

Form 603
Corporations Act 2001
Section 671B

Notice of initial substantial holder

To: Company name/Scheme Probiotec Limited
ACN/ARSN 612 189 643

1. Details of substantial holder (1)

Name Probiotec Limited (**Company**)
ACN 612 189 643

The holder became a substantial holder on 03/10/2017

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Persons' votes (5)	Voting power (6)
Fully paid ordinary shares (Shares)	3,950,000	3,950,000	6.49%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Company	By virtue of section 608(1)(c) of the Corporations Act, as the Company has the power to control the disposal of all of the Shares subject to voluntary escrow arrangements. Annexure A contains the escrow deed entered into by the Company, Bath Road Pty Ltd ACN 136 804 030 as trustee for the Bath Road Trust and Tony Giam.	3,950,000 Shares

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
Company	Bath Road Pty Ltd	Bath Road Pty Ltd	3,950,000 Share

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
Company	N/A	N/A No consideration was paid by the Company. The Company has no right to acquire the shares subject to the escrow arrangements.	N/A	N/A

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN (if applicable)	Nature of association
N/A	

7. Addresses

The addresses of the person named in this form are as follows:

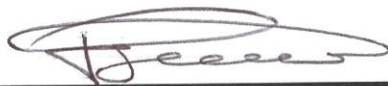
Name	Address
Company	Level 10, 530 Collins Street, Melbourne, VIC 3000
Bath Road Pty Ltd ACN 136 804 030 as trustee for the Bath Road Trust	Unit 2, 102 Bath Road, Kirrawee NSW 2232
Tony Giam	5 Hampson Avenue, Maroubra NSW 2035

Signature

print name Jared Stringer

Capacity Secretary

sign here



Date 05/10/2017

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangements, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

5 October 2017

Annexure A

This is the annexure of 18 pages marked "Annexure A" mentioned in the Form 603 notice of initial substantial holder signed by me as company secretary of Probiotec Limited ACN 612 189 643 (**Company**) and dated 5 October 2017, annexing the escrow deed between the Company, Bath Road Pty Ltd ACN 136 804 030 as trustee for the Bath Road Trust and Tony Giam dated 3 October 2017.

Signed

A handwritten signature in dark ink, appearing to read 'Jared Stringer', with a large, sweeping loop at the end.

Name: Jared Stringer

Capacity: Company Secretary

Arnold Bloch Leibler

Lawyers and Advisers

Voluntary Escrow Deed

Probiotec purchase of South Pack Laboratories (Aust) Pty Ltd

3 OCTOBER

2017

Arnold Bloch Leibler
Lawyers and Advisers

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THIS DEED is made on 3 OCTOBER 2017

PARTIES

PROBIOTEC LIMITED

ACN 612 189 643
of Level 10, 530 Collins Street, Melbourne VIC 3000
("Probiotec")

and

BATH ROAD PTY LTD AS TRUSTEE FOR THE BATH ROAD TRUST

ACN 136 804 030
of Unit 2, 102 Bath Road, Kirrawee NSW 2232
("Bath Road")

and

TONY GIAM

of 5 Hampson Avenue, Maroubra NSW 2035
(the "Giam")

BACKGROUND

- A Probiotec, Bath Road and Giam (amongst others) are parties to the Share Purchase Agreement.
- B Probiotec, Bath Road and Giam have agreed under the Share Purchase Agreement that the Escrowed Shares will be issued to Bath Road on Completion and will be placed in voluntary escrow until the happening of certain events.
- C This Deed sets out the terms and conditions on which the Escrowed Shares will be held and released from escrow.

AGREED TERMS

1 Definitions and interpretation

1.1 Definitions

In this Deed, capitalised terms not otherwise defined have the meaning given to them in the Share Purchase Agreement and, unless context requires otherwise:

"Affiliate" means any other person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, Bath Road (for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with") as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise) and **Affiliated** has the correlative meaning.

"ASX" means ASX Limited ACN 008 624 691 or the securities exchange market operated by the ASX, as the context requires.

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

"ASX Settlement" means ASX Settlement Pty Ltd ACN 008 504 532.

"Bath Road Claim Liability" has the meaning given to it in clause 4.3(a).

"Broker" has the meaning given to it in the Share Purchase Agreement.

"Business Day" has the same meaning as in the ASX Listing Rules.

"Buyer Claim" has the meaning given to it in the Share Purchase Agreement.

"CHESS" means the Clearing House Electronic Subregister System as defined in the ASX Settlement and Operating Rules.

"Claim" has the meaning given to it in the Share Purchase Agreement.

"Company" means South Pack Laboratories (Aust) Pty Ltd.

"Completion" has the meaning given to it in the Share Purchase Agreement.

"Controller Interest" means any securities, any legal, beneficial, economic interest or other interests, whether direct or indirect in the Escrowed Shares or in Bath Road or in any Transferee or in any other intermediate entity.

"Deal" means to:

- (a) sell, assign, transfer or otherwise dispose of;
- (b) agree or offer to sell, assign, transfer or otherwise dispose of;
- (c) enter into any option which, if exercised, enables or requires the relevant security holder to sell, assign, transfer or otherwise dispose of; or
- (d) create or agree or offer to create or permit to be created any mortgage, charge, pledge, lien or other security interest; and
- (e) do any of the things in paragraphs (a) to (d) in respect of the voting or distribution rights attaching to the relevant security,

and **Dealing** has a corresponding meaning.

"Escrow Period" means, with respect to:

- (a) First Tranche Escrowed Shares, the First Tranche Escrow Period; and
- (b) Second Tranche Escrowed Shares, the Second Tranche Escrow Period.

"Escrow Release Date" means, with respect to the:

- (a) First Tranche Escrowed Shares, the First Tranche Escrow Release Date; and
- (b) Second Tranche Escrowed Shares, the Second Tranche Escrow Release Date.

"Escrowed Shares" means the 3,950,000 Shares in the capital of Probiotec to be issued to Bath Road under the Share Purchase Agreement.

"Finally Determined" has the meaning given to it in the Share Purchase Agreement.

"First Tranche Escrow End Date" means the later of the First Tranche Escrow Release Date or such later date on which the First Tranche Escrowed Shares are released from escrow as determined in accordance with clause 4.1 of this Deed.

"First Tranche Escrow Period" means the period beginning on Completion and ending 12 months after Completion.

"First Tranche Escrow Release Date" means the first Business Day after the end of the First Tranche Escrow Period.

"First Tranche Escrowed Shares" means 50% of the Escrowed Shares.

"Giam Buyer Claim" has the meaning given to it in clause 4.1(a)(iii).

"Giam Employment Agreement" has the meaning given to it in the Share Purchase Agreement.

"Law" means any statute, rule, regulation, proclamation, order in council, ordinance, local law or by-law, whether:

- (a) present or future; or
- (b) State, federal or otherwise.

"Share" means an ordinary share in the capital of Probiotec.

"Share Purchase Agreement" means the share purchase agreement between Probiotec (as Buyer), Bath Road, CVC Limited, Alexander Beard and Marie Pascale Beard as trustees for the AD & MP Beard Superannuation Fund, Elliott Kaplan and Brenda Kaplan as trustees for the Kaplan Family Superannuation Fund, Alexander Beard, Elliott Kaplan, Charles Williams, Michael Bower and Giam dated on or about the date of this Deed.

"Second Tranche Escrow End Date" means the later of the Second Tranche Escrow Release Date or such later date on which the Second Tranche Escrowed Shares are released from escrow as determined in accordance with clause 4.2 of this Deed.

"Second Tranche Escrow Period" means the period beginning on Completion and ending on the date that is 24 months after Completion.

"Second Tranche Escrow Release Date" means the first Business Day after the end of the Second Tranche Escrow Period.

"Second Tranche Escrowed Shares" means 50% of the Escrowed Shares.

"Security Interest" means an interest or power to secure the payment of a debt, any other monetary obligation or the performance of any other obligation, including but not limited to:

- (a) an interest in any securities including any retention of title; or
- (b) an interest created or otherwise arising in or over any interest in any securities under a bill of sale, mortgage, charge, lien, pledge, trust or power.

"Transferee" has the meaning given in clause 6.5(b).

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) a reference to this Deed or another instrument includes any variation or replacement of either of them;

- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements by any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word "including" or any other form of that word is not a word of limitation;
- (e) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (f) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and assigns;
- (g) a reference to conduct includes an omission, statement and undertaking, whether or not in writing;
- (h) all references to time are to the time in Melbourne, Australia (unless otherwise indicated);
- (i) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and
- (j) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.

1.3 Compliance with ASX Listing Rules

For so long as Probiotec is listed on the official list of the ASX:

- (a) notwithstanding anything contained in this Deed, if the ASX Listing Rules prohibit an act being done, that act must not be done;
- (b) nothing contained in this Deed prevents an act being done that the ASX Listing Rules require to be done;
- (c) if the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the ASX Listing Rules require this Deed to contain a provision and it does not contain such a provision, this Deed is deemed to contain that provision;
- (e) if the ASX Listing Rules require this Deed not to contain a provision and it contains such a provision, this Deed is deemed not to contain that provision; and
- (f) if any provision of this Deed is or becomes inconsistent with the ASX Listing Rules this Deed is deemed not to contain that provision to the extent of the inconsistency.

2 Escrow restrictions

2.1 Restrictions on Bath Road

Bath Road must not:

- (a) until the First Tranche Escrow End Date:
 - (i) Deal with any part, or all, of the First Tranche Escrowed Shares;
 - (ii) Deal in any legal, beneficial or economic interest or right in respect of any part, or all, of the First Tranche Escrowed Shares; or
 - (iii) do or omit to do any act which would have the effect of transferring effective legal or beneficial ownership or effective control of any part, or all, of the First Tranche Escrowed Shares,

- (b) until the Second Tranche Escrow End Date:
 - (i) Deal with any part, or all, of the Second Tranche Escrowed Shares;
 - (ii) Deal in any legal, beneficial or economic interest or right in respect of any part, or all, of the Second Tranche Escrowed Shares; or
 - (iii) do or omit to do any act which would have the effect of transferring effective legal or beneficial ownership or effective control of any part, or all, of the Second Tranche Escrowed Shares; or
 - (c) do anything else which effectively circumvents the substantive terms of the escrow contemplated by this Deed,
- in each case, other than as permitted under this Deed.

2.2 Notice by Bath Road

If Bath Road becomes aware:

- (a) that any action, event or circumstance referred to in clause 2 or 3.1 has occurred, or is likely to occur, during the Escrow Period; or
- (b) of any matter which is likely to give rise to any action, even or circumstance referred to in clause 2 or 3.1 during the Escrow Period,

it must notify Probiotec as soon as practicable after becoming aware of the action, event, circumstance or matter, as applicable, providing full details.

3 Restrictions on Giam

3.1 Restrictions on Giam

Giam must not:

- (a) until the First Tranche Escrow End Date:
 - (i) Deal with any part, or all, of any Controller Interests relating to the First Tranche Escrowed Shares;
 - (ii) Deal in any legal, beneficial or economic interest or right in respect of any part, or all, of any Controller Interests relating to the First Tranche Escrowed Shares; or
 - (iii) do or omit to do any act which would have the effect of transferring effective legal or beneficial ownership or effective control of any part, or all, of any Controller Interests relating to the First Tranche Escrowed Shares,
- (b) until the Second Tranche Escrow End Date:
 - (i) Deal with any part, or all, of any Controller Interests relating to the Second Tranche Escrowed Shares;
 - (ii) Deal in any legal, beneficial or economic interest or right in respect of any part, or all, of any Controller Interests relating to the Second Tranche Escrowed Shares; or
 - (iii) do or omit to do any act which would have the effect of transferring effective legal or beneficial ownership or effective control of any part, or all, of any Controller Interests relating to the Second Tranche Escrowed Shares; or
- (c) do anything else which effectively circumvents the substantive terms of the escrow contemplated by this Deed,

in each case, other than as permitted under this Deed.

3.2 Notice by Giam

If Giam becomes aware:

- (a) that any action, event or circumstance referred to in clause 2 or 3.1 has occurred, or is likely to occur, during the Escrow Period; or
- (b) of any matter which is likely to give rise to any action, event or circumstance referred to in clause 2 or 3.1 during the Escrow Period,
- (c) he must notify Probiotec as soon as practicable after becoming aware of the action, event, circumstance or matter, as applicable, providing full details.

4 Release of Escrow Shares

4.1 First Tranche Escrow Shares

The parties acknowledge and agree that, in accordance with the provisions of the Share Purchase Agreement if, at the First Tranche Escrow Release Date:

- (a) **(full release):**
 - (i) Giam continues to be employed by the Company (unless he was terminated by the Company without cause) and has not given notice of resignation;
 - (ii) no breach of the Giam Employment Agreement is subsisting; and
 - (iii) there have been no Buyer Claims made against Bath Road or Giam ("**Giam Buyer Claims**") that remain outstanding,

then, on the date that is 5 Business Days after the First Tranche Escrow Release Date, the First Tranche Escrow Shares will be released from escrow and the restrictions in clause 2 and 0 will cease to apply. For the purposes of this Deed, "terminated by the Company without cause" means termination by the Company of Giam for any reason other than as provided for in the 'Summary Dismissal' clause in the Giam Employment Agreement and "terminated by the Company without cause" includes, but is not limited to, termination by the Company upon Giam's death, or because Giam is totally and permanently disabled or if otherwise unable to work for the Company for an extended period of time, such as due to illness;

- (b) **(employment termination or breach)** Giam is no longer employed by the Company (other than due to termination by the Company without cause) or there exists a material breach of the Giam Employment Agreement by Giam which Giam fails to remedy either in full or to a reasonably satisfactory level within 30 Business Days of receiving notice from the Company of such breach, then on the First Tranche Escrow End Date, Bath Road will immediately and irrevocably:
 - (i) appoint the Broker to sell the First Tranche Escrow Shares in a manner directed by Probiotec; and
 - (ii) instruct the Broker to pay the proceeds from the sale of the First Tranche Escrow Shares to Probiotec; or
- (c) **(employment breach which is remedied)** there exists a material breach of the Giam Employment Agreement by Giam which Giam remedies in full or to a reasonably satisfactory level within 30 Business Days of receiving notice from the Company of such breach, then, on the date that is 5 Business Days after the date on which the breach is remedied, the First Tranche Escrow Shares will be released from escrow and the restrictions in clause 2 and 0 will cease to apply; or
- (d) **(pending Giam Buyer Claim)** there exists an outstanding Giam Buyer Claim that is not a Finally Determined Claim, then the First Tranche Escrow Shares will

continue to be held in escrow until such claim has been Finally Determined and, once the claim is Finally Determined, the First Tranche Escrow Shares will be dealt with in accordance with clause 4.3.

4.2 Second Tranche Escrow Shares

The parties acknowledge and agree that, in accordance with the provisions of the Share Purchase Agreement if, at the Second Tranche Escrow Release Date:

- (a) **(full release):**
 - (i) Tony Giam continues to be employed by the Company (unless he was terminated by the Company without cause);
 - (ii) no breach of the Giam Employment Agreement is subsisting; and
 - (iii) there have been no Giam Buyer Claims that remain outstanding,then, on the date that is 5 Business Days after the Second Tranche Escrow Release Date, the Second Tranche Escrow Shares will be released from escrow and the restrictions in clause 2 and 0 will cease to apply;
- (b) **(employment termination or breach)** Tony Giam is no longer employed by the Company (other than due to termination by the Company without cause) or there exists a material breach of the Giam Employment Agreement by Giam which Giam fails to remedy either in full or to a reasonably satisfactory level within 30 Business Days of receiving notice from the Company of such breach, then on the date that is 5 Business Days after the Second Tranche Escrow Release Date, Bath Road will immediately and irrevocably:
 - (i) appoint the Broker to sell the Second Tranche Escrow Shares in a manner directed by the Buyer; and
 - (ii) direct the Broker to pay the proceeds from the sale of the Second Tranche Escrow Shares to the Buyer; or
- (c) **(employment breach which is remedied)** there exists a material breach of the Giam Employment Agreement by Giam which Giam remedies in full or to a reasonably satisfactory level within 30 Business Days of receiving notice from the Company of such breach, then, on the date that is 5 Business Days after the date on which the breach is remedied, the Second Tranche Escrow Shares will be released from escrow and the restrictions in clause 2 and 0 will cease to apply; or
- (d) **(pending Giam Buyer Claim)** there exists an outstanding Giam Buyer Claim that is not a Finally Determined Claim then the Second Tranche Escrow Shares will continue to be held in escrow until such claim has been Finally Determined and, once the claim has been Finally Determined, the Second Tranche Escrow Shares will be dealt with in accordance with clause 4.3.

4.3 Finally Determined Claims

In accordance with the Share Purchase Agreement:

- (a) if any Finally Determined Giam Buyer Claim results in a liability owed by Bath Road to the Buyer which has not otherwise been satisfied by Bath Road ("**Bath Road Claim Liability**") then, within 5 Business Days of the Giam Buyer Claim becoming Finally Determined, Bath Road must immediately and irrevocably:
 - (i) appoint the Broker to sell such number of Escrowed Shares (regardless of whether such Escrowed Shares are First Tranche Escrow Shares or Second Tranche Escrowed Shares) equal in value to the Bath Road Claim Liability; and

- (ii) direct the Broker to pay the proceeds from the sale of such Escrowed Shares to the Buyer in satisfaction (or partial satisfaction) of the Bath Road Claim Liability; and
- (b) all remaining Escrowed Shares (if any) shall be released to Bath Road unless the Escrow Release Date relevant to such shares has not yet passed, then such shares shall continue to be held in escrow until the relevant Escrow Release Date at which time the provisions of clauses 4.1 to 4.3 (inclusive) will apply.

5 Appointment of Probiotec as attorney

Bath Road and Giam each hereby appoint Probiotec as its attorney for the purpose of taking any action or doing any thing necessary or desirable (including executing any documents) to effect the appointment of the Broker and the sale of any Escrow Shares in accordance with this Deed.

6 Escrow exceptions

6.1 Buy-back or return of capital

Bath Road may Deal in the First Tranche Escrowed Shares or Second Tranche Escrowed Shares during the relevant Escrow Period if the relevant Escrowed Shares are subject to a buy-back, redemption or return of capital. In the case of a buy-back, redemption or return of capital Bath Road may only Deal in the relevant Escrowed Shares if the buy-back, redemption or return of capital is available to all holders of Shares in Probiotec on a pro rata basis, and then, Bath Road may only Deal in the number of Escrowed Shares the subject of the relevant buy-back, redemption or return or capital.

6.2 Takeover bid

Bath Road may Deal in any or all of the Escrowed Shares during the Escrow Period if a takeover bid (as defined in the *Corporations Act 2001* (Cth)) is made for some or all of the Escrowed Shares and at least 50% of the bid class securities that are not subject to escrow and to which offers under the bid relate, have accepted the bid.

6.3 Merger by way of scheme

Bath Road may Deal in any or all of the First Tranche Escrowed Shares or Second Tranche Escrowed Shares during the relevant Escrow Period to be transferred or cancelled for the purposes of participating in an amalgamation, merger, restructure under a scheme of arrangement, trust scheme or similar transaction in relation to Probiotec, which has in any such case received all the necessary approvals by shareholders of Probiotec and courts.

6.4 Reinstatement of no Dealing undertaking

If a takeover bid contemplated by clause 6.2 is unsuccessful or a merger by way of a scheme contemplated by clause 6.3 does not take effect or if for any other reason any or all Escrowed Shares are not transferred or cancelled in accordance with any transaction described in clauses 6.1 to 6.3, the no Dealing obligations in clause 2 regarding the relevant Escrowed Shares of Bath Road will be reinstated for the duration of the relevant Escrow Period.

6.5 Other exceptions

Bath Road may Deal in the Escrowed Shares during the relevant Escrow Period to the extent necessary:

- (a) as required by law, including pursuant to an order of a court of competent jurisdiction compelling any Escrowed Shares to be disposed of or a Security Interest granted over them; or
- (b) if the Dealing constitutes a disposal of, but not the creation of a Security Interest in, some or all of the Escrowed Shares to:
 - (i) a company wholly-owned by Bath Road;
 - (ii) a trust in relation to which Bath Road is the beneficiary; or
 - (iii) an Affiliate of Bath Road,
 (each a **Transferee**), where the Transferee also enters into an escrow arrangement with Probiotec in respect of those relevant Escrowed Shares on substantially the same terms as this Deed for the remainder of the relevant Escrow Period (and Giam agrees not to dispose of any Controller Interests) and Giam retains its full economic interest in the affected Escrowed Shares after completion of the transfer to the Transferee.

6.6 Contravention of this Deed

If Bath Road or Giam contravenes this Deed Probiotec may, in addition to its rights and remedies at common law or in equity, refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of the relevant Escrowed Shares or any part thereof or any interest or right in respect of the relevant Escrowed Shares or any part thereof that are the subject of such contravention.

6.7 Entitlement to vote and dividends

No provision of this clause 5 or any other provision of this Deed shall be taken to:

- (a) grant to Probiotec any holding or control of voting rights attaching to the Escrowed Shares; or
- (b) restrict Bath Road from exercising in full the voting entitlements or any rights of Bath Road to receive or participate in dividends and distributions, any rights issue, bonus issue or other distributions in respect of the Escrowed Shares.

7 Holding Lock

- (a) With effect from the time of issue of the Escrowed Shares, Probiotec must take all actions necessary to apply a holding lock to the First Tranche Escrowed Shares during the First Tranche Escrow Period and the Second Tranche Escrowed Shares during the Second Tranche Escrow Period (and the Escrowed Shares must be held on an Issuer Operated Subregister in order to facilitate this).
- (b) Bath Road consents to:
 - (i) Probiotec entering the Escrowed Shares on Probiotec's issuer sponsored subregister; and
 - (ii) the application of a holding lock to the Escrowed Shares in accordance with clause 7(a),
 during the relevant Escrow Period.
- (c) Probiotec must take all steps necessary to ensure the First Tranche Escrowed Shares become fully transferable on the First Tranche Escrow End Date and the Second Tranche Escrowed Shares become fully transferable on the Second Tranche Escrow End Date.
- (d) Probiotec must do all things necessary to ensure that the Holding Lock is removed to the extent necessary to permit any Dealing in the Escrowed Shares permitted by clause 4 of this Deed.

8 Warranties

Each party (as applicable) represents and warrants for the benefit of the other parties to this Deed that the following is true and correct at the date of this Deed:

- (a) it has the power to enter into and perform this Deed (including, in relation to Bath Road, under the trust deed for the Bath Road Trust and any other constituent document of Bath Road Trust) and to perform and observe all of its terms and has obtained all necessary consents to enable it to do so;
- (b) it has duly executed this Deed and this Deed is a legal, valid and binding obligation enforceable against it in accordance with the terms of this Deed;
- (c) the entry into and performance of this Deed does not constitute a breach of any obligation (including any statutory, contractual or fiduciary obligation), or default under any agreement or undertaking, by which the party or its assets are bound;
- (d) where the party is a body corporate:
 - (i) it is a body corporate duly incorporated under laws of the jurisdiction of its incorporation; and
 - (ii) it has taken all necessary corporate action to authorise the execution and performance of this Deed;
- (e) with respect to each of Bath Road and Giam:
 - (i) prior to the Escrow Period it has not done, or omitted to do, any act which would result in a breach of clause 2 during the Escrow Period;
 - (ii) if Bath Road is a trustee:
 - (A) it has the right to be fully indemnified out of the assets of the relevant trust in respect of any liability arising under, or in connection with, this Deed and the right has not been modified, released or diminished in any way;
 - (B) the assets of the relevant trust are sufficient to satisfy that right in full and it has not released or disposed of its equitable lien over those trust assets;
 - (C) the relevant trust has not been terminated and there is no effective proposal or requirement to wind up, deregister, terminate, reconstitute or resettle the trust; and
 - (D) the trustee is the sole trustee of the relevant trust and there is no proposal to remove it as trustee of the relevant trust;
- (f) with respect to Bath Road:
 - (i) it holds, or will hold, immediately following Completion, the Escrowed Shares unless the Escrowed Shares are Dealt with as expressly permitted by this Deed;
 - (ii) the Escrowed Shares are all of the securities, economic interests or other interests that Bath Road has directly or indirectly in Probiotec as at Completion; and
 - (iii) the Escrowed Shares are free from all Security Interests and other third party interests or rights and will remain so during the Escrow Period except to the extent permitted under this Deed; and
- (g) with respect to Giam:
 - (i) the Controller Interests are free from all Security Interests and other third party interests or rights and will remain so during the Escrow Period except to the extent permitted under this Deed;

- (ii) no person (other than Bath Road or Giam) has the ability to directly or indirectly control the exercise of a power to dispose of the Escrowed Shares (including the ability to control the Bath Road's or Giam's ability to exercise such power); and
- (iii) Giam holds the Controller Interests in Bath Road directly or indirectly as at Completion.

The warranties and representations in this clause 8 survive termination of this Deed.

9 Notices

9.1 Method

All notices, requests, demands, consents, approvals, offers, agreements or other communications ("**notices**") given by a party under or in connection with this Deed must be:

- (a) in writing;
- (b) signed by a person duly authorised by the sender or, where transmitted by e-mail, sent by a person duly authorised by the sender;
- (c) directed to the intended recipient's address (as specified in clause 9.3 or as varied by any notice); and
- (d) hand delivered, sent by prepaid post or transmitted by e-mail to that address.

9.2 Receipt

A notice given in accordance with this clause is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, either:
 - (i) on the day on which the relevant postal service estimates delivery will occur, or
 - (ii) on the first day of the period during which the relevant postal service estimates delivery will occur,

based on the most recent estimate published by the relevant postal service as at the date on which the notice is sent; or

- (c) if transmitted by e-mail, on transmission,

but if the delivery or transmission is not on a Business Day or is after 5.00pm (recipient's time) on a Business Day, the notice is taken to be received at 9.00am (recipient's time) on the next Business Day.

9.3 Address of parties

Unless varied by notice in accordance with this clause, notice details are as follows:

Party	Probiotec
Address	83 Cherry Lane, Laverton North VIC 3026
Email	wes_stringer@probiotec.com.au
Attention	Wes Stringer
Party	Bath Road
Address	Unit 2, 102 Bath Road, Kirrawee NSW 2232
Email	tony@southpack.com.au

Attention Tony Giam
Party Giam
Address 5 Hampson Avenue, Maroubra NSW 2035
Email tony@southpack.com.au

9.4 Requirement for written notice

For the avoidance of doubt, the requirement in clause 9.1(a) applies to all notices unless expressly excluded and no implication to the contrary is to be drawn from the use of the expressions "written" or "in writing" in relation to some but not all notices.

10 Miscellaneous

10.1 Exercise of rights

A party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or of any other right, power or remedy. Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

10.2 Waiver or variation

A provision of or a right created under this Deed may not be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by the parties.

10.3 Approvals and consents

A party may give conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this Deed expressly provides otherwise.

10.4 Remedies cumulative

The rights, powers and remedies provided in this Deed are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Deed.

10.5 Further assurances

Each party agrees, at its own expense, on the request of the other party, to do everything reasonably necessary to give effect to the transactions contemplated by this Deed (including without limitation the execution of documents) and agrees and undertakes to use its best endeavours to procure relevant third parties to do likewise (including, without limitation, by obtaining any consent or approval required with respect to the foregoing).

10.6 Specific performance

The parties agree that irreparable damage would occur if any of the provisions of this Deed were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Deed and to enforce specifically the terms and provisions of this Deed, this being in addition to any other remedy to which the parties are entitled at law or in equity.

10.7 Assignment

A party may not assign its rights under this Deed without the consent of the other party.

10.8 Severability

If the whole or any part of a provision of this Deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 10.8 has no effect if the severance alters the basic nature of this Deed or is contrary to public policy.

10.9 Governing Law and jurisdiction

- (a) This Deed is governed by the Laws of Victoria, Australia.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

10.10 Entire agreement

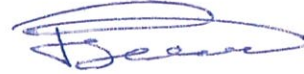
This Deed constitutes the entire agreement of the parties in relation to its content and supersedes all prior discussions, undertakings and agreements.

EXECUTED AS A DEED

EXECUTED by PROBIOTEC LIMITED

)
)



Signature of director

Signature of director / company secretary
(delete as applicable)

WESLEY STRINGER

Name of director (print)

JARED STRINGER

Name of director / company secretary (print)

EXECUTED by BATH ROAD PTY LTD as
trustee for BATH ROAD TRUST by its sole
director and sole company secretary

)
)
)

Signature of sole director and sole company
secretary

Name of sole director and sole company
secretary (print)

SIGNED SEALED and DELIVERED by
TONY GIAM in the presence of

)
)
)

Signature of witness

Tony Giam

Name of witness (print)

EXECUTED AS A DEED

EXECUTED by PROBIOTEC LIMITED)
)

Signature of director

Signature of director / company secretary
(delete as applicable)

Name of director (print)

Name of director / company secretary (print)

EXECUTED by BATH ROAD PTY LTD as)
trustee for BATH ROAD TRUST by its sole)
director and sole company secretary)



Signature of sole director and sole company
secretary

TONY GIAM

Name of sole director and sole company
secretary (print)


SIGNED SEALED and DELIVERED by)
TONY GIAM in the presence of)
)



Signature of witness

ZHIYUAN LIN

Name of witness (print)



Tony Giam