

Voting Deed

relating to

a proposed scheme of arrangement in respect of Metlifecare Limited

Asia Pacific Village Group Limited

Bidder

and

New Zealand Superannuation Fund Nominees Limited

Shareholder

and

**Guardians of New Zealand Superannuation (as manager and
administrator of New Zealand Superannuation Fund)**

Guardians

Date 10 July 2020

This **Voting Deed** is made on 10 July 2020

between (1) **Asia Pacific Village Group Limited (Bidder)**

and (2) **New Zealand Superannuation Fund Nominees Limited (Shareholder)**

and (3) **Guardians of New Zealand Superannuation Fund**, as manager and administrator of New Zealand Superannuation Fund (**Guardians**)

Introduction

- A. Bidder is proposing to enter into a scheme implementation agreement (the **SIA**) with Metlifecare Limited (**Target**) under which Bidder and Target will agree to implement a scheme of arrangement under Part 15 of the Companies Act 1993 involving the acquisition by Bidder of all of the shares in Target at a price of no less than NZ\$6.00 per share in cash (the **Scheme**) payable in one lump sum after the Effective Date, at the same time that all other shareholders receive the consideration under the Scheme for their Shares within seven business days of receiving final Court orders.
- B. The Shareholder holds 42,363,688 ordinary shares in Target.
- C. Guardians manages and administers the Shareholder and controls the Voting Rights attached to the Specified Shares.
- D. This Deed sets out the terms and conditions on which the Shareholder has agreed to vote in favour of the Scheme.

It is agreed

1. Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Companies Act means the Companies Act 1993;

Competing Proposal means any proposed:

- (a) takeover (whether full or partial takeover under the Takeovers Code) in respect of the Target;
- (b) scheme of arrangement in respect of the Target;
- (c) transfer or issuance of financial products of Target, where Shareholders' approval is required under the Takeovers Code;
- (d) sale of assets (including interests in land) or financial products of any Target Group member, where such sale constitutes a material part of the Target Group business; or

- (e) strategic alliance, joint venture, partnership, dual listed companies structure, economic or synthetic merger or combination or other transaction or arrangement which, if completed, would result in a third party directly or indirectly acquiring or being entitled to acquire a relevant interest (as defined in section 235(1) of the Financial Markets Conduct Act 2013) or any other direct or indirect interest in more than 10% of the Shares of Target or more than 10% of the shares in any other member or members of the Target Group that individually or collectively contribute 10% or more of the consolidated EBITDA of the Target Group or whose assets represent 10% or more of the total consolidated assets of the Target Group,

and for the purposes of the definition of Competing Proposal:

- (f) any such proposal may be an expression of interest, indicative, conditional or otherwise non-binding;
- (g) paragraphs (c), (d) and (e) above include any agreement (within the meaning of section 6 of the Financial Markets Conduct Act 2013) whereby such a transaction is effected through a series of linked or related transactions which if conducted as a single transaction would constitute a Competing Proposal within the meaning of either of paragraphs (c), (d) or (e); and
- (h) third party shall mean a third party together with its "associates" (as that term is defined in section 4 of the Takeovers Code);

Control means, in relation to a person (the "**relevant person**") and one or more other persons, where those one or more persons, directly or indirectly, whether by the legal or beneficial ownership of shares, securities or other equity, the possession of voting power, by contract, trust, or otherwise:

- (a) has the power to appoint or remove the majority of the members of the governing body of the relevant person;
- (b) controls, or has the power to control, the affairs or policies of the relevant person; or
- (c) is in a position to derive more than 50% of the economic benefit of the existence or activities of the relevant person;

Court means the High Court of New Zealand;

Effective means the coming into effect under section 236(3) of the Companies Act of the order of the Court made under section 236(1) of the Companies Act in relation to the Scheme and all of the conditions of the Scheme having been satisfied or waived (where capable of being waived) in accordance with the Scheme.

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

Related Entity means, in respect of each of Shareholder or Guardians, an entity or person that:

- (a) Controls either of them; or
- (b) is under the Control of either of them;

Representative means in relation to a person:

- (a) any director, officer or employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, that person; and
- (b) includes any Related Entity and any director, officer or employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, any Related Entity;

Scheme has the meaning given to it in paragraph A of the Introduction;

Scheme Meeting means any meeting of Target Shareholders for the purposes of section 236A(2)(a) of the Companies Act ordered by the Court to be convened under section 236(2)(b) of the Companies Act (and includes any adjourned meeting);

Share means a fully paid ordinary share in Target;

SIA has the meaning given to it in paragraph A of the Introduction;

Specified Shares means:

- (a) the 42,363,688 Shares held by the Shareholder and controlled by Guardians as at the date of this Deed; together with
- (b) any other Shares acquired by the Shareholder after the date of this Deed, but only to the extent that those additional Shares, when aggregated with the Shares referred to in paragraph (a) above and any other Shares held or controlled by the Bidder or any of its associates (as that term is defined in Rule 4 of the Takeovers Code) at the relevant time, do not exceed more than 20% of the voting rights in Target;

Takeovers Code means the Takeovers Code set out in the Schedule to the Takeovers Code Approval Order 2000;

Target has the meaning given to it in paragraph A of the Introduction;

Target Group means Target and its subsidiaries;

Target Shareholder means each person who is registered as the holder of a Share from time to time; and

Voting Rights has the meaning given in Rule 3 of the Takeovers Code.

1.2 Interpretation

In this Deed, unless the context otherwise requires or as specifically otherwise stated:

- (a) references to dates and times are to dates and times in New Zealand;
- (b) references to currency are to New Zealand currency;
- (c) headings are for convenience only and do not affect interpretation;
- (d) a reference to a statute or other law is a reference to a New Zealand statute or other law and includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and

- (e) a reference to "including" means "including but not limited to" and "include" and "includes" have corresponding meanings.

2. Voting and non-solicitation

- 2.1 The Shareholder agrees that if the Scheme is proposed by Target to the Target Shareholders, then the Shareholder will vote, or will appoint a proxy to vote and will procure that the proxy attends the meeting and votes, all of the Specified Shares in favour of the resolution to be put to the Target Shareholders at the Scheme Meeting to approve the Scheme.
- 2.2 Each of Shareholder and Guardians must not, and must procure that each of its Representatives does not, directly or indirectly solicit, invite or initiate (including by the provision of non-public information to any third party) any Competing Proposal or any offer, proposal, expression of interest, enquiry, negotiation or discussion with any third party in relation to, or for the purpose of, a Competing Proposal.
- 2.3 If either Shareholder or Guardians or any of their Representatives:
- (a) is approached by a third party about a Competing Proposal (a **Third Party Approach**), then, provided such approach is not as a result of a breach of clause 2.2, Shareholder or Guardians may, without breaching clause 2.2, discuss the Competing Proposal with the third party, but cannot, and must procure that each of its Representatives does not, directly or indirectly, advise or otherwise indicate to the third party, or any of its Representatives, whether or not Shareholder or Guardians or any of their Representatives considers the Competing Proposal to be a superior proposal to the Scheme or otherwise encourages the progression of the Competing Proposal (for the avoidance of doubt, this does not prevent the Shareholder or Guardians from directing the third party to the Target in respect of the Competing Proposal); or
 - (b) receives a Third Party Approach, Shareholder or Guardians may discuss that approach with the board of Target.
- 2.4 Shareholder or Guardians must promptly and without delay notify Bidder if either of them, or any of their Representatives receives a proposed takeover under the Takeovers Code or scheme of arrangement, which has been substantially developed, in respect of Target. Any notification under this clause does not require disclosure of the identity of the person who has approached Guardians, Shareholder or their Representative, nor the terms of the proposal.
- 2.5 Guardians will take all steps necessary to procure that the Shareholder performs the agreements and actions set out in clauses 2.1 to 2.4, inclusive.

3. No disposals

- 3.1 To give effect to clause 2, the Shareholder will not, and Guardians will procure that the Shareholder does not, prior to the termination of this Deed, transfer, or otherwise deal in any way with the Specified Shares in such a way that would frustrate or negate Shareholder's ability to perform its obligations under clause 2.1 (and this prohibits Shareholder and Guardians from entering into any agreement to accept any takeover offer made under the Takeovers Code), other than effecting a transfer to Bidder under the Scheme.

4. Warrants and acknowledgements

4.1 Mutual

Each party warrants to the other that:

- (a) it has the legal right, authority and full power to enter into this Deed and to perform its obligations under it;
- (b) it has taken all necessary corporate and other action to authorise this Deed's execution, delivery and performance; and
- (c) this Deed constitutes valid and binding obligations enforceable against it in accordance with its terms.

4.2 Specified Shares

- (a) The Shareholder warrants to Bidder that it holds 42,363,688 Shares;
- (b) Guardians warrants to Bidder that it controls and has the right to exercise the Voting Rights in relation to, and controls the disposal of, all of the Specified Shares; and
- (c) The Bidder warrants to Guardians and Shareholder that the Shares referred to in clause 4.2(a), when aggregated with any other Shares held or controlled by the Bidder or any of its "associates" (as that term is defined in Rule 4 of the Takeovers Code), do not exceed more than 20% of the voting rights in Target.

4.3 Nature of arrangement

The parties acknowledge that:

- (a) this Deed has been concluded on commercial, arms' length terms;
- (b) Bidder (on the one hand) and Shareholder and Guardians (on the other) are not acting jointly or in concert and that nothing in this Deed is intended to make them "associates" as defined in section 4 of the Takeovers Code;
- (c) other than as set out in this Deed, there are no ongoing covenants between Bidder (on the one hand) and Shareholder and Guardians (on the other); and
- (d) the legal relationship between Bidder (on the one hand) and Shareholder and Guardians (on the other) will cease on the implementation of the Scheme.

5. Termination

5.1 Automatic termination

This Deed will automatically terminate on the earlier of:

- (a) 5.00 pm on the date thirty (30) days after the date of this Deed if Target and Bidder have not entered into a SIA by that time;
- (b) the date on which the Scheme becomes Effective;

- (c) the date on which the SIA is terminated in accordance with its terms;
- (d) 25 January 2021, if the Scheme Meeting has not been held by that date; and
- (e) 25 February 2021.

5.2 Bidder termination

Bidder may terminate this Deed at any time by written notice to the Shareholder.

5.3 Guardians termination in case of Qualifying Takeover Offer

- (a) If a takeover offer is sent to all Target Shareholders under, and in compliance with, the Takeovers Code for all of the Shares and is capable of acceptance by Target Shareholders, with consideration for that takeover offer being cash in excess of NZ\$6.00 per Share (a **Qualifying Takeover Offer**), and:
 - (i) Guardians, acting reasonably and in good faith, considers that the Qualifying Takeover Offer is superior to the Scheme (and Guardians must undertake these considerations promptly and without delay); and
 - (ii) that Qualifying Takeover Offer has not arisen as a result of a breach of clauses 2.2 or 2.3,

then Guardians may, promptly and without delay (but no later than seven (7) business days from the date on which the Qualifying Takeover Offer is made to Target Shareholders), give written notice to Bidder (**Superior Proposal Notice**), terminate this Deed unless within 10 business days of receipt of the Superior Proposal Notice, Bidder has varied the Scheme such that, in Guardians' opinion, acting reasonably and in good faith, the Scheme is no less favourable to shareholders of Target than the terms of the Qualifying Takeover Offer (the Scheme as so varied, being called a **Superior Counter Offer**).
- (b) If a Superior Counter Offer is made by Bidder, Guardians has no right to terminate this Deed under this clause 5.3.
- (c) Any amendment to a Qualifying Takeover Offer (including any price increase) will constitute a new Qualifying Takeover Offer under this clause 5.3 and Bidder's rights to consider making a Superior Counter Offer will again apply and Guardians must comply with this clause again to afford Bidder that opportunity, including giving Bidder another Superior Proposal Notice so that it can consider providing another Superior Counter Offer, provided that, in the case of a variation to a Qualifying Takeover Offer:
 - (i) the period within which a Superior Proposal Notice must be given by Guardians is within five (5) days of the relevant variation being made under the Takeovers Code; and
 - (ii) the period within which the Bidder can vary the Scheme is five (5) business days after receipt of the Superior Proposal Notice (or such lesser period of time as is equal to two business days prior to the last business day on which the Qualifying Takeover Offer can be accepted).

5.4 Effect of termination

If this Deed is terminated under clause 5.1, 5.2 or 5.3:

- (a) except for this clause 5.4, this Deed has no further force and effect; and
- (b) the parties will otherwise be released from their obligations under this Deed and no party will have any claim against any other party arising under or in connection with such termination except any breach occurring before termination.

6. Notices

6.1 Manner of giving notice

Any notice or other communication to be given under this Deed must be in writing (which includes email) and may be delivered or sent by post or email to the party to be served as follows:

- (a) to Shareholder or Guardians at:

Address: 21 Queen Street, Auckland Central, Auckland 1010, New Zealand

Email: bjones@nzsuperfund.co.nz

For the attention of: Brendon Jones

with a copy (which shall not constitute notice) to:

Address: Russell McVeagh, Level 30, 48 Shortland Street, Auckland Central, Auckland 1010, New Zealand

Email: ioe.windmeyer@russellmcveagh.com

Email: Legal@nzsuperfund.co.nz

For the attention of: Joe Windmeyer

- (b) to Bidder at:

Address: Bell Gully, Level 22, Vero Centre, 48 Shortland Street, PO

Box 4199, Auckland

Email: anna.buchly@bellgully.com / iames.gibson@bellgully.com

For the attention of: Anna Buchly / James Gibson

or at any such other address or email address notified for this purpose to the other parties under this clause. Any notice or other communication sent by post must be sent by prepaid ordinary post (if the country of destination is the same as the country of origin) or by airmail (if the country of destination is not the same as the country of origin).

6.2 When notice given

Any notice or other communication is deemed to have been given:

- (a) if delivered, on the date of delivery; or

- (b) if sent by post, on the third day after it was put into the post (for post within the same country) or on the fifth day after it was put into the post (for post sent from one country to another); or
- (c) if sent by email, four business hours (being the hours between 9am and 5pm on a business day in the jurisdiction of the recipient) after the time 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 (excluding an "out of office" automated message),

but if the notice or other communication would otherwise be taken to be received after 5.00 pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00 am on the next day that is not a Saturday, Sunday or public holiday in the place of receipt.

6.3 Notices from Guardians or Shareholder

Bidder is entitled to rely on a notice from either Guardians or Shareholder as being a notice from both Guardians and Shareholder. A notice given to the address in clause 6.1(a) above constitutes a notice to both Guardians and Shareholder.

7. General

7.1 Compliance with applicable law

Nothing in this Deed requires any party to do any act, matter or thing in contravention of any law including the Takeovers Code, the Overseas Investment Act 2005, the Financial Markets Conduct Act 2013 or the Companies Act.

7.2 Variation and waiver

- (a) This Deed may only be varied in writing signed by the parties.
- (b) No waiver of any breach, or failure to enforce any provision, of this Deed at any time by either party will in any way affect, limit or waive that party's right thereafter to enforce and compel strict compliance with the provisions of this Deed.

7.3 No assignment

No party will, directly or indirectly, assign, transfer or otherwise dispose of any rights or interests of that party in, or obligations or liabilities under, this Deed.

7.4 Costs

The parties will each bear their own costs and expenses incurred in connection with the preparation, negotiation and implementation of this Deed and any documentation pertaining hereto.

7.5 Entire agreement

This Deed constitutes the entire agreement and understanding (express and implied) between the parties relating to the subject matter of this Deed and supersedes and cancels all previous agreements and understandings between the parties relating thereto, whether written or oral.

7.6 Counterparts

This Deed may be signed in two or more counterparts (including scanned copies), all of which when taken together shall constitute one and the same instrument and a binding and enforceable agreement between the parties.

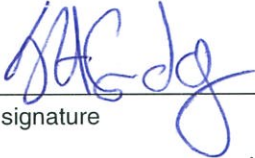
7.7 Governing law

This Deed shall be governed by, and construed in accordance with, New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

EXECUTED as a Deed
and signed on behalf of

Asia Pacific Village Group Limited

by its attorney in the presence of:




Witness signature

Print name **Jack Adam Gordge**

Solicitor
Auckland

Occupation

Address



Attorney

James Martin Gibson

Print name

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, **James Martin Gibson**, of Auckland, New Zealand, Solicitor, certify:

1. That by deed dated 10 July 2020, Asia Pacific Village Group Limited appointed me its attorney.
2. That I have not received notice of any event revoking the power of attorney.

Signed at Auckland this 10 day of July 2020

SIGNED by



James Martin Gibson

Executed as a Deed and signed on behalf of **New Zealand Superannuation Fund Nominees Limited** by its attorney in the presence of:

Attorney

Cristina Billett
Attorney

Print name

Witness signature

Andrew Grant
Legal Filing Assistant
Auckland

Print name

Occupation

Address

Executed as a Deed and signed on behalf of **Guardians of New Zealand Superannuation** as manager and administrator of **New Zealand Superannuation Fund** by its attorney in the presence of:

Attorney

Cristina Billett
Attorney

Print name

Witness signature

Andrew Grant
Legal Filing Assistant
Auckland

Print name

Occupation

Address

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Cristina Billett of Auckland, New Zealand, Head of Legal, certify:

- (a) that by deed dated 8 May 2018, Guardians of New Zealand Superannuation, having its office at New Zealand Superannuation Fund, Level 12, 21 Queen Street, Auckland 1010, New Zealand, appointed me its attorney.
- (b) that I have not received notice of any event revoking the power of attorney.

DATED: 10 July 2020

SIGNED at Auckland, New Zealand



Cristina Billett


CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Cristina Billett of Auckland, New Zealand, Head of Legal, certify:

- (a) that by deed dated 9 June 2017, New Zealand Superannuation Fund Nominees Limited, having its registered office at New Zealand Superannuation Fund, Level 12, 21 Queen Street, Auckland 1010, New Zealand, appointed me its attorney.
- (b) that I have not received notice of any event revoking the power of attorney.

DATED: 10 July 2020

SIGNED at Auckland, New Zealand



Cristina Billett