 17.11 Counterparts

This deed may be executed in any number of counterparts by or on behalf of a party and by the parties in separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

### 17.12 Electronic signatures and exchange

- (a) Each party warrants that immediately prior to entering into this deed it unconditionally consented to:
  - (i) the requirement for a signature under any law being met; and
  - (ii) any other party to this deed executing it,
 by any method of electronic signature that other party uses (at that other party's discretion), including signing on an electronic device or by digital signature.
- (b) Without limitation, the parties agree that this deed may be exchanged by hand, post, facsimile or any electronic method that evidences a party's execution of this deed, including by a party forwarding a copy of its executed counterpart by hand, post, facsimile or electronic means to the other party.

### 17.13 Relationship of the parties

- (a) Nothing in this deed gives a party authority to bind any other party in any way.
- (b) Nothing in this deed imposes any fiduciary duties on a party in relation to any other party.

## CLAYTON UTZ

### 17.14 Remedies cumulative

Except as provided in this deed and permitted by law, the rights, powers and remedies provided in this deed are cumulative with, and not exclusive of, the rights, powers and remedies provided by law independently of this deed.

### 17.15 Exercise of rights

- (a) Unless expressly required by the terms of this deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

### 17.16 Governing law and jurisdiction

- (a) This deed is governed by and is to be construed according to the law applying in Queensland.
- (b) Each party irrevocably:
  - (i) submits to the non-exclusive jurisdiction of the courts of Queensland, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed; and
  - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 17.16(b)(i).

# CLAYTON UTZ

## Schedule 1 Agreed Bid Terms

### 1. The Offer

- (a) SEQ will offer to acquire all (but not some only) of the EBG Shares on and subject to the terms and conditions set out in this Schedule 1.
- (b) The consideration under the Offer is \$1.55 cash for each EBG Share (**Takeover Bid Consideration**).
- (c) By accepting the Offer, each EBG Shareholder will undertake to transfer to SEQ not only the EBG Shares to which the Offer relates, but also all Rights attached to those EBG Shares.
- (d) The Offer will be made to each person registered as the holder of EBG Shares in the EBG Share Register at 7.00pm (Sydney time) on the Register Date. It will also extend to:
  - (i) holders of securities that come to be EBG Shareholders during the period from the Register Date to the end of the Offer Period due to the conversion of, or exercise of rights conferred by, such securities and which are on issue as at the Register Date; and
  - (i) any person who becomes registered as the holder of EBG Shares during the Offer Period.
- (e) The Offer will be dated in accordance with the Timetable.

### 2. Offer Period

- (a) Unless withdrawn, the Offer will remain open for acceptance during the period commencing on the date of the Offer and ending at 7:00pm (Sydney time) on the later of:
  - (i) the date set pursuant to the Timetable;
  - (ii) any date to which the Offer Period is extended.
- (b) Subject to paragraph (c), SEQ reserves the right, exercisable in its sole discretion, to extend the Offer Period in accordance with the Corporations Act.
- (c) SEQ may not extend the Offer Period beyond the End Date without the prior written consent of EBG.
- (d) Unless the Offer is or has been declared unconditional prior to the Scheme Meeting, the Offer Period must not expire prior to the date that is 10 Business Days after the date of the Scheme Meeting.

### 3. How the Offer will be accepted

- (a) An EBG Shareholder will be required to accept the Offer for all (but not some only) of their EBG Shares.
- (b) An EBG Shareholder will be allowed to accept the Offer at any time during the Offer Period.
- (c) SEQ may establish an acceptance facility to facilitate the acceptance of the Offer.

## CLAYTON UTZ

**4. Validity of acceptances**

- (a) SEQ will be entitled to determine, in its sole discretion, all questions as to the form of documents, eligibility to accept the Offer and time of receipt of an acceptance of the Offer. The determination of SEQ will be final and binding on all parties.
- (b) SEQ will be entitled, in its sole discretion, at any time and without further communication to EBG Shareholders, to deem any Acceptance Form it receives to be a valid acceptance in respect of EBG Shares, even if a requirement for acceptance has not been complied with but the payment of the consideration in accordance with the Offer may be delayed until any irregularity has been resolved or waived and any other documents required to procure registration have been received by SEQ.
- (c) Where a EBG Shareholder satisfies the requirement for acceptance in respect of only some of its EBG Shares, SEQ will be entitled, in its sole discretion, to regard the Offer to be accepted in respect of those EBG Shares but not the remainder.

**5. Effective of acceptance**

An EBG Shareholder that has accepted the Offer will be unable to revoke their acceptance and the contract resulting from their acceptance will be binding on them and they will be unable to withdraw their EBG Shares from the Offer or otherwise dispose of their EBG Shares, except as permitted under the Corporations Act.

**6. Payment of Takeover Bid Consideration**

SEQ will provide the consideration due to EBG Shareholders for their EBG Shares within the time required under the Corporations Act.

**7. Takeover Bid Conditions****7.1 Minimum acceptance**

At the end of the Offer Period, SEQ has acquired, or otherwise has, a Relevant Interest in at least 90% (by number) of EBG Shares and is entitled to proceed to compulsory acquisition of EBG Shares under Part 6A.1 or Part 6A.2 (or both) of the Corporations Act.

**7.2 No Prescribed Occurrence**

No Prescribed Occurrence occurs between the Announcement Date and the date 3 business days after the end of the Offer Period (each inclusive).

**7.3 No Material Event**

No Material Event occurs, or is announced or otherwise becomes known to SEQ between the Announcement Date and the end of the Offer Period (each inclusive).

**7.4 Regulatory Approvals**

Before the end of the Offer Period, all Regulatory Approvals (if any), other than any OLGR Approvals, are granted or obtained unconditionally (or on the basis of conditions that impose only non-material requirements incidental to the Regulatory Approval), and none of those Regulatory Approvals have been withdrawn, cancelled or revoked.

**7.5 No restraint**

Between the Announcement Date and the end of the Offer Period (each inclusive):



## CLAYTON UTZ

- (a) there is not in effect any law, rule, regulation or preliminary or final decision, order, decree or ruling issued by any court of competent jurisdiction or Government Agency;
- (b) no action or investigation is announced, commenced or threatened by any Government Agency; and
- (c) no application is made to any Government Agency (other than by SEQ or any Associate of SEQ),

in consequence of or in connection with the Offer (other than an application to, or a decision or order of, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act) which is likely to or purports or threatens to restrain, prohibit, impede or otherwise adversely affect, the making of the Offers and the completion of the Takeover Bid or which requires the divestiture by SEQ of any EBG Shares or any material assets of EBG or any other member of the EBG Group.

### 7.6 Third party consents

Before the end of the Offer Period, EBG has received a copy of each consent or waiver required under the Change of Control Contracts to the change of control of EBG resulting from the Offer or aspect of it, and such consents or waivers have not been withdrawn, suspended or revoked.

### 7.7 Scheme fails

Either:

- (a) the Scheme is not approved at the Scheme Meeting by the requisite majority of EBG Shareholders under subparagraph 411(4)(a)(ii)(B) of the Corporations Act; or
- (b) following the approval of the Scheme at the Scheme Meeting by the requisite majority of EBG Shareholders under subparagraph 411(4)(a)(ii)(B) of the Corporations Act, the Court does not approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

## 8. Nature and waiver of Takeover Bid Conditions

- (a) Each of the Takeover Bid Conditions will be conditions subsequent. The non-fulfilment of any condition subsequent does not, until the end of the Offer Period (or in the case of the Takeover Bid Condition in paragraph 7.2 (*No Prescribed Occurrence*), until the end of the third Business Day after the end of the Offer Period), prevent a contract to sell EBG Shares from arising, but will entitle SEQ by written notice to EBG Shareholders, to rescind the contract resulting from EBG Shareholders' acceptance of the Offer.
- (b) Subject to the Corporations Act, SEQ may declare the Takeover Bid to be free from any Takeover Bid Condition by giving written notice to EBG declaring the Offer to be free from the relevant condition or conditions specified, in accordance with section 650F of the Corporations Act. This notice may be given:
  - (i) in the case of the Takeover Bid Condition in paragraph 7.2 (*No Prescribed Occurrence*), no later than 3 Business Days after the end of the Offer Period; and
  - (i) in the case of all the other Takeover Bid Conditions in paragraph 7 of this Schedule 1, not less than 7 days before the end of the Offer Period.
- (c) If a Scheme Condition is waived or satisfied, SEQ must declare the Takeover Bid free from the corresponding Takeover Bid Condition.

## CLAYTON UTZ

- (d) If, at the end of the Offer Period (or in the case of the Takeover Bid Condition in paragraph 7.2 (*No Prescribed Occurrence*) at the end of the third Business Day after the end of the Offer Period), the Takeover Bid Conditions have not been fulfilled and SEQ has not declared the Offer (or it has not become) free from those conditions, all contracts resulting from the acceptance of the Offer will be automatically void.

## 9. Withdrawal of the Offer

- (a) SEQ will be entitled to withdraw the Offer with the consent in writing of ASIC, which consent may be subject to conditions. If ASIC gives such consent, SEQ will give notice of the withdrawal to the ASX and to EBG and will comply with any other conditions imposed by ASIC.
- (b) If, at the time the Offer is withdrawn, all the Takeover Bid Conditions have been freed, all contracts arising from acceptance of the Offer before it was withdrawn will remain enforceable.
- (c) If, at the time the Offer is withdrawn, the Offer remains subject to one or more of the Takeover Bid Conditions, all contracts arising from its acceptance will become void (whether or not the events referred to in the relevant conditions have occurred).
- (d) A withdrawal pursuant to this paragraph 9 will be deemed to take effect:
  - (i) if the withdrawal is not subject to conditions imposed by ASIC, on and after the date on which that consent in writing is given by ASIC; or
  - (ii) if the withdrawal is subject to conditions imposed by ASIC, on and after the date on which those conditions are satisfied.

## 10. Notice of status of conditions

The date for giving the notice on the status of the conditions required by section 630(1) of the Corporations Act will be determined in accordance with the Timetable (subject to extension in accordance with section 630(2) of the Corporations Act if the Offer Period is extended).

## 11. Variation of the Offer

SEQ will be entitled to vary the Offer in accordance with the Corporations Act.

## 12. Power of attorney

Immediately upon the Offer being declared or becoming unconditional, and until EBG registers SEQ as the holder of the relevant EBG Shares in the EBG Share Register, each EBG Shareholder that has accepted the Offer:

- (a) is deemed to have appointed SEQ as attorney and agent (and directed SEQ in each such capacity) to appoint any director, officer, secretary or agent nominated by SEQ as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the relevant EBG Shares registered in their name and sign any shareholders' resolution or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by direct vote, by proxy or by corporate representative (other than pursuant to paragraph 12(a) of this Schedule 1);
- (c) must take all other actions in the capacity of a registered holder of the relevant EBG Shares as SEQ reasonably directs; and

## CLAYTON UTZ

- (d) acknowledges and agrees that in exercising the powers referred to in paragraph 12(a) of this Schedule 1, SEQ and any director, officer, secretary or agent nominated by SEQ under paragraph 12(a) of this Schedule 1 may act in the best interests of SEQ as the intended registered holder of the relevant EBG Shares.

### **13. Rights**

If SEQ becomes entitled to any Rights as a result of an acceptance of the Offer, it may require the person who accepted the Offer to give to SEQ all documents necessary to vest title to those Rights in SEQ. If those documents are not provided to SEQ, or if a person who accepted the Offer received or is entitled to receive (or any previous holder of the relevant EBG Shares received or is entitled to receive) the benefit of those Rights, SEQ will be entitled to deduct the amount (or value as reasonably assessed by SEQ) of such Rights (excluding the value of any franking credit) from any consideration otherwise payable. If SEQ does not, or cannot, make such a deduction, the person who accepted the Offer will be required to pay that amount to SEQ.

### **14. Stamp duty**

SEQ will pay any stamp duty on the transfer of EBG Shares.

### **15. Governing law**

The Offer and any contract that results from an acceptance of the Offer will be governed by the laws in force in Queensland, Australia.

# CLAYTON UTZ

## Schedule 2 Prescribed Occurrences and Material Events

### 1. Prescribed Occurrences

- (a) EBG converts all or any of its shares into a larger or smaller number of shares;
- (b) EBG or a Subsidiary of EBG resolves to reduce its share capital in any way;
- (c) EBG or a Subsidiary of EBG enters into a buy-back agreement or resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) EBG or a Subsidiary of EBG issues shares or securities convertible into shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (e) EBG or a Subsidiary of EBG issues, or agrees to issue, convertible notes;
- (f) EBG or a Subsidiary of EBG disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) EBG or a Subsidiary of EBG grants, or agrees to grant, a security interest (as defined in section 51A of the Corporations Act) in the whole, or a substantial part, of its business or property;
- (h) EBG or a Subsidiary of EBG resolves to be wound up;
- (i) a liquidator or provisional liquidator of EBG or a Subsidiary of EBG is appointed;
- (j) a court makes an order for the winding up of EBG or a Subsidiary of EBG;
- (k) an administrator of EBG, or a Subsidiary of EBG, is appointed under section 436A, 436B or 436C Corporations Act;
- (l) EBG or a Subsidiary of EBG executes a deed of company arrangement; or
- (m) a receiver, or receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of EBG or a Subsidiary of EBG.

### 2. Material Events

No member of the EBG Group:

- (a) declares, pays or distributes any dividend, bonus or other share of its profits or assets or return or agree to return any capital to its members, other than the Interim Dividend;
- (b) makes any change to its constitutional documents or passes any ordinary, special or extraordinary resolutions (other than any resolutions required by the Corporations Act or EBG's constitution to be considered at the annual general meeting of EBG to be held on or about 29 November 2024 or at any adjournment of that meeting);
- (c) appoints any person to its board of directors other than as contemplated under this deed;
- (d) acquires, leases or disposes of any securities, business, interest in any joint venture, entity or undertaking;

## CLAYTON UTZ

- (e) enters into any contract or commitment (including in respect of financial indebtedness or capital expenditure) requiring payments by the EBG Group in excess of \$25,000 (individually) other than any expenditure or commitment that is required to comply with its obligations under this deed or the Interim Dividend;
- (f) enters into, amends or terminates any contract or commitment with an annual value in excess of \$30,000 or with a term of 12 months or more other than in the ordinary course of business;
- (g) writes down any of its material assets;
- (h) incurs, or agrees to make or incur, any financial indebtedness, except in respect of trade indebtedness in the ordinary course of business or in respect of the Interim Dividend;
- (i) provides financial accommodation to any person other than to members of the EBG Group (irrespective of what form of financial indebtedness that accommodation takes);
- (j) enters into any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments;
- (k) enters into or materially alters, varies or amends any employment, consultant, severance or similar agreement or arrangement with any of its officers, directors or other executives (**Key Persons**) or accelerates or otherwise materially increases compensation, benefits or entitlements for any Key Person;
- (l) terminates or encourages the resignation of an employee, except in accordance with current personnel practices;
- (m) pays any of its directors or employees who are part of the senior or executive leadership team a termination or retention payment, other than pursuant to contractual arrangements in effect on the date of this deed and which have been Fairly Disclosed to SEQ prior to the date of this deed;
- (n) enters into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this deed;
- (o) settles any legal proceedings, disputed claim, investigation, arbitration or other like proceeding where the settlement amount payable by any member of the EBG Group exceeds \$20,000 (individually) or \$100,000 (in aggregate);
- (p) changes any accounting policy applied to a party to report its financial position, other than any change in policy required by a change in accounting standards;
- (q) does anything that would result in a change in the EBG consolidated tax group;
- (r) amends any arrangements with its advisers (including any amendment that might result in an increase in fees payable by the EBG Group to any adviser or agent) or appoints any adviser in respect of a Competing Proposal; or
- (s) authorises, commits or agrees to do any of the matters set out above or brings forward the time for performance of or releases any rights it has against a Third Party in respect of any obligations or commitments relating to such matters,

except to the extent:

- (t) required by any applicable law or Government Agency;

## CLAYTON UTZ

- (u) required or expressly permitted by or acknowledged in this deed or the Transactions;
- (v) undertaken with SEQ's prior written consent; or
- (w) Fairly Disclosed by EBG in its public filings with the ASX prior to the date of this deed.

## CLAYTON UTZ

**Schedule 3 SEQ Representations and Warranties**

SEQ represents and warrants to EBG that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(authority)** the execution and delivery of this deed has been properly authorised by all necessary corporate action of SEQ;
- (c) **(power)** it has full capacity, corporate power and lawful authority to execute, deliver and perform this deed;
- (d) **(no default)** this deed does not conflict with or result in the breach of or a default under:
  - (i) any provision of SEQ's constitution; or
  - (ii) any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound,

and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;
- (e) **(deed binding)** this deed is a valid and binding obligation of SEQ, enforceable in accordance with its terms;
- (f) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it, nor has any regulatory action of any nature been taken that would prevent or restrict its ability to fulfil its obligations under this deed;
- (g) **(no approvals required)** other than as contemplated by this deed, no approvals are required to be obtained by SEQ under any law, rule or regulation to perform and observe its obligations under this deed; and
- (c) **(sufficient funds)** it will have available to it sufficient cash amounts to enable it to perform its obligations to pay the total cash consideration payable to EBG Shareholders under the Takeover Bid.

## CLAYTON UTZ

**Schedule 4 EBG Representations and Warranties**

EBG represents and warrants to SEQ that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(authority)** the execution and delivery of this deed has been properly authorised by all necessary corporate action of EBG;
- (c) **(power)** it has full capacity, corporate power and lawful authority to execute, deliver and perform this deed;
- (d) **(no default)** this deed does not conflict with or result in the breach of or a default under:
  - (i) any provision of EBG's constitution;
  - (ii) any material term or provision of any material agreement (including any material financing arrangements) or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other EBG Group Member is bound,

and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;

- (e) **(deed binding)** this deed is a valid and binding obligation of EBG, enforceable in accordance with its terms;
- (f) **(continuous disclosure)** EBG has complied in all material respects with its continuous disclosure obligations under ASX Listing Rule 3.1 and, other than for this Takeover Bid, it is not relying on the carve-out in ASX Listing Rule 3.1A to withhold any material information from public disclosure;
- (g) **(capital structure)** as at the date of this deed, there are on issue 49,767,770 EBG Shares and it has not issued or granted (or agreed to issue or grant) any other securities, options, warrants, performance rights or other instruments which are still outstanding and may convert into EBG Shares and it is not under any obligation to issue or grant, and no person has any right to call for the issue or grant of, any EBG Shares, options, warrants, performance rights or other securities or instruments in EBG;
- (h) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another EBG Group Member, nor has any regulatory action of any nature been taken that would prevent or restrict its ability to fulfil its obligations under this deed;
- (i) **(compliance)** so far as EBG is aware, each member of the EBG Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign Government Agencies having jurisdiction over them and have all material licenses, authorisations and permits necessary for them to conduct the business of the EBG Group as presently being conducted;
- (j) **(financial statements)** so far as EBG is aware, EBG's financial statements as disclosed to ASX have been prepared in accordance with the accounting standards on a basis consistent with past practice financial statements and there has not been any event, change, effect or development which would require EBG to restate its financial statements as disclosed to ASX;



## CLAYTON UTZ

- (k) **(EBG assets)** the EBG Group owns, or has the right to use, all of the assets that are necessary and material for the conduct of the business of the EBG Group, and will continue to do so until the end of the Offer Period;
- (l) **(no litigation)** no litigation, prosecution, arbitration, mediation, or other proceedings relating to the EBG Group is current and, so far as EBG is aware, no litigation, prosecution, arbitration, mediation or other proceedings are pending or threatened or might reasonably be expected to arise as a result of current circumstances;
- (m) **(no expected termination)** no member of the EBG Group has any basis to believe or expect that any agreement which is material to the business of the EBG Group as a whole is likely to be terminated;
- (n) **(brokers and finders)** other than the Savills Agreement and any agreement contemplated by clause 7.2(b)(iv), no member of the EBG Group has, directly or indirectly, entered into any agreement or understanding with any person that would obligate any member of the EBG Group to pay any commission, brokerage fee, success or “finder’s fee” in connection with the Transactions.


CLAYTON UTZ

Executed as a deed

Executed by **SEQ Hospitality Group Pty Ltd**  
**ACN 681 115 471** in accordance with section 127  
of the Corporations Act 2001 (Cth):

Signed by:  
  
52FA0E4CC8F34F8  
Signature of director

Martin Ward  
Full name of above signatory

DocuSigned by:  
  
DC75812A1D87415  
Signature of company secretary/director

Andrew Prothero  
Full name of above signatory

Executed by **Eumundi Group Limited ABN 30**  
**010 947 476** in accordance with section 127 of  
the Corporations Act 2001 (Cth):

Signature of director

Full name of above signatory

Signature of company secretary/director

Full name of above signatory

CLAYTON UTZ

Executed as a deed

Executed by **SEQ Hospitality Group Pty Ltd**  
**ACN 681 115 471** in accordance with section 127  
of the Corporations Act 2001 (Cth):


\_\_\_\_\_  
Signature of director


\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of above signatory

\_\_\_\_\_  
Full name of above signatory

Executed by **Eumundi Group Limited ABN 30**  
**010 947 476** in accordance with section 127 of  
the Corporations Act 2001 (Cth):

  
\_\_\_\_\_  
Signature of director

  
\_\_\_\_\_  
Signature of company secretary/director

Joe Ganim  
\_\_\_\_\_  
Full name of above signatory

Duncan Cornish  
\_\_\_\_\_  
Full name of above signatory

CLAYTON UTZ

**Annexure A Agreed Public Announcement**



30 October 2024

Market Announcements Office  
ASX Limited

## Eumundi enters into Transaction Implementation Deed with SEQ to acquire 100% of Eumundi for \$1.55 cash per share

- Eumundi Group Limited (**Eumundi**) and SEQ Hospitality Group Pty Ltd (**SEQ**) have entered into a transaction implementation deed (**TID**) under which SEQ undertakes to acquire all Eumundi shares by way of both:
  - an off-market takeover offer at \$1.55 cash per Eumundi share (**Takeover Offer**); and
  - a scheme of arrangement at \$1.55 cash per Eumundi share (**Scheme**),(together the **SEQ Transaction**)
- **Eumundi's directors, in aggregate representing 43.34% of Eumundi shares, unanimously recommend the SEQ Transaction.** The Eumundi directors' recommendations are made in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable and the Scheme is in the best interests of Eumundi shareholders
- The price of \$1.55 per Eumundi share represents a premium of circa 23% to the closing price of Eumundi shares on 29 October 2024 of \$1.26

### Eumundi directors' recommendations and intentions

Eumundi's directors, in aggregate representing 43.34% of Eumundi shares as at the date of this announcement,<sup>1</sup> unanimously recommend that Eumundi shareholders **accept the Takeover Offer and vote in favour of the Scheme**, in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable and that the Scheme is in the best interests of Eumundi shareholders.

Each Eumundi director has informed Eumundi that they will:

- accept, or procure the acceptance of, the Takeover Offer in respect of any Eumundi shares they own or control; and
- cause all Eumundi shares held or controlled by them to be voted in favour of the Scheme,

in each case in the absence of a superior proposal, and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable and that the Scheme is in the best interests of Eumundi shareholders.

<sup>1</sup> As at the date of this announcement, Mr Joe Gamin has a direct or indirect interest in 13,021,572 Eumundi shares (or 26.16%) and Mr Gilbert De Luca has a direct or indirect interest in 8,548,118 Eumundi shares (or 17.18%).

## SEQ's proposal

Each of the Takeover Offer and the Scheme provides Eumundi shareholders with an attractive, liquid and immediate premium for their Eumundi shares. The price of \$1.55 cash per Eumundi share represents a premium of:

- 23.0% to the last close price of \$1.26, being the price of Eumundi shares on ASX at the close of trading on 29 October 2024 (the last trading day before this announcement);
- 32.2% to Eumundi's 30-day volume weighted average price (**VWAP**) of \$1.17 up to and including 29 October 2024; and
- 32.7% to Eumundi's 90-day VWAP of \$1.17 up to and including 29 October 2024.

## Commenting on the SEQ Transaction, Eumundi Chairman Joe Ganim said:

*"We are pleased to recommend the SEQ Transaction, which offers Eumundi shareholders an opportunity to realise their investments at a substantial premium to the current market price. The Board has carefully considered the SEQ Transaction in the context of other available alternatives as well as the continued uncertainty facing wider global markets. We believe this transaction not only provides shareholders with an attractive exit, but also secures the continued success of Eumundi's current business operations."*

*SEQ is part of an established group with an excellent understanding of the hospitality industry. The Board is confident that SEQ's leadership team, with their proven industry expertise and track record of effective management, is well-equipped to manage Eumundi's operations and drive continued growth. Their values align with our commitment to operational excellence and the well-being of our dedicated employees, ensuring both a seamless transition and a bright future for the business under their stewardship."*

## Transaction implementation deed and conditions

The TID sets out the respective rights and obligations of Eumundi and SEQ in relation to both the Takeover Offer and the Scheme, including certain "ordinary course of business" obligations and warranties and representation on terms which are customary or market standard for transactions of this nature.

The TID also contains customary deal protection mechanisms including "no shop", "no talk" and "no due diligence" restrictions, as well as notification and matching rights in the event of a competing proposal. A break-fee may also be payable by one party to the other in certain circumstances. The TID contains a customary fiduciary out provision, which allows the Eumundi board to fully consider any competing proposal that may reasonably be expected to lead to a superior proposal.

Full details of these arrangements are set out in the TID, a copy of which is attached to this announcement.

The SEQ Transaction outlined in the TID is fully funded and binding. Each of the Takeover Offer and the Scheme are subject to a limited number of conditions, which are set out in full in the TID, including:

- No prescribed occurrences for Eumundi
- No material acquisitions, disposals or other events for Eumundi
- No regulatory action is taken which adversely effects the Takeover Offer or the Scheme
- Third-party consents to the change in control of Eumundi with respect to material contracts
- Receipt of any applicable regulatory approvals

The Takeover Offer is also subject to a 90% minimum acceptance by Eumundi shareholders and the Scheme not being implemented.

The Scheme is also conditional on Eumundi shareholder approval, Court approval and the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Eumundi shareholders.

Pursuant to the terms of the TID, Eumundi has agreed to the reconstruction of the Eumundi board, as directed by SEQ, following SEQ receiving acceptances under the Takeover Offer of at least 50.1% and having declared the Takeover Offer unconditional.

## **Suspension of Dividend Reinvestment Plan (DRP)**

In accordance with ASX Listing Rule 3.10.8, Eumundi also announces the suspension of its DRP with immediate effect until further notice. Under clause 12.1 of the DRP, the Eumundi board may suspend the DRP at any time. While the DRP is suspended, participants in the DRP will receive cash distributions, including for the Special Dividend (if any). Eumundi reminds shareholders to review and, if necessary, update their bank account details with the Share Registry. No action is required by shareholders in relation to the DRP. Should the suspension of the DRP be lifted, then, under clause 12.5 of the DRP, each shareholder's existing DRP status will be reinstated upon the Eumundi board providing the requisite notice.

## **Interim Dividend**

Pursuant to the terms of the TID the Eumundi board is entitled to, and may, declare an interim dividend of up to 2.4 cents per Eumundi share. Any interim dividend that the Eumundi board may declare will be paid in cash at any time on or before:

- 31 March 2025;
- the date which is 5 business days after the Takeover Offer has become or is declared unconditional; and
- the Effective Date of the Scheme<sup>2</sup>.

Any payment of an interim dividend will not reduce the price of \$1.55 per Eumundi share under the Takeover Offer or the Scheme.

## **Next steps**

Eumundi shareholders do not need to take any action at this stage.

Detailed information relating:

- to the Takeover Offer will be set out in SEQ's Bidder's Statement and Eumundi's Target's Statement, which are each expected to be dispatched to Eumundi shareholders before the end of the calendar year; and
- to the Scheme will be set out in the Scheme Booklet, which is expected to be dispatched to Eumundi shareholders in early January 2025.

Eumundi will continue to keep its shareholders and the market informed of developments in accordance with its continuous disclosure obligations.

## **Advisers**

Eumundi has appointed Taylor Collison as its financial advisor and HopgoodGanim Lawyers as its legal advisor.

SEQ has appointed Morgans as its financial advisor and Clayton Utz as its legal advisor.

## **About SEQ**

SEQ is a part of the Fortitudo Group.

The Fortitudo Group, an independent hotel and liquor retail operator based in South East Queensland, owns and operates several popular venues, including the QA Hotel in New Farm and Treetops Tavern in Burleigh, as well as an additional 3 hotels and 17 bottle shops.

## **About EBG**

EBG is an independent hotel, retail liquor and investment property company based predominantly in South East Queensland. The EBG Group owns and operates the Ashmore Tavern and Aspley Central Tavern,

---

<sup>2</sup> The Effective Date of the Scheme is defined in the TID.

and owns hotel and retail investment properties including The Plough Inn, located in Brisbane's South Bank Parklands, the Courthouse Hotel, Murwillumbah, and the Aspley Central Shopping Centres.

This announcement was authorised for release by the Eumundi board.

For further information, please contact:

**Duncan Cornish**

Company Secretary

Ph. (07) 3212 6299

E. [dcornish@corpservices.com.au](mailto:dcornish@corpservices.com.au)



CLAYTON UTZ

**Annexure B Form of Scheme**



# Scheme of Arrangement

---

Eumundi Group Limited ABN 30 010 947 476 (**EBG**)

## BRISBANE

Level 8, Waterfront Place, 1 Eagle Street  
Brisbane Qld 4000 Australia

**T** +61 7 3024 0000  
**F** +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

**E** [contactus@hopgoodganim.com.au](mailto:contactus@hopgoodganim.com.au)  
29330114v1

## PERTH

Level 27, Allendale Square, 77 St Georges Terrace  
Perth WA 6000 Australia

**T** +61 8 9211 8111  
**F** +61 8 9221 9100

[www.hopgoodganim.com.au](http://www.hopgoodganim.com.au)



## Scheme of Arrangement pursuant to section 411 of the *Corporations Act 2001* (Cth)

### Between

Eumundi Group Limited ABN 30 010 947 476 (**EBG**)

and

Each holder of EBG Shares at the Scheme Record Date (each a **Scheme Participant** and together the **Scheme Participants**)

### Background

- A. EBG is a public company limited by shares incorporated in Australia and is admitted to the official list of the ASX.
- B. SEQ is a proprietary company limited by shares incorporated in Australia.
- C. EBG and SEQ have entered into the Implementation Deed, pursuant to which, amongst other things, EBG has agreed to propose the Scheme to EBG Shareholders, and each of EBG and SEQ have agreed to take certain steps to give effect to the Schemes.
- D. If the Scheme becomes Effective, then:
  - (a) all the Scheme Shares will be transferred to SEQ and the Scheme Consideration will be provided to the Scheme Participants in accordance with the terms of the Scheme; and
  - (b) EBG will enter the name and address of SEQ in the EBG Register as the holder of the Scheme Shares.
- E. SEQ has entered into the Deed Poll for the purpose of covenanting in favour of the Scheme Participants that it will observe and perform the obligations contemplated of it under the Scheme.

### It is agreed

#### 1. Definitions and interpretation

---

##### 1.1 Definitions

In this deed:

**ASIC** means the Australian Securities and Investments Commission.

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

**ASX Listing Rules** means the official listing rules of ASX, as amended and waived by ASX from time to time.

**ASX Operating Rules** means the settlement operating rules of ASX Settlement.

**ASX Settlement** means ASX Settlement and Transfer Corporation Pty Ltd ABN 49 008 504 532.



**Business Day** means:

- (a) if determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and
- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Brisbane, Queensland, Australia.

**CHES** means the Clearing House Electronic Subregister System, which facilitate electronic security transfer in Australia.

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

**Court** means the Federal Court of Australia or the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act, as agreed in writing by SEQ and EBG (each acting reasonably).

**Deed Poll** means the deed poll to be executed by SEQ in favour of the Scheme Participants prior to the First Court Date, in the form set out in Annexure C of the Implementation Deed (or such other form as SEQ and EBG may agree in writing, such agreement not to be unreasonably withheld or delayed) under which SEQ covenants in favour of each Scheme Participant to perform its respective obligations under the Scheme and the Implementation Deed as regards the implementation of the Scheme. A copy of the **Deed Poll** will be annexed to the Scheme Booklet.

**Delivery Time** means in relation to the Second Court Date, not later than two hours before:

- (a) the commencement of the hearing; or
- (b) if the commencement of the hearing is adjourned, the commencement of the adjourned hearing,

of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

**EBG Register** means the register of EBG Shareholders maintained by the EBG Registry in accordance with the Corporations Act.

**EBG Registry** means Computershare Investor Services Pty Limited.

**EBG Shareholder** means a holder of EBG Shares.

**EBG Shares** means the fully paid, ordinary shares in the capital of EBG.

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

**Effective Date** means the date on which the Scheme becomes Effective in accordance with section 411(10) of the Corporations Act.

**End Date** has the meaning set out in the Implementation Deed.

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



**Government Body** means:

- (a) any person, body or other thing exercising an executive, legislative, judicial or other governmental function of any country or political subdivision of any country;
- (b) any public authority constituted by or under a law of any country or political subdivision of any country; and
- (c) any person deriving a power directly or indirectly from any other Government Body.

**GST** has the meaning given to that term in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other date:

- (a) agreed between SEQ and EBG in writing, with such agreement not to be unreasonably withheld or delayed;
- (b) ordered by the Court; or
- (c) as may be required by the ASX.

**Implementation Deed** means the Implementation Deed between EBG and SEQ dated on or around the date of this Scheme.

**Registered Address** means the address of the Scheme Participant shown in the EBG Register.

**Scheme** means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by EBG and SEQ.

**Scheme Booklet** has the meaning set out in the Implementation Deed.

**Scheme Consideration** means the consideration to be provided by SEQ to the Scheme Participants under the terms of the Scheme for the transfer to SEQ of their Scheme Shares, as described in clause 5.1(a).

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

**Scheme Order** means the order of the Court made for the purposes of section 411(4)(b) of the Corporations Act in respect of the Scheme.

**Scheme Participants** means EBG Shareholders who are registered in the EBG Register as a holder of EBG Shares as at the Scheme Record Date.

**Scheme Record Date** means the date and time on which the entitlements to receive the Scheme Consideration under the Scheme will be determined, being 7:00pm on the second Business Day after the Effective Date (or such other time and date required by the ASX Listing Rules or agreed to in writing between EBG and SEQ subject to the written approval of the ASX).

**Scheme Shares** means EBG Shares on issue at the Scheme Record Date.



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

**Second Court Date** means the first day on which an application made to the Court for a Scheme Order is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

**SEQ** means SEQ Hospitality Group Pty Ltd ACN 681 115 471.

**Trust Account** means an Australian dollar denominated trust account operated by EBG or the EBG Registry as trustee for the benefit of the Scheme Participants.

## 1.2 Interpretation

- (a) Unless the contrary intention appears, a reference in this deed to:
  - (1) this deed or another document includes any variation or replacement of it despite any change in the identity of the parties;
  - (2) one gender includes the others;
  - (3) the singular includes the plural and the plural includes the singular;
  - (4) a person, partnership, corporation, trust, association, joint venture, unincorporated body, Government Body or other entity includes any other of them;
  - (5) an item, recital, clause, subclause, paragraph, schedule or attachment is to an item, recital, clause, subclause, paragraph of, or schedule or attachment to, this deed and a reference to this deed includes any schedule or attachment;
  - (6) a party includes the party's executors, administrators, successors, substitutes (including a person who becomes a party by novation) and permitted assigns;
  - (7) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them;
  - (8) money is to Australian dollars, unless otherwise stated; and
  - (9) a time is a reference to Brisbane, Queensland, Australia unless otherwise specified.
- (b) The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings and any table of contents or index are for convenience only and do not affect the interpretation of this deed.
- (e) A provision of this deed must not be construed to the disadvantage of a party merely because that party or its advisers were responsible for the preparation of this deed or the inclusion of the provision in this deed.



### 1.3 Business Days

- (a) If anything under this deed must be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (b) If an act is required to be done on a particular day, it must be done before 5.00pm on that day or it will be considered to have been done on the following day.

### 1.4 Parties

- (a) If a party consists of more than one person, this deed binds each of them separately and any two or more of them jointly.
- (b) An agreement, covenant, obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them separately.
- (c) An agreement, covenant, obligation, representation or warranty on the part of two or more persons binds them jointly and each of them separately.

## 2. Preliminary Matters

---

### 2.1 EBG

- (a) EBG is a public company limited by shares under section 112(1) of the Corporations Act.
- (b) EBG was incorporated in Queensland, Australia on 21 June 1989 and has its registered office at Level 8, Waterfront Place, 1 Eagle Street, Brisbane QLD 4000.
- (c) EBG is listed on the ASX.
- (d) As at the date of the Implementation Deed, EBG has 49,767,770 EBG Shares on issue.

### 2.2 SEQ

- (a) SEQ is a proprietary company limited by shares under section 112(1) of the Corporations Act.
- (b) EBG was incorporated in New South Wales, Australia on 27 September 2024 and has its registered office at William Buck, Level 7, 3 Horwood Place, Parramatta NSW 2150.

### 2.3 Implementation Deed

SEQ and EBG have agreed, by executing the Implementation Deed, to implement the terms of the Scheme and to perform their respective obligations under the Scheme.

### 2.4 Deed Poll

SEQ has executed the Deed Poll in favour of the Scheme Participants pursuant to which SEQ has covenanted to perform its obligations under the Scheme, including to provide to each Scheme Participant the Scheme Consideration to which the Scheme Participant is entitled under the Scheme, and to carry out its other obligations under the Implementation Deed and do all things necessary or expedient on its part to implement the Scheme.

### 2.5 Effect of the Scheme

Subject to clauses 3.1, 3.5, 3.6 and 3.7, if the Scheme becomes Effective then:



- (a) SEQ will provide to each Scheme Participant the Scheme Consideration in accordance with the terms of the Scheme and the Deed Poll;
- (b) subject to SEQ's compliance with its obligations in clause 2.5(a), all of the Scheme Shares and all of the rights and entitlements attached to them as at the Implementation Date will be transferred to SEQ; and
- (c) EBG will enter the name and address of SEQ in the EBG Register as the holder of the Scheme Shares transferred to SEQ in accordance with the terms of the Scheme.

### **3. Conditions**

---

#### **3.1 Conditions of the Scheme**

The Scheme is conditional upon:

- (a) all of the conditions precedent set out in clause 3.1 of the Implementation Deed (other than the condition precedent relating to the approval of the Court set out in clause 3.1(b) of the Implementation Deed) having been satisfied or waived in accordance with the terms of the Implementation Deed as at the Delivery Time on the Second Court Date;
- (b) as at the Delivery Time on the Second Court Date, neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms;
- (c) the Court having approved the Scheme pursuant to section 411(4)(b) of the Corporations Act, without modification or with modifications made or required by the Court under section 411(6) of the Corporations Act which are acceptable to both EBG and SEQ;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to EBG and SEQ have been satisfied; and
- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving the Scheme come into effect, pursuant to section 411(10) of the Corporations Act.

#### **3.2 Effect of conditions**

The fulfilment of the conditions in clause 3.1 is a condition precedent to the operation of the provisions of clauses 4, 5, 6, and 7 of this deed.

#### **3.3 Certificate**

EBG and SEQ will each provide to the Court on the Second Court Date a certificate signed by at least one of its respective directors (or such other evidence as the Court may request) stating (to the best of its knowledge) whether or not all the conditions precedent in clauses 3.1(a) and 3.1(b) of this Scheme (inclusive) have been satisfied or waived in accordance with the terms of the Implementation Deed as at the Delivery Time on the Second Court Date.

#### **3.4 Conclusive evidence**

The giving of a certificate by each of EBG and SEQ in accordance with clause 3.3 will, in the absence of manifest error, be conclusive evidence of the matters referred to in the certificate.





### 3.5 Termination of Implementation Deed

Without limiting any rights under the Implementation Deed, if the Implementation Deed is terminated in accordance with its terms before the Delivery Time on the Second Court Date, or the Effective Date has not occurred before the End Date, EBG and SEQ are each released from:

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

provided that EBG and SEQ retain the rights they have against each other in respect of any prior breach of the Implementation Deed.

### 3.6 Effective Date

Subject to clause 3.7, the Scheme will take effect on the Effective Date.

### 3.7 End Date

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

- (a) the Effective Date has not occurred on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless SEQ and EBG otherwise agree in writing.

## 4. Implementation of the Scheme

---

### 4.1 Lodgement of Court order

Following the approval of the Scheme by the Court in accordance with section 411(4)(b) of the Corporations Act, EBG will, as soon as possible, lodge with ASIC an office copy of the Scheme Order in accordance with section 411(10) of the Corporations Act.

### 4.2 Transfer of Scheme Shares

On the Implementation Date, in consideration of and subject to the provision by SEQ of the Scheme Consideration in the manner contemplated in clause 5.2, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to SEQ without the need for any further acts by any Scheme Participant (other than acts performed by EBG or any of its directors and officers as attorney and agent for the Scheme Participants under clause 7.2) by EBG effecting a valid transfer or transfers of the Scheme Shares to SEQ under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:

- (a) EBG delivering to SEQ for execution duly completed Scheme Transfers to transfer all of the Scheme Shares to SEQ, duly executed by EBG (or any of its directors and officers) as attorney and agent for each of the Scheme Participants as transferor under clause 7.2; and
- (b) SEQ duly executing the Scheme Transfers as transferee and delivering them back to EBG for registration.

### 4.3 Transfer documentation

As soon as practicable after receipt by EBG of the Scheme Transfers duly executed by SEQ as transferee pursuant to clause 4.2(b), but, subject to stamping of the Scheme Transfer (if



necessary), in any event on the Implementation Date, EBG must register SEQ in the EBG Register as the holder of all of the Scheme Shares.

#### **4.4 Provision of Scheme Consideration**

In consideration for, and prior to, the transfer to SEQ of each of the Scheme Shares, SEQ must pay into the Trust Account an amount equal to the aggregate amount of the Scheme Consideration payable to Scheme Participants, in accordance with clause 6.1.

#### **4.5 Beneficial entitlement by SEQ**

From the time of the provision of the Scheme Consideration to the Scheme Participants in accordance with clause 4.4, SEQ will be beneficially entitled to the Scheme Shares (together with all rights and entitlements attached to the Scheme Shares as at the Implementation Date) to be transferred to it under the Scheme pending the registration of SEQ in the EBG Register as the holder of the Scheme Shares.

#### **4.6 Enforcement of Deed Poll**

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

### **5. Scheme Consideration**

---

#### **5.1 Entitlement to Scheme Consideration**

- (a) Subject to clauses 5.2 and 5.3, the Scheme Consideration, in respect of a Scheme Participant, means A\$1.55 per Scheme Share for which a Scheme Participant is registered in the EBG Register as the holder as at the Scheme Record Date.
- (b) On the Implementation Date, in consideration of the transfer to SEQ 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, and subject to the terms of this Scheme and the Deed Poll.

#### **5.2 Fractional entitlements**

If the number of Scheme Shares held by a Scheme Participant as at the Scheme Record Date is such that the aggregate entitlement of that Scheme Participant to Scheme Consideration includes a fractional entitlement to a cent in cash, then the entitlement of that Scheme Participant must be rounded up or down with:

- (a) any fractional entitlement of less than 0.5 being rounded down to the nearest whole number of cents; and
- (b) any fractional entitlement of 0.5 or more being rounded up to the nearest whole number of cents.

#### **5.3 Shareholding splitting or division**

If SEQ is of the opinion (acting reasonably) that two or more Scheme Participants (each of whom holds a number of Scheme Shares that results in rounding in accordance with clause 5.2) have, before the Scheme Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, SEQ may give notice to those Scheme Participants:

- (a) setting out their names (as shown in the EBG Register) and Registered Addresses;
- (b) stating that opinion; and



- (c) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after such notice has been given, the Scheme Participant specifically identified in the notice as the deemed holder of all the specified Scheme Shares will, for the purposes of the other provisions of the Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Participants whose names and Registered Addresses are set out in the notice will, for the purposes of the other provisions of the Scheme, be taken to hold no Scheme Shares. SEQ, in complying with the other provisions of the Scheme relating to it in respect of the Scheme Participant specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Participants named in the notice under the terms of the Scheme.

## 6. Provision of Scheme Consideration

---

### 6.1 Payment of Scheme Consideration

- (a) SEQ must, no later than the Business Day before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the aggregate amount of the Scheme Consideration payable to the Scheme Participants, such amount to be held by EBG or the EBG Registry (as applicable) on trust for the Scheme Participants and for the purpose of sending the aggregate amount of the Scheme Consideration to the Scheme Participants (except that any interest on the amount will be for the account of SEQ).
- (b) On the Implementation Date and subject to funds having been deposited in accordance with clause 6.1(a), EBG must pay or procure the payment of the Scheme Consideration to each Scheme Participant from the Trust Account by either (in the sole discretion of EBG):
- (1) despatching, or procuring the despatch, to that Scheme Participant of a pre-printed cheque in the name of that Scheme Participant and for the relevant amount (denominated in A\$) drawn on the Trust Account, with such despatch to be made by pre-paid post to that Scheme Participant's Registered Address (as at the Scheme Record Date); or
  - (2) making, or procuring the making of, a deposit for the relevant amount (denominated in A\$) in a account with any Australian authorised deposit-taking institution notified by that Scheme Participant to EBG and recorded in or for the purposes of the EBG Register as at the Scheme Record Date.
- (c) To the extent that, following satisfaction of EBG's obligations under clause 6.1(b), there is any remaining amount held in the Trust Account, EBG must pay, or procure the payment of, that amount promptly to SEQ.

### 6.2 Joint holders

In the case of Scheme Shares held in joint names, any cheque required to be paid to Scheme Participants will be payable to the joint holders and will be forwarded to the holder whose name appears first in the EBG Register as at the Scheme Record Date.

### 6.3 Foreign resident capital gains withholdings

- (a) If SEQ determines, having regard to professional advice, that SEQ is required by law to withhold any amount from a payment to a Scheme Participant or 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) (**Subdivision 14-D**) in respect of the acquisition of Scheme Shares from a Scheme Participant (the **Relevant Amount**), then SEQ shall be entitled to withhold an amount, in Australian dollars, equal to the amount of the Relevant Amount from the amount otherwise required to be paid into the Trust Account under clause 6.1(a) (**Withholding Amount**) and payment of the



reduced amount (being the Scheme Consideration less the Withholding Amount) by SEQ into the Trust Account in accordance with clause 6.1(a) or by EBG to the relevant Scheme Participant in accordance with clause 6.1(b), will constitute the full discharge of each of SEQ's and EBG's obligations under clause 6.1 with respect to the payment of the Scheme Consideration to the relevant Scheme Participant, subject to SEQ paying the Withholding Amount to the relevant taxation authority and providing evidence of the payment in accordance with clause 6.3(b).

- (b) SEQ must pay any Withholding Amount so withheld to the relevant taxation authority in accordance with and in the time required 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.
- (c) SEQ shall not pay any amounts to the Commissioner of Taxation under clause 6.3(a) with respect to a Scheme Participant where it receives an entity declaration from the Scheme participant prior to the Implementation Date, where:
  - (1) the entity declaration is made in accordance with the requirements in section 14-225 of Subdivision 14-D and covers the Implementation Date (**Entity Declaration**); and
  - (2) SEQ does not know that the Entity Declaration is false.
- (d) If SEQ forms the view that it has knowledge that an Entity Declaration it has received is false, and SEQ received the Entity Declaration more than 30 days before the Implementation Date, SEQ shall not pay any amounts to the Commissioner of Taxation in respect of that Scheme Participant until it has:
  - (1) provided information upon which it relied on to form that view to the Scheme Participant who has provided that Entity Declaration no less than 20 days before the Implementation Date;
  - (2) provided the Scheme Participant by notice in writing the opportunity to review the information provided to it and respond with their views no less than 10 days before the Implementation Date; and
  - (3) reviewed any responses from the Scheme Participant and, after having reconsidered its view, still be of the view that it has knowledge that the Entity Declaration it has received is false.
- (a) SEQ will notify EBG in writing in the event that it contacts any Scheme Participant in connection with the application of Subdivision 14-D to this Scheme.
- (e) EBG and SEQ shall consult in good faith as to the application of Subdivision 14-D and agree to take all actions that they agree (each acting reasonably) are necessary or desirable following that consultation which may include, without limitation, making amendments to the Implementation Deed, this Scheme or the Deed Poll to ensure that relevant representations are obtained from Scheme Participants.

#### 6.4 Unclaimed monies

- (b) EBG may cancel a cheque issued under this clause 6 if the cheque:
  - (1) is returned to EBG; or
  - (2) has not been presented for payment within six months after the date on which the cheque was sent.
- (c) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Participant to EBG (or the EBG Registry) (which request may



not be made until the date which is 20 Business Days after the Implementation Date), EBG must reissue a cheque that was previously cancelled under this clause 6.4.

- (d) The *Public Trustee Act 1978* (Qld) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 98 of the *Public Trustee Act 1978* (Qld)).
- (e) Any interest or other benefit accruing from the unclaimed Scheme Consideration will be to the benefit of SEQ.

## 6.5 Orders of a court or Government Body

If written notice is given to EBG (or the EBG Registry) or SEQ of an order or direction made by a court of competent jurisdiction or by another Government Body that:

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable or required to be issued to that Scheme Participant by EBG in accordance with this clause 6, then EBG shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents EBG from providing consideration to any particular Scheme Participant in accordance with this clause 6, or the payment or issuance of such consideration is otherwise prohibited by applicable law, EBG shall be entitled to 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 the provision of the Scheme Consideration in accordance with this clause 6 is permitted by that (or another) order or direction or otherwise by law.

## 7. Scheme Participants

---

### 7.1 Agreements and consents

Each Scheme Participant:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares as at the Implementation Date, to SEQ in accordance with the terms of the Scheme;
- (b) irrevocably agrees to the variation, cancellation or modification of the rights attached to their EBG Shares constituted by or resulting from this Scheme;
- (c) acknowledges and irrevocably agrees that this Scheme binds EBG and all Scheme Participants (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of EBG; and
- (d) irrevocably consents to EBG and SEQ doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it,

without the need for any further act by that Scheme Participant.

### 7.2 Authority given to EBG for implementation of the Scheme

Each Scheme Participant will be deemed (without the need for any further act) to have irrevocably appointed EBG (and each of its directors and officers, jointly and severally) as the Scheme Participant's attorney and agent to do and execute all acts, matters, things and



documents on the part of each Scheme Participant necessary to implement and give full effect to this Scheme and the transactions contemplated by it, including (without limitation):

- (a) executing any document necessary or expedient to give effect to the Scheme (including executing a Scheme Transfer and any instrument appointing SEQ as sole proxy for or, where applicable, corporate representative of each Scheme Participant as contemplated by clause 7.3);
- (b) where Scheme Shares are held in a CHESS holding, causing a message to be transmitted to ASX Settlement in accordance with the ASX Operating Rules to transfer the Scheme Shares held by the Scheme Participant from the CHESS sub-register to the issuer sponsored sub-register operated by EBG and subsequently completing a proper instrument of transfer under paragraph (a) above; and
- (c) any other act necessary or desirable to give full effect to the Scheme and the transactions contemplated by it.

### 7.3 Appointment of SEQ as attorney for Scheme Shares

Upon the Scheme Consideration being paid by SEQ, each Scheme Participant:

- (a) is deemed to have appointed SEQ as attorney and agent (and directed SEQ in such capacity) to appoint any director, officer, secretary or agent nominated by of SEQ as its sole proxy and, where applicable, corporate representative, to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their 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 7.3(a));
- (b) must take all other actions in the capacity of a registered holder of Scheme Shares as SEQ reasonably directs; and
- (c) acknowledges and agrees that in exercising the powers referred to in clause 7.3(a), SEQ and any director, officer, secretary or agent nominated by SEQ under clause 7.3(a) may act in the best interests of SEQ as the intended registered holder of the Scheme Shares.

### 7.4 Warranties by Scheme Participants

Each Scheme Participant is deemed to have warranted to EBG, in its own right and for the benefit of SEQ, that:

- (a) all of their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred to SEQ under the Scheme will be transferred to SEQ free from all mortgages, pledges, charges, liens, encumbrances and security interests (including 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other 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 transfer their Scheme Shares to SEQ (including any rights and entitlements attaching to those shares as at the Implementation Date).

EBG undertakes that it will provide the warranties in this clause 7.4 to SEQ as agent and attorney of each Scheme Participant.

### 7.5 Title to Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares as at the Implementation Date) transferred under this Scheme to SEQ will, at the time of transfer of them to SEQ, vest





in SEQ free from all mortgages, charges, liens, encumbrances, pledges, security interests (including 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.

- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Participant in the manner contemplated by clause 6, SEQ will be beneficially entitled to the Scheme Shares transferred to it under the Scheme pending registration by EBG of the name and address of SEQ in the EBG Register as the holder of the Scheme Shares.

## **8. Dealings in EBG Shares**

---

### **8.1 Determination of Scheme Participants**

For the purpose of establishing the persons who are Scheme Participants, dealings in Scheme Shares will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in EBG Register as the holder of the relevant Scheme Shares at the Scheme Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings are received by the EBG Registry by 5:00pm on the day which is the Scheme Record Date (in which case EBG must register such transfers or transmission applications before 7:00pm on that day),

and EBG will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Participants, any transfer or transmission application in respect of EBG Shares received after such times, or received prior to such times but not in registrable form.

### **8.2 No disposals after Scheme Record Date**

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

### **8.3 Maintenance of EBG Register**

- (a) For the purpose of determining entitlements to the Scheme Consideration, EBG will, until the Scheme Consideration has been provided, maintain the EBG Register in accordance with the provisions of this clause 8.3 and the EBG Register in this form will solely determine entitlements to the Scheme Consideration.
- (b) All certificates and holding statements for Scheme Shares (other than holding statements in favour of SEQ and its successors in title after the Implementation Date) will cease to have any effect from the Scheme Record Date as documents of title in respect of those Scheme Shares. Subject to provision of the Scheme Consideration by SEQ and registration of the transfer to SEQ of the Scheme Shares contemplated by this deed, after the Scheme Record Date, each entry current at that date on EBG Register relating to Scheme Shares will cease to be of any effect other than as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

### **8.4 Information to be made available to SEQ**

EBG will procure that, as soon as reasonably practicable after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme Record Date, details of the names, Registered Addresses and holdings of Scheme Shares of every Scheme Participant



as shown in EBG Register as at the Scheme Record Date are made available to SEQ in such form as SEQ reasonably requires.

#### 8.5 **Suspension and Termination of Quotation of EBG Shares**

- (a) EBG must apply to ASX for suspension of trading of the EBG Shares on ASX with effect from the close of business on the Effective Date.
- (b) On a date after the Implementation Date to be determined by SEQ, EBG must apply to ASX for termination of official quotation of the EBG Shares on ASX and the removal of EBG from the official list of ASX.

### 9. **Notices**

---

#### 9.1 **General**

Any notice, transfer, transmission, application, direction, demand, consent or other communication (**Notice**) given or made under this document must be in writing in English and signed by the sender or a person duly authorised by the sender.

#### 9.2 **Communications by post**

Subject to clause 9.3, where a Notice referred to in this document is sent by post to EBG, it will not be deemed to have been received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at EBG's registered office or at EBG Registry.

#### 9.3 **After hours communications**

If a Notice is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

### 10. **General**

---

#### 10.1 **EBG and Scheme Participants bound**

The Scheme binds EBG and all Scheme Participants (including Scheme Participants who do not attend the Scheme Meeting, do not vote at that meeting or vote against the Scheme) and will, for all purposes, to the extent of any inconsistencies and permitted by law, have effect notwithstanding any provision in the constitution of EBG.

#### 10.2 **Further assurances**

- (a) Subject to clause 10.3, EBG will execute all documents and do all acts and things (on its own behalf and on behalf of each EBG Shareholder) necessary or expedient for the implementation of, and performance of its obligations under, the Scheme.
- (b) Without limiting EBG's other powers under the Scheme, EBG has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Implementation Deed





**10.3 Alterations and conditions**

EBG may, with the consent of SEQ, by its counsel consent on behalf of all Scheme Participants to any modifications or conditions which the Court thinks fit to impose, provided that in no circumstances will EBG be obliged to do so.

**10.4 GST**

EBG must pay to the Scheme Participants an amount equal to any GST for which the Scheme Participants are liable on any supply by the Scheme Participants under or in connection with the Scheme Shares, without deduction or set off of any other amount.

**10.5 Costs**

Any costs, and any stamp duty and any related fines, interest or penalties, which are payable on or in respect of this document or on any document referred to in this document will be paid as provided for in the Implementation Deed. For the avoidance of doubt, Scheme Participants do not have to pay any stamp duty, related fines, interest or penalties which are payable on or in respect of this document or any document referred to in this document.

**10.6 Governing law and jurisdiction**

- (a) This document is governed by and is to be construed in accordance with the laws applicable in Queensland.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

CLAYTON UTZ

**Annexure C Form of Deed Poll**



# Deed Poll

---

SEQ Hospitality Group Pty Ltd ACN 681 115 471 (**SEQ**)

# Deed Poll



## This Deed Poll is made on

---

### Parties

SEQ Hospitality Group Pty Ltd ACN 681 115 471 (**SEQ**)

in favour of

Each holder of EBG Shares at the Scheme Record Date (each a **Scheme Participant** and together the **Scheme Participants**)

### Background

- A. SEQ and EBG have entered into the Implementation Deed.
- B. Pursuant to the terms of the Implementation Deed, EBG has agreed to propose the Scheme.
- C. Under the Scheme, all Scheme Shares held by Scheme Participants will be transferred to SEQ for the Scheme Consideration.
- D. SEQ enters into this deed to covenant in favour of Scheme Participants to perform its obligations under the Scheme.

### It is agreed

#### 1. Definitions and interpretation

---

##### 1.1 Definitions

In this deed:

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

**ASX Listing Rules** means the official listing rules of ASX, as amended and waived by ASX from time to time.

**Authorised Officer** of a party which is a corporation means:

- (a) the Chief Executive Office, Chief Financial Officer or an employee of the party whose title contains either of the words Director or Company Secretary;
- (b) a person performing the function of any of those people set out in (a) above;
- (c) a solicitor acting on behalf of the party; or
- (d) a person appointed by the party to act as an Authorised Officer for the purposes of this deed and notified to the others.

**Business Day** means:

- (a) if determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and

# Deed Poll



- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Brisbane, Queensland, Australia.

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

**Court** means the Federal Court of Australia or the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act, as agreed in writing by SEQ and EBG (each acting reasonably).

**Delivery Time** means in relation to the Second Court Date, not later than two hours before:

- (a) the commencement of the hearing; or
- (b) if the commencement of the hearing is adjourned, the commencement of the adjourned hearing,

of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

**EBG** means Eumundi Group Limited ABN 30 010 947 476.

**EBG Group Member** means EBG and each of its subsidiaries.

**EBG Register** means the register of EBG securityholders maintained by the EBG Registry in accordance with the Corporations Act.

**EBG Registry** means Computershare Investor Services Pty Limited.

**EBG Shareholder** means a holder of EBG Shares.

**EBG Shares** means the fully paid ordinary shares in the capital of EBG.

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

**Effective Date** means the date on which the Scheme becomes Effective in accordance with section 411(10) of the Corporations Act.

**End Date** has the meaning set out in the Implementation Deed.

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

**Government Body** means:

- (a) any person, body or other thing exercising an executive, legislative, judicial or other governmental function of any country or political subdivision of any country;
- (b) any public authority constituted by or under a law of any country or political subdivision of any country; and
- (c) any person deriving a power directly or indirectly from any other Government Body.

**Implementation Deed** means the merger implementation Deed between EBG and SEQ dated or around the date of this Deed Poll.

# Deed Poll



**Scheme** or **Scheme of Arrangement** means a scheme of arrangement between EBG and the Scheme Participants for the transfer of the Scheme Shares to SEQ, made under Part 5.1 of the Corporations Act and includes any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by EBG and SEQ. A copy of the **Scheme** will be annexed to the Scheme Booklet.

**Scheme Booklet** has the meaning set out in the Implementation Deed.

**Scheme Consideration** means the consideration to be provided by SEQ to the Scheme Participants under the terms of the Scheme for the transfer to SEQ of their Scheme Shares, being \$1.55 per Scheme Share.

**Scheme Order** means the order of the Court made for the purposes of section 411(4)(b) of the Corporations Act in respect of the Scheme.

**Scheme Participants** means EBG Shareholders who are registered in the EBG Register as a holder of EBG Shares as at the Scheme Record Date.

**Scheme Record Date** means the date and time on which the entitlements to receive the Scheme Consideration under the Scheme will be determined, being 7:00pm on the second Business Day after the Effective Date (or such other time and date required by the ASX Listing Rules or agreed to in writing between the parties, subject to the written approval of the ASX).

**Scheme Shares** means EBG Shares on issue at the Scheme Record Date.

**Second Court Date** means the first day on which an application made to the Court for a Scheme Order is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

## 1.2 Interpretation

- (a) Unless the contrary intention appears, a reference in this a deed to:
- (1) this deed or another document includes any variation or replacement of it despite any change in the identity of the parties;
  - (2) one gender includes the others;
  - (3) the singular includes the plural and the plural includes the singular;
  - (4) a person, partnership, corporation, trust, association, joint venture, unincorporated body, Government Body or other entity includes any other of them;
  - (5) an item, recital, clause, subclause, paragraph, schedule or attachment is to an item, recital, clause, subclause, paragraph of, or schedule or attachment to, this deed and a reference to this deed includes any schedule or attachment;
  - (6) a party includes the party's executors, administrators, successors, substitutes (including a person who becomes a party by novation) and permitted assigns;
  - (7) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them;
  - (8) money is to Australian dollars, unless otherwise stated; and
  - (9) a time is a reference to Queensland, Australia time unless otherwise specified.

# Deed Poll



- (b) The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings and any table of contents or index are for convenience only and do not affect the interpretation of this deed.
- (e) A provision of this deed must not be construed to the disadvantage of a party merely because that party or its advisers were responsible for the preparation of this deed or the inclusion of the provision in this deed.

## 1.3 Business Days

- (a) If anything under this deed must be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (b) If an act is required to be done on a particular day, it must be done before 5.00pm on that day or it will be considered to have been done on the following day.

## 1.4 Parties

- (a) If a party consists of more than one person, this deed binds each of them separately and any two or more of them jointly.
- (b) An agreement, covenant, obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them separately.
- (c) An agreement, covenant, obligation, representation or warranty on the part of two or more persons binds them jointly and each of them separately.

## 2. Nature of deed poll

---

SEQ acknowledges that:

- (a) this deed may be relied on and enforced by any Scheme Participant in accordance with its terms, even though Scheme Participants are not party to it; and
- (b) under the Scheme, each Scheme Participant irrevocably appoints EBG and any of EBG's directors and officers as its agent and attorney, inter alia, to enforce this deed against SEQ on behalf of that Scheme Participant.

## 3. Conditions precedent and termination

---

### 3.1 Conditions precedent

The obligations of SEQ pursuant to this deed are subject to the Scheme becoming Effective.

### 3.2 Termination of deed

If:

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

SEQ's obligations under this deed will automatically terminate, unless SEQ and EBG otherwise agree in writing in accordance with the Implementation Deed.

# Deed Poll



## 3.3 Consequences of termination

If this deed is terminated under clause 3.2 then, in addition and without prejudice to any other rights, power or remedies available to Scheme Participants:

- (a) SEQ is released from any obligation to further perform this deed, except those obligations under clause 10.8; and
- (b) each Scheme Participant retains any rights, power or remedies it has against SEQ in respect of any breach of this deed by SEQ which occurred before termination of this deed.

## 4. Certificate in relation to conditions

---

SEQ and EBG must provide to the Court on the Second Court Date certificates (or such other evidence as the Court may request) stating, to the best of their knowledge, whether or not the conditions precedent to the Scheme have been satisfied or waived, subject to the terms of the Implementation Deed as at the Delivery Time on the Second Court Date.

## 5. Compliance with Scheme Obligations

---

### 5.1 Performance of obligations generally

Subject to clause 3, in consideration for the transfer to SEQ of the Scheme Shares in accordance with the Scheme, SEQ covenants in favour of each Scheme Participant that it will observe and perform all obligations contemplated of it under the Implementation Deed and the Scheme, including the relevant obligations relating to the provision of the Scheme Consideration as contemplated in clause 5.2.

### 5.2 Provision of Scheme Consideration

Subject to clauses 3, in consideration of the transfer of the Scheme Shares to SEQ, SEQ must:

- (a) acquire all of the Scheme Shares from Scheme Participants, in accordance with the provisions of the Scheme;
- (b) pay the Scheme Consideration to each Scheme Participant; and
- (c) otherwise do all things necessary or expedient on its part to implement the Scheme.

## 6. Representations and warranties

---

SEQ represents and warrants that:

- (a) it is a company limited by shares and validly existing under the Corporations Act;
- (b) it has full legal capacity and power to enter into this deed and to carry out the transactions that this deed contemplates;
- (c) it has taken all corporate action that is necessary or desirable to authorise its entry into this deed and its carrying out the transactions this deed contemplates;
- (d) this deed constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditor's rights generally) subject to any necessary stamping; and
- (e) the execution and performance by it of this Deed Poll and each transaction contemplated by this Deed Poll did not and will not violate in any respect a provision of:



# Deed Poll



- (1) a law, judgment, ruling, order or decree binding on it; or
- (2) its constitution or other constituent documents.

## 7. Continuing obligations

---

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

- (a) SEQ having fully performed its obligations under this deed; or
- (b) termination of this deed under clause 3.

## 8. Notices

---

### 8.1 Form

Any notice or other communication to or by any party must be:

- (a) in writing and in the English language;
- (b) addressed to the address of the recipient in clause 8.4 or to any other address as the recipient may have notified the sender; and
- (c) be signed by the party or by an Authorised Officer of the sender.

### 8.2 Manner

In addition to any other method of service authorised by law, the notice may be:

- (a) personally served on a party;
- (b) left at the party's current address for service;
- (c) sent to the party's current address for service by prepaid ordinary mail or if the address is outside Australia by prepaid airmail; or
- (d) sent by electronic mail to the party's electronic mail address.

### 8.3 Time

If a notice is sent or delivered in the manner provided in clause 8.2 it must be treated as given to or received by the addressee in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
  - (1) in Australia to an Australian address, the second Business Day after posting; or
  - (2) in any other case, on the tenth Business Day after posting; or
- (c) electronic mail, when the sender's computer reports that the message has been delivered to the electronic mail address of the addressee,

but if delivery is made after 5.00pm on a Business Day it must be treated as received on the next Business Day in that place.

### 8.4 Initial details

# Deed Poll



The addresses and numbers for service are initially:

(a) **EBG**

Attention: Suzanne Jacobi  
 Address: c/- HopgoodGanim Lawyers, Level 8, 1 Eagle Street, Brisbane QLD 4000  
 Email address: [sjacobilee@eumundigroup.com.au](mailto:sjacobilee@eumundigroup.com.au)  
 With a copy to: HopgoodGanim Lawyers  
 Attention: Luke Dawson and Rebecca Rutland  
 Address: Level 8, 1 Eagle Street, Brisbane QLD 4000  
 Email address: [l.dawson@hopgoodganim.com.au](mailto:l.dawson@hopgoodganim.com.au) and [r.rutland@hopgoodganim.com.au](mailto:r.rutland@hopgoodganim.com.au)

(b) **SEQ**

Attention: Andrew Prothero  
 Address: 64 James Street, New Farm QLD 4005  
 Email address: [andrew@capitalinmotion.com.au](mailto:andrew@capitalinmotion.com.au)  
 With a copy to: Clayton Utz  
 Attention: Jim Peterson and Lisa Houston  
 Address: Level 28, 71 Eagle Street, Brisbane QLD 4000  
 Email address: [jpeterson@claytonutz.com](mailto:jpeterson@claytonutz.com) and [lhouston@claytonutz.com](mailto:lhouston@claytonutz.com)

## 8.5 Changes

A party may from time to time change its address or numbers for service by notice to each other party.

## 9. Governing law and jurisdiction

---

### 9.1 Governing law

This deed is governed by and construed in accordance with the laws of Queensland.

### 9.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within paragraph 9.2(a).

## 10. Miscellaneous

---

### 10.1 Exercise rights

A single or partial exercise or waiver by a party of any right under or relating to this deed will not prevent any other exercise of that right or the exercise of any other right.

### 10.2 Merger

# Deed Poll



If the liability of a party to pay money under this deed becomes merged in any deed, judgment, order or other thing, the party liable must pay interest on the amount owing from time to time under that deed, judgment, order or other thing at the higher of the rate payable under this deed and that fixed by or payable under that deed, judgment, order or other thing.

## 10.3 Moratorium legislation

Any law which varies prevents or prejudicially affects the exercise by a party of any right, power or remedy conferred on it under this deed is excluded to the extent permitted by law.

## 10.4 No assignment

The rights and obligations of SEQ and of each Scheme Participant under this deed are personal. They cannot be assigned, encumbered or otherwise dealt with and no person may attempt, or purport, to do so without the prior consent of SEQ and EBG.

## 10.5 Remedies cumulative

The rights and remedies under this deed are cumulative and not exclusive of any rights or remedies provided by law.

## 10.6 Severability

If a provision of this deed is illegal, invalid, unenforceable or void in a jurisdiction it is severed for that jurisdiction and the remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

## 10.7 Further assurance

SEQ must, on its own behalf and, to the extent authorised by the Scheme, on behalf of each Scheme Participant, promptly at its own cost do all things (including executing and delivering all documents) necessary or desirable to give full effect to this deed and the transactions contemplated by it.

## 10.8 Costs

SEQ must bear its own costs arising out of the negotiation, preparation and execution of this deed. All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this deed and any instrument executed under or any transaction evidenced by this deed must be borne by SEQ. SEQ must indemnify each Scheme Participant on demand against any liability for that duty (including any related fines, penalties and interest).

## 10.9 Taxes

SEQ must:

- (a) pay all taxes which may be payable or determinable in connection with the execution, delivery, performance or enforcement of this deed or any payment or receipt or of any transaction contemplated by this deed; and
- (b) indemnify EBG against any liabilities resulting from any delay or omission by SEQ to pay any taxes,

provided that SEQ is not required to pay, reimburse or indemnify against any taxes to the extent that they have been imposed directly as a result of a delay caused by EBG or EBG Group Member.

## 10.10 Time

- (a) Time is of the essence of this deed.

# Deed Poll



- (b) If the parties agree to vary a time requirement, the time requirement so varied is of the essence of this deed.
- (c) An agreement to vary a time requirement must be in writing.

## 10.11 Variation

An amendment or variation to this deed is not effective unless:

- (a) either:
  - (1) before the First Court Date, the amendment or variation is agreed to in writing by EBG and SEQ (which such agreement may be given or withheld without reference to or approval by any EBG Shareholder);
  - (2) on or after the First Court Date, the amendment or variation is agreed to in writing by EBG and SEQ (which such agreement may be given or withheld without reference to or approval by any EBG Shareholder), and is approved by the Court; and
- (b) SEQ enters into a further deed poll in favour of the Scheme Participants giving effect to that amendment or variation.

## 10.12 Waiver

- (a) A party's waiver of a right under or relating to this deed, whether prospectively or retrospectively, is not effective unless it is in writing and signed by that party.
- (b) No other act, omission or delay by a party will constitute a waiver of a right.

## 10.13 Counterparts

This deed may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument. A party who has executed a counterpart of this deed may deliver it to, or exchange it with, another party by:

- (a) faxing; or
  - (b) emailing a pdf (portable document format) copy of,
- the executed counterpart to that other party.

# Deed Poll



**Executed and delivered as a deed**

---

**Executed as a deed** by SEQ Hospitality Group  
Pty Ltd ACN 681 115 471

---

Director

---

Director/Secretary

---

Print full name of Director

---

Print full name of Director/Secretary