



30 November 2016

Australian Securities Exchange Limited

PULSE HEALTH GROUP RECOMMENDS \$0.47 PER SHARE CASH ACQUISITION PROPOSAL FROM HEALTHE CARE

- ***76% premium to 90-day VWAP***
- ***Unanimous Board approval***
- ***Acquisition Proposal to be implemented by Scheme of Arrangement***

Wednesday, 30 November 2016: Pulse Health Limited (ASX:PHG) ("**Pulse**") announces that it has entered into a binding scheme implementation deed with Healthe Care Australia Pty Ltd ("**Healthe Care**") in relation to an all cash proposal (the "Acquisition Proposal") by Healthe Care to acquire 100% of the outstanding shares in Pulse for a cash consideration of \$0.47 per share. The Acquisition Proposal is proposed to be effected via a scheme of arrangement ("**Scheme**").

The Chairman of Pulse, Mr Stuart James said the Acquisition Proposal was an attractive opportunity for shareholders to realise a significant premium for their shares, being at:

- 76.0% to the volume weighted average price of \$0.267 for the 90 trading days up to and including 19 October 2016 (one day before the announcement of Healthe Care's non-binding and indicative proposal);
- 50.9% to the volume weighted average price of \$0.311 for the 30 trading days up to and including 19 October 2016;
- 45.5% to the volume weighted average price of \$0.323 for the 5 trading days up to and including 19 October 2016; and
- 42.4% over the closing price of \$0.330 on 19 October 2016.

Pulse's Board Unanimously Recommends the Scheme

"The Board unanimously recommends, in the absence of a superior proposal and subject to an independent expert concluding and continuing to conclude that the Scheme is in the best interests of Pulse shareholders, that shareholders vote in favour of the Scheme," Mr James said.

Subject to the same qualifications, each Director of Pulse intends to vote all Pulse shares held or controlled by them in favour of the Scheme.

Pulse has appointed Leadenhall as the independent expert to prepare a report on whether the Scheme is in the best interests of Pulse shareholders. The independent expert's report will be included in the Scheme Booklet, which is expected to be distributed to shareholders in February 2017.

Pulse's Chairman, Mr Stuart James said: *"Implementation of the Scheme with Healthe Care would provide shareholders with an immediate and significant increase in value. We consider the Acquisition Proposal price of \$0.47 cash per share reflects Pulse's strong portfolio of private hospitals in Australia and New Zealand and*



its ability to deliver growth into the future. Healthe Care is an experienced operator in this sector and their expertise will benefit Pulse's patients."

Scheme Implementation Deed

The scheme implementation deed contains terms which are common for a transaction of this nature, including "no shop", "no talk" provisions, 5 business days matching rights and notification obligations, and a break fee of \$1.2 million payable by Pulse in certain circumstances. The Scheme is also subject to customary regulatory approvals including the Australian Competition and Consumer Commission ("ACCC") and NZ Overseas Investment Office ("NZ OIO").

A copy of the executed scheme implementation deed, including all applicable conditions, is attached to this announcement.

Major Shareholder Intentions

One of the major shareholders in Pulse, Viburnum Funds Pty Ltd as trustee for VF Strategic Equities Fund, which currently holds voting power in 19.29% of the Pulse shares, has informed Pulse that it intends to vote the Pulse shares it holds at the time of the Scheme meeting¹ in favour of the Scheme, in the absence of a superior proposal and subject to the Pulse directors maintaining their unanimous recommendation to the shareholders to vote in favour of the Scheme.

Indicative Timetable and Next Steps

Pulse shareholders do not need to take any action at the present time.

A scheme booklet is expected to be sent to Pulse shareholders in early February 2017. The scheme booklet will contain information relating to the Scheme; the independent expert's report on whether the Scheme is fair and reasonable and in the best interests of Pulse shareholders; reasons for the Board recommendation; and details of the scheme meeting and other matters relevant to Pulse shareholders' vote on the Scheme. If the Scheme is approved and all conditions are satisfied, Healthe Care will acquire all of the shares in Pulse which will then be delisted.

Pulse shareholders will be given the opportunity to vote on the Scheme at the scheme meeting expected to be held in March 2017. Subject to shareholders approval and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented by the end of March 2017. These dates are indicative and subject to change.

Pulse's advisers are Allier Capital as financial adviser and Norton Rose Fulbright as legal adviser.

For more information, contact:

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GRA Cosway
Tel: +612 8353 0420

¹ Viburnum has not made any commitment to hold or not dispose of its current shareholding in Pulse. Its voting power at the time of the Scheme meeting may be less or more than 19.29%.



ABOUT PULSE HEALTH

Pulse Health was established in 2007 as an ASX listed private hospital operator. It is a leading operator of specialist private hospitals. Our hospitals, as key members of their communities, partner with local specialist doctors to provide high quality specialist care for local patients.

ABOUT HEALTHE CARE

Healthe Care is a subsidiary of Luye Medical, part of the Luye Group. Healthe Care is the third largest private hospital operator in Australia and one of the country's largest privately-owned healthcare organisations. Healthe Care employs 5,000 people and operates a portfolio of 17 hospitals located in major cities and key regional areas across Australia. These include around 2,000 beds, 50 operating theatres and eight catheterisation labs. The company also provides a range of out-patient services including workplace rehabilitation and community nursing which offer patients flexibility and continuity of care beyond their hospital stay.

Final

Dated 30 November 2016

Scheme Implementation Deed

Parties

Healthe Care Australia Pty Ltd
ABN 93 117 285 300

Pulse Health Limited
ABN 69 104 113 760

James Stewart
Norton Rose Fulbright Australia
Level 15, RACV Tower, 485 Bourke Street
Melbourne 3000
Tel: +61 3 8686 6573
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Our ref: 2840749

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Scheme Implementation Deed dated 30 November 2016

Parties

Healthe Care Australia Pty Ltd ABN 93 117 285 300
of 160 Sussex Street, Sydney NSW 2000
(**Healthe Care**)

Pulse Health Limited ABN 69 104 113 760
of Suite 6, Level 22, 227 Elizabeth Street, Sydney NSW 2000
(**Pulse**)

Introduction

- A** Healthe Care wishes to acquire all the ordinary issued Pulse Shares by means of a scheme of arrangement between Pulse and the Scheme Shareholders, under Part 5.1 of the Corporations Act.
- B** At the request of Healthe Care, Pulse has agreed to propose the Scheme, and issue the Scheme Booklet.
- C** Healthe Care and Pulse have agreed to implement the Scheme on and subject to the terms and conditions of this Deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

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

- (1) **ACCC** means the Australian Competition and Consumer Commission;
- (2) **ACCC Approval** means a clearance set out in clause 3.1(1);
- (3) **Adviser** means, in relation to an entity, its financier, legal adviser, financial adviser or technical or other expert advisers (not including the Independent Expert) or consultant who provides advisory services in a professional capacity to the market in general and who has been engaged by that entity;
- (4) **Agreed Announcement** means the announcement to ASX by Pulse in the form set out in Annexure D to this Deed or such other form as the parties may agree;
- (5) **AIFRS** means the International Financial Reporting Standards as adopted in Australia;
- (6) **ASIC** means the Australian Securities and Investments Commission;

- (7) **ASIC Regulatory Guide** means any regulatory guides issued by ASIC in respect of the Corporations Act;
- (8) **Associate** has the meaning given to that term in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this Deed and Pulse or Healthe Care (as applicable) were the designated body;
- (9) **ASX** means ASX Limited (ACN 008 624 691) or the financial market operated by it (as the context requires);
- (10) **Break Fee** means \$1,200,000;
- (11) **Business Day** means a business day as defined in the Listing Rules;
- (12) **Claim** means a demand, claim, action or proceeding, however arising and whether present, unascertained, immediate, future or contingent, including any claim for specific performance;
- (13) **Competing Proposal** means an expression of interest, offer or proposal by any person (other than Healthe Care or its Related Bodies Corporate or their Associates) which, if completed, would result in a person (whether directly or indirectly):
 - (a) acquiring a Relevant Interest in Pulse Shares such that the person obtains a total Relevant Interest of 20% or more of the issued Pulse Shares or the issued shares of any material Subsidiary of Pulse;
 - (b) acquiring a legal or equitable interest in all, or a substantial part of, the assets of Pulse or of any material Subsidiary of Pulse not held by that person as at the date of this Deed;
 - (c) acquiring the capacity to control the financial and operating policies, assets or management of Pulse or of a material Subsidiary of Pulse or of a material part of the business of any such entity; or
 - (d) otherwise merging or transacting with, or acquiring or becoming the holder of a significant shareholding or economic interest in, Pulse or a material Subsidiary of Pulse or its businesses or assets and, for the purposes of this Deed other than clause 11, where such transaction:
 - (i) is conditional on the Scheme not becoming Effective, or requires Pulse to abandon, terminate, or fail to proceed with the proposed Transaction with Healthe Care; or
 - (ii) if implemented, would materially reduce the likelihood of the Scheme becoming Effective,

including, without limitation, by way of takeover bid, scheme of arrangement, plan of arrangement, capital reduction, shareholder approved transaction, sale of assets or businesses, sale or purchase of shares, joint venture or partnership, reverse takeover, recapitalisation, debt for equity arrangement or other transaction or arrangement;
- (14) **Conditions Precedent** mean those conditions set out at clause 3.1;
- (15) **Confidentiality Agreement** means the confidentiality agreement between Healthe Care and Pulse dated on or about 19 August 2016;

- (16) **Corporations Act** means the *Corporations Act 2001* (Cth), as modified from time to time by ASIC class orders and instruments having general application;
- (17) **Court** means the Supreme Court of New South Wales or such other court of competent jurisdiction agreed in writing by Healthe Care and Pulse;
- (18) **Data Room** means the data room established by Pulse, an index to which has been initialled by, or on behalf of, each of Healthe Care and Pulse on or prior to the date of this Deed as a true record of those documents contained in the data room;
- (19) **Deed** means this Scheme Implementation Deed and any schedule or annexure to it;
- (20) **Deed Poll** means a deed to be executed by Healthe Care substantially in the form of Annexure B to this Deed (or in such other form agreed by the parties in writing or required by the Court) under which Healthe Care covenants in favour of the Scheme Shareholders to perform its obligations under the Scheme;
- (21) **Disclosure Materials** means:
- (a) the documents and information contained in the Data Room or made available to Healthe Care and its Representatives (including by Pulse's insurers) prior to signing of this Deed; and
 - (b) the document containing the written responses from Pulse and its Representatives to requests for further information made by Healthe Care and its Representatives, a copy of which has been initialled by, or on behalf of, the relevant parties for identification on or prior to the date of this Deed;
- (22) **Effective** means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme;
- (23) **Effective Date** in relation to the Scheme means the date on which the Scheme becomes Effective;
- (24) **Encumbrance** means a security interest, mortgage, charge, pledge, lien, hypothecation or third party interest of any kind whatsoever, or an agreement or arrangement to create any of them or to allow any of them to exist and **Encumber** has a corresponding meaning;
- (25) **End Date** means 31 May 2017 or such other date as agreed in writing between Healthe Care and Pulse;
- (26) **Exclusivity Deed** means the exclusivity deed between Healthe Care and Pulse dated 20 October 2016, as amended or replaced from time to time;
- (27) **Exclusivity Period** means the period commencing on the date of this Deed and ending on the earlier of:
- (a) the End Date;
 - (b) the Effective Date; and
 - (c) the date that this Deed is terminated in accordance with its terms;
- (28) **First Court Date** means the first day of the First Court Hearing;

- (29) **First Court Hearing** means the Court hearing at which an application made to the Court, in accordance with clause 6.1(17), for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is heard;
- (30) **FY** means financial year;
- (31) **Governmental Agency** includes:
- (a) ASX, ASIC, ACCC, NZ OIO;
 - (b) any Australian or foreign government or governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal agency or entity, including a Tax Authority;
 - (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
 - (d) any regulatory organisation established by statute;
- (32) **Headcount Test** means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution is passed at the Scheme Meeting by a majority in number of Pulse Shareholders present and voting, either in person or by proxy;
- (33) **Healthe Care Board** means the board of directors of Healthe Care;
- (34) **Healthe Care Group** means Healthe Care and its Subsidiaries and Related Bodies Corporate, and **member of the Healthe Care Group** means each of those entities;
- (35) **Healthe Care Indemnified Parties** means the directors, officers and employees of Healthe Care's and its Related Bodies' Corporate as at the date of this Deed and from time to time;
- (36) **Healthe Care Information** has the meaning given to the term in clause 6.2(1);
- (37) **Implementation Date** means the third Business Day following the Scheme Record Date (or another date agreed between Healthe Care and Pulse);
- (38) **Independent Expert** means the independent expert appointed by Pulse to opine on whether the Scheme is in the best interests of Pulse Shareholders and to prepare a report for inclusion in the Scheme Booklet in accordance with clause 6.1(5), the Corporations Act and ASIC policy and practice;
- (39) **Independent Expert's Report** means the initial, and any subsequent or supplementary, report produced by the Independent Expert for inclusion in or to accompany the Scheme Booklet;
- (40) **Insolvency Event** means in relation to a person:
- (a) **Insolvency official:** the appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person;
 - (b) **Arrangements:** the entry by the person into a compromise or arrangement with its creditors generally;
 - (c) **Winding up:** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot

reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or dissolution of the person other than where the application or order (as the case may be) is set aside within 14 days;

- (d) **Suspends payment:** the person suspends or threatens to suspend payment of its debts generally;
 - (e) **Ceasing business:** the person ceases or threatens to cease to carry on business;
 - (f) **Insolvency:** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act or under the legislation in the jurisdiction of incorporation of that person; or
 - (g) **Analogous Event:** anything analogous to those set out in any of paragraphs (a) to (f) inclusive occurs under the laws of any foreign jurisdiction;
- (41) **Liability Cap** means:
- (a) for Healthe Care, an amount equal to the aggregate Scheme Consideration, calculated by multiplying the Scheme Consideration by the number of Pulse Shares on issue at the date of this Deed ; and
 - (b) for Pulse, an amount equal to the Break Fee;
- (42) **Listing Rules** means the official listing rules of ASX as from time to time amended or waived in their application to a party;
- (43) **Material Adverse Change** an event, change, condition, matter, circumstance or thing occurring after the date of this Deed (each a **Specified Event**) which, whether individually or when aggregated with all such Specified Events has or will or is reasonably likely to have the effect of a diminution in:
- (a) the value of the consolidated net assets of Pulse Group, taken as a whole, by at least \$5,000,000 against what it would reasonably have been expected to have been but for such Specified Event; or
 - (b) the consolidated earnings before interest expense, tax, depreciation and amortisation and significant and non-recurring items of Pulse Group, taken as a whole, by at least \$1,000,000 in the FY17 financial year for Pulse Group against what it would reasonably have been expected to have been but for such Specified Event;
- other than those Specified Events:
- (c) required or permitted under this Deed or the Scheme;
 - (d) that are fully and fairly disclosed in the Disclosure Materials;
 - (e) agreed to in writing by Healthe Care;
 - (f) that are fully and fairly disclosed in an announcement made to ASX prior to the date of this Deed that is publicly available;

- (g) resulting from changes in law or in general economic, market, political or business conditions; or
 - (h) resulting from any change occurring directly as a result of a general deterioration in equity markets, interest rates, exchange rates or credit spreads, that impacts Pulse and its competitors in a similar manner;
- (44) **NZ OIO** means the New Zealand Overseas Investment Office;
- (45) **NZ OIO Consent** means the NZ OIO consent set out in clause 3.1(2);
- (46) **NZ Overseas Investment Act** means the Overseas Investment Act 2005 (New Zealand);
- (47) **NZ Overseas Investment Regulations** means the Overseas Investment Regulations 2005 (New Zealand);
- (48) **Officer** means, in relation to an entity, its directors, officers and Senior Executives or any of the entity's Related Bodies Corporate;
- (49) **Option Cancellation Deed** means a deed between Pulse and a Pulse Option holder (in the form approved by Health Care acting reasonably) under which those parties agree to cancel all of that Pulse Option holder's Pulse Options with effect on the Implementation Date, conditional on the Scheme becoming Effective, for no consideration.
- (50) **Prescribed Event** means the occurrence of any of the following:
- (a) Pulse or any of its Subsidiaries converting all or any of its shares into a larger or smaller number of shares;
 - (b) Pulse or any of its Subsidiaries resolving to reduce its share capital in any way;
 - (c) Pulse or any of its Subsidiaries:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
 - (d) Pulse or any of its Subsidiaries declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members to a person that is not a wholly-owned Subsidiary of Pulse, or announcing an intention to do any of the foregoing;
 - (e) Pulse or any of its Subsidiaries issuing shares, or granting an option over its shares to a person that is not a wholly-owned Subsidiary of Pulse, or agreeing to make such an issue or grant such an option to a person that is not a wholly-owned Subsidiary of Pulse;
 - (f) Pulse or any of its Subsidiaries issuing convertible securities or agreeing to issue securities or other instruments convertible into shares or debt securities to a person that is not a wholly-owned Subsidiary of Pulse;
 - (g) Pulse or any of its Subsidiaries disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;

- (h) Pulse or any of its Subsidiaries creating, or agreeing to create, any mortgage, charge, lien or other Encumbrance over the whole, or a substantial part, of its business or property other than in connection with any rollover or refinancing of existing financial indebtedness fully and fairly disclosed in the Disclosure Materials on terms that Pulse is best able to negotiate, acting reasonably, provided that such rollover or refinancing does not constitute a Material Adverse Change;
- (i) Pulse or any of its Subsidiaries paying, or agreeing to pay, any of its directors, officers, or Senior Executives any payment (including any form of termination payment, retention payment, exertion bonus or debt forgiveness), other than:
 - (i) in accordance with contractual arrangements in effect on the date of this Deed and which are contained in the Disclosure Materials; or
 - (ii) in connection with usual remuneration reviews conducted in the ordinary course of business and consistent with past practice;
- (j) Pulse or any of its Subsidiaries varying any employment or services agreement with one or more of its directors, officers or Senior Executives, or accelerating or otherwise increasing compensation or benefits for any of the foregoing;
- (k) Pulse or any of its Subsidiaries resolving that it be wound up;
- (l) a liquidator, provisional liquidator or administrator of Pulse or any of its Subsidiaries being appointed;
- (m) the making of an order by a court for the winding up of Pulse or any of its Subsidiaries;
- (n) Pulse or any of its Subsidiaries executing a deed of company arrangement;
- (o) a receiver, or a receiver and manager, in relation to the whole, or a substantial part, of the property of Pulse or any of its Subsidiaries being appointed;
- (p) an administrator of Pulse or any of its Subsidiaries being appointed under the Corporations Act;
- (q) Pulse making any change or amendment to its constitution, or any Subsidiary of Pulse making any material change or amendment to its constitution;
- (r) Pulse or any of its Subsidiaries making any change to their accounting practices or policies, other than to comply with generally accepted Australian accounting standards or AIFRS (or their equivalent in the relevant jurisdiction);
- (s) Pulse or any of its Subsidiaries:
 - (i) materially varying or terminating one or more contracts with any private health fund; or
 - (ii) materially adversely varying or terminating one or more contracts which variations or terminations have, or are expected to have, an impact of:

(A) \$500,000 (individually or in aggregate) or more in gross annual revenue or expenditure for the Pulse Group; or

(B) \$250,000 (individually or in aggregate) or more in gross annual revenue or expenditure in respect of the Gold Coast Surgical Hospital.

This paragraph (s) does not apply to renewal of any existing contract contained in the Disclosure Materials which has expired or is about to expire on terms no less favourable than their current terms as a whole;

(t) Pulse or any of its Subsidiaries entering into contracts or arrangements that generate, or are expected to incur:

(i) \$500,000 (individually or in aggregate) or more in gross annual expenditure for the Pulse Group; or

(ii) \$250,000 (individually or in aggregate) or more in gross annual expenditure in respect of the Gold Coast Surgical Hospital,

other than renewal of any existing contract contained in the Disclosure Materials which has expired or is about to expire or variation of terms which have expired or are about to expire on terms that Pulse is best able to negotiate, acting reasonably;

(u) Pulse or any of its Subsidiaries:

(i) acquiring, leasing or disposing of;

(ii) agreeing to acquire, lease or dispose of; or

(iii) offering, proposing, announcing a bid or tending for the acquisition, leasing or disposal of,

any business, asset, security, entity or undertaking, the value of which exceeds:

(iv) \$500,000 (individually or in aggregate) in respect of the Pulse Group; or

(v) \$250,000 (individually or in aggregate) in respect of the Gold Coast Surgical Hospital,

excluding the renewal or entry into new leases contained in the Disclosure Materials which have expired or are about to expire or are under negotiation on terms that Pulse is best able to negotiate, acting reasonably;

(v) Pulse or any of its Subsidiaries agreeing to incur capital expenditure of more than:

(i) \$500,000 (individually or in aggregate) in respect of the Pulse Group; or

(ii) \$250,000 (individually or in aggregate) in respect of the Gold Coast Surgical Hospital;

(w) Pulse or any of its Subsidiaries incurring or committing to any additional financial indebtedness (including borrowings, loans and advances,

operating and finance leases or the issue of debt securities or hybrid securities) for one or more related items in excess of:

- (i) \$500,000 (individually or in aggregate) in respect of the Pulse Group; or
- (ii) \$250,000 (individually or in aggregate) in respect of the Gold Coast Surgical Hospital,

other than:

- (iii) any rollover or refinancing of existing financial indebtedness fully and fairly disclosed in the Disclosure Materials on terms that Pulse is best able to negotiate, acting reasonably, provided that such rollover or refinancing does not constitute a Material Adverse Change; or
- (iv) to draw on the Pulse Group's existing working capital facility as at the date of this Deed up to an aggregate amount of \$3,500,000, where the drawing is used only for the purposes of expenditure that does not otherwise constitute a Prescribed Event;
- (x) Pulse or any of its Subsidiaries guaranteeing or indemnifying the obligations of any person other than a member of the Pulse Group, other than guarantees or indemnities given (including in customer or supply contracts) in the ordinary course of business consistent with past practice or in connection with any rollover or refinancing of existing financial indebtedness fully and fairly disclosed in the Disclosure Materials on terms that Pulse is best able to negotiate, acting reasonably, provided that such rollover or refinancing does not constitute a Material Adverse Change;
- (y) Pulse or any of its Subsidiaries providing financial accommodation other than to a wholly-owned Subsidiary of Pulse (irrespective of what form that financial indebtedness takes) in excess of \$250,000 (individually or in aggregate), other than provision of payment terms or trade debt given or incurred in the ordinary course of business consistent with past practice;
- (z) Pulse or any of its Subsidiaries entering into, or resolving to enter into, a transaction with any related party of Pulse, as defined in section 228 of the Corporations Act;
- (i) Pulse or any of its Subsidiaries:
 - (i) settling any legal proceedings, disputed claim, investigation, arbitration or other like proceeding in relation to any matter where the settlement amount payable by Pulse or any of its Subsidiaries exceeds \$250,000;
 - (ii) admitting to fault or liability exceeding \$250,000 in value in respect of any legal proceedings, disputed claim, investigation, arbitration or other like proceeding; or
 - (iii) accepting as a compromise of a matter less than the full compensation due to Pulse or any of its Subsidiaries where the financial impact of the compromise on the Pulse Group is more than \$250,000 (individually or in aggregate),

other than in respect of any legal proceedings, disputed claim, investigation, arbitration or other like proceeding which is fully covered

(except for deductibles or excess payments) by an existing insurance policy of the Pulse Group fully and fairly disclosed in the Disclosure Materials; or

- (aa) Pulse or any of its Subsidiaries employing an individual who is not an employee as at the time of signing this Deed where the individual reports, or is to report, directly to the Managing Director/Chief Executive Officer of Pulse,

provided that none of the above events will constitute a Prescribed Event where the event is:

- (bb) required or permitted to be done or procured under this Deed or the Scheme;
- (cc) required to be done by law;
- (dd) required pursuant contractual or equitable obligation (including obligation of confidentiality) which any member of the Pulse Group owes to any third party, provided that such contractual or equitable obligation:
 - (i) is in existence at the date of this Deed and has been fully and fairly disclosed in the Disclosure Materials; or
 - (ii) has been entered into following the date of this Deed in compliance with the provisions of this Deed;
- (ee) agreed to in writing by Healthe Care (such consent not to be unreasonably withheld or delayed);
- (ff) fully and fairly disclosed by Pulse in the Disclosure Materials; or
- (gg) fully and fairly disclosed in an announcement made to ASX prior to the date of this Deed that is publicly available;

- (51) **Pulse Board** means the board of directors of Pulse;
- (52) **Pulse Directors** means any person who is a director of Pulse;
- (53) **Pulse Group** means Pulse and its Subsidiaries, and **member of the Pulse Group** means each of those entities;
- (54) **Pulse Indemnified Parties** means the directors, officers and employees of Pulse and its Related Bodies' Corporate as at the date of this Deed and from time to time;
- (55) **Pulse Information** means all information included in or accompanying the Scheme Booklet, other than the Healthe Care Information and the Independent Expert's report that is included in or accompanies the Scheme Booklet;
- (56) **Pulse Option** means an option to acquire a Pulse Share;
- (57) **Pulse Right** means a performance right to acquire a Pulse Share;
- (58) **Pulse Share** means a fully paid ordinary share in the capital of Pulse;
- (59) **Pulse Share Register** means the register of shareholders of Pulse maintained by or on behalf of Pulse in accordance with section 168(1) of the Corporations Act;

- (60) **Pulse Share Registry** means Computershare Investor Services Pty Limited ABN 48 078 279 277 or any share registry validly appointed to replace it as Pulse's share registry;
- (61) **Pulse Shareholder** means each person who is registered in the Pulse Share Register as a holder of one or more Pulse Shares;
- (62) **Pulse Warranties** means the warranties set out in clause 13.2;
- (63) **Recommendation** means a recommendation that Pulse Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding and continuing to conclude that the Scheme is in the best interests of Pulse Shareholders;
- (64) **Regulator's Draft** means the draft of the Scheme Booklet in a form acceptable to both parties which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act;
- (65) **Related Body Corporate** has the meaning given to that term in the Corporations Act;
- (66) **Related Party** means in relation to a party, its directors and officers, its Related Bodies Corporate and each of the directors and officers of those Related Bodies Corporate;
- (67) **Relevant Interest** has the same meaning as given by sections 608 and 609 of the Corporations Act;
- (68) **Representative** means, in relation to an entity:
- (a) each of the entity's Related Parties; and
 - (b) each of the Officers and Advisers of the entity or of any of its Related Parties;
- (69) **Sante Capital Parties** means:
- (a) Sante Capital Investments Pty Ltd (ACN 161 227 014);
 - (b) each other person named in the Form 604 (Notice of change of interests of substantial holder) dated 21 November 2016 and released on the ASX company announcements platform on the same date, in which Sante Capital Investments Pty Ltd (ACN 161 227 014) is named;
 - (c) Mr Ben Thynne;
 - (d) Mr Andrew Savage; and
 - (e) each Associate, and direct or indirect investor, in any person named or referred to in paragraph (a), (b), (c) or (d) above.
- and **Sante Capital Party** means any of them;
- (70) **Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Pulse and the Scheme Shareholders substantially in the form of Annexure A to this Deed (or as otherwise agreed by Health Care and Pulse in writing) subject to any amendments or conditions made or required by the Court pursuant

to section 411(6) of the Corporations Act to the extent they are approved in writing by Pulse and Health Care in accordance with clause 8.2 of the Scheme;

- (71) **Scheme Booklet** means the explanatory statement with respect to the Scheme to be approved by the Court and despatched to Pulse Shareholders, and which must contain a copy of the Scheme, a copy of the Deed Poll, the Independent Expert's Report, a copy or summary of this Deed, a notice of meeting and a proxy form;
- (72) **Scheme Consideration** means \$0.47 per share for each Pulse Share held by a Scheme Shareholder to be paid pursuant to the Scheme;
- (73) **Scheme Meeting** means the meeting to be convened as ordered by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act and includes any meeting convened following any adjournment or postponement of that meeting;
- (74) **Scheme Record Date** means 7.00pm on the fifth Business Day following the Effective Date or such other date (after the Effective Date) as Pulse and Health Care agree;
- (75) **Scheme Share** means a Pulse Share held by a Scheme Shareholder as at the Scheme Record Date and, for the avoidance of doubt, includes any Pulse Shares issued on or before the Scheme Record Date;
- (76) **Scheme Shareholder** means a holder of one or more Pulse Shares as at the Scheme Record Date;
- (77) **Second Court Date** the first day of the Second Court Hearing or, if the application is adjourned or appealed for any reason, the first day on which the adjourned application or appeal is heard;
- (78) **Second Court Hearing** means the Court hearing at which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard;
- (79) **Senior Executive** means, in relation to an entity, the chief executive officer or managing director of that entity and any employee who reports directly to the chief executive officer or managing director of that entity;
- (80) **Sensitive Information** means information that is commercially sensitive or competitive (and includes customer contracts, past and future non-public pricing information, customer proposals, tenders, quotes, expressions of interest and contracts due for renewal, input costs and third-party contracts, product and service profit margins, board minutes, an entity's FY17 strategy plan and counterparty risk assessments and market analysis);
- (81) **Share Splitting** means a Pulse Shareholder splitting its holding of Pulse Shares into two or more parcels, or a number of affiliated persons acquiring a number of parcels in different names or other manipulative conduct resulting in an increased number of shareholders in Pulse;
- (82) **Standard OIO Special Conditions** means the conditions set out in Annexure E;
- (83) **Subsidiary** has the meaning given to that term in the Corporations Act;
- (84) **Superior Proposal** means a Competing Proposal which the Pulse Board has determined in good faith would, if consummated in accordance with its terms, be reasonably likely to result in a transaction which is more favourable to Pulse Shareholders than the terms of the Scheme, provided that any such determination

may only be made after consultation with Pulse's legal and financial advisers, taking into account all material legal, financial, regulatory and other aspects of the Competing Proposal and the identity of the relevant third party;

- (85) **Tax** means all forms of taxes, duties, imposts, charges, withholdings, rates, levies, clawbacks or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines and other additional statutory charges incidental or related to the imposition, assessment or charge of those amounts;
- (86) **Tax Authority** means any Governmental Authority responsible for the imposition, collection or recovery of any Tax;
- (87) **Third Party** means a person other than Healthe Care or its Related Bodies Corporate;
- (88) **Timetable** means the indicative timetable set out in **Annexure C** to this Deed, subject to any amendments as the parties agree to in writing.
- (89) **Transaction** means the acquisition by Healthe Care of all the Pulse Shares held by Scheme Shareholders by means of the Scheme in accordance with the terms of this Deed; and
- (90) **Vendor Information Form** means the Vendor Information Form available at <http://www.linz.govt.nz/regulatory/overseas-investment/making-application/how-apply-for-consent> and which is to be completed by Pulse in connection with the Condition Precedent in clause 3.1(2);
- (91) **Viburnum Entities** means Viburnum Funds Pty Ltd ACN 126 348 990 as trustee for VF Strategic Equities Fund.

1.2 Best and Reasonable Endeavours

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

- (1) pay any money, or to provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person in the form of an inducement to procure something (other than the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing); or
- (2) do anything that is commercially onerous or unreasonable in the context of this Deed; or
- (3) commence any legal action or proceeding against any person,

except where that provision expressly specifies otherwise.

1.3 Interpretation

In this Deed, headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this Deed, and unless the context otherwise requires:

- (1) words importing the singular include the plural and vice versa;
- (2) words importing a gender include any gender;

- (3) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (4) an expression importing a natural person includes any company, partnership, entity, joint venture, association, corporation or other body corporate and any Governmental Agency;
- (5) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed and a reference to this Deed includes any annexure, exhibit and schedule;
- (6) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (7) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (8) a reference to a party to a document includes that party's successors and permitted assigns;
- (9) a reference to a matter being **to the knowledge** of a person means that the matter is to the best of the knowledge and belief of, in the case of Healthe Care, its chief executive officer, chief financial officer and the chairman, and in the case of Pulse, its chief executive officer, chief financial officer and the chairman, in each case after making reasonable enquiries in the circumstances;
- (10) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (11) no provision of this Deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Deed or that provision;
- (12) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (13) the words "include", "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (14) a reference to "\$" is to Australian currency; and
- (15) a reference to any time is a reference to that time in Sydney, Australia.

2 Agreement to Propose Scheme

- 2.1 Pulse will propose the Scheme to its members on and subject to the terms and conditions of this Deed.
- 2.2 Healthe Care will comply with its obligations under the Scheme, and assist Pulse to propose and implement the Scheme, on and subject to the terms and conditions of this Deed.
- 2.3 Healthe Care and Pulse will use their respective best endeavours to implement the Scheme as soon as practicable in accordance with the Timetable.

3 Conditions Precedent

3.1 Conditions Precedent to the implementation of the Scheme

The Scheme will not become Effective and the obligations of the parties under the Scheme (including the obligations of Healthe Care to pay the Scheme Consideration) will not become binding unless each of the following Conditions Precedent is satisfied or waived in accordance with clause 3.2:

- (1) **ACCC informal merger clearance:** Healthe Care has received informal merger clearance, whether or not obtained after the provision of any undertakings or other concessions requested or required by the ACCC to facilitate such clearance, in respect of the acquisition of Pulse Shares by Healthe Care by notice in writing from the ACCC stating to the effect that the ACCC does not propose to intervene or seek to prevent the acquisition of Pulse Shares by Healthe Care, and that notice has not been withdrawn, revoked or adversely amended before 8.00am on the Second Court Date;
- (2) **NZ OIO Consent:** Healthe Care has received any consent required under the NZ Overseas Investment Act and the NZ Overseas Investment Regulations from the NZ OIO in respect of the acquisition of the Pulse Shares by Healthe Care unconditionally or on terms and conditions acceptable to Healthe Care (acting reasonably), and that consent has not been withdrawn, revoked or adversely amended before 8.00am on the Second Court Date. For the purposes of this clause, any statutory conditions of consent set out in section 28 of the NZ Overseas Investment Act, any Standard OIO Special Conditions and any conditions that reflect positive undertakings specified in Healthe Care's NZ OIO Consent application or otherwise given by Healthe Care to the NZ OIO will be deemed to be acceptable to Healthe Care acting reasonably;
- (3) **No Prescribed Event:** no Prescribed Event occurs between (and including) the date of this Deed and 8.00am on the Second Court Date;
- (4) **No Material Adverse Change:** no Material Adverse Change occurs or is discovered, announced, disclosed or otherwise becomes known to Healthe Care between (and including) the date of this Deed and 8.00am on the Second Court Date;
- (5) **Independent Expert:** the Independent Expert concludes that the Scheme is in the best interest of Pulse Shareholders and provides the Independent Expert's Report containing this conclusion before the date on which the Scheme Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, and the Independent Expert does not change or withdraw its recommendation prior to 5.00pm on the day before the Second Court Date;
- (6) **Pulse Shareholder approval:** Pulse Shareholders approve the Scheme by the majorities required under section 411(4)(a)(ii) of the Corporations Act at the Scheme Meeting;
- (7) **Court approval:** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Pulse and Healthe Care; and
- (8) **Restraints:** no law, rule, regulation, restraining order, preliminary or permanent injunction or other legally binding order issued by any court of competent jurisdiction or Governmental Agency preventing or restraining implementation of the Transaction is in effect as at 8.00am on the Second Court Date.

3.2 **Benefit of Conditions Precedent**

Other than in respect of the Conditions Precedent in clauses 3.1(6) and 3.1(7), which cannot be waived:

- (1) the Conditions Precedent in clauses 3.1(1), 3.1(3), and 3.1(4) are for the sole benefit of Healthe Care and any breach or non-fulfilment of those conditions may only be waived by Healthe Care giving its written consent and:
 - (a) Healthe Care must use its reasonable endeavours to procure that the Conditions Precedent in clauses 3.1(1) and 3.1(2) are satisfied; and
 - (b) Pulse must use its reasonable endeavours to procure that the Conditions Precedent in clauses 3.1(3) and 3.1(4) are satisfied;
- (2) the Conditions Precedent in clauses 3.1(5) and 3.1(8) are for the benefit of Pulse and Healthe Care and any breach or non-fulfilment of each such condition may only be waived by Pulse and Healthe Care both giving their written consent and each party must use its reasonable endeavours to procure that the Condition Precedent in clause 3.1(8) is satisfied.

3.3 **Obligations regarding satisfaction of Conditions Precedent**

- (1) Pulse and Healthe Care must co-operate, to the extent reasonably practicable, to assist one another with satisfying their obligations under clause 3.2.
- (2) Each of Pulse and Healthe Care must use their respective reasonable endeavours, and will ensure that each of its Related Bodies Corporate uses its reasonable endeavours, to procure that:
 - (a) each of the Conditions Precedent is satisfied as soon as practicable after the date of this Deed and continues to be satisfied at all times until the last time it is required to be satisfied (as the case may require); and
 - (b) there is no occurrence within the control of Pulse or Healthe Care (as the context requires) or their Related Bodies Corporate that would prevent any Condition Precedent being satisfied, except to the extent required by law,provided that this sub-paragraph (2) ceases to apply after the Pulse Directors have changed their Recommendation in accordance with clause 7.1(2).
- (3) If a party waives the breach or non-fulfilment of a Condition Precedent, that waiver will not preclude it from suing the other party for any breach of this Deed that resulted from the breach or non-fulfilment of the Condition Precedent that was waived, or arising from the same event which gave rise to the breach or non-fulfilment of the Condition Precedent.

3.4 **ACCC Approval**

Without limiting the generality of clauses 3.2(1)(a), 3.3(1) and 3.3(2):

- (1) Healthe Care must promptly apply for the relevant ACCC Approval, provide a copy of all such applications to Pulse for review as to accuracy prior to any submission to the ACCC, and, to the extent it is within its power to do so, use its reasonable endeavours to procure that the Condition Precedent in clause 3.1(1) is satisfied as soon as possible after the date of this Deed (including by acting reasonably in considering the provision of undertakings or other concessions requested or required by the ACCC to facilitate ACCC clearance);

- (2) each party must take all steps it is responsible for as part of the ACCC Approval process, including responding to requests for information at the earliest practicable time;
- (3) each party must consult with the other party in advance in relation to all material communications with any Governmental Agency relating to the ACCC Approval and provide the other party with all information reasonably requested in connection with the application for the ACCC Approval; and
- (4) Pulse must provide Healthe Care with all assistance and information reasonably requested by Healthe Care in connection with its application for and obtaining the ACCC Approval, subject to arrangements satisfactory to Pulse to address any considerations of confidentiality, commercial sensitivity and regulatory sensitivity.

3.5 **NZ OIO Consent**

Without limiting the generality of clauses 3.2(1)(a), 3.3(1) and 3.3(2):

- (1) Healthe Care must:
 - (a) promptly submit its application for NZ OIO Consent to the NZ OIO, and in any event by not later than 5 Business Days after the date of this Deed;
 - (b) prior to submitting its application for NZ OIO Consent to the NZ OIO and any post filing modifications to be made to such application:
 - (i) provide a copy of such application and any such post filing modification to Pulse for its review as to the factual accuracy of the information set down in the application and for compliance with any relevant requirements under the NZ Overseas Investment Act and the NZ Overseas Investment Regulations; and
 - (ii) make any reasonable changes to the relevant document requested by Pulse following its review under clause 3.5(1)(b)(i);
 - (c) use reasonable endeavours to procure that the Condition Precedent in clause 3.1(2) is satisfied as soon as possible after the date of this Deed (including by acting reasonably in considering the provision of any undertakings, concessions or conditions requested or required by the NZ OIO to facilitate Healthe Care's application for NZ OIO Consent);
 - (d) keep Pulse fully informed as to progress in procuring the satisfaction of the Condition Precedent in clause 3.1(2), including promptly providing Pulse with copies of all material correspondence, and details of all material verbal communications, with the NZ OIO in relation to the NZ OIO Consent (provided that any commercially sensitive information regarding the Healthe Care Group in such correspondence or communications may be redacted);
 - (e) not resile from or change, with a consequence that might be adverse to its prospects of obtaining the NZ OIO Consent, any of the assurances or other commitments provided by Healthe Care in or in connection with its application for NZ OIO Consent;
 - (f) diligently progress its application for obtaining NZ OIO Consent (including by responding to the NZ OIO in a fulsome and timely manner and, where applicable, in compliance with prescribed timeframes) so as to expedite obtaining NZ OIO Consent; and

- (g) not withdraw its application for NZ OIO Consent once submitted to the NZ OIO.
- (2) Pulse must:
- (a) on or as soon as practicable after, and in any event within 2 Business Days after, the date on which Healthe Care submits its application for NZ OIO Consent to the NZ OIO, submit to the NZ OIO a duly completed Vendor Information Form;
 - (b) prior to submitting the Vendor Information Form to the NZ OIO, provide a copy of the Vendor Information Form to Healthe Care;
 - (c) provide Healthe Care with copies of all notices, applications and other documents in connection with the Vendor Information Form and all related material correspondence between Pulse and the NZ OIO relating to Healthe Care's application for NZ OIO Consent; and
 - (d) provide Healthe Care with all assistance and information reasonably requested by Healthe Care in connection with its application for and obtaining NZ OIO Consent.
- (3) Healthe Care and Pulse must:
- (a) take all steps they are responsible for as part of the NZ OIO Consent process, including responding to any requests by the NZ OIO for information at the earliest practicable time; and
 - (b) consult with each other in advance in relation to all material communications with the NZ OIO relating to Healthe Care's application for NZ OIO Consent and provide the other all information reasonably requested in connection with Healthe Care's application for NZ OIO Consent.

3.6 Status of Conditions Precedent

- (1) Each party must keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent.
- (2) Each party must promptly give the other party notice of a failure to satisfy a Condition Precedent in clause 3.1 or of any event that will prevent a Condition Precedent in clause 3.1 being satisfied.
- (3) If a Condition Precedent is not satisfied by the time and date specified for satisfaction of that Condition Precedent, then, unless there is no reasonable prospect that the Condition Precedent will be satisfied before the End Date, Pulse must make an application to defer the Second Court Date until such time (being not later than the Business Day before the End Date) as reasonably required to enable the relevant Condition Precedent to be satisfied.
- (4) Other than in respect of the Conditions Precedent in clauses 3.1(6) and 3.1(7), which cannot be waived, the party entitled to waive the non-fulfilment of a Condition Precedent under clause 3.2 must give written notice to the other party within 3 Business Days (and in any event before 5.00pm on the last Business Day before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of the Condition Precedent in respect of which notice has been provided under clause 3.6(2).

3.7 Certificate

- (1) On the Second Court Date, Healthe Care and Pulse will each provide to the Court a certificate, or such other evidence as the Court requests, confirming (in respect of matters within each of their respective knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(7)) have been satisfied or waived in accordance with the terms of this Deed. Each party will provide a draft of such certificate to the other party by 4.00 pm on the date that is 3 Business Days prior to the Second Court Date.
- (2) The giving of a certificate by each of Healthe Care and Pulse under clause 3.7(1) will be conclusive evidence of the satisfaction or waiver of the Conditions Precedent referred to in the certificate.

3.8 Conditions Precedent not met

- (1) If:
 - (a) there is an event or occurrence that would, or does, prevent any of the Conditions Precedent being satisfied;
 - (b) there is an event or occurrence that would, or does, prevent any of the Conditions Precedent being satisfied by the time and date specified in this Deed for the satisfaction of that Condition Precedent; or
 - (c) it becomes more likely than not that the Scheme will not become Effective by the End Date,the parties will consult in good faith with a view to determining whether:
 - (d) the Scheme or a transaction which results in the acquisition of Pulse by Healthe Care may proceed by way of an alternative approach and, if so, to agree on the terms of such an alternative approach;
 - (e) to agree to extend the date for satisfaction of the relevant Condition Precedent to another date agreed by Pulse and Healthe Care;
 - (f) to extend the End Date; or
 - (g) to adjourn or change the date of an application to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme (as applicable).
- (2) If the Condition Precedent in clause 3.1(6) is not satisfied by reason only of the non-satisfaction of the Headcount Test and either Healthe Care or Pulse considers, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or materially contributed to the Headcount Test not having been satisfied then Pulse must:
 - (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
 - (b) make such submissions to the Court and file such evidence as counsel engaged by Pulse to represent it in Court proceedings related to the Scheme, in consultation with Healthe Care, considers is reasonably required to persuade the Court to exercise its discretion under section

411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

If the Court agrees to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test, the parties acknowledge that it will not be necessary to meet the Headcount Test in order to satisfy the Condition Precedent in clause 3.1(6).

(3) If the parties are unable to reach agreement under clause 3.8(1):

- (a) within 5 Business Days after becoming aware of the relevant event or occurrence that would, or does, prevent a Condition Precedent being satisfied;
- (b) within 5 Business Days after the time and date specified in this Deed for the satisfaction of a Condition Precedent; or
- (c) by the End Date,

as appropriate, then, unless that condition is waived in accordance with clause 3.2, a party may (subject to clause 3.8(4)) terminate this Deed. However, a party may not terminate this Deed pursuant to this clause 3.8(3) if the relevant occurrence or event, the failure of the Condition Precedent to be satisfied, or the failure of the Scheme to become Effective, arises out of a breach of this Deed by that party, although in such circumstances the other party may still terminate this Deed. Termination by a party under this clause 3.8(3) will be without liability to the other party because of that termination (unless the relevant occurrence or the failure of the Condition Precedent to be satisfied, or failure of the Scheme to become Effective, results in a Break Fee being payable pursuant to clause 11).

(4) Termination of this Deed under clause 3.8(3):

- (a) is subject to the rights of the parties under clauses 14, 15, 16, 17 and 18 of this Deed; and
- (b) does not affect any accrued rights of either party arising from any breach of this Deed prior to termination.

4 Scheme

4.1 Outline of Scheme

Subject to the terms and conditions of this Deed, Pulse must propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares held by Scheme Shareholders will be transferred to Healthe Care and the Scheme Shareholders will be entitled to receive the Scheme Consideration for each Pulse Share held by them at the Scheme Record Date.

4.2 No amendment to the Scheme without consent

Pulse must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without Healthe Care's prior written consent (such consent not to be unreasonably withheld or delayed in relation to procedural or administrative matters that do not relate to the value of the Scheme Consideration or the Scheme Shares).

4.3 Scheme Consideration

Healthe Care undertakes and warrants to Pulse (in its own right and separately as nominee for each of the Scheme Shareholders) that, if the Scheme becomes Effective, in consideration of the transfer to Healthe Care of each Pulse Share held by a Scheme Shareholder under the terms of the Scheme, Healthe Care will:

- (1) procure the payment to a trust account operated by Pulse or the Pulse Share Registry as agent for Pulse of cleared funds equal to the aggregate amount of the Scheme Consideration for all Scheme Shares by no later than the Business Day before the Implementation Date; and
- (2) accept the transfer of the Scheme Shares on the Implementation Date.

5 Pulse Options and Pulse Rights

5.1 Cancellation of Pulse Options

- (1) Pulse must procure that each Pulse Option holder enters into an Option Cancellation Deed within 10 Business Days after the date of this Deed.
- (2) Pulse must procure that, subject to the Scheme becoming Effective, each Pulse Option is cancelled with effect subject to and on the Implementation Date in accordance with an Option Cancellation Deed.
- (3) Pulse must make all necessary Listing Rule waiver applications in respect of the cancellation of Pulse Options under the Option Cancellation Deeds.
- (4) No Option Cancellation Deed can be amended or terminated by Pulse without the prior written consent of Healthe Care.

5.2 Expiry and cancellation of Pulse Rights

Pulse must procure that, prior to the Scheme Record Date, each Pulse Right expires or is cancelled for no consideration.

5.3 Healthe Care assistance

Healthe Care will use its reasonable endeavours to assist Pulse in procuring that each Pulse Option holder enters into an Option Cancellation Deed within 10 Business Days after the date of this Deed.

6 Implementation of the Scheme

6.1 Pulse's obligations

Pulse must take all necessary steps to implement the Scheme, including taking each of the following steps and using its best endeavours to do so in accordance with the Timetable:

- (1) **Public Announcement:** release the Agreed Announcement;
- (2) **Scheme Booklet:** prepare a Scheme Booklet and ensure that the Pulse Information complies with all applicable Australian laws, the Listing Rules, applicable ASIC Regulatory Guides and the terms and conditions of any ASIC relief or exemption and any ASX waiver or confirmation and which, in respect of the Pulse Information, is not false, misleading or deceptive in any material respect (whether by omission or otherwise);

- (3) **Pulse Directors' recommendation:** unless there has been a change of recommendation permitted by clause 7.1(2), state in the Scheme Booklet and the Agreed Announcement (on the basis of statements made to Pulse by each Pulse Director) that all Pulse Directors recommend to Pulse Shareholders that they vote in favour of the Scheme and any other resolution submitted to Pulse Shareholders for their approval in connection with the Scheme, in each case in the absence of a Superior Proposal and subject to the Independent Expert opining that the Scheme is in the best interest of Pulse Shareholders;
- (4) **Pulse Directors' voting:** unless there has been a change of recommendation permitted by clause 7.1(2), use its reasonable endeavours to procure that:
 - (a) each Pulse Director votes any Pulse Shares of which that Pulse Director individually controls (which, for the avoidance of doubt, excludes any Pulse Shares in which the Viburnum Entities have a Relevant Interest) in favour of the Scheme and any other resolution submitted to Pulse Shareholders for their approval in connection with the Scheme and, subject to that Pulse Director providing consent to do so, include a statement in the Scheme Booklet which reflects that voting intention; and
 - (b) each Pulse Director does not change that voting intention;
- (5) **Independent Expert:** as soon as practicable, promptly appoint and brief the Independent Expert (and any other specialist expert required) and provide all assistance and information reasonably requested by the Independent Expert (and any such specialist expert) to enable the preparation of the Independent Expert's Report;
- (6) **Healthe Care Information:** subject to clause 6.4, include the Healthe Care Information in the Scheme Booklet subject to such changes as are agreed by the parties;
- (7) **Consult Healthe Care:**
 - (a) provide to Healthe Care advanced drafts of the Scheme Booklet and the Independent Expert's Report (so that Healthe Care has a reasonable opportunity to review and comment on those drafts, which review of the Independent Expert's Report is to be limited to a factual accuracy review); and
 - (b) consult with Healthe Care in relation to the content of those drafts of the Scheme Booklet and consider in good faith, for the purpose of amending those drafts (as to content and presentation), reasonable comments from Healthe Care and its Representatives on those drafts, provided those comments are provided in a timely manner;
- (8) **Engage suitable counsel:** procure that it is represented by counsel at the First Court Hearing and the Second Court Hearing;
- (9) **Court documents:** consult with Healthe Care in relation to the content of the documents required for the purpose of each Court hearing held, including for the purposes of section 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith, for the purpose of amending drafts of those documents, reasonable comments from Healthe Care and its Representatives on those documents, provided those comments are provided in a timely manner;

- (10) **Approval of Regulator's Draft:** as soon as practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASIC, procure that a meeting of the Pulse Board (or a committee of the Pulse Board appointed for that purpose) is convened to consider approving the Regulator's Draft as being in a form appropriate for provision to ASIC for review;
- (11) **Application for no appearance letter and section 411(17)(b) statement:** apply to ASIC for the production of:
- (a) an indication of intent letter stating that it does not intend to appear before the Court at the First Court Hearing; and
 - (b) a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (12) **Liaise with ASIC:** provide copies of the 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;
- (13) **Revisions to Scheme Booklet:**
- (a) promptly provide to Healthe Care and include in the revised drafts of the Scheme Booklet any new information in relation to the Pulse Group not included in the Regulator's Draft which is required by applicable Australian laws, the Listing Rules and applicable ASIC Regulatory Guides to be included in the Scheme Booklet; and
 - (b) keep Healthe Care promptly informed and consult with Healthe Care regarding any matters raised by ASIC in relation to the Scheme Booklet, including in relation to any presentation and/or the making of any submission in writing or at any proposed meeting with ASIC and use all reasonable endeavours, in co-operation with Healthe Care, to resolve any such matters;
- (14) **Provide a copy of Independent Expert's Report:** on receipt, provide Healthe Care with a copy of the final report received from the Independent Expert (or any other specialist expert);
- (15) **First Court Hearing:** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Pulse to convene the Scheme Meeting;
- (16) **Approval of Scheme Booklet:** as soon as practicable after the conclusion of the review by ASIC of the Regulator's Draft, procure that a meeting of the Pulse Board is convened to consider and if thought fit, approve all of the contents of the Scheme Booklet as being in a form appropriate for despatch to the Pulse Shareholders, subject to approval of the Court;
- (17) **Court direction:** promptly after the approvals in clauses 6.1(16) and 6.2(7), apply to the Court for an order under section 411(1) of the Corporations Act directing Pulse to convene the Scheme Meeting to consider the Scheme and take all reasonable steps necessary to comply with the orders of the Court;
- (18) **Registration of explanatory statement:** request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

- (19) **Scheme meeting:** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Scheme Booklet to the Pulse Shareholders and promptly convening the holding of the Scheme Meeting in accordance with any orders which are made by the Court pursuant to section 411(1) of the Corporations Act;
- (20) **Pulse Share Register details:**
- (a) provide to Healthe Care all information reasonably requested by Healthe Care about the Pulse Shareholders in order to assist Healthe Care to identify the Scheme Shareholders; and
 - (b) direct the Pulse Share Registry, at the cost of Healthe Care, to promptly provide any information that Healthe Care reasonably requests in relation to the Pulse Share Register including any sub-register and, where requested by Healthe Care, Pulse must procure such information to be provided to Healthe Care in such electronic form as is reasonably requested by Healthe Care;
- (21) **Court order:** (subject to all Conditions Precedent, other than the Condition Precedent in clause 3.1(7), being satisfied or waived in accordance with this Deed) apply to the Court (and to the extent necessary, re-apply) for orders in accordance with sections 411(4)(b) approving the Scheme as approved by the requisite majorities of Pulse Shareholders at the Scheme Meeting;
- (22) **Certificate:** at the Second Court Hearing provide to the Court the certificates referred to in clause 3.7;
- (23) **Implementation of the Scheme:** if the Court makes orders under section 411(4)(b) of the Corporations Act approving the Scheme:
- (a) lodge with ASIC an office copy of the order of the Court approving the Scheme under section 411(10) of the Corporations Act as soon as possible after it is received, and in any event by no later than 5.00pm on the first Business Day after the day on which the Court approves the Scheme, or such later time as Pulse and Healthe Care may agree in writing;
 - (b) close the Pulse Share Register as at the Scheme Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration; and
 - (c) subject to Healthe Care complying with its obligations under clause 4.3 and the Deed Poll and subject to the payment of the Scheme Consideration to all Scheme Shareholders in accordance with the Scheme, promptly execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to Healthe Care subject to and in accordance with the Scheme;
- (24) **Listing:** take all reasonable and appropriate steps to maintain Pulse's listing on ASX, notwithstanding any suspension of the quotation of Pulse Shares after the Scheme becomes Effective, up to and including at least the Implementation Date, including without limitation, making appropriate applications to ASX and ASIC, and not do anything to cause Pulse to be delisted from ASX unless Healthe Care has agreed in writing;
- (25) **Update Scheme Booklet:** until the date of the Scheme Meeting, promptly update or supplement the Scheme Booklet with, or, if the parties agree (provided that Pulse will not be limited from making any disclosure necessary, in its sole discretion, to comply with its legal obligations), otherwise inform the market by way

of announcement of, any information that arises after the Scheme Booklet has been despatched that is necessary to ensure that the Scheme Booklet does not contain any material statement that is false or misleading in a material respect including because of any material omission from that statement and seek the Court's approval for the despatch of any updated or supplementary Scheme Booklet. Pulse must consult with Healthe Care as to the content and presentation of any updated or supplementary Scheme Booklet in the manner contemplated by clause 6.1(7); and

- (26) **Compliance with Laws:** do everything reasonably within its powers to ensure that the Scheme is effected in accordance with all laws and regulations applicable in relation to the Scheme.

6.2 **Healthe Care obligations**

Healthe Care must take all necessary steps within its power to implement the Scheme, including taking each of the following steps and using its best endeavours to do so in accordance with the Timetable:

- (1) **Healthe Care Information:** prepare and as soon as reasonably practicable provide to Pulse all information in relation to Healthe Care that is required to be included in or to accompany the Scheme Booklet to comply with all applicable Australian laws, the Listing Rules, applicable ASIC Regulatory Guides and the terms and conditions of any ASIC relief or exemption and any ASX waiver or confirmation (**Healthe Care Information**) and which is not false, misleading or deceptive in any material respect (whether by omission or otherwise);
- (2) **Assistance with Scheme Booklet and Court documents:** promptly provide all assistance and information reasonably requested by Pulse or its Advisers in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Pulse Shareholders) and any documents required to be filed with the Court in relation to the Scheme;
- (3) **Independent Expert:** provide all assistance and information reasonably requested by the Independent Expert (and any other specialist expert required) to enable the preparation of the necessary report(s) (including any updates to such reports) for the Scheme Booklet;
- (4) **Review of Scheme Booklet:** as soon as reasonably practicable after delivery, review the drafts of the Scheme Booklet prepared by Pulse and provide comments on those drafts to Pulse as soon as reasonably practicable and in good faith;
- (5) **Consultation with Pulse in relation to Healthe Care Information:** consult with Pulse as to the content and presentation of the Healthe Care Information including:
 - (a) providing drafts of the Healthe Care Information for the purpose of enabling Pulse to review and comment on that draft information;
 - (b) taking all reasonable comments made by Pulse into account in good faith when producing a revised draft of the Healthe Care Information provided that those comments are provided in a timely manner;
 - (c) providing to Pulse a final draft of the Healthe Care Information within a reasonable time before the Regulator's Draft is to be finalised and to enable Pulse to review the Healthe Care Information section of the Regulator's Draft before the date of its submission;
- (6) **Approval of Regulator's Draft:** as soon as practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASIC, approve the

Healthe Care Information in the Regulator's Draft as being in a form appropriate for provision to ASIC for review;

- (7) **Approval of Scheme Booklet:** as soon as practicable after the conclusion of the review by ASIC of the Regulator's Draft, approve the Healthe Care Information in the Scheme Booklet as being in a form appropriate for despatch to the Pulse Shareholders, subject to approval of the Court;
- (8) **Consent to inclusion of Healthe Care Information:** subject to clause 6.4, promptly after Pulse requests that it does so, confirm in writing to Pulse that it consents to the inclusion of the Healthe Care Information in the Scheme Booklet in the form and context in which the Healthe Care Information appears;
- (9) **Representation:** procure that it is represented by counsel at the First Court Hearing and the Second Court Hearing, at which, through its counsel, Healthe Care will undertake (if requested by the Court) to do all such things and take all such steps within their power as may be necessary in order to ensure the fulfilment of their obligations under the Scheme and the Deed Poll, and, to the extent that leave of the Court is required for Healthe Care to be represented at those Court hearings, apply for that leave;
- (10) **Certificate:** at the Second Court Hearing provide to the Court the certificate referred to in clause 3.7;
- (11) **Scheme Consideration:** if the Scheme becomes Effective, pay or procure the payment of the Scheme Consideration in accordance with clause 4.3(1) of this Deed and the Deed Poll;
- (12) **Share Transfer:** if the Scheme becomes Effective, Healthe Care must accept a transfer of the Scheme Shares as contemplated by clause 4.3(2);
- (13) **Deed Poll:** no later than the Business Day prior to the First Court Date, execute the Deed Poll and deliver the executed Deed Poll to Pulse;
- (14) **New Healthe Care Information:** update the Healthe Care Information with any further or new information about Healthe Care or Guarantor relevant to the Scheme of which it becomes aware that arises after the Scheme Booklet has been despatched and prior to the Scheme Meeting where that is necessary to ensure that the Scheme Booklet continues to comply with all applicable Australian laws, the Listing Rules and applicable ASIC Regulatory Guides;
- (15) **Reasonable assistance:** use its reasonable endeavours to provide any assistance or information reasonably requested by Pulse to ensure that the Scheme is effected in accordance with all laws and regulations applicable in relation to the Scheme; and
- (16) **Compliance with Laws:** do everything reasonably within its powers to ensure that the Scheme is effected in accordance with all laws and regulations applicable in relation to the Scheme.

6.3 Verification

- (1) Prior to provision of the Regulator's Draft to ASIC for review, Pulse must undertake reasonable verification processes in relation to the information included in the Scheme Booklet (other than the Healthe Care Information and the Independent Expert's Report) to ensure that such information is not misleading or deceptive in any material respect and, once those processes have been completed, provide written confirmation to Healthe Care of the completion of such processes, and, in sufficient time for it to be lodged prior to the First Court Date, procure that an

affidavit is sworn by a member of the Pulse Board or a Senior Executive of Pulse regarding these processes; and

- (2) Prior to provision of the Regulator's Draft to ASIC for review, Healthe Care must undertake reasonable verification processes in relation to the Healthe Care Information included in the Scheme Booklet to ensure that such information is not misleading or deceptive in any material respect and, once those processes have been completed, provide written confirmation to Pulse of the completion of such processes, and, in sufficient time for it to be lodged prior to the First Court Date, procure that an affidavit is sworn by a director or Senior Executive of Healthe Care regarding these processes.

6.4 Dispute as to content of Scheme Booklet

- (1) If Healthe Care and Pulse disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet and use their reasonable endeavours to resolve the dispute within 2 Business Days. If agreement is not reached after reasonable consultation, then:
 - (a) if the disagreement relates to the form or content of the Healthe Care Information contained in the Scheme Booklet, Pulse will, acting in good faith, make such amendments to final form or content as Healthe Care reasonably requires; and
 - (b) if the disagreement relates to the form or content of the Pulse Information contained in the Scheme Booklet, Healthe Care will, acting in good faith, agree to such amendments to final form or content as Pulse reasonably requires,

provided that Pulse will not in any case be required to include any information in the Scheme Booklet which is unverifiable or is, in Pulse's reasonable opinion, misleading or deceptive.

- (2) Even if there is a dispute as to the form or content of the Scheme Booklet and the parties use this procedure, the parties will continue to perform their obligations under this Deed.

6.5 Reconstitution of the Pulse Board

On the Implementation Date, but subject to Healthe Care having provided the Scheme Consideration in accordance with clause 6.2(9), Pulse must:

- (1) cause the appointment to the Pulse Board and to the boards of each Subsidiary of Pulse of such number of persons as nominated by Healthe Care, subject to those persons being appointed having provided a consent to act as directors of the relevant companies; and
- (2) procure that all Pulse Directors and the directors of each Subsidiary of Pulse (other than, in each case, those appointed pursuant to clause 6.5(1)) resign from the Pulse Board and the boards of each Subsidiary of Pulse.

6.6 Removal of Pulse from official list of ASX

If directed by Healthe Care, Pulse must take all steps necessary for Pulse to be removed from the official list of ASX on such Business Day after the Implementation Date as nominated by Healthe Care, including lodging a request for removal with ASX prior to the Implementation Date and Pulse and/or Healthe Care satisfying any conditions reasonably required by ASX for it to act on that request.

6.7 Scheme Booklet responsibility statement

The Scheme Booklet will contain a responsibility statement to the effect that:

- (1) Pulse is responsible for the Pulse Information contained in the Scheme Booklet, and that Healthe Care and its Representatives do not assume responsibility for the accuracy or completeness of the Pulse Information or any other part of the Scheme Booklet other than the Healthe Care Information;
- (2) Healthe Care is responsible for the Healthe Care Information contained in the Scheme Booklet, and that Pulse and its Representatives do not assume responsibility for the accuracy or completeness of the Healthe Care Information; and
- (3) the Independent Expert has provided and is responsible for the Independent Expert's Report, and that:
 - (a) Pulse and its Representatives do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
 - (b) Healthe Care and its Representatives do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report.

7 Recommendation, voting intention and announcements

7.1 Recommendation and voting intention

- (1) Pulse represents and warrants to Healthe Care that:
 - (a) the Pulse Board has met and considered the possibility of Healthe Care agreeing to enter into this Deed and that each Pulse Director has informed Pulse that they will make the Recommendation;
 - (b) each Pulse Director has approved the Agreed Announcement; and
 - (c) each Director has indicated that they will vote in favour of the Scheme in respect of all Pulse Shares of which that Pulse Director individually controls (which, for the avoidance of doubt, excludes any Pulse Shares in which the Viburnum Entities have a Relevant Interest), in the absence of a Superior Proposal and provided that the Independent Expert concludes and continues to conclude that the Scheme is in the best interests of Pulse Shareholders.
- (2) Healthe Care acknowledges that a Pulse Director may withdraw, revise, revoke or qualify, or make any public statement inconsistent with, the Recommendation or voting intention in paragraph 7.1(1)(c) where:
 - (a) a Superior Proposal is made; or
 - (b) the Independent Expert concludes that the Scheme is not, or is no longer, in the best interests of Pulse Shareholders; or
 - (c) all of the following requirements are satisfied:
 - (i) the Pulse Directors have, in good faith and acting reasonably, after receiving written advice from Pulse's financial advisers and written legal advice from an Australian Queen's Counsel or Senior Counsel with at least 10 years' experience, determined based on

such advice that continued compliance with clause 6.1(3) or 7.1(1)(c) would result or is likely to result in a breach of the Pulse Directors' statutory or fiduciary duties; and

- (ii) Pulse has first made reasonable endeavours to communicate to Healthe Care as to the matters, occurrences or events that would give rise to the withdrawal, revision, revocation or qualification, or the making of any public statement inconsistent with, the Recommendation or voting intention in paragraph 7.1(1)(c).

7.2 Further public announcements

Unless and until such time that Pulse Directors change their Recommendation in accordance with clause 7.1(2), any further public announcements by Pulse or Healthe Care in relation to, or in connection with, the Scheme or any other transaction related to this Deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably). Where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with, the Transaction or any other transaction related to this Deed or the Scheme, it may do so to the extent legally required and only then after it has given the other party as much notice as commercially practicable and has consulted to the fullest extent possible in the circumstances with the other party.

7.3 Promotion of Scheme

During the Exclusivity Period, provided that the Pulse Directors have not changed their Recommendation in accordance with clause 7.1(2) Pulse must use best endeavours to procure that the senior executives of Pulse and its Related Bodies Corporate as reasonably requested by Healthe Care, participate in efforts to promote the merits of the Scheme, including:

- (1) meeting with key Pulse Shareholders;
- (2) communication with a selection of Pulse employees, customers, and suppliers and the employees, customers, and suppliers of Pulse's Related Bodies Corporate which are key to the business of the Pulse Group; and
- (3) communicating with the public to promote the merits of the Scheme.

8 Conduct of business

8.1 Conduct of Pulse business

From the date of this Deed up to and including the earlier of the date that this Deed is terminated and the Implementation Date, Pulse must:

- (1) procure that each member of the Pulse Group:
 - (a) conducts its business and its operations in the ordinary and usual course and substantially consistent (subject to any applicable laws, regulations and licence conditions) with the manner in which each such business and operation is conducted prior to the date of this Deed, including using reasonable endeavours to preserve its current business organisation, the services of its current officers and its current relationship with third parties (including Governmental Agencies, rating agencies, customers, suppliers, licensors, licensees and others having business dealings with it);

- (b) conducts its businesses and operations substantially in accordance with all applicable laws and regulations; and
- (c) subject to clause 12.2(2), where reasonably requested, consult with Healthe Care and provide updates as to the progress of its business and operations, including periodic Pulse Group business and operations updates via:
 - (i) fortnightly informal meetings or conference calls with the managing director of Pulse Group; and
 - (ii) monthly meetings or conference calls involving senior management of Pulse; and
- (2) not, and procure that each member of the Pulse Group does not permit any Prescribed Event to occur, or approve the occurrence of any Prescribed Event, provided that nothing in clause 8.1 restricts the ability of Pulse to take any action:
 - (3) in relation to any matter that is required to be done or procured by Pulse or another member of the Pulse Group pursuant to, or which is otherwise expressly permitted by, this Deed or the Scheme;
 - (4) for which Healthe Care has provided its prior written consent (such consent not to be unreasonably withheld or delayed);
 - (5) which arises as a result of court or Governmental Agency order, injunction or undertaking or otherwise required in order to comply with applicable law; or
 - (6) which is fully and fairly disclosed in the Disclosure Materials as being an action that a member of the Pulse Group will or is likely to carry out between (and including) the date of this Deed and the Implementation Date.

9 Exclusivity

9.1 No existing discussion

Pulse warrants to Healthe Care that, as at the date of this Deed, neither it nor any Representative is currently in negotiations or discussions in respect of any Competing Proposal, nor any proposal likely to reduce the prospects for the Transaction succeeding.

9.2 No shop

During the Exclusivity Period, Pulse must ensure that neither it nor any of its Representatives, directly or indirectly, solicits, initiates, invites or otherwise encourages any enquiries, negotiations or discussions in relation to, or with a view to obtaining, or which would reasonably be expected to encourage or lead to the making of, any expression of interest, offer or proposal from any person in relation to a Competing Proposal, or communicate to any person an intention to do any of the foregoing.

9.3 No talk

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

- (1) facilitates, enters into or otherwise participates in any negotiations or discussions with any person regarding a Competing Proposal;

- (2) communicates to any person an intention to do any of the things referred to in clause 9.3(1);
- (3) approves or recommends a Competing Proposal; or
- (4) gives any Third Party any information relating to Pulse or any of its Subsidiaries or any of their businesses or operations in connection with or for the purposes of an actual, proposed or potential Competing Proposal.

9.4 Notification of approaches

If Pulse or any of its Representatives are approached by any person during the Exclusivity Period to discuss or engage in any activity in relation to an actual, proposed or potential Competing Proposal, Pulse must notify Healthe Care within 24 hours in writing of:

- (1) the identity of the person who has made the approach, and the identity of the person making or proposing any actual, proposed or potential Competing Proposal, together with the key terms and conditions of any actual, proposed or potential Competing Proposal;
- (2) any approach, inquiry or proposal made to, and any attempt or any intention on the part of any person to initiate or continue any negotiations or discussions with, that party or any of its Representatives with respect to, or that could reasonably be expected to lead to, any Competing Proposal, whether unsolicited or otherwise;
- (3) any request for information relating to Pulse or any of its Subsidiaries or any of their businesses or operations or any request for access to the books or records of Pulse or any of its Subsidiaries in relation to a Competing Proposal; and
- (4) any breach of this clause 9.4.

9.5 Exceptions to no talk

The restrictions and obligations in clause 9.3 will not apply to the extent that they would restrict Pulse or a Pulse Director or Representative of Pulse from taking any action with respect to a written bona fide offer or proposal for a Competing Proposal which was not directly or indirectly brought about by, or facilitated by, a breach of clause 9.2 if continued compliance with clause 9.3 would, in the opinion of the Pulse Board acting reasonably and in good faith after receiving and considering written advice from Pulse's financial advisers and written legal advice from Pulse's external legal advisers, result or be likely to result in a breach of the Pulse Directors' statutory or fiduciary duties.

9.6 Matching Right

- (1) Without limiting any other provision of this Deed, Pulse must:
 - (a) not enter into an agreement in relation to a Competing Proposal; and
 - (b) procure that none of the directors of Pulse publicly recommend a Competing Proposal,
 unless:
 - (c) Pulse gives Healthe Care not less than 5 Business Days' notice in writing of its intention to do so accompanied by the key terms and conditions of the Competing Proposal; and
 - (d) the processes in clauses 9.6(2) and 9.6(3) below have been adhered to.

- (2) If Pulse gives Healthe Care notice in writing under clause 9.6(1), Healthe Care will have the right, but not the obligation, at any time during the period of 5 Business Days following the receipt of the relevant notice, to amend the terms and conditions of the Transaction including but not limited to increasing the amount of consideration offered under the Transaction (**Counter Proposal**) and, if Healthe Care does so, then the board of directors of Pulse must review the Counter Proposal in good faith.
- (3) If the board of directors of Pulse determine that the Counter Proposal (or if Healthe Care does not submit a Counter Proposal, the Transaction) would not be more favourable to Pulse Shareholders than the Competing Proposal (having regard to all aspects of the Transaction (if still relevant), the Counter Proposal and the Competing Proposal), Pulse may terminate this Deed by giving written notice to Healthe Care.

10 Restriction on acquiring securities

Until the End Date, (other than as a result of the transfer of shares by Pulse to Healthe Care under the Scheme) Healthe Care must procure that the Healthe Care Group does not (and must ensure that their Related Bodies Corporate and Associates do not) acquire or offer to acquire, any securities or derivatives or property or any right or option to acquire any securities or property of Pulse unless it has received the prior written consent of Pulse.

11 Break fee

11.1 Background to the Break Fee

Pulse and Healthe Care acknowledge and agree, for the purposes of this clause 11 as follows:

- (1) Healthe Care has required the inclusion of clause 11.4, in the absence of which it would not have entered into this Deed.
- (2) Pulse and the Pulse Directors believe that the Scheme will provide significant benefits to Pulse and Pulse Shareholders, and that it is reasonable and appropriate that Pulse agrees to the inclusion of clause 11.4, in order to secure Healthe Care's execution of this Deed.

11.2 Acknowledgment

- (1) Pulse acknowledges that, if Healthe Care enters into this Deed and the Scheme does not become Effective, Healthe Care will have incurred significant costs and losses, including significant opportunity costs.
- (2) Pulse acknowledges and agrees that the costs and losses actually incurred by the Healthe Care Group will be of such nature that they cannot accurately be ascertained, but that the Break Fee is a genuine and reasonable pre-estimate of the costs and losses that would actually be suffered by the Healthe Care Group in such circumstances, and that the Break Fee has been calculated to reimburse the Healthe Care Group for such costs and losses.
- (3) Pulse represents and warrants that:
 - (a) it has received legal advice on this Deed and the operation of this clause 11; and

- (b) it considers this clause 11 to be fair and reasonable and that it is appropriate to agree to the terms in this clause 11 in order to secure the significant benefits to it (and Pulse Shareholders) resulting from the Scheme.

11.3 Basis of Break Fee

The amount payable by Pulse pursuant to clause 11.4 is an amount to compensate Healthe Care for the following:

- (1) fees for legal, financial and other advisory costs relating to the planning and implementation of the Scheme;
- (2) reasonable opportunity costs incurred in undertaking the transactions contemplated by this Deed or not engaging in alternative transactions or other strategic initiatives, including reputational costs of Healthe Care being associated with a failed transaction and its resulting loss of market position or credibility;
- (3) cost of management and Healthe Care Directors' time in planning and implementing the Scheme;
- (4) any and all loss incurred by the Healthe Care Group in connection with the Scheme and any breach of this Deed, including any breach of a Pulse Warranty; and
- (5) reasonable out-of-pocket expenses relating to the entry into this Deed and the implementation of the Scheme.

11.4 Payment of Break Fee by Pulse

Subject to clause 11.5, Pulse must pay Healthe Care the Break Fee (plus any GST, only once and without set-off or withholding), within 5 Business Days after receiving a written demand from Healthe Care, if at any time after the date of this Deed any of the following occur:

- (1) **Change of Recommendation:** any of the Pulse Directors fails to make or maintain the Recommendation. The Break Fee is not payable under this clause 11 where a Pulse Director changes his or her Recommendation because the Independent Expert does not conclude that the Scheme is in the best interest of Pulse Shareholders or withdraws or changes such conclusion, other than where the reason for that opinion is a Competing Proposal;
- (2) **Competing Proposal completes:** either:
 - (a) 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 12 months of such announcement:
 - (i) the Third Party proposing the Competing Proposal or any Associate of that Third Party acquires a Relevant Interest in at least 50% of the Pulse Shares; or
 - (ii) that Competing Proposal is (or becomes) free from any defeating conditions (or if the Competing Proposal is a scheme of arrangement, the scheme becomes effective), or that Competing Proposal is implemented or consummated; or
 - (b) all of the following occur:

- (i) the Scheme is voted on, but not approved, by the requisite majorities of Pulse Shareholders at the Scheme Meeting;
 - (ii) any Sante Capital Party voted against the Scheme at the Scheme Meeting; and
 - (iii) within 12 months after the Scheme Meeting, there exists a Competing Proposal (except a Competing Proposal under which a Relevant Interest of less than 50% in Pulse Shares is acquired that is not recommended or otherwise publicly supported by a majority of the Pulse Board) which involves any one or more of the Sante Capital Parties (individually or in aggregate) and that Competing Proposal becomes unconditional or, in the case of a scheme of arrangement, becomes effective;
- (3) **Competing Proposal recommended:** If, before the date on which this Deed is terminated, any Pulse Director recommends that Pulse Shareholders accept, vote in favour of, or otherwise support a Competing Proposal which is announced or made after the date of this Deed; or
- (4) **Material breach:** Pulse is in material breach of this Deed and this Deed is terminated.

11.5 **Circumstances where Break Fee not payable by Pulse**

The payment of the Break Fee by Pulse under this clause 11 is not required to be paid if:

- (1) the Scheme becomes Effective;
- (2) any member of the Healthe Care Group acquires a Relevant Interest in more than 50% of the Pulse Shares; or
- (3) any member of the Healthe Care Group acquires all or substantially all of the business or assets of the Pulse Group,

or is refundable, to the extent that such reimbursement is found by the Takeovers Panel or a court to be unacceptable or unlawful and the time period for lodging an application for review or a notice of appeal (as applicable) has expired without such an application or notice having been lodged. The parties must take all reasonable steps to ensure that any such finding applies to the minimum extent possible. No party may make, or cause to be made, or encourage or support the making of, any application to the Takeovers Panel or a court for or in relation to a finding referred to in this clause 11.5.

11.6 **No further liabilities**

Notwithstanding anything else in this Deed, the payment by Pulse of the Break Fee will constitute full and final satisfaction of any and all liability of the Pulse Group and its Representatives to Healthe Care and its Representatives arising out of, or in connection with, termination of this Deed.

12 **Co-ordination and timing**

12.1 **Co-operation**

Pulse and Healthe Care must each use all reasonable endeavours and utilise all necessary resources (including management, shareholder, marketing and corporate relations resources, as well as the resources of external advisers) to produce the Scheme Booklet

and implement the Scheme substantially in accordance with the Timetable (unless otherwise agreed by the parties acting reasonably and in good faith).

12.2 Access by Healthe Care to people and Pulse Information

- (1) Pulse will provide Healthe Care and its Representatives with reasonable access to Pulse, its Representatives and documents, records, and other information (subject to any existing confidentiality obligations owed to third parties or applicable privacy laws) which Healthe Care reasonably requires for the purposes of implementing the Scheme and preparing for carrying on the business of Pulse Group following implementation of the Scheme and Healthe Care acknowledges that information received under this clause is subject to the obligations of confidence under the Confidentiality Agreement.
- (2) Nothing in this Deed will oblige Pulse to provide or procure the provision of:
 - (a) any Sensitive Information to Healthe Care, unless provision of such Sensitive Information would otherwise be required under clause 3.6; or
 - (b) any information or material or copies of documents where to do so would be unlawful; or
 - (c) any information or material or copies of documents that the Senior Executives of the Pulse Group do not have access to.

13 Warranties

13.1 Healthe Care warranties

Save as disclosed in writing by Healthe Care to Pulse prior to execution of this Deed:

- (1) Healthe Care warrants to Pulse (on Pulse's own behalf and separately as trustee or nominee for each of the Pulse Indemnified Parties) each of the matters set out in clause 13.1(2) as at the date of this Deed, the date of the Scheme Meeting, 8.00am on the Second Court Date, the Implementation Date and any other date to which a representation in clause 13.1(2) is expressed to be given.
- (2) Healthe Care warrants to Pulse that:
 - (a) Healthe Care is a validly existing corporation registered under the laws of its place of incorporation;
 - (b) the execution and delivery of this Deed by it has been properly authorised by all necessary corporate action and it has full corporate power and lawful authority to execute and deliver this Deed and to perform or cause to be performed its obligations under this Deed;
 - (c) subject to laws generally affecting creditors' rights and the principles of equity, this Deed constitutes legal, valid and binding obligations on it and execution and performance of this Deed will not result in a breach of or default under:
 - (i) its constitution or equivalent constituent documents of Healthe Care or any of its subsidiaries; or
 - (ii) any agreement or deed or any writ, order or injunction, rule or regulation to which it or any of its Subsidiaries is a party or to which they are bound (except for such breaches or defaults as would not

have a material adverse effect on the consolidated financial position of Healthe Care) or require any consent, approval, authorisation or permit from any Governmental Agency, except for the ACCC Approval and NZ OIO Approval;

- (d) it is not the subject of an Insolvency Event nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this Deed;
- (e) the Healthe Care Information contained in the Scheme Booklet will be included in good faith and on the understanding that Pulse and its directors will rely on that information for the purposes of considering and approving the Scheme Booklet before it is despatched and implementing the Scheme;
- (f) the Healthe Care Information will comply with the requirements of all applicable Australian laws, the Listing Rules, the applicable ASIC Regulatory Guides and the terms and conditions of any ASIC relief or exemption and any ASX waiver or confirmation;
- (g) as at the date the Scheme Booklet is despatched to Pulse Shareholders, the Healthe Care Information, in the form and context in which that information appears in the version of the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act, will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (h) it will provide Pulse with all such further or new information of which it becomes aware that arises after the Scheme Booklet has been despatched until the date of the Scheme Meeting where that is necessary to ensure that the Scheme Booklet continues to comply with the requirements of all applicable Australian laws, the Listing Rules, the applicable ASIC Regulatory Guides and the terms and conditions of any ASIC relief or exemption and any ASX waiver or confirmation, and that such information is not misleading or deceptive in any material respect (whether by omission or otherwise); and
- (i) all information provided by Healthe Care to Pulse or the Independent Expert will be provided in good faith and on the understanding that the Pulse Board and the Independent Expert will rely on such information for the purposes of considering and approving the Scheme Booklet and for producing its report for the Scheme Booklet respectively.

13.2 Pulse warranties

Save as disclosed in in the Disclosure Materials:

- (1) Pulse warrants to Healthe Care each of the matters set out in clause 13.2(2) as at the date of this Deed, the First Court Date, the date the Scheme Booklet is dispatched, the date of the Scheme Meeting, 8.00am on the Second Court Date, and the Implementation Date (except where any statement is expressed to be made only at a particular date).
- (2) Pulse warrants to Healthe Care that:
 - (a) each member of the Pulse Group is a validly existing corporation registered under the laws of its place of incorporation;
 - (b) as at the date of this Deed, Pulse has issued equity securities comprising 257,079,905 Pulse Shares, 1,000,000 Pulse Options and 1,260,000 Pulse

Rights, and neither Pulse nor any of its Subsidiaries are under any obligation to issue and have not granted any person the right to call for the issue of any shares or other securities (or rights or instruments that may convert into or require the issue of any shares or other securities) in Pulse or any of its Subsidiaries;

- (c) the execution and delivery of this Deed by Pulse has been properly authorised by all necessary corporate action and Pulse has full corporate power and lawful authority to execute and deliver this Deed and to perform or cause to be performed its obligations under this Deed;
- (d) this Deed constitutes legal, valid and binding obligations on it and execution and performance of this Deed will not result in a breach of or default under Pulse's constitution or the constitution of any Subsidiary of Pulse or any material agreement or deed or any writ, order or injunction, rule or regulation to which Pulse or any of its Subsidiaries is a party or to which they are bound or require any consent, approval, authorisation or permit from any Governmental Agency, except for the ACCC Approval and NZ OIO Approval;
- (e) the Pulse Information contained in the Scheme Booklet will be included in good faith and on the understanding that Healthe Care and its directors will rely on that information for the purposes of considering and approving the Healthe Care Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll under clause 6.2(13) and implementing the Scheme;
- (f) the Pulse Information will comply with the requirements of all applicable Australian laws, the Listing Rules, the applicable ASIC Regulatory Guides and the terms and conditions of any ASIC relief or exemption and any ASX waiver or confirmation in all material respects, and is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (g) as at the date the Scheme Booklet is despatched to Pulse Shareholders, the Scheme Booklet (excluding the Healthe Care Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (h) all information provided by Pulse to Healthe Care or the Independent Expert has been and will be provided in good faith and on the understanding that the Healthe Care Board will rely on such information for the purposes of entering into this Deed, considering and approving the Scheme Booklet and the Independent Expert will rely on such information for producing its report for the Scheme Booklet;
- (i) neither it nor any other member of the Pulse Group is the subject of an Insolvency Event nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this Deed;
- (j) to the best of Pulse's knowledge, it and its Subsidiaries have all material licences, environmental approvals, permits, approved work plans and other consents necessary for operations and activities of its business; and
- (k) it is not in breach of its continuous or periodic financial disclosure obligations under the Listing Rules or the Corporations Act, subject to the announcement of the Scheme and the execution of this Deed and registration of the Scheme Booklet pursuant to clause 6.1(18), and as at the date of this Deed, Pulse is not relying on Listing Rule 3.1A to withhold

any information from disclosure under the Listing Rules (except in relation to the Scheme and discussions with Healthe Care);

- (l) it has collated and prepared all of its Disclosure Materials in good faith and, as far as Pulse is aware, its Disclosure Materials have been collated and prepared with all reasonable care and skill, and Pulse has not intentionally:
 - (i) withheld from the Disclosure Materials any information in the Pulse Group's possession:
 - (A) which is not already in the public domain; and
 - (B) which would reasonably be expected to be material to the financial position or financial performance of the business of the Pulse Group; or
 - (ii) included in the Disclosure Materials any information that is misleading in any material respect;
- (m) to the best of Pulse's knowledge, there is no information relating to the Pulse Group or their respective businesses or operations as at the date of this Deed that has or could reasonably be expected to give rise to a Material Adverse Change that has not been publicly disclosed in a document, schedule, report or form furnished or filed with an Australian Governmental Agency or in its Disclosure Materials.

13.3 No termination after Scheme becomes Effective

Any breach of the representations and warranties provided under this clause 13 after, or which is discovered after, the Scheme becomes Effective may only give rise to a claim in damages and cannot result in a termination of this Deed.

13.4 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 13.

13.5 Survival of representations

- (1) The representations and warranties provided by each party under this clause 13:
 - (a) are severable;
 - (b) will survive the termination of this Deed; and
 - (c) are given with the intent that liability under them will not be confined to breaches of them discovered prior to the date of termination of this Deed.

14 Liability

14.1 Limitation of liability

A party (**First Party**) is not liable in connection with this Deed for any breach of warranty to the extent that the facts, matters and circumstances giving rise to the breach:

- (1) are fully and fairly disclosed by the First Party to the other party prior to the date of this Deed including via the Disclosure Materials;

- (2) were within the knowledge of the other party; or
- (3) are directly connected with an action required or permitted to be done or procured by Pulse or its Subsidiaries pursuant to this Deed or the Scheme.

14.2 Cap on liability

- (1) Despite any other provision in this Deed, each party's sole and absolute liability for a breach of this Deed will be limited to a maximum of their respective Liability Cap (in aggregate for all Claims) and, no further damages, fees, expenses or reimbursements of any kind are payable by either party under or in connection with this Deed whatsoever.
- (2) This clause 14 does not exclude the availability of equitable remedies (including the right to seek specific performance of this Deed).

15 Releases and insurance

15.1 Healthe Care Directors and officers

- (1) Pulse releases its rights against, and agrees with Healthe Care that it will not make a Claim against, any Healthe Care Indemnified Party in connection with:
 - (a) any breach of any representations, covenants and warranties of Healthe Care or any member of the Healthe Care Group in this Deed; or
 - (b) any disclosures containing any statement which is false or misleading whether in content or by omission,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the relevant Healthe Care Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud.
- (2) This clause 15.1 is subject to any restriction contained in the Corporations Act and will be read down accordingly.
- (3) Healthe Care receives and holds the benefit of this clause 15.1 as trustee for each of the Healthe Care Indemnified Parties to the extent it relates to them.

15.2 Pulse directors and officers

- (1) Healthe Care releases its rights against, and agrees with Pulse that it will not make a Claim against, any Pulse Indemnified Party in connection with:
 - (a) the Transaction or any other matter stated or contemplated under this Deed;
 - (b) any breach of any representations, covenants and warranties of Pulse or any member of the Pulse Group in this Deed; or
 - (c) any disclosures containing any statement which is false or misleading whether in content or by omissions,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the relevant Pulse Indemnified Party has engaged in wilful misconduct or fraud.

- (2) This clause 15.2 is subject to any restriction contained in the Corporations Act and will be read down accordingly.
- (3) Pulse receives and holds the benefit of this clause 15.2 as trustee for each of the Pulse Indemnified Parties to the extent it relates to them.

15.3 **Deeds of access, indemnity and insurance**

- (1) Subject to the Scheme becoming Effective and having been implemented, Healthe Care undertakes in favour of Pulse and each director and officer of Pulse or a Subsidiary of Pulse that it will:
 - (a) to the extent permitted by law, for a period of 7 years from the Implementation Date, ensure that the constitutions of Pulse and each other member of the Pulse Group as at the date of this Deed continue to contain such rules as are contained in those constitutions as at the date of this Deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company (and Pulse undertakes not to vary, and must ensure there is no variation of, those constitutional arrangements); and
 - (b) procure that Pulse and each other member of the Pulse Group as at the date of this Deed complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers as at the date of this Deed (and Pulse undertakes not to vary, and must ensure there is no variation of, those arrangements, except that it may enter into such deeds with newly appointed directors and officers on terms materially consistent with existing deeds as at the date of this Deed) and, without limiting the foregoing, not take any action which would prejudice or adversely affect any directors' and officers' runoff insurance cover taken out prior to the Implementation Date.
- (2) This clause 15.3 is subject to any restriction contained in the Corporations Act and will be read down accordingly.
- (3) Pulse receives and holds the benefit of this clause 15.3 as trustee for each Pulse Director and each officer of each member of the Pulse Group.
- (4) Notwithstanding any other provision of this Deed, Pulse may, prior to the Implementation Date, enter into a run-off insurance policy in respect of any Officer of Pulse and its Subsidiaries for a 7 year period (or longer if Healthe Care agrees, acting reasonably) (**D&O Run Off Policy**), and that any actions to facilitate that insurance or in connection therewith will not be an Prescribed Event or breach any provision of this Deed.
- (5) Healthe Care covenants in favour of each person who is an Officer of Pulse as at the date of this Deed that it will not:
 - (a) amend or modify the terms of any indemnities, rights of advancement of expenses, rights to insurance and/or rights of access to documents or information, under deeds of indemnity, insurance and access (or other agreements) from their terms as at the date of this Deed or to terms that are less favourable than their terms as at the date of this Deed;
 - (b) amend or cancel the D&O Run Off Policy at any time after the Implementation Date, or do anything or fail to do anything which would prejudice or adversely affect the D&O Run Off Policy (or the cover under such) at any time after Implementation Date.

16 Termination

16.1 Termination for breach

- (1) This Deed may be terminated at any time prior to 8.00am on the Second Court Date by a party by written notice to the other party if:
 - (a) from the perspective of Healthe Care, Pulse has materially breached this Deed or, from the perspective of Pulse, Healthe Care has materially breached any material clause of this Deed or there has been a material breach of a material representation or warranty given by that other party under clause 13.1 or 13.2 (as applicable) before 8.00am on the Second Court Date;
 - (b) the non-defaulting party has given notice to the other party specifying the relevant circumstances and stating an intention to terminate this Deed; and
 - (c) if the material breach is capable of remedy, it has not been remedied within 5 Business Days (or any shorter period ending at 5.00pm on the last Business Day before the Second Court Date) from the date a notice under clause 16.1(1)(b) is given.

16.2 No-fault termination

This Deed may be terminated by either party by written notice to the other party:

- (1) if the Effective Date for the Scheme has not occurred, or will not occur, on or before the End Date; or
- (2) in accordance with and pursuant to clause 3.8(3).

16.3 Additional Healthe Care termination rights

Healthe Care may terminate this Deed by written notice to Pulse at any time before 8.00am on the Second Court Date if any Pulse Director:

- (1) fails to make or maintain the Recommendation or withdraws or adversely modifies the Recommendation; or
- (2) recommends that Pulse Shareholders accept, vote in favour of, or otherwise support a Competing Proposal which is announced or made after the date of this Deed.

16.4 Additional Pulse termination right

Pulse may terminate this Deed by written notice to Healthe Care at any time before 8.00am on the Second Court Date if both (1) and (2) below are satisfied:

- (1) at least a majority of the Pulse Board:
 - (a) fails to make or maintain the Recommendation or withdraws or adversely modifies the Recommendation; or
 - (b) recommends that Pulse Shareholders accept, vote in favour of, or otherwise support a Competing Proposal which is announced or made after the date of this Deed,

as permitted under clause 7.1(2); and

- (2) Pulse has complied with all of its obligations under clause 11.

16.5 **Effect of termination**

- (1) Termination of this Deed under clause 16.1, 16.2, 16.3 or 16.4 (including under clause 3.8(3)) does not affect any accrued rights arising from a breach of this Deed prior to termination.
- (2) Clauses 1, 11, 14, 15, 16, 17 and 18 survive termination of this Deed.

16.6 **Remedies**

- (1) The parties acknowledge that damages may not be a sufficient remedy for breach of this Deed. Specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this Deed by any party, notwithstanding the ability of the other party to terminate this Deed or seek damages for such a breach or threatened breach, and notwithstanding any payment of a Break Fee.
- (2) Neither party (**Restrained Party**) will be considered to be in breach of this Deed and no party may make a claim against the Restrained Party for breach of this Deed, in circumstances where the Restrained Party is prevented by an order of a court of competent jurisdiction from performing an obligation under this Deed.

17 **Confidentiality Agreement and Exclusivity Deed**

- (1) Each party acknowledges and agrees that it continues to be bound by the Confidentiality Agreement after the date of this Deed, and that the terms of this Deed will prevail over the Confidentiality Agreement to the extent of any inconsistency.
- (2) Each party agrees that the Exclusivity Deed terminates on execution of this Deed.

18 **General**

18.1 **Notices**

Any communication under or in connection with this Deed:

- (1) must be in writing;
- (2) must be addressed as shown below:

Health Care

Address: 160 Sussex Street, Sydney NSW 2000
For the attention of: General Counsel
Email: Tony.Marshall@healthecare.com.au
Copy to: Tom.Story@allens.com.au

Pulse

Address: Suite 6, Level 22, 227 Elizabeth Street, Sydney NSW 2000
For the attention of: Managing Director
Email: phillipa.blakey@pulsehealth.net.au
Copy to: james.stewart@nortonrosefulbright.com

(or as otherwise notified by that party to the other party from time to time);

- (3) must be personally delivered or posted by prepaid post to the address, or sent by email to the email address of the addressee, in accordance with clause 18.1(2); and
- (4) will be deemed to be received by the addressee:
 - (a) **(in the case of prepaid post sent to a domestic address)** on the third Business Day after the date of posting;
 - (b) **(in the case of a prepaid post sent to an international address)** on the fifth Business Day after the date of posting by airmail;
 - (c) **(in the case of delivery by hand)** on delivery; and
 - (d) **(in case of email)** 4 hours after the email was sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

but if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5.00pm (local time in the place of receipt), it is taken to be received at 9.00am (local time in the place of receipt) on the next Business Day.

18.2 GST

In this Deed:

- (1) **GST** means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* as amended (**GST Act**) or any replacement or other relevant legislation and regulations;
- (2) words or expressions used in this clause which have a particular meaning in the **GST law** (as defined in the GST Act, and also including any applicable legislative

determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;

- (3) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member;
- (4) any reference to an input tax credit entitlement by a party includes any corresponding input tax credit entitlement by the representative member of any GST group of which that party is a member; and
- (5) if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.
- (6) Unless expressly included, the consideration for any supply under or in connection with this Deed does not include GST.
- (7) To the extent that any supply made by a party to another party (**Recipient**) under or in connection with this Deed is a taxable supply and a tax invoice has been provided to the Recipient, the Recipient must pay, in addition to the consideration to be provided under this Deed for that supply (unless it expressly includes GST) an amount equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply.
- (8) The amount of GST payable in accordance with this clause 18.2 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.

18.3 Discretion in exercising rights

A party may exercise a right or remedy in any way it considers appropriate, unless this Deed expressly states otherwise.

18.4 Severability

Any provision of this Deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

18.5 Conflict of interest

The parties' rights and remedies under this Deed may be exercised even if it involves a conflict of duty or a party has a personal interest in their exercise.

18.6 Stamp duties

Health Care agrees to pay all stamp duties (if any) and any fines, penalties and interest payable and assessed by legislation or by any revenue office in respect of this Deed or the Scheme or the steps to be taken under or contemplated by this Deed or the Scheme.

18.7 Expenses

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

18.8 Further steps

Each party agrees, at its own expense, to promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party (such as obtaining consents, signing and producing documents and getting documents completed and signed):

- (1) to bind the party and any other person intended to be bound under this Deed;
- (2) to show whether the party is complying with this Deed; or
- (3) to give effect to this Deed.

18.9 Amendments

This Deed, or a right created under it, may only be varied by a document signed by or on behalf of each of the parties.

18.10 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Deed without the prior written consent of the other party.

18.11 Governing law

- (1) This Deed is governed by and will be construed according to the laws of New South Wales.
- (2) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia and courts of appeal from them.

18.12 Waiver

- (1) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Deed.
- (2) Any waiver or consent given by any party under this Deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (3) No waiver of a breach of any term of this Deed will operate as a waiver of another breach of that term or of a breach of any other term of this Deed.

18.13 No liability for loss

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this Deed.

18.14 Consents

Any consent referred to in, or required under, this Deed from any party may not be unreasonably withheld, unless this Deed expressly provides for that consent to be given in that party's absolute discretion.

18.15 Counterparts

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

18.16 Entire agreement

To the extent permitted by law, in relation to the subject matter of this Deed, this Deed and the Confidentiality Agreement:

- (1) embodies the entire understanding of the parties and constitutes the entire terms agreed upon between the parties; and
- (2) supersedes any prior agreement (whether or not in writing) between the parties.

18.17 No representation or reliance

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

18.18 No merger

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

18.19 Remedies cumulative

The rights and remedies provided in this Deed are in addition to other rights and remedies given by law independently of this Deed.

Executed and delivered as a deed on the date shown on the first page of this Deed

Executed as a deed by **Healthe Care
Australia Pty Ltd** ABN 93 117 285 300 in
accordance with section 127 of the
Corporations Act 2001:

<signature redacted>

Director/company secretary

ANTHONY MARSHALL

Name of director/company secretary
(BLOCK LETTERS)

<signature redacted>

Director

STEVE ATKINS

Name of director
(BLOCK LETTERS)

Executed as a deed by **Pulse Health
Limited** ABN 69 104 113 760 in accordance
with section 127 of the *Corporations Act
2001*:

<signature redacted>

Director/company secretary

STUART JAMES

Name of director/company secretary
(BLOCK LETTERS)

<signature redacted>

Director

CRAIG COLEMAN

Name of director
(BLOCK LETTERS)

Scheme of Arrangement

Parties

Pulse Health Limited

ABN 69 104 113 760

Scheme Shareholders

James Stewart
Norton Rose Fulbright Australia
Level 15, RACV Tower, 485 Bourke Street
Melbourne 3000
Tel: +61 3 8686 6573
nortonrosefulbright.com
Our ref: 2840749

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Parties **Pulse Health Limited** ABN 69 104 113 760
of Suite 6, Level 22, 227 Elizabeth Street, Sydney NSW 2000
(**Pulse**)

Each person who is registered as a holder of one or more fully paid ordinary shares in Pulse as at 7.00pm on the Scheme Record Date (each a **Scheme Shareholder** and together the **Scheme Shareholders**)

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Scheme:

- (1) **ACCC** means the Australian Competition and Consumer Commission;
- (2) **ASIC** means the Australian Securities and Investments Commission;
- (3) **ASX** means ASX Limited (ACN 008 624 691) or the financial market operated by it (as the context requires);
- (4) **Business Day** means a business day as defined in the Listing Rules;
- (5) **CHESS** means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited;
- (6) **Corporations Act** means the *Corporations Act 2001* (Cwlth);
- (7) **Court** means the Supreme Court of New South Wales, or such other court of competent jurisdiction under the Corporations Act agreed in writing by Healthe Care and Pulse;
- (8) **Deed Poll** means the deed poll which has been executed by Healthe Care substantially in the form of Annexure B to the Scheme Implementation Deed (or in such other form agreed by Healthe Care and Pulse in writing or required by the Court), under which Healthe Care covenants in favour of the Scheme Shareholders to perform its obligations under this Scheme;
- (9) **Effective** means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to this Scheme;
- (10) **Effective Date** in relation to this Scheme means the date on which this Scheme becomes Effective;
- (11) **Encumbrance** means a mortgage, charge, pledge, lien, hypothecation, security interest or third party interest of any kind whatsoever, or an agreement or arrangement to create any of them or to allow any of them to exist;

- (12) **End Date** means 31 May 2017 or such other date as agreed in writing between Healthe Care and Pulse;
- (13) **Governmental Agency** includes:
- (a) ASX, ASIC, ACCC, NZ OIO;
 - (b) any Australian or foreign government or governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal agency or entity, including a Tax Authority;
 - (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
 - (d) any regulatory organisation established by statute;
- (14) **Healthe Care** means Healthe Care Australia Pty Ltd (ABN 93 117 285 300);
- (15) **Implementation Date** means the third Business Day following the Scheme Record Date (or another day agreed between Healthe Care and Pulse);
- (16) **Listing Rules** means the Listing Rules of ASX;
- (17) **NZ OIO** means the New Zealand Overseas Investment Office;
- (18) **Pulse Share** means a fully paid ordinary share in the capital of Pulse;
- (19) **Pulse Share Register** means the register of members of Pulse maintained by or on behalf of Pulse in accordance with section 168(1) of the Corporations Act;
- (20) **Pulse Share Registry** means Computershare Investor Services Pty Limited ABN 48 078 279 277 or any share registry validly appointed to replace it as Pulse's share registry;
- (21) **Pulse Shareholder** means each person registered in the Pulse Share Register as a holder of one or more Pulse Shares;
- (22) **Registered Account** means, in relation to a Scheme Shareholder, the bank account nominated by the Scheme Shareholder on or before the Scheme Record Date and recorded for the purposes of the Pulse Share Register;
- (23) **Registered Address** means, in relation to a Pulse Shareholder, the address shown in the Pulse Share Register as at the Scheme Record Date;
- (24) **Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Pulse and Scheme Shareholders, subject to any amendments or conditions as agreed between Pulse and Healthe Care in writing and subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Pulse and Healthe Care in accordance with clause 8.2 of this Scheme;
- (25) **Scheme Consideration** means \$0.47 for each Scheme Share to be paid pursuant to this Scheme;
- (26) **Scheme Implementation Deed** means the scheme implementation deed dated 30 November 2016 between Pulse and Healthe Care under which, amongst other things, each of Healthe Care and Pulse has agreed to take certain steps to give

effect to this Scheme on and subject to the terms and conditions of that scheme implementation deed;

- (27) **Scheme Meeting** means the meeting to be convened as ordered by the Court in relation to this Scheme pursuant to section 411(1) of the Corporations Act;
- (28) **Scheme Record Date** means 7.00pm on the fifth Business Day following the Effective Date or such other date (after the Effective Date) as Pulse and Healthe Care agree;
- (29) **Scheme Share** means a Pulse Share held by a Scheme Shareholder as at the Scheme Record Date and, for the avoidance of doubt, includes any Pulse Shares issued on or before the Scheme Record Date;
- (30) **Second Court Date** the first day of the Second Court Hearing or, if the application is adjourned or appealed for any reason, the first day on which the adjourned application or appeal is heard;
- (31) **Second Court Hearing** means the Court hearing at which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving this Scheme is heard;
- (32) **Share Scheme Transfer** means, for each Scheme Shareholder, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Shareholder for the purposes of section 1071B of the Corporations Act, in favour of Healthe Care as transferee, which may be a master transfer of all Scheme Shares;
- (33) **Tax** means all forms of taxes, duties, imposts, charges, withholdings, rates, levies, clawbacks or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines and other additional statutory charges incidental or related to the imposition, assessment or charge of those amounts;
- (34) **Tax Authority** means any Governmental Authority responsible for the imposition, collection or recovery of any Tax; and
- (35) **Trust Account** means the account, with an Australian ADI (as defined in the Corporations Act), which account is operated by Pulse or the Pulse Share Registry as agent for Pulse to hold the aggregate Scheme Consideration on trust (as trustee or agent for each Scheme Shareholder) for the purpose of paying the Scheme Consideration to the Scheme Shareholders in accordance with clause 6.2 of this Scheme.

1.2 Reference to certain general terms

Unless the contrary intention appears, a reference in this Scheme to:

- (1) **(variations or replacement)** a document (including this document), agreement or instrument is a reference to that document, agreement or instrument as amended, consolidated, supplemented, novated or replaced;
- (2) **(defined terms)** other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (3) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document;

- (4) (**reference to statutes**) a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (5) (**law**) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (6) (**singular includes plural**) the singular includes the plural and vice versa;
- (7) (**gender**) words importing a gender include any gender;
- (8) (**party**) a party means a party to this Scheme;
- (9) (**person**) the word “person” includes an individual, any company, partnership, entity, joint venture, association, corporation or other body corporate and any Governmental Agency;
- (10) (**executors, administrators, successors**) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (11) (**currency**) Australian dollars, Australian currency, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (12) (**calculation of time**) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (13) (**reference to a day**) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (14) (**reference to this document**) the expression “this document” includes the agreement, arrangement, understanding or transaction recorded in this document;
- (15) (**meaning not limited**) the words “include”, “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (16) (**time of day**) time is a reference to Sydney, Australia time.

1.3 Non-Business Days

If the day on or by which a person must do something under this document is not a Business Day, the person must do that thing on or by the next Business Day.

1.4 Interpretation of this document

This document is not to be interpreted against the interests of a person merely because that person proposed this document or some provision in it or because that person relies on a provision of this document to protect itself.

1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this Scheme.

2 Preliminary

2.1 Pulse

Pulse is:

- (1) a public company limited by shares;
- (2) incorporated in Australia and deemed to be registered in Western Australia; and
- (3) admitted to the official list of the ASX and Pulse Shares are officially quoted on the stock market conducted by ASX.

As at 30 November 2016, 257,079,905 Pulse Shares are on issue.

2.2 Healthe Care

Healthe Care is:

- (1) a proprietary company limited by shares; and
- (2) incorporated in Australia and deemed to be registered in Queensland.

2.3 If Scheme becomes Effective

If this Scheme becomes Effective:

- (1) in consideration of the transfer of the Scheme Shares to Healthe Care, Healthe Care must pay, or procure the payment of, the aggregate Scheme Consideration for all Scheme Shares in accordance with clause 6.1 of this Scheme;
- (2) subject to the receipt by Pulse of the aggregate Scheme Consideration for all the Scheme Shares in accordance with clause 6.1 of this Scheme and subject to the payment to the Scheme Shareholders of that aggregate Scheme Consideration in accordance with clause 6.2 of this Scheme, all Scheme Shares will be transferred to Healthe Care on the Implementation Date; and subsequently
- (3) Pulse will enter (or procure that the Pulse Share Registry enters) the name of Healthe Care in the Pulse Share Register in respect of all Scheme Shares transferred to Healthe Care in accordance with the terms of this Scheme.

2.4 Scheme Implementation Deed

Pulse and Healthe Care have agreed, by executing the Scheme Implementation Deed, to implement the terms of this Scheme on and subject to the terms and conditions of the Scheme Implementation Deed.

2.5 Deed Poll

Healthe Care has executed the Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders to perform (or procure the performance of) Healthe Care's

obligations as contemplated by this Scheme, the Scheme Implementation Deed and the Deed Poll, including to pay the Scheme Consideration.

3 Conditions precedent

3.1 Conditions precedent to Scheme

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

- (1) as at 8.00am on the Second Court Date, the Scheme Implementation Deed and Deed Poll having not been terminated;
- (2) all of the conditions precedent in clause 3.1 of the Scheme Implementation Deed, other than the condition precedent in clause 3.1(7), having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed before 8.00am on the Second Court Date;
- (3) the Court approves this Scheme in accordance with section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to by Pulse and Healthe Care;
- (4) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme by the End Date or such later date as Healthe Care and Pulse agree; and
- (5) the satisfaction or waiver of such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to Healthe Care and Pulse (each acting reasonably).

3.2 Conditions precedent and binding effect of this Scheme

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the binding effect of this Scheme.

3.3 Certificate in relation to conditions precedent

- (1) Pulse and Healthe Care must each provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within each of their respective knowledge):
 - (a) whether or not all of the conditions precedent set out in clause 3.1 of this Scheme (excluding the condition precedent in clause 3.1(7) of the Scheme Implementation Deed and also excluding the conditions precedent in clauses 3.1(3), 3.1(4) and 3.1(5) of this Scheme) have been satisfied or waived; and
 - (b) whether the Scheme Implementation Deed and the Deed Poll have been terminated in accordance with their terms,as at 8.00am on the Second Court Date.
- (2) The certificates referred to in this clause 3.3 will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 of this Scheme

(excluding the condition precedent in clause 3.1(7) of the Scheme Implementation Deed and also excluding the conditions precedent in clauses 3.1(3), 3.1(4) and 3.1(5) of this Scheme) have been satisfied or waived or taken to be waived as at 8.00am on the Second Court Date.

4 Scheme

4.1 Effective Date

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

4.2 End Date

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

- (1) the Effective Date does not occur on or before the End Date; or
- (2) the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless Healthe Care and Pulse otherwise agree in writing.

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 of this Scheme (other than the condition precedent in clause 3.1(4) of this Scheme) are satisfied, Pulse must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as possible, and in any event by no later than 5.00pm on the first Business Day after the day on which the Court approves this Scheme, or such later time as Pulse and Healthe Care may agree in writing.

5.2 Transfer and registration of Scheme Shares

On the Implementation Date, but subject to the receipt by Pulse of the aggregate Scheme Consideration for all the Scheme Shares in accordance with clause 6.1 of this Scheme and subject to the payment to the Scheme Shareholders of that aggregate Scheme Consideration in accordance with clause 6.2 of this Scheme:

- (1) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Healthe Care without the need for any further act by any Scheme Shareholder (other than acts performed by Pulse or its directors and secretaries as attorney and agent for Scheme Shareholders under clause 8.1 of this Scheme) by:
 - (a) Pulse delivering to Healthe Care a duly completed and executed Share Scheme Transfer executed on behalf of the Scheme Shareholders; and
 - (b) Healthe Care duly executing the Share Scheme Transfer and delivering it to Pulse for registration; and
- (2) as soon as practicable after receipt by Pulse of the duly executed Share Scheme Transfer, Pulse must enter (or procure that the Pulse Share Registry enters) the name of Healthe Care in the Pulse Share Register in respect of all Scheme Shares transferred to Healthe Care in accordance with the terms of this Scheme.

5.3 Entitlement to Scheme Consideration

On the Implementation Date, in consideration of the transfer to Healthe Care of the Scheme Shares in accordance with clause 5.2 of this Scheme, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clause 6 of this Scheme.

5.4 Title and rights in Scheme Shares

Subject to the payment of the Scheme Consideration for the Scheme Shares as contemplated by clauses 6.1 and 6.2 of this Scheme, on and from the Implementation Date, Healthe Care will be beneficially entitled to the Scheme Shares transferred to it under this Scheme, pending registration by Pulse of Healthe Care in the Pulse Share Register as the holder of the Scheme Shares.

5.5 Scheme Shareholders' agreements

Under this Scheme, each Scheme Shareholder agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with the terms of this Scheme.

5.6 Warranty by Scheme Shareholders

- (1) Each Scheme Shareholder is taken to have warranted to Pulse and Healthe Care that:
 - (a) all their Scheme Shares (including any rights and entitlements attaching to those shares) transferred to Healthe Care under this Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances; and
 - (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those shares) to Healthe Care under this Scheme.
- (2) Pulse undertakes that it will provide such warranty to Healthe Care as agent and attorney of each Scheme Shareholder.

5.7 Transfer free of Encumbrances

To the extent permitted by law, all Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred to Healthe Care under this Scheme will, at the date of the transfer of them to Healthe Care, vest in Healthe Care free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

5.8 Appointment of Healthe Care as sole proxy

- (1) Subject to the receipt by Pulse of the aggregate Scheme Consideration for the Scheme Shares as contemplated by clause 6.1 of this Scheme and subject to the payment to the Scheme Shareholders of that aggregate Scheme Consideration in accordance with clause 6.2 of this Scheme, on and from the Implementation Date until Pulse registers Healthe Care as the holder of all of the Scheme Shares in the Pulse Share Register, each Scheme Shareholder:
 - (a) is deemed to have irrevocably appointed Healthe Care and each of its directors and company secretaries, jointly and severally, as attorney and agent (and directs Healthe Care in such capacity) to appoint any director,

officer or agent nominated by Healthe Care as its sole proxy and, where applicable, corporate representative, to attend shareholders' meetings of Pulse, exercise the votes attaching to Scheme Shares registered in the name of the Scheme Shareholder and sign any Pulse shareholders' resolution, and no Scheme Shareholder may itself attend or vote at any of those Pulse shareholders' meetings or sign any Pulse shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.8(1));

- (b) must take all other actions in the capacity of the registered holder of Scheme Shares as Healthe Care directs; and
 - (c) acknowledges and agrees that in exercising the powers referred to in clause 5.8(1)(a), Healthe Care and any director, officer or agent nominated under clause 5.8(1)(a) may act in the best interests of Healthe Care as the intended registered holder of the Scheme Shares.
- (2) Pulse undertakes in favour of each Scheme Shareholder that it will appoint any director, officer or agent nominated by Healthe Care as that Scheme Shareholder's proxy or, where applicable, corporate representative in accordance with clause 5.8(1) of this Scheme.

6 Scheme Consideration

6.1 Satisfaction of obligations

The obligation of Healthe Care to pay the Scheme Consideration for all Scheme Shares under this Scheme will be satisfied by Healthe Care no later than the Business Day before the Implementation Date depositing (or procuring the deposit) in cleared funds into the Trust Account the aggregate amount (in Australian currency) of the Scheme Consideration payable to all Scheme Shareholders (which aggregate Australian currency amount is equal to the total number of Scheme Shares multiplied by \$0.47), provided that any interest on the amounts deposited (less bank fees and related charges) will be credited to Healthe Care's account. For the purpose of this Scheme, Pulse is taken to have received the aggregate Scheme Consideration once the aggregate amount of the Scheme Consideration has been deposited in cleared funds into the Trust Account.

6.2 Payment of Scheme Consideration to Scheme Shareholders

- (1) On the Implementation Date, subject to receipt by Pulse of the aggregate Scheme Consideration from Healthe Care in accordance with clause 6.1 of this Scheme, Pulse must pay (or procure the payment) to each Scheme Shareholder an amount equal to the Scheme Consideration for each Scheme Share transferred to Healthe Care on the Implementation Date by that Scheme Shareholder.
- (2) The Scheme Consideration must be paid in accordance with clause 6.2(1) to each Scheme Shareholder as follows:
 - (a) if the Scheme Shareholder has a Registered Account, making, or procuring the making of, a deposit by electronic funds transfer for the relevant amount of Scheme Consideration in Australian currency to the Scheme Shareholder's Registered Account; or
 - (b) if the Scheme Shareholder does not have a Registered Account and subject to clause 6.5, dispatching, or procuring the dispatch of, a cheque for the relevant amount of Scheme Consideration in Australian currency in

the name of the Scheme Shareholder by pre-paid post to the Scheme Shareholder's Registered Address.

6.3 Cancellation and re-issue of cheques

- (1) Pulse may cancel a cheque issued under clause 6.2(2)(b) of this Scheme if the cheque:
 - (a) is returned to Pulse; or
 - (b) has not been presented for payment within six months after the date on which the cheque was sent.
- (2) During the period of one year commencing on the Implementation Date, on request from a Scheme Shareholder, Pulse must reissue a cheque that was previously cancelled under this clause 6.3.
- (3) Pulse must maintain appropriate records of all payments made in accordance with this clause 6 of this Scheme, including (amongst other things) the amounts paid (including the method of payment in accordance with clause 6.2), the persons paid and any cancelled cheques pursuant to this clause 6.3.

6.4 Orders of a court or Governmental Agency notice

In the case of notice having been given to Pulse (or the Pulse Share Registry) of an order made by a court of competent jurisdiction or notice by a Governmental Agency that is legally binding:

- (1) which requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder in accordance with clause 6.2 of this Scheme, then Pulse shall be entitled to make that payment (or procure that it is made) in accordance with that order or notice; or
- (2) which would prevent Pulse from dispatching payment to any particular Scheme Shareholder in accordance with clause 6.2 of this Scheme, or the payment is otherwise prohibited by applicable law, Pulse shall be entitled to retain an amount, in Australian currency, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with clause 6.2 of this Scheme is permitted by law.

6.5 Joint holders

In the case of Scheme Shares held in joint names:

- (1) any cheque required to be paid to Scheme Shareholders under this Scheme must be payable to the joint holders and be forwarded to either, at the sole discretion of Pulse, the holder whose name appears first in the Pulse Share Register as at 7.00pm on the Scheme Record Date or the joint holders; and
- (2) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Pulse, the holder whose name appears first in the Pulse Share Register as at the Scheme Record Date or to the joint holders.

6.6 Lapse of Scheme

If, following receipt by Pulse of the aggregate Scheme Consideration from Healthe Care in accordance with clause 6.1 of this Scheme but prior to the occurrence of all of the events described in clause 5.2, this Scheme lapses under clause 4.2:

- (1) Pulse must immediately repay (or cause to be repaid) to or at the direction of Healthe Care the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges);
- (2) the obligation to transfer Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, to Healthe Care under this Scheme (including under clause 5.2) will immediately cease;
- (3) Healthe Care must return to Pulse the Share Scheme Transfer, if provided pursuant to clause 5.2(1)(a); and
- (4) Pulse is no longer obliged to enter, or procure the entry of, the name of Healthe Care in the Pulse Share Register in accordance with clause 5.2(2).

6.7 Unclaimed monies

- (1) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).
- (2) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Healthe Care.

6.8 Remaining monies (if any) in Trust Account

To the extent that, following satisfaction of Pulse's and Healthe Care's obligations under the other provisions of this clause 6 and provided Healthe Care has by that time acquired the Scheme Shares in accordance with this Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of this Scheme, the Deed Poll and the Scheme Implementation Deed, that surplus (less any bank fees and related charges) shall be paid by Pulse to Healthe Care.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Shareholders

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

- (1) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Pulse Share Register as the holder of the relevant Pulse Shares on or before 7.00pm on the Scheme Record Date; and
- (2) in all other cases, registrable transmission applications or transfers in respect of those dealings, or valid requests in respect of other alterations, are received before the Scheme Record Date at the place where the Pulse Share Register is kept,

and Pulse must not accept for registration, nor recognise for any purpose any transmission or transfer application or other request in respect of Scheme Shares received after such times (except a transfer to Healthe Care pursuant to this Scheme and any subsequent

transfer by Healthe Care or its successors in title) or received prior to such time but not in registrable or actionable form, as appropriate.

7.2 No disposals after Scheme Record Date

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

7.3 Maintenance of Pulse Share Register

- (1) For the purpose of determining entitlements to the Scheme Consideration, Pulse will maintain or procure the maintenance of the Pulse Share Register in accordance with the provisions of this clause 7 until the Scheme Consideration has been paid to the Scheme Shareholders. The Pulse Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (2) As soon as possible on or after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, Pulse will ensure that details of the names, Registered Addresses and holdings of Pulse Shares for each Scheme Shareholder as shown in the Pulse Share Register are available to Healthe Care in the form Healthe Care reasonably requires.

7.4 Quotation of Pulse Shares

- (1) Suspension of trading on ASX in Pulse Shares is expected to occur from the close of trading on ASX on the Effective Date.
- (2) After this Scheme has been fully implemented (including registration of the Share Scheme Transfer), on a date to be determined by Healthe Care, Pulse must apply:
 - (a) for termination of the official quotation of Pulse Shares on ASX; and
 - (b) to have itself removed from the official list of the ASX.

8 General Scheme provisions

8.1 Power of attorney

Each Scheme Shareholder, without the need for any further act, on the Effective Date, irrevocably appoints Pulse and each of its directors, company secretaries and other officers (jointly and each of them severally) as its attorney and agent for the purpose of:

- (1) enforcing the Deed Poll against Healthe Care; and
- (2) executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Share Scheme Transfer,

and Pulse accepts each such appointment. Pulse as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.1 of this Scheme to all or any of its directors, company secretaries or other officers (jointly, severally or jointly and severally).

8.2 Variations, alterations and conditions

Pulse may, with the consent of Healthe Care (which cannot be unreasonably withheld or delayed), by Pulse's counsel or solicitor consent on behalf of all persons concerned (including each Scheme Shareholder) to any variations, alterations or conditions to this Scheme which the Court thinks fit to impose. Each Scheme Shareholder agrees to any such variations, alterations or conditions which counsel for Pulse or the solicitor for Pulse consents to.

8.3 Further action by Pulse

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

8.4 Authority and acknowledgement

Each of the Scheme Shareholders irrevocably:

- (1) agrees to the variation, cancellation or modification of the rights attached to their Pulse Shares constituted by or resulting from this Scheme;
- (2) consents to Pulse doing all things necessary or expedient for or incidental to the implementation of this Scheme (whether on behalf of the Scheme Shareholders, Pulse or otherwise) and irrevocably consents to Pulse, as agent of each Scheme Shareholder, sub-delegating Pulse's functions under this clause 8.4(1) to any of Pulse's directors, company secretaries or other officers, jointly and severally; and
- (3) acknowledges that this Scheme binds Pulse and all Scheme Shareholders (including those who do not attend the Scheme Meeting or do not vote at that Scheme Meeting or vote against this Scheme at that Scheme Meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Pulse.

8.5 No liability when acting in good faith

Each Scheme Shareholder agrees that neither Pulse nor any of its directors, company secretaries or employees will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.

8.6 Enforcement of Deed Poll

Pulse undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against Healthe Care on behalf of and as agent and attorney for each Scheme Shareholder.

8.7 Stamp duty

Healthe Care will pay all stamp duty (including any related fines, penalties, interest and other costs) payable in respect of this Scheme (including in respect of the Share Scheme Transfer) and the Deed Poll. Healthe Care will indemnify each Scheme Shareholder against any liability arising from Healthe Care's failure to comply with this clause 8.7 of this Scheme.

8.8 Notices

- (1) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Pulse, it will not be taken to be

received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Pulse's registered office or at the office of the Pulse Share Registry.

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

9 Governing law

9.1 Governing law

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

9.2 Jurisdiction

Each party irrevocably and unconditionally:

- (1) submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document; and
- (2) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

Annexure B - Deed Poll



Dated

Deed Poll

being a deed poll made by

Healthe Care Australia Pty Ltd ABN 93 117 285 300 (**Healthe Care**)

in favour of

Each person who is registered as a holder of one or more fully paid ordinary shares in Pulse Health Limited ABN 69 104 113 760 (**Pulse**) as at 7.00pm on the Scheme Record Date (each a **Scheme Shareholder** and together the **Scheme Shareholders**)

James Stewart
Norton Rose Fulbright Australia
Level 15, RACV Tower, 485 Bourke Street
Melbourne 3000
Tel: +61 3 8686 6573
nortonrosefulbright.com
Our ref: 2840749

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Deed poll dated

Made by **Healthe Care Australia Pty Ltd ABN 93 117 285 300**
of 160 Sussex Street, Sydney NSW 2000, Australia
(**Healthe Care**)

in favour of Each person who is registered as a holder of one or more fully paid ordinary shares in Pulse Health Limited ABN 69 104 113 760 (**Pulse**) as at 7.00pm on the Scheme Record Date (each a **Scheme Shareholder** and together the **Scheme Shareholders**)

Introduction

- A** Pulse and Healthe Care have entered into the Scheme Implementation Deed.
- B** Pursuant to the Scheme Implementation Deed, Healthe Care agreed (amongst other things) to pay, or procure the payment of, the aggregate Scheme Consideration to Pulse to be received on behalf of the Scheme Shareholders, subject to the satisfaction of certain conditions.
- C** Healthe Care is entering into this deed poll for the purpose of covenanting in favour of Scheme Shareholders to perform the obligations of Healthe Care under the Scheme Implementation Deed and the Scheme.

General Terms

1 Definitions and interpretation

1.1 Definitions

In this deed poll (unless the context otherwise requires):

- (1) **First Court Date** means the first day on which the First Court Hearing is held;
- (2) **First Court Hearing** means the Court hearing at which an application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is heard;
- (3) **Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Pulse and the Scheme Shareholders substantially in the form of Annexure A to this deed poll (or as otherwise agreed by Healthe Care and Pulse in writing) subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Pulse and Healthe Care in accordance with clause 8.2 of the Scheme;
- (4) **Scheme Implementation Deed** means the scheme implementation deed dated 30 November 2016 between Pulse and Healthe Care under which, amongst other things, each of Healthe Care and Pulse has agreed to take certain steps to give effect to the Scheme on and subject to the terms and conditions of that scheme implementation deed; and
- (5) words and phrases used in this deed poll have the same meaning as given to them in the Scheme.

1.2 Interpretation

Clauses 1.2 to 1.5 (inclusive) of the Scheme apply to the interpretation of this deed poll except that references to “this Scheme” in that clause are to be read as references to “this deed poll”.

1.3 Nature of deed poll

Healthe Care acknowledges that:

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

2 Conditions

2.1 Conditions

Healthe Care’s obligations under clause 3 are subject to the Scheme becoming Effective.

2.2 Termination

Healthe Care’s obligations under this deed poll automatically terminate if:

- (1) the Scheme has not become Effective on or before the End Date;
- (2) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (3) the Scheme lapses and is of no further force or effect under clause 4.2 of the Scheme,

unless Pulse and Healthe Care otherwise agree in writing.

2.3 Consequences of termination

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

- (1) Healthe Care is released from its obligations to further perform this deed poll except those obligations contained in clause 7.1 and any other obligations which by their nature survive termination; and
- (2) each Scheme Shareholder retains any rights, powers or remedies they have against Healthe Care in respect of any breach of this deed poll which occurs before it is terminated.

3 Scheme obligations

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

- (1) to, by no later than the Business Day before the Implementation Date, deposit (or procure the deposit) into the Trust Account in cleared funds an amount in

Australian currency equal to the aggregate Scheme Consideration payable to all Scheme Shareholders under the Scheme (which Australian currency amount is equal to the total number of Scheme Shares multiplied by \$0.47); and

- (2) to perform all other actions attributed to it under the Scheme, subject to and in accordance with the terms of the Scheme.

4 Warranties

Healthe Care represents and warrants in favour of each Scheme Shareholder that each of the following statements are true and correct with respect to Healthe Care:

- (1) it is a corporation validly existing under the laws of its place of registration;
- (2) it has full legal capacity and corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (3) it has taken all corporate action that is necessary or desirable to authorise its entry into this deed poll and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (4) this deed poll constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms subject to any necessary stamping, which stamping Healthe Care warrants it will attend to and pay for, in compliance with applicable laws; and
- (5) this deed poll does not conflict with, or result in the breach of or default under, any provision of the constituent documents of Healthe Care, or any writ, agreement, order or injunction, judgment, law, rule or regulation to which Healthe Care is a party or subject to or by which it is bound.

5 Continuing obligations

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

- (1) Healthe Care has fully performed its obligations under this deed poll; or
- (2) the earlier termination of this deed poll under clause 2.2.

6 Notices

6.1 Form

All notices or other communications to Healthe Care in respect of this deed poll must be:

- (1) in writing;
- (2) must be addressed as shown below:

Healthe Care

Address: 160 Sussex Street, Sydney NSW 2000

For the attention of: General Counsel

Email: Tony.Marshall@healthehealthcare.com.au

Copy to: Tom.Story@allens.com.au

(or as otherwise notified by that party to this deed poll to the sender of the notice or other communication from time to time);

- (3) must be personally delivered or posted by prepaid post to the address of the addressee, or sent by email to the email address of the addressee, in accordance with clause 18.1(2); and
- (4) will be deemed to be received by the addressee:
 - (a) **(in the case of prepaid post sent to a domestic address)** on the third Business Day after the date of posting;
 - (b) **(in the case of a prepaid post sent to an international address)** on the fifth Business Day after the date of posting by airmail;
 - (c) **(in the case of delivery by hand)** on delivery; and
 - (d) **(in case of email)** 4 hours after the email was sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that 4 hour period, an automated message that the email has not been delivered,

but if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5.00pm (local time in the place of receipt), it is taken to be received at 9.00am (local time in the place of receipt) on the next Business Day.

7 General

7.1 Stamp duty

Healthe Care must:

- (1) pay all stamp duty (including any related fines, penalties, interest and other costs) in respect of the Scheme and this deed poll, any instruments entered into under this deed poll and in respect of a transaction effected by or made under one or both of the Scheme and this deed poll; and
- (2) indemnify on demand each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(1).

7.2 Waiver

- (1) A waiver of any right arising from a breach of this deed poll or of any right, power, authority, discretion or remedy arising upon default under this deed poll must be in writing and signed by the person giving the waiver.

- (2) A failure or delay in exercise, or partial exercise, of:
 - (a) a right arising from a breach of this deed poll; or
 - (b) a right, power, authority, discretion or remedy created or arising upon default under this deed poll,does not result in a waiver of that right, power, authority, discretion or remedy.
- (3) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this deed poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- (4) A party may not rely on any conduct of another person as a defence to exercise of a right, power, authority, discretion or remedy by that other person.

7.3 Variation

A provision of this deed poll or any right created under it may only be varied, altered or otherwise amended if:

- (1) before the First Court Date, the variation is agreed to by Pulse in writing; or
- (2) on or after the First Court Date, the variation is agreed to by Pulse in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Healthe Care will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation, alteration or amendment.

7.4 Remedies cumulative

The rights and remedies of Healthe Care and the Scheme Shareholders under this deed poll are cumulative and in addition to other rights and remedies given by law independently of this deed poll.

7.5 Assignment

The rights and obligations of Healthe Care and each Scheme Shareholder under this deed poll are personal and must not be assigned, encumbered, charged or otherwise dealt with at law or in equity and no person shall attempt or purport to do so.

7.6 Governing law and jurisdiction

This deed poll is governed by the law in force in New South Wales, Australia. Healthe Care irrevocably and unconditionally:

- (1) submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this deed poll; and
- (2) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

7.7 Further action

Healthe Care must, at its own expense, execute all documents and do all things (on its own behalf or on behalf of each Scheme Shareholder) necessary or expedient to give effect to this deed poll and the transactions contemplated by it.

Executed as a deed poll and delivered on the date shown on the first page.

Executed as a deed poll by **Healthe Care Australia Pty Ltd** ABN 93 117 285 300 in accordance with section 127 of the *Corporations Act 2001*:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Scheme of Arrangement

Parties

Pulse Health Limited

ABN 69 104 113 760

Scheme Shareholders

James Stewart
Norton Rose Fulbright Australia
Level 15, RACV Tower, 485 Bourke Street
Melbourne 3000
Tel: +61 3 8686 6573
nortonrosefulbright.com
Our ref: 2840749

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Scheme of Arrangement

Parties **Pulse Health Limited** ABN 69 104 113 760
of Suite 6, Level 22, 227 Elizabeth Street, Sydney NSW 2000
(**Pulse**)

Each person who is registered as a holder of one or more fully paid ordinary shares in Pulse as at 7.00pm on the Scheme Record Date (each a **Scheme Shareholder** and together the **Scheme Shareholders**)

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Scheme:

- (1) **ACCC** means the Australian Competition and Consumer Commission;
- (2) **ASIC** means the Australian Securities and Investments Commission;
- (3) **ASX** means ASX Limited (ACN 008 624 691) or the financial market operated by it (as the context requires);
- (4) **Business Day** means a business day as defined in the Listing Rules;
- (5) **CHESS** means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited;
- (6) **Corporations Act** means the *Corporations Act 2001* (Cwlth);
- (7) **Court** means the Supreme Court of New South Wales, or such other court of competent jurisdiction under the Corporations Act agreed in writing by Healthe Care and Pulse;
- (8) **Deed Poll** means the deed poll which has been executed by Healthe Care substantially in the form of Annexure B to the Scheme Implementation Deed (or in such other form agreed by Healthe Care and Pulse in writing or required by the Court), under which Healthe Care covenants in favour of the Scheme Shareholders to perform its obligations under this Scheme;
- (9) **Effective** means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to this Scheme;
- (10) **Effective Date** in relation to this Scheme means the date on which this Scheme becomes Effective;
- (11) **Encumbrance** means a mortgage, charge, pledge, lien, hypothecation, security interest or third party interest of any kind whatsoever, or an agreement or arrangement to create any of them or to allow any of them to exist;

- (12) **End Date** means 31 May 2017 or such other date as agreed in writing between Healthe Care and Pulse;
- (13) **Governmental Agency** includes:
- (a) ASX, ASIC, ACCC, NZ OIO;
 - (b) any Australian or foreign government or governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal agency or entity, including a Tax Authority;
 - (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
 - (d) any regulatory organisation established by statute;
- (14) **Healthe Care** means Healthe Care Australia Pty Ltd (ABN 93 117 285 300);
- (15) **Implementation Date** means the third Business Day following the Scheme Record Date (or another day agreed between Healthe Care and Pulse);
- (16) **Listing Rules** means the Listing Rules of ASX;
- (17) **NZ OIO** means the New Zealand Overseas Investment Office;
- (18) **Pulse Share** means a fully paid ordinary share in the capital of Pulse;
- (19) **Pulse Share Register** means the register of members of Pulse maintained by or on behalf of Pulse in accordance with section 168(1) of the Corporations Act;
- (20) **Pulse Share Registry** means Computershare Investor Services Pty Limited ABN 48 078 279 277 or any share registry validly appointed to replace it as Pulse's share registry;
- (21) **Pulse Shareholder** means each person registered in the Pulse Share Register as a holder of one or more Pulse Shares;
- (22) **Registered Account** means, in relation to a Scheme Shareholder, the bank account nominated by the Scheme Shareholder on or before the Scheme Record Date and recorded for the purposes of the Pulse Share Register;
- (23) **Registered Address** means, in relation to a Pulse Shareholder, the address shown in the Pulse Share Register as at the Scheme Record Date;
- (24) **Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Pulse and Scheme Shareholders, subject to any amendments or conditions as agreed between Pulse and Healthe Care in writing and subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Pulse and Healthe Care in accordance with clause 8.2 of this Scheme;
- (25) **Scheme Consideration** means \$0.47 for each Scheme Share to be paid pursuant to this Scheme;
- (26) **Scheme Implementation Deed** means the scheme implementation deed dated 30 November 2016 between Pulse and Healthe Care under which, amongst other things, each of Healthe Care and Pulse has agreed to take certain steps to give

effect to this Scheme on and subject to the terms and conditions of that scheme implementation deed;

- (27) **Scheme Meeting** means the meeting to be convened as ordered by the Court in relation to this Scheme pursuant to section 411(1) of the Corporations Act;
- (28) **Scheme Record Date** means 7.00pm on the fifth Business Day following the Effective Date or such other date (after the Effective Date) as Pulse and Healthe Care agree;
- (29) **Scheme Share** means a Pulse Share held by a Scheme Shareholder as at the Scheme Record Date and, for the avoidance of doubt, includes any Pulse Shares issued on or before the Scheme Record Date;
- (30) **Second Court Date** the first day of the Second Court Hearing or, if the application is adjourned or appealed for any reason, the first day on which the adjourned application or appeal is heard;
- (31) **Second Court Hearing** means the Court hearing at which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving this Scheme is heard;
- (32) **Share Scheme Transfer** means, for each Scheme Shareholder, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Shareholder for the purposes of section 1071B of the Corporations Act, in favour of Healthe Care as transferee, which may be a master transfer of all Scheme Shares;
- (33) **Tax** means all forms of taxes, duties, imposts, charges, withholdings, rates, levies, clawbacks or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines and other additional statutory charges incidental or related to the imposition, assessment or charge of those amounts;
- (34) **Tax Authority** means any Governmental Authority responsible for the imposition, collection or recovery of any Tax; and
- (35) **Trust Account** means the account, with an Australian ADI (as defined in the Corporations Act), which account is operated by Pulse or the Pulse Share Registry as agent for Pulse to hold the aggregate Scheme Consideration on trust (as trustee or agent for each Scheme Shareholder) for the purpose of paying the Scheme Consideration to the Scheme Shareholders in accordance with clause 6.2 of this Scheme.

1.2 Reference to certain general terms

Unless the contrary intention appears, a reference in this Scheme to:

- (1) **(variations or replacement)** a document (including this document), agreement or instrument is a reference to that document, agreement or instrument as amended, consolidated, supplemented, novated or replaced;
- (2) **(defined terms)** other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (3) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document;

- (4) (**reference to statutes**) a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (5) (**law**) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (6) (**singular includes plural**) the singular includes the plural and vice versa;
- (7) (**gender**) words importing a gender include any gender;
- (8) (**party**) a party means a party to this Scheme;
- (9) (**person**) the word “person” includes an individual, any company, partnership, entity, joint venture, association, corporation or other body corporate and any Governmental Agency;
- (10) (**executors, administrators, successors**) a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (11) (**currency**) Australian dollars, Australian currency, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (12) (**calculation of time**) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (13) (**reference to a day**) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (14) (**reference to this document**) the expression “this document” includes the agreement, arrangement, understanding or transaction recorded in this document;
- (15) (**meaning not limited**) the words “include”, “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (16) (**time of day**) time is a reference to Sydney, Australia time.

1.3 Non-Business Days

If the day on or by which a person must do something under this document is not a Business Day, the person must do that thing on or by the next Business Day.

1.4 Interpretation of this document

This document is not to be interpreted against the interests of a person merely because that person proposed this document or some provision in it or because that person relies on a provision of this document to protect itself.

1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this Scheme.

2 Preliminary

2.1 Pulse

Pulse is:

- (1) a public company limited by shares;
- (2) incorporated in Australia and deemed to be registered in Western Australia; and
- (3) admitted to the official list of the ASX and Pulse Shares are officially quoted on the stock market conducted by ASX.

As at 30 November 2016, 257,079,905 Pulse Shares are on issue.

2.2 Healthe Care

Healthe Care is:

- (1) a proprietary company limited by shares; and
- (2) incorporated in Australia and deemed to be registered in Queensland.

2.3 If Scheme becomes Effective

If this Scheme becomes Effective:

- (1) in consideration of the transfer of the Scheme Shares to Healthe Care, Healthe Care must pay, or procure the payment of, the aggregate Scheme Consideration for all Scheme Shares in accordance with clause 6.1 of this Scheme;
- (2) subject to the receipt by Pulse of the aggregate Scheme Consideration for all the Scheme Shares in accordance with clause 6.1 of this Scheme and subject to the payment to the Scheme Shareholders of that aggregate Scheme Consideration in accordance with clause 6.2 of this Scheme, all Scheme Shares will be transferred to Healthe Care on the Implementation Date; and subsequently
- (3) Pulse will enter (or procure that the Pulse Share Registry enters) the name of Healthe Care in the Pulse Share Register in respect of all Scheme Shares transferred to Healthe Care in accordance with the terms of this Scheme.

2.4 Scheme Implementation Deed

Pulse and Healthe Care have agreed, by executing the Scheme Implementation Deed, to implement the terms of this Scheme on and subject to the terms and conditions of the Scheme Implementation Deed.

2.5 Deed Poll

Healthe Care has executed the Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders to perform (or procure the performance of) Healthe Care's obligations as contemplated by this Scheme, the Scheme Implementation Deed and the Deed Poll, including to pay the Scheme Consideration.

3 Conditions precedent

3.1 Conditions precedent to Scheme

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

- (1) as at 8.00am on the Second Court Date, the Scheme Implementation Deed and Deed Poll having not been terminated;
- (2) all of the conditions precedent in clause 3.1 of the Scheme Implementation Deed, other than the condition precedent in clause 3.1(7), having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed before 8.00am on the Second Court Date;
- (3) the Court approves this Scheme in accordance with section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to by Pulse and Healthe Care;
- (4) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme by the End Date or such later date as Healthe Care and Pulse agree; and
- (5) the satisfaction or waiver of such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to Healthe Care and Pulse (each acting reasonably).

3.2 Conditions precedent and binding effect of this Scheme

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the binding effect of this Scheme.

3.3 Certificate in relation to conditions precedent

- (1) Pulse and Healthe Care must each provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within each of their respective knowledge):
 - (a) whether or not all of the conditions precedent set out in clause 3.1 of this Scheme (excluding the condition precedent in clause 3.1(7) of the Scheme Implementation Deed and also excluding the conditions precedent in clauses 3.1(3), 3.1(4) and 3.1(5) of this Scheme) have been satisfied or waived; and
 - (b) whether the Scheme Implementation Deed and the Deed Poll have been terminated in accordance with their terms,

as at 8.00am on the Second Court Date.

- (2) The certificates referred to in this clause 3.3 will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 of this Scheme (excluding the condition precedent in clause 3.1(7) of the Scheme Implementation Deed and also excluding the conditions precedent in clauses 3.1(3), 3.1(4) and 3.1(5) of this Scheme) have been satisfied or waived or taken to be waived as at 8.00am on the Second Court Date.

4 Scheme

4.1 Effective Date

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

4.2 End Date

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

- (1) the Effective Date does not occur on or before the End Date; or
- (2) the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless Healthe Care and Pulse otherwise agree in writing.

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 of this Scheme (other than the condition precedent in clause 3.1(4) of this Scheme) are satisfied, Pulse must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as possible, and in any event by no later than 5.00pm on the first Business Day after the day on which the Court approves this Scheme, or such later time as Pulse and Healthe Care may agree in writing.

5.2 Transfer and registration of Scheme Shares

On the Implementation Date, but subject to the receipt by Pulse of the aggregate Scheme Consideration for all the Scheme Shares in accordance with clause 6.1 of this Scheme and subject to the payment to the Scheme Shareholders of that aggregate Scheme Consideration in accordance with clause 6.2 of this Scheme:

- (1) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Healthe Care without the need for any further act by any Scheme Shareholder (other than acts performed by Pulse or its directors and secretaries as attorney and agent for Scheme Shareholders under clause 8.1 of this Scheme) by:
 - (a) Pulse delivering to Healthe Care a duly completed and executed Share Scheme Transfer executed on behalf of the Scheme Shareholders; and
 - (b) Healthe Care duly executing the Share Scheme Transfer and delivering it to Pulse for registration; and
- (2) as soon as practicable after receipt by Pulse of the duly executed Share Scheme Transfer, Pulse must enter (or procure that the Pulse Share Registry enters) the name of Healthe Care in the Pulse Share Register in respect of all Scheme Shares transferred to Healthe Care in accordance with the terms of this Scheme.

5.3 Entitlement to Scheme Consideration

On the Implementation Date, in consideration of the transfer to Healthe Care of the Scheme Shares in accordance with clause 5.2 of this Scheme, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clause 6 of this Scheme.

5.4 Title and rights in Scheme Shares

Subject to the payment of the Scheme Consideration for the Scheme Shares as contemplated by clauses 6.1 and 6.2 of this Scheme, on and from the Implementation Date, Healthe Care will be beneficially entitled to the Scheme Shares transferred to it under this Scheme, pending registration by Pulse of Healthe Care in the Pulse Share Register as the holder of the Scheme Shares.

5.5 Scheme Shareholders' agreements

Under this Scheme, each Scheme Shareholder agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with the terms of this Scheme.

5.6 Warranty by Scheme Shareholders

- (1) Each Scheme Shareholder is taken to have warranted to Pulse and Healthe Care that:
 - (a) all their Scheme Shares (including any rights and entitlements attaching to those shares) transferred to Healthe Care under this Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances; and
 - (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those shares) to Healthe Care under this Scheme.
- (2) Pulse undertakes that it will provide such warranty to Healthe Care as agent and attorney of each Scheme Shareholder.

5.7 Transfer free of Encumbrances

To the extent permitted by law, all Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred to Healthe Care under this Scheme will, at the date of the transfer of them to Healthe Care, vest in Healthe Care free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

5.8 Appointment of Healthe Care as sole proxy

- (1) Subject to the receipt by Pulse of the aggregate Scheme Consideration for the Scheme Shares as contemplated by clause 6.1 of this Scheme and subject to the payment to the Scheme Shareholders of that aggregate Scheme Consideration in accordance with clause 6.2 of this Scheme, on and from the Implementation Date until Pulse registers Healthe Care as the holder of all of the Scheme Shares in the Pulse Share Register, each Scheme Shareholder:
 - (a) is deemed to have irrevocably appointed Healthe Care and each of its directors and company secretaries, jointly and severally, as attorney and agent (and directs Healthe Care in such capacity) to appoint any director, officer or agent nominated by Healthe Care as its sole proxy and, where applicable, corporate representative, to attend shareholders' meetings of Pulse, exercise the votes attaching to Scheme Shares registered in the name of the Scheme Shareholder and sign any Pulse shareholders' resolution, and no Scheme Shareholder may itself attend or vote at any of those Pulse shareholders' meetings or sign any Pulse shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.8(1));

- (b) must take all other actions in the capacity of the registered holder of Scheme Shares as Healthe Care directs; and
 - (c) acknowledges and agrees that in exercising the powers referred to in clause 5.8(1)(a), Healthe Care and any director, officer or agent nominated under clause 5.8(1)(a) may act in the best interests of Healthe Care as the intended registered holder of the Scheme Shares.
- (2) Pulse undertakes in favour of each Scheme Shareholder that it will appoint any director, officer or agent nominated by Healthe Care as that Scheme Shareholder's proxy or, where applicable, corporate representative in accordance with clause 5.8(1) of this Scheme.

6 Scheme Consideration

6.1 Satisfaction of obligations

The obligation of Healthe Care to pay the Scheme Consideration for all Scheme Shares under this Scheme will be satisfied by Healthe Care no later than the Business Day before the Implementation Date depositing (or procuring the deposit) in cleared funds into the Trust Account the aggregate amount (in Australian currency) of the Scheme Consideration payable to all Scheme Shareholders (which aggregate Australian currency amount is equal to the total number of Scheme Shares multiplied by \$0.47), provided that any interest on the amounts deposited (less bank fees and related charges) will be credited to Healthe Care's account. For the purpose of this Scheme, Pulse is taken to have received the aggregate Scheme Consideration once the aggregate amount of the Scheme Consideration has been deposited in cleared funds into the Trust Account.

6.2 Payment of Scheme Consideration to Scheme Shareholders

- (1) On the Implementation Date, subject to receipt by Pulse of the aggregate Scheme Consideration from Healthe Care in accordance with clause 6.1 of this Scheme, Pulse must pay (or procure the payment) to each Scheme Shareholder an amount equal to the Scheme Consideration for each Scheme Share transferred to Healthe Care on the Implementation Date by that Scheme Shareholder.
- (2) The Scheme Consideration must be paid in accordance with clause 6.2(1) to each Scheme Shareholder as follows:
 - (a) if the Scheme Shareholder has a Registered Account, making, or procuring the making of, a deposit by electronic funds transfer for the relevant amount of Scheme Consideration in Australian currency to the Scheme Shareholder's Registered Account; or
 - (b) if the Scheme Shareholder does not have a Registered Account and subject to clause 6.5, dispatching, or procuring the dispatch of, a cheque for the relevant amount of Scheme Consideration in Australian currency in the name of the Scheme Shareholder by pre-paid post to the Scheme Shareholder's Registered Address.

6.3 Cancellation and re-issue of cheques

- (1) Pulse may cancel a cheque issued under clause 6.2(2)(b) of this Scheme if the cheque:
 - (a) is returned to Pulse; or

- (b) has not been presented for payment within six months after the date on which the cheque was sent.
- (2) During the period of one year commencing on the Implementation Date, on request from a Scheme Shareholder, Pulse must reissue a cheque that was previously cancelled under this clause 6.3.
- (3) Pulse must maintain appropriate records of all payments made in accordance with this clause 6 of this Scheme, including (amongst other things) the amounts paid (including the method of payment in accordance with clause 6.2), the persons paid and any cancelled cheques pursuant to this clause 6.3.

6.4 Orders of a court or Governmental Agency notice

In the case of notice having been given to Pulse (or the Pulse Share Registry) of an order made by a court of competent jurisdiction or notice by a Governmental Agency that is legally binding:

- (1) which requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder in accordance with clause 6.2 of this Scheme, then Pulse shall be entitled to make that payment (or procure that it is made) in accordance with that order or notice; or
- (2) which would prevent Pulse from dispatching payment to any particular Scheme Shareholder in accordance with clause 6.2 of this Scheme, or the payment is otherwise prohibited by applicable law, Pulse shall be entitled to retain an amount, in Australian currency, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with clause 6.2 of this Scheme is permitted by law.

6.5 Joint holders

In the case of Scheme Shares held in joint names:

- (1) any cheque required to be paid to Scheme Shareholders under this Scheme must be payable to the joint holders and be forwarded to either, at the sole discretion of Pulse, the holder whose name appears first in the Pulse Share Register as at 7.00pm on the Scheme Record Date or the joint holders; and
- (2) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Pulse, the holder whose name appears first in the Pulse Share Register as at the Scheme Record Date or to the joint holders.

6.6 Lapse of Scheme

If, following receipt by Pulse of the aggregate Scheme Consideration from Healthe Care in accordance with clause 6.1 of this Scheme but prior to the occurrence of all of the events described in clause 5.2, this Scheme lapses under clause 4.2:

- (1) Pulse must immediately repay (or cause to be repaid) to or at the direction of Healthe Care the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges);
- (2) the obligation to transfer Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, to Healthe Care under this Scheme (including under clause 5.2) will immediately cease;

- (3) Healthe Care must return to Pulse the Share Scheme Transfer, if provided pursuant to clause 5.2(1)(a); and
- (4) Pulse is no longer obliged to enter, or procure the entry of, the name of Healthe Care in the Pulse Share Register in accordance with clause 5.2(2).

6.7 Unclaimed monies

- (1) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).
- (2) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Healthe Care.

6.8 Remaining monies (if any) in Trust Account

To the extent that, following satisfaction of Pulse's and Healthe Care's obligations under the other provisions of this clause 6 and provided Healthe Care has by that time acquired the Scheme Shares in accordance with this Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of this Scheme, the Deed Poll and the Scheme Implementation Deed, that surplus (less any bank fees and related charges) shall be paid by Pulse to Healthe Care.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Shareholders

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

- (1) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Pulse Share Register as the holder of the relevant Pulse Shares on or before 7.00pm on the Scheme Record Date; and
- (2) in all other cases, registrable transmission applications or transfers in respect of those dealings, or valid requests in respect of other alterations, are received before the Scheme Record Date at the place where the Pulse Share Register is kept,

and Pulse must not accept for registration, nor recognise for any purpose any transmission or transfer application or other request in respect of Scheme Shares received after such times (except a transfer to Healthe Care pursuant to this Scheme and any subsequent transfer by Healthe Care or its successors in title) or received prior to such time but not in registrable or actionable form, as appropriate.

7.2 No disposals after Scheme Record Date

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

7.3 Maintenance of Pulse Share Register

- (1) For the purpose of determining entitlements to the Scheme Consideration, Pulse will maintain or procure the maintenance of the Pulse Share Register in accordance with the provisions of this clause 7 until the Scheme Consideration has

been paid to the Scheme Shareholders. The Pulse Share Register in this form will solely determine entitlements to the Scheme Consideration.

- (2) As soon as possible on or after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, Pulse will ensure that details of the names, Registered Addresses and holdings of Pulse Shares for each Scheme Shareholder as shown in the Pulse Share Register are available to Healthe Care in the form Healthe Care reasonably requires.

7.4 Quotation of Pulse Shares

- (1) Suspension of trading on ASX in Pulse Shares is expected to occur from the close of trading on ASX on the Effective Date.
- (2) After this Scheme has been fully implemented (including registration of the Share Scheme Transfer), on a date to be determined by Healthe Care, Pulse must apply:
 - (a) for termination of the official quotation of Pulse Shares on ASX; and
 - (b) to have itself removed from the official list of the ASX.

8 General Scheme provisions

8.1 Power of attorney

Each Scheme Shareholder, without the need for any further act, on the Effective Date, irrevocably appoints Pulse and each of its directors, company secretaries and other officers (jointly and each of them severally) as its attorney and agent for the purpose of:

- (1) enforcing the Deed Poll against Healthe Care; and
- (2) executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Share Scheme Transfer,

and Pulse accepts each such appointment. Pulse as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.1 of this Scheme to all or any of its directors, company secretaries or other officers (jointly, severally or jointly and severally).

8.2 Variations, alterations and conditions

Pulse may, with the consent of Healthe Care (which cannot be unreasonably withheld or delayed), by Pulse's counsel or solicitor consent on behalf of all persons concerned (including each Scheme Shareholder) to any variations, alterations or conditions to this Scheme which the Court thinks fit to impose. Each Scheme Shareholder agrees to any such variations, alterations or conditions which counsel for Pulse or the solicitor for Pulse consents to.

8.3 Further action by Pulse

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

8.4 Authority and acknowledgement

Each of the Scheme Shareholders irrevocably:

- (1) agrees to the variation, cancellation or modification of the rights attached to their Pulse Shares constituted by or resulting from this Scheme;
- (2) consents to Pulse doing all things necessary or expedient for or incidental to the implementation of this Scheme (whether on behalf of the Scheme Shareholders, Pulse or otherwise) and irrevocably consents to Pulse, as agent of each Scheme Shareholder, sub-delegating Pulse's functions under this clause 8.4(1) to any of Pulse's directors, company secretaries or other officers, jointly and severally; and
- (3) acknowledges that this Scheme binds Pulse and all Scheme Shareholders (including those who do not attend the Scheme Meeting or do not vote at that Scheme Meeting or vote against this Scheme at that Scheme Meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Pulse.

8.5 No liability when acting in good faith

Each Scheme Shareholder agrees that neither Pulse nor any of its directors, company secretaries or employees will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.

8.6 Enforcement of Deed Poll

Pulse undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against Healthe Care on behalf of and as agent and attorney for each Scheme Shareholder.

8.7 Stamp duty

Healthe Care will pay all stamp duty (including any related fines, penalties, interest and other costs) payable in respect of this Scheme (including in respect of the Share Scheme Transfer) and the Deed Poll. Healthe Care will indemnify each Scheme Shareholder against any liability arising from Healthe Care's failure to comply with this clause 8.7 of this Scheme.

8.8 Notices

- (1) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Pulse, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Pulse's registered office or at the office of the Pulse Share Registry.
- (2) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Scheme Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9 Governing law

9.1 Governing law

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

9.2 Jurisdiction

Each party irrevocably and unconditionally:

- (1) submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document; and
- (2) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

Annexure C - Timetable

Event	Date
Sign Scheme Implementation Deed and announce transaction	30 November 2016
Lodge Regulator's Draft of Scheme Booklet with ASIC for review	December 2016
First Court Date	January 2017
Scheme Meeting held	March 2017
Second Court Date	March 2017
Lodge court order with ASIC (Effective Date)	March 2017
Scheme Record Date	March 2017
Implementation Date (including registration of shares in name of Healthe Care)	March 2017

NOTES

These dates are indicative only and are subject to change

Annexure D - ASX Announcement

30 November 2016

Australian Securities Exchange Limited

PULSE HEALTH GROUP RECOMMENDS \$0.47 PER SHARE CASH ACQUISITION PROPOSAL FROM HEALTHE CARE

- ***76% premium to 90-day VWAP***
- ***Unanimous Board approval***
- ***Acquisition Proposal to be implemented by Scheme of Arrangement***

Wednesday, 30 November 2016: Pulse Health Limited (ASX:PHG) ("**Pulse**") announces that it has entered into a binding scheme implementation deed with Healthe Care Australia Pty Ltd ("**Healthe Care**") in relation to an all cash proposal (the "Acquisition Proposal") by Healthe Care to acquire 100% of the outstanding shares in Pulse for a cash consideration of \$0.47 per share. The Acquisition Proposal is proposed to be effected via a scheme of arrangement ("**Scheme**").

The Chairman of Pulse, Mr Stuart James said the Acquisition Proposal was an attractive opportunity for shareholders to realise a significant premium for their shares, being at:

- 76.0% to the volume weighted average price of \$0.267 for the 90 trading days up to and including 19 October 2016 (one day before the announcement of Healthe Care's non-binding and indicative proposal);
- 50.9% to the volume weighted average price of \$0.311 for the 30 trading days up to and including 19 October 2016;
- 45.5% to the volume weighted average price of \$0.323 for the 5 trading days up to and including 19 October 2016; and
- 42.4% over the closing price of \$0.330 on 19 October 2016.

Pulse's Board Unanimously Recommends the Scheme

"The Board unanimously recommends, in the absence of a superior proposal and subject to an independent expert concluding and continuing to conclude that the Scheme is in the bests interests of Pulse shareholders, that shareholders vote in favour of the Scheme,' Mr James said.

Subject to the same qualifications, each Director of Pulse intends to vote all Pulse shares held or controlled by them in favour of the Scheme.

Pulse has appointed Leadenhall as the independent expert to prepare a report on whether the Scheme is in the best interests of Pulse shareholders. The independent expert's

report will be included in the Scheme Booklet, which is expected to be distributed to shareholders in February 2017.

Pulse's Chairman, Mr Stuart James said: *"Implementation of the Scheme with Healthe Care would provide shareholders with an immediate and significant increase in value. We consider the Acquisition Proposal price of \$0.47 cash per share reflects Pulse's strong portfolio of private hospitals in Australia and New Zealand and its ability to deliver growth into the future. Healthe Care is an experienced operator in this sector and their expertise will benefit Pulse's patients."*

Scheme Implementation Deed

The scheme implementation deed contains terms which are common for a transaction of this nature, including "no shop", "no talk" provisions, 5 business days matching rights and notification obligations, and a break fee of \$1.2 million payable by Pulse in certain circumstances. The Scheme is also subject to customary regulatory approvals including the Australian Competition and Consumer Commission ("ACCC") and NZ Overseas Investment Office ("NZ OIO").

A copy of the executed scheme implementation deed, including all applicable conditions, is attached to this announcement.

Major Shareholder Intentions

One of the major shareholders in Pulse, Viburnum Funds Pty Ltd as trustee for VF Strategic Equities Fund, which currently holds voting power in 19.29% of the Pulse shares, has informed Pulse that it intends to vote the Pulse shares it holds at the time of the Scheme meeting¹ in favour of the Scheme, in the absence of a superior proposal and subject to the Pulse directors maintaining their unanimous recommendation to the shareholders to vote in favour of the Scheme.

Indicative Timetable and Next Steps

Pulse shareholders do not need to take any action at the present time.

A scheme booklet is expected to be sent to Pulse shareholders in early February 2017. The scheme booklet will contain information relating to the Scheme; the independent expert's report on whether the Scheme is fair and reasonable and in the best interests of Pulse shareholders; reasons for the Board recommendation; and details of the scheme meeting and other matters relevant to Pulse shareholders' vote on the Scheme. If the Scheme is approved and all conditions are satisfied, Healthe Care will acquire all of the shares in Pulse which will then be delisted.

Pulse shareholders will be given the opportunity to vote on the Scheme at the scheme meeting expected to be held in March 2017. Subject to shareholders approval and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented by the end of March 2017. These dates are indicative and subject to change.

¹ Viburnum has not made any commitment to hold or not dispose of its current shareholding in Pulse. Its voting power at the time of the Scheme meeting may be less or more than 19.29%.

Pulse's advisers are Allier Capital as financial adviser and Norton Rose Fulbright as legal adviser.

For more information, contact:

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ABOUT PULSE HEALTH

Pulse Health was established in 2007 as an ASX listed private hospital operator. It is a leading operator of specialist private hospitals. Our hospitals, as key members of their communities, partner with local specialist doctors to provide high quality specialist care for local patients.

ABOUT HEALTHE CARE

Healthe Care is a subsidiary of Luye Medical, part of the Luye Group. Healthe Care is the third largest private hospital operator in Australia and one of the country's largest privately-owned healthcare organisations. Healthe Care employs 5,000 people and operates a portfolio of 17 hospitals located in major cities and key regional areas across Australia. These include around 2,000 beds, 50 operating theatres and eight catheterisation labs. The company also provides a range of out-patient services including workplace rehabilitation and community nursing which offer patients flexibility and continuity of care beyond their hospital stay.

Annexure E – Standard OIO Special Conditions

- (1) The consent will lapse if the investment has not been acquired by and transferred to the applicant within twelve months of the date of consent.
- (2) The applicant must notify the NZ OIO in writing as soon as practicable, and no later than twelve months from the date of consent, whether settlement of the acquisition of the investment took place. If settlement of the acquisition of the Investment did take place, the notice must include:
 - (a) the date of settlement;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and who acquired the investment;
 - (d) where applicable, copies of transfer documents and settlement statements; and
 - (e) any other information that would aid the NZ OIO in its function to monitor conditions of consent.
- (3) The applicant, or the individuals with control of the applicant, must:
 - (a) continue to be of good character; and
 - (b) not become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.
- (4) The applicant must notify the NZ OIO in writing within 20 working days if:
 - (a) the applicant, or (if the applicant is not an individual) any individual with control of the applicant:
 - (i) ceases to be of good character; or
 - (ii) commits an offence or contravenes the law (whether convicted or not); or
 - (iii) becomes aware of any other matter that reflects adversely on the applicant's (or the individual with control of the applicant's) fitness to have the Investment; or
 - (iv) becomes an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009;
 - (b) any person in which the applicant, or any individual with control of the applicant has, or had at the time of the offence or contravention, a 25% or more ownership or control interest, commits an offence or contravenes the law (whether convicted or not); or
 - (c) the applicant:

- (i) ceases to be an overseas person; or
 - (ii) disposes of the investment.
- (5) If requested in writing by the NZ OIO, the applicant must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
 - (a) the representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the consent was granted; or
 - (b) the conditions of this consent.