



## **MERGER BETWEEN CRONOS AUSTRALIA AND CDA HEALTH PTY LTD – COMBINED GROUP TO BECOME AN AUSTRALIAN MARKET LEADER**

**Melbourne, Australia, 14 September 2021** – Cronos Australia Limited (ASX:CAU, “Cronos Australia” or the “Company”) is pleased to announce that it has executed a Merger Implementation Agreement to acquire 100% of the issued share capital of Queensland-based medicinal cannabis company CDA Health Pty Ltd (“CDA”) (“Merger”), subject to customary conditions including both Cronos Australia and CDA obtaining the required shareholder approvals. The consideration payable by the Company to CDA shareholders will comprise a combination of Cronos Australia shares and cash with CDA shareholders holding approximately 73.7% of the shares in Cronos Australia on completion of the Merger (“Completion”), assuming that the full cash component is paid.

The Merger is unanimously endorsed and supported by the board of Cronos Australia, subject to no superior proposal for Cronos Australia emerging.

### **1 About CDA**

Founded in 2018 by Guy Headley, Dr Ben Jansen, Jessimine Jansen and Dr Matua Jansen, CDA has cemented itself as an Australian market leader in the medicinal cannabis sector. CDA has seen rapid growth over the last two financial years generating over \$21 million<sup>1</sup> in sales for FY2021 and generating a profit.

CDA operates across various facets of the medicinal cannabis industry:

- **Nationwide wholesale distribution of medicinal cannabis products – BHC's CanView**

CDA’s wholly-owned subsidiary Burleigh Heads Cannabis Pty Ltd (“BHC”) operates a successful pharmacy and doctor online portal “CanView” which distributes over 120 different product SKUs within Australia from some of the most well-known international and domestic producers.

Since launching CanView in June 2020, BHC has opened 2,169 pharmacy wholesale accounts and registered 565 doctor accounts to its CanView platform, resulting in 194,561 medical cannabis products having been sold in the same period, 78% of which have been sold in 2021, amounting to close to 400,000 units on an annualised basis given the current monthly sales rate.

- **Medicinal Cannabis Clinics – CDA Clinics**

CDA, via its subsidiary Cannabis Doctors Australia Pty Ltd (“CDA Clinics”), operates a successful network of clinics on the Gold Coast, Brisbane and Sunshine Coast, in addition to nationwide telehealth services. CDA also operates Cannabis Doctors Aotearoa Ltd, which imports medicinal cannabis products prescribed by doctors in New Zealand.

Since launching in 2018, CDA Clinics has developed into one of the most well-established medicinal cannabis clinic brands in Australia. In the last financial year, the clinics completed more than 30,000 consultations with CDA’s medical practitioners.

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<sup>1</sup> Based on unaudited accounts for CDA for the year ended 30 June 2021.

- **Hemp-based foods – Healthy Not High**

CDA also owns Healthy Not High Pty Ltd, a hemp food business operating in Australia.

The competitive landscape in which CDA operates has seen many new entrants emerge in the last couple of years, however CDA's established industry relationships and continued innovation has enabled CDA to remain a leader in the space.

CDA is continuing to pursue growth of its business and to focus further on product development, in-house clinical trials for Schedule 3 over-the-counter products and supply chain technological advancements over the next 12 months.

## 2 **Merger rationale**

The Company believes that the Merger with CDA will provide a material increase in both size and scale of its operations and a route to early profitability for the integrated group. The prominent position already held by CDA in the Australian medicinal cannabis industry, when added to the Company's existing operations and strategic opportunities, should deliver synergistic benefits for the integrated group where the combined value exceeds the sum of its parts.

Post-Completion, existing Cronos Australia shareholders will benefit from the significant market share held by CDA and the profitable businesses it operates. The current multinational medicinal cannabis products, clinic and consumer operations, public markets and corporate experience, all offered by Cronos Australia, will assist the expansion of the operations of both businesses and maximise the opportunities available to them, with the aim of delivering increased shareholder value for all post-Completion shareholders in the Company.

Post-Completion, Cronos Australia will also continue to benefit from its strong relationship with shareholder, Cronos Group Inc (NASDAQ: CRON, TSX: CRON, "Cronos Group"), a global leader in the cannabis industry. This relationship is unique amongst the Australian listed medicinal cannabis players. Cronos Group's President and CEO will sit on the Cronos Australia board post-Completion.

"The merger with CDA Health is another key milestone achieved by Cronos Australia since its IPO in late 2019. This transaction should propel the integrated business to a position of market leadership in Australia and position it for sustainable, profitable growth. We look forward to Guy Headley, Dr Ben Jansen and Dr Marcia Walker joining the Company's board, in addition to Cronos Group's President and CEO Kurt Schmidt, who brings a wealth of experience to the team," said Cronos Australia Chairman, Shane Tanner.

"We are looking forward to joining forces with the Cronos Australia team to create a market leader in the Australian listed medicinal cannabis space. Since founding CDA in 2018, we have established a successful medicinal cannabis business with our exceptional team and supported by our shareholders. The integrated Cronos Australia and CDA business will allow us to take the company to the next level of growth, both in Australia and offshore," said CDA founders Guy Headley and Dr Ben Jansen.

"The merger with CDA Health is a game changer for Cronos Australia and its shareholders. I am very much looking forward to working closely with Guy Headley, Dr Ben Jansen and the broader team in the integrated business. Moving forward as an executive team we are fully aligned in the bold vision for the Company as we scale existing operations and move into new markets and exploit strategic opportunities," said Cronos Australia CEO Rodney Cocks.

As part of the negotiations for the Merger, Cronos Australia also took the opportunity to review its optionality position on a leasehold site in Smeaton, Victoria for the purposes of constructing a cultivation and manufacturing facility on the site. As a result of this review, Cronos Australia

will not be exercising its rights under the Agreement for Lease with Glenbrook Pastoral Pty Ltd which lapse on 30 June 2022.

### 3 Key terms

Cronos Australia has entered into a merger implementation agreement with CDA dated 14 September 2021 ("Merger Implementation Agreement") pursuant to which it has agreed to acquire all of the shares in CDA from its existing shareholders in consideration for the issue of Cronos Australia shares to CDA's shareholders and the payment of cash (subject to the satisfaction of certain conditions precedent set out below). The cash amount payable is subject to a maximum of \$5 million.

A summary of the key terms of the Merger, as contemplated by the Merger Implementation Agreement, is as follows:

- Cronos Australia will offer a total of up to 439,784,282 fully paid ordinary shares ("Consideration Shares") to CDA's shareholders to acquire 100% of the issued capital of CDA.
- CDA shareholders will be offered 21.534 Cronos Australia shares for every 1 CDA share held by them 2 business days before the Completion date.
- The Consideration Shares (as well as certain incentive securities to be granted by Cronos Australia, as described below) will be offered to CDA shareholders under a prospectus to be prepared in accordance with Part 6D.2 of the *Corporations Act 2001* (Cth) ("Corporations Act") and lodged with the Australian Securities and Investments Commission ("Prospectus") and an associated Share Purchase Deed.
- The maximum number of Consideration Shares to be issued by Cronos Australia will be reduced to the extent that certain CDA shareholders elect to take a portion of the consideration payable by Cronos Australia in cash.
- Cronos Australia has agreed to pay up to \$5 million of the total consideration payable in cash (at an effective deemed value of \$0.138 per Consideration Share).
- Following Completion, CDA shareholders will own between 75.3% (if no cash was elected) and fall to 73.7% (if the full \$5 million is taken up in cash) of the issued share capital in Cronos Australia.

CDA has more than 500 shareholders at present (having raised capital in 2019 through a crowd-sourced funding round). In addition to entering into the Merger Implementation Agreement with CDA, the 3 largest CDA shareholders (who currently own approximately 78.9% of the shares in CDA) will enter into a Share Purchase Deed with Cronos Australia, pursuant to which Cronos Australia will agree to acquire the shares in CDA held by those shareholders subject to the satisfaction of the conditions precedent in the Merger Implementation Agreement. The offer will also be extended to all CDA shareholders under the Prospectus and CDA shareholders will be able to elect whether to receive Cronos Australia shares and/or cash.

To the extent that CDA shareholders do not accept the offer, in accordance with its constitution, the major shareholders may exercise their rights to drag the remaining minority shareholders' shares in CDA (who collectively hold 21.1% of the shares on issue in CDA) into the Merger on the same terms as the other shareholders.

The parties have agreed under the Merger Implementation Agreement that, upon Completion, Cronos Australia's board will be restructured as set out in paragraph 5 below.

Following Completion, the merged group will remain listed on ASX under the Cronos Australia name, with the various businesses operating under their existing trading names.

#### 4 Conditions

Key customary conditions to the implementation of the Merger include:

- (a) approval by Cronos Australia shareholders of resolutions set out in a Notice of Meeting to be prepared, including to:
  - (i) approve the issue of the Consideration Shares including for the purposes of section 611(7) of the Corporations Act, as certain of the CDA shareholders will acquire voting power of more than 20% in Cronos Australia;
  - (ii) approve the issue of 15,176,065 Cronos Australia shares to Cronos Group Inc (or its nominee) upon the conversion of its existing loan to a wholly-owned subsidiary of Cronos Australia;
  - (iii) appoint Guy Headley, Dr Benjamin Jansen, Dr Marcia Walker and Kurt Schmidt as directors of Cronos Australia;
  - (iv) approve the issue of performance rights and options to existing and future directors and senior executives of Cronos Australia, to current Cronos Australia employees and to existing CDA employees (who will become employees of the merged group);
  - (v) amend the constitution of Cronos Australia to remove the casting vote held by the Chairman at Cronos Australia board meetings; and
  - (vi) amend the constitution of Cronos Australia to provide that a quorum for a Cronos Australia board meeting is the majority of the Directors (which quorum must be present and voting at all times during the meeting);
- (b) approval of the amendment of the CDA constitution by CDA's shareholders in order to facilitate the Merger;
- (c) there being no material adverse change or prescribed occurrence (each as defined in the Merger Implementation Agreement) in relation to either CDA or Cronos Australia;
- (d) Cronos Australia's board confirming that the Merger will not trigger the early vesting of any options on issue in the Company as at the date of the Merger Implementation Agreement;
- (e) amending the intellectual property license agreement between Cronos Group and a wholly-owned subsidiary of the Company on terms agreed by the parties thereto;
- (f) conversion of the existing loan from Cronos Group, currently a substantial shareholder of the Company, to a wholly-owned subsidiary of the Company into Cronos Australia shares (at an effective conversion price of \$0.138 per Cronos Australia share); and
- (g) other conditions customary for a transaction of this nature.

The Merger Implementation Agreement includes reciprocal exclusivity arrangements (including customary non-solicitation and no-talk restrictions and notification obligations) and break fees apply to both parties. The exclusivity mechanisms are subject to customary exceptions that enable either party's directors to comply with their fiduciary and/or statutory duties.

Full details of the terms and conditions of the Merger are set out in the Merger Implementation Agreement, a copy of which is set out in **Annexure A**.

## **5 Governance and management**

Post-Completion, Shane Tanner will continue as Cronos Australia's Independent Chairman and Rodney Cocks will remain as Executive Director and Chief Executive Officer of Cronos Australia.

Subject to and with effect from Completion, CDA is entitled to appoint three directors to the board of Cronos Australia. CDA has nominated Guy Headley, Dr Ben Jansen and Dr Marcia Walker who will be put forward for election at the extraordinary general meeting of shareholders expected to take place in November 2021. Cronos Group CEO, Kurt Schmidt, will also be appointed to the board of Cronos Australia at that time.

Current Directors Michael Gorenstein, Jason Adler, Daniel Abrahams and Anna Burke AO have each agreed to resign as Directors of Cronos Australia with effect from Completion. The Directors who are resigning are in unanimous support of the Merger. In advance of their proposed resignations, Cronos Australia would like to acknowledge and thank Michael, Jason, Daniel and Anna for their vision, efforts and support of the Company over the past years.

Accordingly, following Completion, the board of Cronos Australia is expected to comprise the following Directors:

- **Shane Tanner – Independent Chairman**
- **Rodney Cocks – Non-Independent Executive Director and CEO**
- **Guy Headley – Non-Independent Executive Director**

Guy has operated in the Australian Medical Cannabis space since 2016. He is a founding director of CDA Health and has acted as a director of BHC over the last four years. He brings a wealth of knowledge regarding medicinal cannabis distribution and compliance in the heavily regulated industry. Prior to working in the cannabis space, Guy spent 15+ years in the construction and development sector overseeing the procurement and management of multimillion dollar projects across New Zealand, Australia and the United Kingdom.

- **Dr Benjamin Jansen – Non-Independent Executive Director**

As a founding Director of CDA Health and Cannabis Doctors Australia, Dr Jansen has played a key role in advancing and advocating access and education for Medicinal Cannabis patients within Australia and New Zealand. Dr Jansen is arguably Australia's most experienced medicinal cannabis clinician, having been directly involved with the treatment of thousands of patients. Dr Jansen is a Fellow of both the Royal Australian and Royal New Zealand College of General Practitioners, and a Fellow of the Royal New Zealand college of Urgent Care Physicians. He received a Bachelors degree of Medicine, a Bachelors degree of Surgery, a Bachelors degree of Human Biology, and a Post Graduate Diploma in Community Emergency Medicine from the University of Auckland. He also received a Post Graduate Diploma in Sports Medicine from the University of Otago, NZ. Dr Jansen was also a founder of BHC and served as a director of BHC.

- **Dr Marcia Walker – Independent Non-Executive Director**

Dr Walker brings significant experience in Medical Governance. She currently serves as a board member of the New Zealand Medical Association, a member of the General Practitioner Council of the NZMA, a member of the Medicines Classifications



Committee for the Ministry of Health NZ. She also acts as a Medical Examiner for the Royal New Zealand College of General Practitioners. Previously, Dr Walker acted as a Medical Advisor to the Rua BioScience (formerly Hikurangi Hemp Company) and Treasurer for the New Zealand Resident Doctors Association. She received a Bachelor of Medicine and a Bachelor of Surgery/Chirurgery from the University of Auckland and is a fellow of the Royal New Zealand College of General Practitioners. Dr Walker also acts as the Medical Director of both the Manly Medical Centre and The Cosmetic Clinic NZ.

- **Kurt T. Schmidt – Non-Independent Non-Executive Director**

Kurt Schmidt serves as Cronos Group's President and Chief Executive Officer. Before joining Cronos Group, Kurt served as director and Chief Executive Officer of Blue Buffalo Company, Ltd. from 2012 through 2016. Prior to joining Blue Buffalo, Kurt was Deputy Executive Vice President at Nestlé S.A., where he was responsible for Nestlé Nutrition, including several science-oriented and heavily regulated businesses. He also served as a member of Nestlé Nutrition's Executive Committee. Kurt joined Nestlé in 2007 as part of its acquisition of Gerber Products from Novartis, where he was the President and Chief Executive Officer of Gerber Products Company from 2004 to 2007. Prior to Gerber, Kurt held a variety of leadership roles at Kraft Foods, Inc. Kurt currently serves on the board of directors of Campbell Soup Company. He received a Bachelor of Science in Chemistry from the United States Naval Academy and a Master of Business Administration (MBA) from the University of Chicago.

Shareholder approval for the appointment of each of the abovementioned new directors will be sought at the Cronos Australia general meeting.

Thomas Howitt will continue as Chief Financial Officer and Company Secretary of the merged group.

Guy Headley will become Chief Commercial Officer of Cronos Australia, Dr Benjamin Jansen will become Chief Medical Officer of Cronos Australia and Jessimine Jansen will become Chief Operating Officer of Cronos Australia.

No redundancies are anticipated to occur as a result of the Merger.

## 6 Shareholder approvals

Cronos Australia has consulted ASX with respect to the Merger and ASX has provided in-principle advice that it will not require Cronos Australia to seek approval of its shareholders under ASX Listing Rule 11.1.2 and will not require Cronos Australia to re-comply with Chapters 1 and 2 of the ASX Listing Rules. However, as noted in paragraph 4(a) above, Cronos Australia will seek shareholder approval for certain matters in relation to the Merger at an extraordinary general meeting which it is currently anticipated will take place in November 2021.

As certain CDA shareholders will acquire voting power of more than 20% in Cronos Australia under the Merger, the Cronos Australia board has engaged an Independent Expert to provide an opinion as to whether the Merger is fair and reasonable to Cronos Australia shareholders.

## 7 Financial impact of the Proposed Transaction

The table below sets out the indicative impact of the Proposed Transaction based on financial information for the year ended 30 June 2021 (FY2021) before any adjustments to reflect the combination of the groups e.g., transactions between the respective parties, differences in accounting policies, the recognition of goodwill etc:

Measure	Cronos Australia <sup>1</sup>	CDA <sup>2</sup>	Merged Group
<b>Total assets</b>	\$12,688,076	\$8,707,761	\$21,395,837
<b>Total equity</b>	\$9,222,430	\$3,767,186	\$12,989,616
<b>Revenue</b>	\$1,692,840	\$21,724,241	\$23,417,081
<b>EBITDA</b>	\$(3,927,493)	\$2,206,026	\$(1,721,467)

<sup>1</sup> Extracted from Cronos Australia audited accounts for FY2021

<sup>2</sup> Extracted from CDA unaudited management accounts for FY2021

Further details will be included in the Notice of Meeting and Prospectus with respect to the Proposed Transaction.

## 8 Effect on capital structure

The following table shows the anticipated capital structure of Cronos Australia on Completion, and on a fully diluted basis, assuming that the full \$5 million of cash being offered as part consideration is paid out:

Type of Cronos Australia securityholder	Before Completion (undiluted)		Before Completion (on a fully diluted basis)		After Completion (undiluted)		After Completion (on a fully diluted basis)	
	No. of Shares	% of total no. of Shares	No. of securities	% of total no. of securities	No. of Shares	% of total no. of Shares	No. of securities	% of total no. of securities
Shares held by existing shareholders	128,750,000	100%	128,750,000	98.00%	143,926,065 <sup>1</sup>	26.3%	143,926,065	24.8%
Shares held by CDA shareholders	0	0%	0	0%	403,552,398	73.7%	403,552,398	69.4%
Performance rights holders <sup>2</sup>	0	0%	60,000	0.05%	0	0%	8,668,696 <sup>3</sup>	1.5%
Optionholders <sup>2</sup>	0	0%	2,565,000	1.95%	0	0%	25,065,000 <sup>4</sup>	4.3%
<b>TOTAL</b>	<b>128,750,000</b>	<b>100%</b>	<b>131,375,000</b>	<b>100%</b>	<b>547,478,463</b>	<b>100%</b>	<b>581,212,159</b>	<b>100%</b>

<sup>1</sup> This includes the issue of 15,176,065 shares to Cronos Group Inc on conversion of its loan to a wholly-owned subsidiary of Cronos Australia.

<sup>2</sup> Performance rights and options are unlisted. There are currently 60,000 performance rights on issue and 2,565,000 options on issue.

<sup>3</sup> Upon completion of the Proposed Merger, subject to ASX approval of the terms and approval of Cronos Australia Shareholders, Cronos Australia has agreed to issue 8,608,696 performance rights to existing directors, senior executives and employees of Cronos Australia and CDA Health.

<sup>4</sup> Upon completion of the Proposed Merger, subject to the approval of Cronos Australia Shareholders, Cronos Australia has agreed to issue 22,500,000 options as long term incentives to senior executives of Cronos Australia and CDA Health subject to time based vesting and performance hurdles based on the revenue of the combined group for the three years following Completion.

In order to provide stability and security for investors, the current 3 largest Cronos Australia shareholders (who collectively hold approximately 62.1% of the shares currently on issue in Cronos Australia) have agreed to voluntary escrow for a period of 12 months following Completion, even once their current ASX-mandated escrow ends on 7 November 2021. In addition, certain key CDA shareholders, including founders Guy Headley, Dr Ben Jansen and Dr Matua Jansen (who are collectively expected to represent approximately 59.5% of the shares on issue in Cronos Australia post-Completion) have also agreed that

their (or their associates') holdings in Cronos Australia post-Completion will be subject to the same voluntary escrow for a 12-month period following Completion.

## 9 Timetable and next steps

Cronos Australia shareholders do not need to take any action in relation to the Merger at this stage.

A Notice of Meeting containing information in relation to the Merger, including the basis for the Cronos Australia board's unanimous recommendation, an Independent Expert's Report and details of the Merger is expected to be circulated to all Cronos Australia shareholders in the coming weeks.

An indicative timetable to complete the Merger is set out below:

Event	Date
Dispatch of CDA Notice of Meeting and Explanatory Statement to CDA shareholders	Wednesday, 27 October 2021
Dispatch of Cronos Australia Notice of Meeting and Explanatory Statement to Cronos Australia shareholders	Wednesday, 27 October 2021
Lodge Prospectus with ASIC and release to ASX	Wednesday, 27 October 2021
Dispatch Prospectus and Share Purchase Deed to CDA shareholders	Wednesday, 27 October 2021
CDA General Meeting	Friday, 19 November 2021
Cronos Australia General Meeting	Friday, 26 November 2021
Completion of the Merger – issue of shares to CDA's shareholders	Monday, 29 November 2021

**\*\* ENDS \*\***

### About Cronos Australia

Cronos Australia Limited is listed on the ASX (ASX:CAU). The vision of Cronos Australia is to become a leading health and wellness company in the Asia Pacific region through the creation and distribution of premium health and wellness products and services. The Company's largest shareholder is Cronos Group Inc. (NASDAQ:CRON; TSX:CRON).

- Cronos Australia distributes the Adaya and PEACE NATURALS™ ranges of medicinal cannabis products nationwide in Australia through medical practitioners via the Special Access Scheme and Authorised Prescribers. See [www.adaya.co](http://www.adaya.co)
- Cronos Australia owns 75.5% of Cannadoc Health Pty Ltd, a medicinal cannabis clinic business that undertakes face-to-face and nationwide telehealth consultations with patients seeking access to medicinal cannabis. See [www.cannadoc.com.au](http://www.cannadoc.com.au) and [www.cannadoc.co.nz](http://www.cannadoc.co.nz)
- Cronos Australia has established operations in Hong Kong and Japan for the development of ranges of cannabinoid brands and products and their distribution into global consumer markets. The current three ranges of products are Bathing Shed, see [www.bathingshed.com](http://www.bathingshed.com), FCTR, see [www.getfctr.com](http://www.getfctr.com) and Saiph, see [www.saiphlife.com](http://www.saiphlife.com)
- Cronos Australia has a 50/50 joint venture with A&S Branding, the founders of Sukin Organic Skincare, for the development of CBD products for sale in domestic and export markets.

### Authorised by

Rodney Cocks, Chief Executive Officer and Executive Director



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**Forward-looking statements**

This announcement may include forward-looking statements. These forward-looking statements are based on Cronos Australia's expectations and beliefs concerning future events. Forward-looking statements are necessarily subject to risks, uncertainties and other factors, many of which are outside the control of Cronos Australia, which could cause actual results to differ materially from such statements. Cronos Australia makes no undertaking to update or revise the forward-looking statements made in this announcement to reflect any change in circumstances or events after the date of this announcement.

**Annexure A**  
**Merger Implementation Agreement**

See over the page.

## Merger Implementation Agreement

between

**Cronos Australia Limited**  
ACN 629 071 594  
(CAU)

and

**CDA Health Pty Ltd**  
ACN 632 054 230  
(CDA)

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**This agreement** is made on the 14<sup>th</sup> day of September 2021

between **Cronos Australia Limited** ACN 629 071 594 of Suite 8, Level 3, 299 Toorak Road, South Yarra, Victoria 3141 (**CAU**)

and **CDA Health Pty Ltd** ACN 632 054 230 of Suite 2, Level 2, 328 Scottsdale Drive, Robina, Queensland 4226 (**CDA**)

## Recitals

- A The CDA Shares are legally and beneficially owned by the CDA Shareholders.
- B CAU has agreed to acquire the CDA Shares in consideration for the Total Consideration, on the terms and conditions set out in this agreement.
- C CAU Shareholder approval is required for the issue of the Consideration Shares and will be sought as contemplated by this agreement.
- D The parties have agreed to implement the transactions referred to above on the terms and conditions set out in this agreement.
- E This agreement is intended to be legally binding and the parties agree to give effect to the transactions contemplated by it.

**Now it is agreed** as follows:

## 1 Definitions and interpretation

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### 1.1 Definitions

In this agreement, unless the context otherwise requires:

**A&S Branding** means A&S Branding Pty Ltd ACN 635 838 158 as trustee for the A&S Branding Unit Trust;

**Acceptance and Election Form** means an acceptance and election form accompanying the Prospectus in the agreed form set out in Schedule 13 making an election for the purposes of clause 4.2(b);

**Accounting Standards** means:

- (a) the requirements of the Corporations Act about the preparation and contents of financial reports; and
- (b) the accounting standards approved under the Corporations Act, being the Australian Accounting Standards and any authoritative interpretations issued by the Australian Accounting Standards Board;

**Adviser** means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser, or consultant who provides advisory services in a professional capacity and who has been engaged by that entity in connection, directly or indirectly, with the Transaction;

**Amended CDA Constitution** means the constitution of CDA, as amended prior to Completion to reflect the changes set out in Schedule 8;

**Amended Cronos Group License Agreement** means the amended intellectual property license between Cronos Group Inc and CAU OpCo in the agreed form;

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

**Associate** has the meaning given to that term by sections 10 to 17 of the Corporations Act;

**ASX** means ASX Limited ACN 008 624 691;

**Authorised Person** means, in respect of a person:

- (a) a director, officer, partner, member or employee of the person;
- (b) an Adviser of the person; and
- (c) a director, officer or employee of an Adviser of the person;

**Break Fee** means:

- (a) where CAU is entitled to the Break Fee under clause 11, \$500,000; and
- (b) where CDA is entitled to the Break Fee under clause 11, \$500,000;

**Business** means the businesses conducted by the CDA Group, including the medical cannabis businesses known as BHC's CanView, Healthy Not High, CDA Clinics, BHC, CDA Pharma, CDA Operations, CDA Properties and Cannabis Doctors Aotearoa;

**Business Day** means:

- (a) for receiving a notice under clause 15, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in Victoria, Australia;

**Cash Consideration** means an amount, up to \$5,000,000, representing the aggregate of the cash consideration payable to those CDA Shareholders who (and to the extent) under the Prospectus elect to receive cash for part or all of their CDA Shares;

**CAU Board** means the board of directors of CAU as at the date of this agreement;

**CAU Business** means the business of the CAU Group;

**CAU Constitution** means the constitution of CAU;

**CAU Data Room** means the virtual data room established by CAU, hosted on Ansarada;

**CAU Disclosure Letter** means the letter from CAU to CDA on or before the date of this agreement entitled 'Disclosure Letter';

**CAU Due Diligence Material** means the information and documents provided by or on behalf of CAU to CDA in connection with the Transaction before the date of this agreement, a list of which is attached to the CAU Disclosure Letter;

**CAU Escrowed Parties** means those persons set out in Part 1 of Schedule 11;

**CAU General Meeting** means the general meeting of CAU to be convened to allow CAU Shareholders to consider and, if thought fit, pass the CAU Resolutions;

**CAU Group** means CAU, its subsidiaries and controlled entities, and **CAU Group Company** means any one of them;

**CAU Information** means all information contained in the Explanatory Statement and the Prospectus, but does not include the CDA Information or the Independent Expert's report that is included in or accompanies the Explanatory Statement;

**CAU OpCo** means Cronos Australia – Operations Pty Ltd ACN 616 243 595;

**CAU Properties** means the real properties used exclusively in the conduct of the CAU Business;

**CAU Records** means all original and copy records, documents, books, files, reports, accounts, plans, correspondence, letters and papers of every description and other material regardless of their form or medium and whether coming into existence before, on or after the date of this agreement, belonging or relating to or used by any CAU Group Company including certificates of registration, minute books, statutory books and registers, corporate keys issued by ASIC, books of account, Tax returns, title deeds and other documents of title, customer lists, price lists, computer programs and software, and trading and financial records;

**CAU Resolutions** means the resolutions of the CAU Shareholders necessary to approve the Transaction, including:

- (a) a resolution for the purposes of item 7 of section 611 of the Corporations Act, Chapter 2E of the Corporations Act and for all other purposes approving the issue of the Consideration Shares to CDA Shareholders who, or whose Associates, will have voting power (as defined in Chapter 6 of the Corporations Act) of more than 20% in CAU following completion of the Transaction as set out in the Explanatory Statement;
- (b) a resolution for the purposes of Listing Rule 7.1 and for all other purposes approving the issue of the Consideration Shares on the terms set out in the Explanatory Statement;
- (c) a resolution for the purposes of Listing Rule 10.11 and for all other purposes approving the issue of 15,176,065 CAU Shares to CGI (or its Associate) upon Completion under the terms of the Conversion Deed;
- (d) a resolution for purposes of clause 39.3 of CAU's constitution to appoint Guy Rothwell Headley as a director of CAU subject to and with effect from Completion;
- (e) a resolution for purposes of clause 39.3 of CAU's constitution to appoint Benjamin David Ngahuia Jansen as a director of CAU subject to and with effect from Completion;
- (f) a resolution for purposes of clause 39.3 of CAU's constitution to appoint Marcia Ani Matekino Walker as a director of CAU subject to and with effect from Completion;
- (g) a resolution for purposes of clause 39.3 of CAU's constitution to appoint Kurt Thomas Schmidt as a director of CAU subject to and with effect from Completion;
- (h) a resolution for the purposes of Listing Rule 10.14, Chapter 2E of the Corporations Act and for all other purposes to issue 1,000,000 performance rights and 4,500,000 options to Guy Rothwell Headley (or his nominee) on the terms and conditions set out in the Explanatory Statement;
- (i) a resolution for the purposes of Listing Rule 10.14, Chapter 2E of the Corporations Act and for all other purposes to issue 1,000,000 performance rights and 4,500,000 options to Benjamin David Ngahuia Jansen (or his nominee) on the terms and conditions set out in the Explanatory Statement;
- (j) a resolution for the purposes of Listing Rule 10.14, Chapter 2E of the Corporations Act and for all other purposes to issue 1,000,000 performance rights and 4,500,000 options to Jessimine Jansen (or her nominee) on the terms and conditions set out in the Explanatory Statement;
- (k) a resolution for the purposes of Listing Rule 10.14, Chapter 2E of the Corporations Act and for all other purposes to issue 1,000,000 performance rights and 4,500,000 options to Rodney Damon Cocks (or his nominee) on the terms and conditions set out in the Explanatory Statement;
- (l) a resolution for the purposes of Listing Rule 10.14, Chapter 2E of the Corporations Act and for all other purposes to issue 1,000,000 performance rights to Shane Francis

Tanner (or his nominee) on the terms and conditions set out in the Explanatory Statement;

- (m) a resolution for the purposes of Listing Rule 7.2 (Exception 13(b)) and for all other purposes, that approval is given for CAU to approve the issue of securities under the employee incentive scheme titled Equity Incentive Plan, on the terms and conditions set out in the Explanatory Statement;
- (n) a special resolution to amend clause 49.5 of the CAU Constitution to state that the quorum for a board meeting is the majority of the directors (from time to time) (and not two directors);
- (o) a special resolution to amend clause 49.7 of the CAU Constitution to state that the chair of a board meeting does not have a casting vote in the event of an equal number of votes for and against a resolution; and
- (p) any other resolutions agreed by CDA and CAU in writing or as otherwise may be required by ASX or law;

**CAU RFIs** means the questions asked of CAU by CDA and its advisors in connection with the Transaction, as set out in the CAU Data Room;

**CAU Share** means a fully paid ordinary share in the capital of CAU;

**CAU Shareholders** means the registered holders of the CAU Shares, and **CAU Shareholder** means any of them;

**CAU Warranties** means each of the representations and warranties given by CAU under clause 9 and set out in Schedule 4;

**CAU's Lawyers** means Thomson Geer;

**CBD Shareholders Agreement** means the CBD Joint Venture Pty Ltd shareholders agreement dated 23 December 2019 between Cronos Australia Group Pty Ltd ACN 603 433 110; A&S Branding; Alison Goodger; Simon O'Connor and CBD Joint Venture Pty Ltd ACN 638 178 766;

**CDA Board** means the board of directors of CDA;

**CDA Business** means the businesses conducted by the CDA Group, including the medical cannabis businesses known as BHC's CanView, Healthy Not High, CDA Clinics, BHC, CDA Pharma, CDA Operations, CDA Properties and Cannabis Doctors Aotearoa;

**CDA Data Room** means the virtual data room established by CDA, hosted on Ansarada;

**CDA Disclosure Letter** means the letter from CDA to CAU on or before the date of this agreement entitled 'Disclosure Letter';

**CDA Due Diligence Material** means the information and documents provided by or on behalf of CDA to CAU in connection with the Transaction before the date of this agreement, a list of which is attached to the CDA Disclosure Letter;

**CDA Escrowed Parties** means those persons set out in Part 2 of Schedule 11;

**CDA General Meeting** means the general meeting of CDA to be convened to allow CDA Shareholders to consider and, if thought fit, pass the CDA Resolution;

**CDA Group** means CDA and its subsidiaries and controlled entities, further details of which as at the date of this agreement are set out in Schedule 1, and **CDA Group Company** means any one of them;

**CDA Information** has the meaning given to that term in clause 5.3(a);

**CDA Properties** means the real properties used exclusively in the conduct of the CDA Business;

**CDA Prospectus Information** has the meaning given to that term in clause 5.3(i);

**CDA Records** means all original and copy records, documents, books, files, reports, accounts, plans, correspondence, letters and papers of every description and other material regardless of their form or medium and whether coming into existence before, on or after the date of this agreement, belonging or relating to or used by any CDA Group Company including certificates of registration, minute books, statutory books and registers, corporate keys issued by ASIC, books of account, Tax returns, title deeds and other documents of title, customer lists, price lists, computer programs and software, and trading and financial records;

**CDA Resolution** means a resolution of the CDA Shareholders to amend the constitution of CDA to give effect to the changes set out in Schedule 8;

**CDA RFIs** means the questions asked of CDA by CAU and its advisors in connection with the Transaction, as set out in the CDA Data Room;

**CDA Shareholders** means the registered holders of the CDA Shares, and **CDA Shareholder** means any of them;

**CDA Shares** means the entire share capital of CDA, further details of which as at the date of this agreement are set out in Schedule 2;

**CDA Warranties** means each of the representations and warranties given by CDA under clause 8 and set out in Schedule 3;

**CDA's Lawyers** means Maddocks;

**Claim** includes a claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this agreement;

**Closing Date** means the last date by which the Offer may be accepted, as set out in the Prospectus;

**Competing Proposal** means, in relation to a party, a transaction or arrangement pursuant to which (other than as contemplated pursuant to this agreement), if the proposed transaction or arrangement is entered into or completed substantially in accordance with its terms:

- (a) where that party is CDA, that party or any other Group Company will directly or indirectly be admitted to the official list of the ASX; or
- (b) a Third Party will:
  - (i) directly or indirectly acquire, have a right to acquire or otherwise acquire an economic interest in, all or a majority of the businesses of that party or any other Group Company;
  - (ii) have a relevant interest within the meaning of section 608 of the Corporations Act in 20% or more of that party's issued share capital;
  - (iii) acquire control of that party within the meaning of section 50AA of the Corporations Act; or
  - (iv) otherwise directly or indirectly acquire, merge with, or acquire a significant shareholding or economic interest in that party or its businesses, whether by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation,

establishment of a new holding company for that party or other synthetic merger or any other transaction or arrangement,

which, if completed, would require either CAU or CDA to abandon, or otherwise fail to proceed with, the Transaction;

**Completion** means completion of the Transaction;

**Completion Date** means the date on which Completion occurs;

**Compulsory Disposition Notice** has the meaning given to that term in clause 4.3;

**Conditions** means the conditions set out in clause 2.1;

**Conditions Date** means 30 November 2021 or such other date as agreed in writing between CAU and CDA;

**Confidential Information** means all confidential, non-public or proprietary information regardless of how the information is stored or delivered, exchanged between the parties (or any of them) before, on or after the date of this agreement relating to the business, technology or other affairs of the parties including all trade secrets, business plans, financial, marketing, systems, technology, ideas, concepts, know how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including computer software, manufacturing processes or other information embodied in drawings or specifications), intellectual property or any other information which is indicated to be subject to an obligation of confidence, or which a reasonable person should understand to be subject to an obligation of confidence;

**Consideration Shares** means that number of CAU Shares to be issued and allotted to CDA Shareholders on Completion calculated as 439,784,282 CAU Shares less the Cash Consideration divided by \$0.138 in part satisfaction of the Total Consideration pursuant to this agreement and the Prospectus, which shall rank equally with all CAU Shares on issue at the date of allotment;

**Conversion Deed** means the loan conversion deed in the agreed form between Cronos Group Inc and CAU OpCo in respect of the conversion of the Cronos Group Loan;

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

**Correspondence** means all email correspondence between directors and senior executives of CAU and CDA between 8 April 2021 and 5:00 pm on the date prior to the date of this Agreement, together with all attachments or enclosures thereto;

**Cronos Group Loan** means the facility of \$1,564,711 together with accrued interest and royalties which Cronos Group Inc made available to CAU OpCo pursuant to the terms of a loan agreement dated 25 September 2018 as varied on 9 March 2019, 9 August 2019 and 3 August 2021;

**Encumbrance** means an interest or power:

- (a) reserved in or over an interest in any asset including any retention of title or preferential right; or
- (b) created or otherwise arising in or over any interest in any asset under any form of security whatsoever including a bill of sale, contract or set-off, mortgage, charge, lien, pledge, trust, power or Security Interest,

whether registered or unregistered and including any agreement to grant or create any of the above;

**End Date** means 31 December 2021;



**Existing Credit Facilities** means bank facilities and other financial accommodation available to the CDA Group or the CAU Group (as applicable) as at the date of this agreement, the terms and conditions of which (and relevant agreements in relation to which) have been Fairly Disclosed prior to the date of this agreement;

**Exclusivity Period** means the period from and including the date of this agreement and ending on the first to occur of the End Date and the Completion Date;

**Explanatory Statement** means the explanatory statement to be despatched to CAU Shareholders in respect of the Transaction and the CAU Resolutions, including or accompanied by the Independent Expert's report, notice convening the CAU General Meeting and a proxy form for the CAU General Meeting;

**Fairly Disclosed** means sufficient information has been disclosed such that a sophisticated purchaser, experienced in transactions of the nature of the sale of the CDA Shares and familiar with the industry in which the CAU Business and the CDA Business operate, would be aware of the nature and scope of the matter disclosed. For the avoidance of doubt, and without limitation, a matter will be deemed to be Fairly Disclosed if information relating to the matter:

- (a) is provided to CDA in the CAU Data Room or by way of responses to the CAU RFIs;
- (b) is provided to CAU in the CDA Data Room or by way of responses to the CDA RFIs; and / or
- (c) is provided to CAU or CDA (as applicable) in the Correspondence;

**Fundamental CAU Resolutions** means each of the resolutions described in paragraphs (a), (b) and (c) of the definition of CAU Resolutions;

**Governmental Agency** means any:

- (a) government, government department, government agency or government authority;
- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
  - (i) other entity or person (whether autonomous or not) having powers or jurisdiction under:
  - (ii) any statute, regulation, ordinance, by-law, order or proclamation, or the common law; or
  - (iii) the rules of any recognised stock or securities exchange;

**Group Company** means:

- (a) in respect of CDA, any CDA Group Company; and
- (b) in respect of CAU, any CAU Group Company;

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Immediately Available Funds** means cash, bank cheque or electronic funds transfer;

**Independent Expert** means a person appointed by CAU pursuant to clause 5.2(d) as independent expert to prepare a report to be provided to the CAU Board and CAU Shareholders to advise as to whether the Transaction is fair and reasonable to CAU Shareholders who are not associated with the CDA Group;

**Integration Awards** means the securities to be issued by CAU under the Prospectus, as set out in Schedule 9 on the terms of the Integration Letters, subject to any changes required by ASX and approved by the parties;

**Integration Letters** means the agreed form invitation letters for the grant of the Integration Awards, subject to any changes required by ASX and approved by the parties;

**Insolvency Event** means the occurrence of any one or more of the following events in relation to any person:

- (a) an application or an order is made for the winding up of the person, the declaration of bankruptcy of the person or the appointment of an administrator, a provisional liquidator, liquidator, official manager or receiver or receiver and manager and, in the case of an application, it is not stayed, dismissed, struck out or withdrawn within 14 days of it being made;
- (b) a resolution is passed for the winding up of the person which resolution is other than for the purposes of reconstruction or amalgamation the terms of which have previously been approved in writing by the parties;
- (c) a receiver or manager (or both) is appointed to, or a mortgagee takes possession of, all or any part of the business or the assets of the person;
- (d) the person makes any composition or arrangement or assignment with or for the benefit of one or more of its creditors;
- (e) the person is or states that it is unable to pay its debts as and when they fall due;
- (f) the person is or states that it is insolvent or is deemed or presumed to be under an applicable law;
- (g) the person proposes a winding-up or dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (h) the person is taken to have failed to comply with a statutory demand as a result of section 459F(1) of the Corporations Act;
- (i) an application is made or notice is issued under sections 601AA or 601AB of the Corporations Act;
- (j) a writ of execution is levied against the person or its property and is not removed within 14 days of notification of the levy; or
- (k) anything analogous or of similar effect to any of the above events occurs under the law of any applicable jurisdiction;

**Integration Planning Committee** means a committee made up of:

- (a) Rodney Cocks, Thomas Howitt, Guy Headley, Dr Benjamin Jansen, Jessimine Jansen; and
- (b) such other persons as the parties may agree from time to time;

**Intellectual Property Rights** includes both in Australia and throughout the world, and for the duration of, any right, title or interest in any:

- (a) business names, patents, utility models, copyrights, registered or unregistered trade marks or service marks, trade names, brand names, domain names, eligible layout rights, plant variety rights, registered designs and commercial names and designations;
- (b) invention, discovery, trade secret, know-how, software and confidential, scientific, technical and product information;
- (c) other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields whether industrial, commercial, agricultural or extractive and whether dealing with manufactured or natural products; and

- (d) applications, letters patent, deed of grant, certificate or document of title for any thing referred to in paragraphs (a), (b) or (c) of this definition and any medium in which any thing referred to in those paragraphs is stored or embodied;

**Liabilities** includes all liabilities (whether actual, contingent or prospective), losses, damages, costs and expenses of whatever description;

**Listing Rules** means the official listing rules of the ASX;

**Major Shareholders** means those CDA Shareholders set out in Part 1 of Schedule 2 who together hold (in aggregate) 16,116,720 ordinary shares in the capital of CDA;

**Material Adverse Change** means events or occurrences or matters that occur or fail to occur on or after the date of this agreement in relation to a party, other than:

- (a) those required to be done or procured by that party pursuant to this agreement;
- (b) those resulting from changes or effects in general worldwide or Australian economic, capital markets, regulatory or political conditions or changes in interest rates, exchange rates or securities or commodity prices generally; and
- (c) those Fairly Disclosed, or that are reasonably apparent on the face of the document as reasonably likely to flow from an event, occurrence or matter that is Fairly Disclosed, in a document provided by or on behalf of that party to the other party or the other party's Representatives, or are otherwise known to the other party or the other party's Representatives,

that individually, or when aggregated with all such events, occurrences or matters, is or are reasonably likely to have the effect of:

- (d) where that party is CDA, diminishing the consolidated annual net profit after tax of the CDA Group in respect of the financial year ending 30 June 2022 by \$500,000 or more; and
- (e) where that party is CAU, diminishing the net assets of the CAU Group in respect of the financial year ending 30 June 2022 by \$1,000,000 or more;

**Material Contract** means the contracts of either the CDA Group or the CAU Group (as the case may be) disclosed by CAU or CDA in the Data Room as at the date of this agreement;

**Minority Shareholders** means those CDA Shareholders who together hold the Minority Shares;

**Minority Shares** the 2,885,096 ordinary shares and 1,421,166 CSF ordinary shares in the capital of CDA held by all of the CDA Shareholders other than the Major Shareholders;

**Non-Fundamental CAU Resolutions** means all other CAU Resolutions other than the Fundamental CAU Resolutions;

**Notice** has the meaning given to that term in clause 15.1;

**Offer Period** has the meaning given to that term in the Prospectus;

**PPSA** means the *Personal Property Securities Act 2009* (Cth);

**PPS Law** means:

- (a) the PPSA and the *Personal Property Securities Regulations 2010* (Cth) and any other regulations made at any time under the PPSA; and
- (b) any amendment made to any other law as a consequence of a law referred to in paragraph (a);

**Prescribed Occurrence** means the occurrence on or after the date of this agreement of any of the following in relation to a party:

- (a) that party or another Group Company:
  - (i) converting all or any of its securities into a larger or smaller number of securities;
  - (ii) resolving to reduce its capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its securities;
  - (iii) declaring, paying or distributing any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise (excluding in all cases the payment by CAU of all bonuses determined in the proper and ordinary course referable to the financial year ended 30 June 2021);
  - (iv) entering into a buy-back agreement or resolving to approve the terms of a buy-back agreement under the Corporations Act;
  - (v) issuing securities, or granting an option (including a performance right) over its securities, or agreeing to make such an issue or grant such an option (including a performance right);
  - (vi) issuing or agreeing to issue, securities or other instruments convertible into securities (including any performance right);
  - (vii) making any change or amendment to its constitution;
- (b) that party or another Group Company:
  - (i) acquiring or disposing of;
  - (ii) agreeing to acquire or dispose of; or
  - (iii) offering, proposing, announcing a bid or tendering for the acquisition of,
 

any securities, business, intellectual property, assets (in the nature of a business or part of a business), interests in a joint venture, entity or undertaking other than in the ordinary course of conducting its existing business, consistent with past practice and (in the case of CAU), as publicly announced to the market prior to the date of this agreement;
- (c) other than in the ordinary course of business, that party or another Group Company providing financial accommodation other than to another Group Company irrespective of what form of financial indebtedness that accommodation takes;
- (d) that party or another Group Company:
  - (i) entering into or agreeing to enter into a contract or commitment requiring total payments of more than \$250,000; or
  - (ii) incurring or agreeing to incur capital expenditure of more than \$100,000;
  - (iii) pays, agrees to pay or incur or agrees to incur any increase to salary, wages or bonus payments that have not been Fairly Disclosed (excluding in all cases the payment by CAU of all bonuses determined in the proper and ordinary course referable to the financial year ended 30 June 2021);
- (e) an Insolvency Event occurring in relation to that party or another Group Company; or
- (f) that party or another Group Company making any significant change to its accounting practices or policies applied by it to report its financial position other than as a result of advice received from its auditors or to comply with the Accounting Standards,

provided that a Prescribed Occurrence will not include a matter:

- (g) that is required to be done or procured by that party pursuant to this agreement;
- (h) the undertaking of which has been approved in writing by the other party; or
- (i) that has been Fairly Disclosed in the CAU Disclosure Letter or the CDA Disclosure Letter (as applicable) in writing by or on behalf of that party to the other party or its Representatives before execution of this agreement;

**Prospectus** means a prospectus prepared by CAU in accordance with Part 6D.2 of the Corporations Act and lodged with ASIC in accordance with clause 5.2(m)(viii) in relation to the issue of the Consideration Shares and the Integration Awards;

**Quotation** means official quotation by ASX;

**Record Date** means 7.00pm on the day that is 2 Business Days prior to the Completion Date.

**Regulator's Draft** means a draft of the Explanatory Statement in a form approved by CAU and CDA that is provided to ASIC and ASX for review prior to despatch to CAU Shareholders;

**Regulatory Review Period** means the period from the date on which the Regulator's Draft is submitted to ASIC and ASX to the date on which ASIC and ASX indicate to CAU that they have no objection to, or further comments on, the Regulator's Draft;

**Related Entity** means in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act or which is an economic entity (as defined in any Accounting Standard) that is controlled by that party;

**Representative** means, in relation to a person:

- (a) each of the person's Related Entities; and
- (b) each of its directors, officers, employees, contractors, Advisers (including legal, financial and other expert advisers) and agents, but excluding the Independent Expert;

**Restriction Agreements** means the voluntary restriction agreements in the agreed form set out in Schedule 10 under which the CDA Escrowed Parties and the CAU Escrowed Parties will agree to restrictions on the transfer of their CAU Shares for 12 months after Completion;

**RG 74** means Regulatory Guide 74 issued by ASIC on 21 December 2011;

**RG 111** means Regulatory Guide 111 issued by ASIC on 22 October 2020;

**RG 112** means Regulatory Guide 112 issued by ASIC on 30 March 2011;

**Security Interest** means:

- (a) any mortgage, lien, charge, pledge, assignment by way of security, title retention, preferential right or trust arrangement, claim, covenant, profit a prendre, easement, property right or interests, restrictive covenant, restriction on transfer, right of first refusal, option, hypothecation, defect in title, 'security interest' (as defined in the PPS Law) or other security interest or arrangement having the same effect; and
- (b) any agreement to create or grant any arrangement described in paragraph (a);

**Share Purchase Deed** means the share purchase deed for the sale of the CDA Shares to CAU, in the agreed form set out in Schedule 7;

**Signing Announcement** means the announcement to be issued by CAU on the date of this agreement, in the agreed form set out in Schedule 12;

**Superior Proposal** means a Competing Proposal in relation to a party which, in the determination of that party's board acting in good faith:

- (a) is capable of being completed without undue delay, taking into account both the nature of the Competing Proposal and the person(s) making it; and
- (b) after receiving the advice of its external legal and financial Advisers, would, if completed substantially in accordance with its terms, result in a transaction more favourable to that party's shareholders than the Transaction;

**Tax Act** means the *Income Tax Assessment Act 1997* (Cth);

**Third Party** means a person who is neither a party to this agreement, nor any Related Entity of a party to this agreement, including a person or organised group of persons or combination of persons acting in concert by virtue of an agreement, arrangement, commitment or understanding which is not a party to this agreement;

**Timetable** means the indicative timetable for the implementation of the Transaction set out in Schedule 6;

**Total Consideration** means the total amount to be paid by CAU for the CDA Shares in accordance with clause 4.1;

**Total Entitlement** means, in respect of each CDA Shareholder, their entitlement to the Total Consideration, calculated as a percentage of the total issued CDA Shares held by that CDA Shareholder at Completion;

**Transaction** means all aspects of the transaction contemplated by this agreement including without limitation the acquisition by CAU of all of the CDA Shares in consideration for the Total Consideration, the compulsory disposition of the Minority Shares to CAU, the issue to the CDA Shareholders of the Consideration Shares, and the conduct of any meeting of CDA and CAU to approve such transactions in accordance with the terms of this agreement; and

**Transaction Document** means each of:

- (a) this agreement;
- (b) the Share Purchase Deed;
- (c) the Prospectus; and
- (d) any other document to which the parties agree is necessary or desirable to enter into for the purposes of the Transaction.

## 1.2 Interpretation

In this agreement, unless the context otherwise requires:

- (a) a reference to a person includes a reference to a corporation, an association, joint venture, an unincorporated body, partnership, government or local authority or agency or other entity;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a reference to any gender includes a reference to all genders;
- (d) a reference to money (including \$ or dollars) is a reference to Australian currency;
- (e) a reference to time is to Melbourne, Australia time;
- (f) a month means a calendar month;



- (g) a reference to a recital, clause, paragraph or schedule is a reference to a recital, clause or paragraph of, or schedule to, this agreement and a reference to this agreement includes any recital or schedule;
- (h) a reference to a party includes that party's executors, administrators, successors, permitted assigns and substitutes;
- (i) specifying anything in this agreement after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included;
- (j) a reference to legislation or to a provision of a legislation includes a reference to a modification, consolidation, replacement or re-enactment of it, and includes subordinate legislation made under it;
- (k) a reference to a body, other than a party (including an institute, association or authority), whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body,
- (l) is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (m) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (n) a reference to an agreement other than this agreement includes a legally enforceable deed, undertaking, agreement, arrangement or understanding, whether or not in writing;
- (o) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (p) if an act required to be done under this agreement on or by a given day is done after 5:30pm on that day, it is taken to be done on the following day; and
- (q) a provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this agreement or the inclusion of the provision in this agreement.

### 1.3 **Headings**

Headings and the table of contents are inserted for convenience only and do not affect the interpretation of this agreement.

### 1.4 **Agreed form**

A reference to a document being in the 'agreed form' is a reference to a document that is in the form agreed between the parties in writing or approved by CDA's Lawyers and CAU's Lawyers at the date of this Agreement.

### 1.5 **Weekends and holidays**

Where an act is required by this agreement to be done on a given day and that day is not a Business Day, then the act is required to be done on the next following Business Day.

## 2 Conditions

### 2.1 Conditions

Completion must not occur until all of the Conditions are fulfilled (or waived in accordance with clause 2.2):

#	Condition	Party entitled to benefit
1	The CAU Shareholders approve the CAU Resolutions at the CAU General Meeting by the requisite majorities.	-
2	The CDA Shareholders approve the CDA Resolution at the CDA General Meeting by the requisite majorities.	-
3	The Share Purchase Deed has been executed by the Major Shareholders and has not been terminated between the date of this agreement and Completion.	-
4	The CAU Board unanimously endorses, and continues until Completion to unanimously endorse, the Transaction, including unanimously recommending in the Explanatory Statement that the CAU Shareholders vote in favour of the CAU Resolutions.	CDA
5	Between the date of this agreement and Completion, no Material Adverse Change occurs in respect of CAU.	CDA
6	Between the date of this agreement and Completion, no Prescribed Occurrence occurs in respect of CAU.	CDA
7	Between the date of this agreement and Completion, no Material Adverse Change occurs in respect of CDA.	CAU
8	Between the date of this agreement and Completion, no Prescribed Occurrence occurs in respect of CDA.	CAU
9	Each Governmental Agency (including ASIC and ASX) has issued or provided (and not withdrawn, revoked or varied) such consents, waivers, relief, modifications and/or approvals or has done such other acts which are necessary or reasonably desirable to implement the Transaction (as agreed between the parties), including in relation to the application of item 7(a)(ii) of section 611 of the Corporations Act in accordance with paragraph RG 74.53 of RG 74 (together the <b>Regulatory Approvals</b> ). If any Regulatory Approval is subject to conditions those conditions must be acceptable to the parties (each acting reasonably).	CAU & CDA
10	As at 5:00pm on the Business Day immediately prior to the Completion Date (assuming all other Conditions have been fulfilled or waived) no Governmental Agency has commenced, or is threatening to commence, any action, lawsuit, or other legal proceeding seeking to obtain, pursuant to any law, a judgment, order, decree, temporary restraining order, preliminary or permanent injunction, restraint or prohibition, that would prohibit, materially restrict, make illegal or restrain the implementation of the Transaction.	CAU & CDA

11	Each landlord to the following lease agreements to which a CDA Group Company is a party has consented to the transactions contemplated by this agreement on terms acceptable to CAU (acting reasonably):  (a) the lease for Shop 1010/16 Hamilton Place, Bowen Hills, Queensland 4006;  (b) the lease for Tenancy E, 191 Varsity Parade, Varsity Lakes, Queensland 4227; and  (c) the lease for Suite 101, 8 Maroochydore Road, Maroochydore, Queensland 4558.	CAU
12	A&S Branding has consented to the transactions contemplated by this agreement for the purposes of the CBD Shareholders Agreement on terms acceptable to CDA (acting reasonably).	CDA
13	The CAU Board passing a resolution whereby it confirms that the accelerated vesting of options on issue as at the date of this Agreement pursuant to the terms of the CAU equity incentive plan will not be triggered by the Transaction.	CDA
14	Delivery of the Amended Cronos Group License Agreement, duly signed by the parties thereto.	CDA
15	Delivery of the Conversion Deed, duly signed by the parties thereto.	CDA

## 2.2 Waiver of Conditions

- (a) Subject to clause 2.2(d), the breach or non-fulfilment of Conditions 1, 2 and 3 may not be waived.
- (b) The breach or non-fulfilment of the Conditions (other than Conditions 1, 2 and 3) may only be waived in writing by each party entitled to the benefit of that Condition (as specified in relation to each Condition in the third column of the table in clause 2.1) and will be effective only to the extent specifically set out in that waiver.
- (c) For the avoidance of doubt, each of Condition 1 (only in respect of Non-Fundamental CAU Resolutions), Condition 9 and Condition 10 is for the benefit of both parties and that Condition may only be waived by agreement between both parties in writing.
- (d) Condition 1 may be waived by agreement between both parties only in circumstances where the CAU Shareholders have failed to approve any Non-Fundamental CAU Resolutions by the requisite majority. For the avoidance of doubt, the breach or non-fulfilment of Condition 1 insofar as it relates to any Fundamental CAU Resolution not being approved by the requisite majority cannot be waived.
- (e) In the event that Condition 1 is waived pursuant to clause 2.2(d), CAU shall procure that each of Guy Rothwell Headley, Benjamin David Ngahuia Jansen, Marcia Ani Matekino Walker and Kurt Thomas Schmidt are appointed as directors of CAU with effect from Completion.

## 2.3 Conduct of the parties

- (a) Without prejudice to any other obligations of the parties under this agreement:
  - (i) each party must use its best endeavours to procure that:
    - (A) each of the Conditions is satisfied as soon as practicable after the date of this agreement and in any event before 5:00pm on the Conditions

Date or continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and

- (B) there is no occurrence within its control that would prevent the Conditions being satisfied except to the extent such action (or inaction) is required by law or the rules of any recognised stock or securities exchange, or permitted or required by the terms of the Transaction Documents,

but in each case only to the extent within its power and control; and

- (ii) neither party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition, except to the extent that such action is required to be done or procured pursuant to, or is otherwise permitted by, the Transaction Documents, or is required by law,

and for the purposes of this clause 2.3, the 'best endeavours' of either party will require that party to (among other things):

- (iii) consult and co-operate fully with each other party in relation to the satisfaction of the Conditions;
- (iv) seek to satisfy the relevant Condition as soon as practicable after the date of this agreement or seek to ensure the relevant Condition continues to be satisfied at all times until the last time it is to be satisfied (as the case requires) with a view to Completion occurring on or before the Conditions Date provided that the parties are not obliged to waive any Condition;
- (v) take all the steps for which it is responsible as part of the satisfaction of a Condition including by procuring that its Representatives work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other parties to satisfy the Conditions.
- (vi) co-operate with the other party or any Governmental Agency or Third Party in good faith with a view to satisfying the Conditions, including providing all information reasonably required by the other party in relation to the CDA Group or the CAU Group (as applicable) in order to satisfy the Conditions, and providing all information reasonably required by any Governmental Agency or other Third Party to such Governmental Agency or Third Party as appropriate. For the avoidance of doubt, where CDA or CAU (as the case may be) proposes to disclose any confidential information to any Governmental Agency or Third Party (whether pursuant to a request by any Governmental Agency or Third Party or otherwise), CDA or CAU (as the case may be) must, to the extent permitted by law, seek the other party's prior written consent to such disclosure, which consent must not be unreasonably withheld or delayed;
- (vii) in relation to clause 2.3(a)(vi), the party applying for the approval may withhold or redact information or documents if and to the extent that they are confidential to a Third Party; and
- (viii) nothing in this clause 2.3 or any other provision of this agreement requires a party to disclose materially commercially sensitive information to the other party.
- (b) Each of CAU and CDA must keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions either directly or through its Advisers.

#### 2.4 Failure of Condition

- (a) Each party must promptly give each other notice of a failure to satisfy a Condition or of any event that will prevent a Condition being satisfied.

- (b) A party must give written notice to each other party as soon as reasonably practicable (and in any event before Completion) as to whether or not it waives the breach or non-fulfilment of any Condition resulting from the occurrence of that event, specifying the Condition in question.
- (c) A waiver of such breach or non-fulfilment in respect of one Condition will not constitute:
  - (i) a waiver of breach or non-fulfilment of any other Condition of this agreement resulting from the same event; or
  - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

## 2.5 Conditions not met

- (a) If:
  - (i) there is a breach or non-fulfilment of a Condition that is not (or is not permitted to be) waived in accordance with this agreement; or
  - (ii) there is an act, failure to act, event or occurrence which will prevent a Condition being satisfied in accordance with the time frame set out in clause 2.3(a) for its satisfaction (and the breach or non-fulfilment of the Condition which would otherwise occur has not already been (or is not permitted to be) waived in accordance with this agreement),

the parties must consult in good faith with a view to:

  - (iii) determining whether a transaction that results in the same commercial objective as is outlined in this agreement may proceed by way of alternative means or methods; or
  - (iv) extending the time or date for satisfaction of the relevant Condition.
- (b) If the parties are unable to reach agreement under clause 2.5(a) within 5 Business Days after the parties become aware that clause 2.5(a)(i) or 2.5(a)(ii), as the case may be, is triggered:
  - (i) CAU may, provided that Condition is for the benefit of CAU, terminate this agreement by notice in writing to CDA without incurring any liability to CDA because of that termination (other than under clause 11, if applicable);
  - (ii) CDA may, provided that Condition is for the benefit of CDA, terminate this agreement by notice in writing to CAU without CDA incurring any liability to CAU because of that termination (other than under clause 11, if applicable); and
  - (iii) either party may, in relation to Conditions 1 and 2, terminate this agreement by notice in writing to the other party without incurring any liability to the other party because of that termination (other than under clause 11, if applicable),

unless the relevant occurrence or the breach or non-fulfilment of the Condition arises out of a breach of clause 2.3 or clause 2.4(a) by the terminating party.

## 2.6 Interpretation

For the purposes of this clause 2, a Condition will be incapable of satisfaction, or incapable of being satisfied if there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the Conditions Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this agreement).

### 3 Agreement to proceed with the Transaction

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Each of CAU and CDA agree to propose and implement the Transaction:

- (a) on the basis that the CDA Shares are transferred to CAU free from Encumbrances with all rights, including dividend and voting rights, attached or accrued to the CDA Shares on or after the Completion Date in consideration for the issue by CAU of the Consideration Shares and payment of the Cash Consideration; and
- (b) on and subject to the terms and conditions of this agreement, the Share Purchase Deed and the Prospectus.

### 4 Sale and purchase of CDA Shares

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#### 4.1 Total Consideration

The Total Consideration under this agreement is the aggregate of:

- (a) the Cash Consideration; and
- (b) the issue and allotment of the Consideration Shares.

#### 4.2 Offer and election

- (a) CAU must make an offer to the CDA Shareholders to acquire the CDA Shares subject to the terms of this agreement in consideration for CAU offering the Consideration Shares to the CDA Shareholders under the Prospectus on the basis of 21.534 Consideration Shares for every 1 CDA Share held at the Record Date (**Offer**). The Offer will be conditional on this agreement becoming unconditional in all respects and must be accepted by the Closing Date. Any fractional entitlement of a CDA Shareholder to a part of a Consideration Share will be rounded up or down to the nearest whole number of CAU Shares and, for the avoidance of doubt, fractional entitlements of 0.5 of a Consideration Share will be rounded up.
- (b) Subject to clause 4.2(d), each CDA Shareholder may elect to receive their Total Entitlement:
  - (i) by way of Cash Consideration of up to 100% of their Total Entitlement (at a purchase price of \$0.138 per Consideration Share); and/or
  - (ii) subject to any Cash Consideration allocated under clause 4.2(b)(i), by the issue of Consideration Shares for the balance of their Total Entitlement (calculated in accordance with clause 4.2(a)).
- (c) Each CDA Shareholder may accept the Offer and make the election referred to in clause 4.2(b) by completing, signing and returning to CAU the Acceptance and Election Form accompanying the Prospectus by the Closing Date. If CAU does not receive an Acceptance and Election Form by the Closing Date or if a CDA Shareholder incorrectly completes the Acceptance and Election Form (as determined by CAU, acting reasonably), the CDA Shareholder will receive their Total Entitlement as Consideration Shares. An Acceptance and Election Form cannot be withdrawn once given.
- (d) To the extent that CDA Shareholders make elections for Cash Consideration which in aggregate exceed \$5,000,000, the amount of the Total Entitlement to be received by the CDA Shareholders as Cash Consideration will be scaled back on the basis that each CDA Shareholder who has elected to receive Cash Consideration shall be scaled back pro rata to the holdings in CDA of those CDA Shareholders who have made elections for Cash Consideration (up to the amount of their Total Entitlement which they have elected to receive as Cash Consideration), with this scale-back continuing until the \$5,000,000 of Cash Consideration has been fully apportioned.



- (e) As soon as reasonably practicable following the end of the Offer Period, the parties must determine the apportionment of the Total Consideration, and document that in a schedule setting out the following:
  - (i) the amount of Cash Consideration payable to each CDA Shareholder (if any); and
  - (ii) the number of Consideration Shares that will be issued by CAU to each CDA Shareholder (if any).
- (f) Subject to Condition 2 being satisfied and CAU making the Offer in accordance with clause 4.2(a), CDA must undertake all actions (having regard to the Prospectus and the Share Purchase Deed) to procure the transfer of all of the CDA Shares to CAU.

#### 4.3 **Compulsory disposition of Minority Shares**

As soon as practicable following satisfaction of Condition 2 and the closing of the Offer, CDA agrees to issue a notice to each Minority Shareholder who has not returned a valid Acceptance and Election Form to CAU (**Compulsory Disposition Notice**) advising that:

- (a) the Minority Shareholder's Shares will be sold to CAU in accordance with the procedure set out in the Amended CDA Constitution on Completion;
- (b) CDA will sign a share transfer form in customary form in respect of the Minority Shareholder's Shares and an application for Consideration Shares to be issued to the Minority Shareholder in accordance with this agreement in the name of the Minority Shareholder; and
- (c) any original share certificates held by the Minority Shareholder will be cancelled on Completion.

#### 4.4 **Payment of Total Consideration**

Subject to this clause 4, on Completion, CAU must pay each CDA Shareholder's Total Entitlement as follows:

- (a) to any CDA Shareholder who has given a valid Acceptance and Election Form electing to receive their consideration wholly by way of Consideration Shares and to any Minority Shareholder who has not returned a valid Acceptance and Election Form to CAU, by the issue of Consideration Shares in accordance with clause 4.2; and
- (b) to any CDA Shareholder who has given a valid Acceptance and Election Form electing to receive their consideration partly as Consideration Shares and partly as Cash Consideration in accordance with clause 4.2(b):
  - (i) in cash to the bank account nominated by that CDA Shareholder up to the value specified in their Acceptance and Election Form; and
  - (ii) the balance of the amount payable to that CDA Shareholder in Consideration Shares to that CDA Shareholder.

#### 4.5 **Consideration Shares**

The Consideration Shares will be issued and allotted to CDA Shareholders at Completion:

- (a) fully paid, freely tradeable and free from any Encumbrance, except for:
  - (i) any Encumbrance under CAU's constitution;
  - (ii) the transaction restrictions set forth in CAU's share policy for its directors, executives and employees; and

- (iii) the restrictions placed on the Consideration Shares under the Restriction Agreements;
- (b) subject to CAU's constitution;
- (c) on the basis they rank equally in all respects with the other CAU Shares on issue when the Consideration Shares are issued; and
- (d) any fractional entitlement of a CDA Shareholder to a part of a Consideration Share will be rounded up or down to the nearest whole number of CAU Shares and, for the avoidance of doubt, fractional entitlements of 0.5 of a Consideration Share will be rounded up.

#### 4.6 Tax election

CAU undertakes to make a joint election under subsection 124-795(4) of the Tax Act in relation to the disposal of the CDA Shares to CAU in exchange (in part) for Consideration Shares with CDA Shareholders that are "significant stakeholders" for the purposes of the Tax Act.

## 5 Implementation steps prior to Completion

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### 5.1 Timetable

The parties acknowledge that the Timetable is an indicative timetable and, unless otherwise agreed in writing by the parties, the parties will use their best endeavours and commit reasonably necessary resources to cause and procure the CAU General Meeting and the CDA General Meeting to occur as soon as reasonably practicable after the date of this agreement.

### 5.2 CAU's obligations

CAU must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Transaction on a basis consistent with this agreement and substantially in accordance with the Timetable, and in particular CAU must:

- (a) **make an announcement:** issue the Signing Announcement in respect of the Transaction immediately following signing;
- (b) **promote merits of Transaction:** participate in, and ensure the CAU Board participates in, efforts reasonably requested by CDA to promote the merits of the Transaction, including meeting with key shareholders of CAU as is reasonably required, unless the CAU Board is permitted to and has changed its recommendation in relation to the Transaction in the circumstances contemplated in clause 5.6(b);
- (c) **draft Explanatory Statement:** prepare a draft of the Explanatory Statement in respect of the Transaction in accordance with all applicable laws and in particular with the Corporations Act, RG 74, RG 111 and RG 112 and the Listing Rules and:
  - (i) make available to CDA advanced drafts (so that CDA has a reasonable opportunity to review and comment on the drafts);
  - (ii) consult with CDA in relation to the content of those drafts and consider in good faith, for the purpose of amending those drafts (as to content and presentation), comments from or on behalf of CDA on those drafts; and
  - (iii) provide CDA with revised drafts within a reasonable time before the Regulator's Draft is finalised and to enable CDA to review the Regulator's Draft before its submission to ASIC and ASX;
- (d) **commission Independent Expert's report:** promptly appoint an Independent Expert to provide a report for inclusion in the Explanatory Statement to the extent required by

RG 74, RG 111 and RG 112 and must provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare its report;

- (e) **approval of Regulator's Draft:** as soon as practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASX and ASIC and after CDA has confirmed that the CDA Information is in a form suitable for provision to ASIC and ASX, procure that a meeting of the CAU Board is convened to consider approving the Regulator's Draft for provision to ASX and ASIC for review;
- (f) **liaise with ASIC and ASX:** provide a copy of the Regulator's Draft to ASX and to ASIC for their review and liaise with ASX and ASIC throughout the Regulatory Review Period;
- (g) **keep CDA informed:** during the Regulatory Review Period:
  - (i) promptly provide to CDA and include in revised drafts of the Explanatory Statement any new information in relation to the CAU Group not included in the Regulator's Draft which is required by the Corporations Act, RG 74, RG 111 or the Listing Rules to be included in the Explanatory Statement; and
  - (ii) promptly inform and consult with CDA in relation to any matters raised by ASIC or ASX in connection with the Explanatory Statement or the Transaction including in relation to any presentation and/or the making of any submission in writing or at any proposed meeting with ASX or ASIC, and co-operate with CDA to resolve any such matters;
- (h) **approval of Explanatory Statement:** as soon as practicable after the end of the Regulatory Review Period and receipt from CDA of its consent to the inclusion of the CDA Information in the Explanatory Statement in the form and the context in which it appears, procure that a meeting of the CAU Board is convened to consider approving the Explanatory Statement for dispatch to the CAU Shareholders;
- (i) **CAU General Meeting:** provided CDA has complied with its obligations under clause 5.3, promptly convene the CAU General Meeting in accordance with the Corporations Act and its constitution, so that it is held as soon as reasonable practicable;
- (j) **promptly notify of objections:** immediately notify CDA if, at any time before Completion, it becomes aware of any Third Party objecting to, challenging, interfering with or obstructing (or proposing to object to, challenge, interfere with or obstruct) the Transaction;
- (k) **maintain listing:** take all steps to maintain the listing and the continuous Quotation of the CAU Shares on the ASX;
- (l) **quotation of the Consideration Shares:** procure the Quotation of the Consideration Shares immediately following Completion; and
- (m) **Prospectus:** prepare the Prospectus including undertaking the following:
  - (i) establish a due diligence committee for the purposes of carrying out a customary due diligence process including appropriate sign-offs from directors and senior management of CAU, the proposed directors and Advisers and preparing and verifying the Prospectus;
  - (ii) incorporate the CDA Prospectus Information provided by CDA in accordance with clause 5.3;
  - (iii) ensure that the Prospectus complies with all applicable laws in all material respects and, in particular, the Corporations Act, Listing Rules and ASIC Regulatory Guides;

- (iv) ensure that all the information in the Prospectus is not misleading or deceptive in any material respect and there are no material omissions from that information;
- (v) make available to CDA advanced drafts (so that CDA has a reasonable opportunity to review and comment on the drafts);
- (vi) consult with CDA in relation to the content of those drafts and consider in good faith, for the purpose of amending those drafts, comments from or on behalf of CDA on those drafts;
- (vii) undertake due diligence and verification processes in relation to the Prospectus to ensure that it is materially complete and accurate and not misleading or deceptive in any material respect and there are no omissions from it of matters required to be included under the Corporations Act, Listing Rules or ASIC Regulatory Advice;
- (viii) lodge a copy of the Prospectus with ASX and ASIC in accordance with all applicable laws; and
- (ix) provide CDA with such information or documentation as CDA reasonably requires to demonstrate that the processes referred to in clause 5.2(m)(vii) have been established and undertaken including providing all documentation relating to the due diligence committee process.

### 5.3 CDA's obligations

CDA must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Transaction on a basis consistent with this agreement and substantially in accordance with the Timetable, and in particular CDA must:

- (a) **draft CDA Information:** prepare and provide to CAU a draft of all information in relation to CDA that is required to be included in the Explanatory Statement to comply with applicable laws relevant to that information (**CDA Information**) and:
  - (i) make available to CAU advanced drafts (so that CAU has a reasonable opportunity to review and comment on the drafts);
  - (ii) consult with CAU in relation to the content of those drafts and consider in good faith, for the purpose of amending those drafts, comments from or on behalf of CAU on those drafts; and
  - (iii) provide CAU with revised drafts within a reasonable time before the Regulator's Draft is finalised and to enable CAU to review the CDA Information and incorporate it into the Regulator's Draft before its submission to ASIC and ASX;
- (b) **assist Independent Expert:** subject to the Independent Expert entering into arrangements with CDA including in relation to confidentiality in a form reasonably acceptable to CDA, provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare its report to be sent together with the Explanatory Statement;
- (c) **review drafts of Explanatory Statement:** as soon as practicable after delivery, review drafts of the Explanatory Statement prepared by CAU and provide comments on those drafts in good faith;
- (d) **approval of Regulator's Draft:** as soon as practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASX and ASIC, approve those sections of the Regulator's Draft that contain the CDA Information as being in a form appropriate for provision to ASX and ASIC for review;

- (e) **approval of Explanatory Statement:** as soon as practicable after the end of the Regulatory Review Period, approve those sections of the Explanatory Statement that contain the CDA Information for dispatch to the CAU Shareholders;
- (f) **promptly notify of objections:** immediately notify CAU if, at any time before Completion, it becomes aware of any Third Party objecting to, challenging, interfering with or obstructing (or proposing to object to, challenge, interfere with or obstruct) the Transaction;
- (g) **CDA General Meeting:** provided CAU has complied with its obligations under clause 5.2, promptly convene the CDA General Meeting in accordance with the Corporations Act and its constitution, so that it is held as soon as reasonable practicable;
- (h) **Share Purchase Deed and Prospectus:** despatch to its shareholders the Share Purchase Deed and the Prospectus in accordance with the Timetable; and
- (i) **Prospectus:** provide to CDA for inclusion in the Prospectus, all information requested by CAU for inclusion in the Prospectus (**CDA Prospectus Information**) and:
  - (i) consult with CAU in good faith in relation to the form and content of the CDA Prospectus Information and consider any comments reasonably made by CAU in relation thereto;
  - (ii) ensure that the CDA Prospectus Information is not misleading or deceptive in any material respect and there are no material omissions from that information required to be included under the Corporations Act, Listing Rules and ASIC Regulatory Advice;
  - (iii) undertake a customary due diligence process including appropriate sign-offs from directors and senior management of CDA, the proposed directors and Advisers and verification processes in relation to the CDA Prospectus Information designed to ensure that such information is materially complete and accurate and is not misleading or deceptive in any material respect and there are no material omissions from that information; and
  - (iv) provide CAU with such information or documentation as CAU reasonably requires to demonstrate that the processes referred to in clause 5.3(i)(iii) have been established and undertaken.

#### 5.4 Explanatory Statement and Prospectus

Without limitation the parties' other obligations under clause 5:

- (a) CAU must consult with CDA as to the content of the Explanatory Statement and Prospectus (other than the CDA Information);
- (b) CDA must consult with CAU as to the content of the CDA Information and CDA Prospectus Information;
- (c) the parties agree that:
  - (i) the efficient preparation of the Explanatory Statement and Prospectus is in the interests of the parties and CAU Shareholders; and
  - (ii) they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external Advisers) to produce the Explanatory Statement and Prospectus as soon as reasonably practicable and substantially in accordance with the Timetable;
- (d) the parties must promptly inform the other if they have any reason to believe that any information in the Explanatory Statement is misleading or deceptive in any material

respect (whether by omission or otherwise) whether because of the CDA Information or otherwise;

- (e) if there is a dispute as to the content of any part of the Explanatory Statement or the Prospectus (including the CDA Information or the CDA Prospectus Information), the parties must consult in good faith and use their reasonable endeavours to resolve the dispute within 2 Business Days, and if the parties fail to agree on the form or content of the Explanatory Statement:
- (i) CAU will have the final decision on the form or content of any CAU Information; and
  - (ii) CDA will have the final decision on the form or content of any CDA Information and CDA Prospectus Information,

and even if there is a dispute as to the form or content of the Explanatory Statement and the parties use this procedure, the parties will continue to perform their obligations under this agreement.

- (f) If a party becomes aware of information which would make the Explanatory Statement or Prospectus misleading or deceptive (whether by omission or otherwise) in a material respect then, as soon as practicable, that party must provide details of the information to the other party. The parties must then consult in good faith to agree on the content of supplementary disclosure to be issued concerning the new information.

#### 5.5 **Good faith co-operation**

Each party must procure that its Representatives work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other parties to implement the Transaction and to prepare all documents required relating to the Transaction, including providing copies of all correspondence between it and ASIC and the ASX with respect to the Transaction and all other matters contemplated by this agreement to the other party promptly after receipt of such correspondence.

#### 5.6 **Recommendation of the CAU Board**

- (a) CAU represents and warrants to CDA that it has been advised by all members of the CAU Board that they will, and CAU must procure that the CAU Board will unanimously, in each case subject to clause 5.6(b):
- (i) recommend that the Transaction is in the best interests of CAU Shareholders and not subsequently change, withdraw or modify that recommendation;
  - (ii) recommend that CAU Shareholders vote in favour of and approve the CAU Resolutions, and not subsequently change, withdraw or modify that recommendation; and
  - (iii) not make any public statement or take any other action that contradicts the recommendation of the Transaction by the CAU Board,

and the Explanatory Statement will state that each member of the CAU Board who holds CAU Shares, or on whose behalf CAU Shares are held, intends to vote in favour of the CAU Resolutions.

- (b) CAU represents and warrants to CDA that it has been advised by all members of the CAU Board that they will not, and CAU undertakes that no member of the CAU Board will change, withdraw or modify their recommendation unless:
- (i) the Independent Expert opines that the Transaction is not fair and not reasonable to CAU Shareholders who are not associated with the CDA Group;
  - (ii) a Material Adverse Change occurs in respect of CDA;

- (iii) a Prescribed Occurrence occurs in respect of CDA; or
- (iv) CAU receives an offer or proposal from any person in relation to a Competing Proposal in respect of CAU that the CAU Board has unanimously determined based on external legal and financial advice is a Superior Proposal and has publicly unanimously recommended is in the interests of CAU and CAU Shareholders.

#### 5.7 Recommendation of the CDA Board

- (a) CDA represents and warrants to CAU that it has been advised by all members of the CDA Board that they will, and CDA must procure that the CDA Board will unanimously, in each case subject to clause 5.7(b):
  - (i) recommend that the Transaction is in the best interests of CDA Shareholders and not subsequently change, withdraw or modify that recommendation;
  - (ii) recommend that CDA Shareholders vote in favour of and approve the CDA Resolution, and not subsequently change, withdraw or modify that recommendation; and
  - (iii) not make any public statement or take any other action that contradicts the recommendation of the Transaction and the CDA Resolution by the CDA Board.
- (b) CDA represents and warrants to CAU that it has been advised by all members of the CDA Board that they will not, and CDA undertakes that no member of the CDA Board will change, withdraw or modify their recommendation unless:
  - (i) a Material Adverse Change occurs in respect of CAU;
  - (ii) a Prescribed Occurrence occurs in respect of CAU; or
  - (iii) CDA receives an offer or proposal from any person in relation to a Competing Proposal in respect of CDA that the CDA Board has unanimously determined based on external legal and financial advice is a Superior Proposal and has publicly unanimously recommended is in the interests of CDA and CDA Shareholders.

#### 5.8 Appointments of Directors and senior executives

CAU must procure that the CAU Board will on Completion, take all actions necessary to ensure that:

- (a) each of Anna Burke, Daniel Abrahams, Michael Gorenstein and Jason Adler resign as directors of CAU with effect from Completion;
- (b) Guy Headley is appointed as Chief Commercial Officer of CAU in accordance with the executive services agreement referred to in clause 7.2(h);
- (c) Dr Benjamin Jansen is appointed as Chief Medical Officer of CAU in accordance with the executive services agreement referred to in clause 7.2(i);
- (d) Jessimine Jansen is appointed as Chief Operating Officer of CAU in accordance with the executive services agreement referred to in clause 7.2(j); and
- (e) Ryan Tattle is appointed as General Manager – Distribution of CAU or such other title as agreed between CDA and CAU prior to Completion in accordance with the executive services agreement referred to in clause 7.2(k).

## 6 Conduct of business prior to Completion

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### 6.1 Generally

- (a) From the date of this agreement up to and including the earlier of Completion and the date which this agreement is terminated (the **Relevant Period**), each party must conduct its businesses and operations, and must procure that each other Group Company conducts, its business 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 agreement, including making all reasonable efforts to:
- (i) maintain their businesses and assets;
  - (ii) conduct its businesses and operations substantially in accordance with all applicable laws and regulations;
  - (iii) keep available the services of their officers and employees; and
  - (iv) preserve their relationships with customers, suppliers, licensors, licensees, joint venturers and others with whom they have business dealings,
- except:
- (v) as may be required or contemplated by this agreement; or
  - (vi) as may be undertaken with the prior approval of the other party, such approval not to be unreasonably withheld or delayed.
- (b) During the Relevant Period, each party must procure that each other Group Company:
- (i) notifies the other party of any Claims (including, without limitation, before a court or any Governmental Agency) which may be threatened, brought, asserted or commenced against any Group Company or their directors and officers and consult with the other party in relation to such matter to the extent they reasonably require; and
  - (ii) has in place, and maintains until Completion, insurance over its assets and business to at least the same extent as that in place at the date of this agreement.
- (c) Notwithstanding clause 6.1(a), each party must not, and must procure that no other Group Company:
- (i) disposes of any securities, business, entity or undertaking to any person other than another entity within the CDA Group or the CAU Group (as applicable);
  - (ii) disposes of any asset (or series of assets) to any person, except where the value of that asset (or series of assets) is less than \$10,000 or the asset is inventory sold by the CDA Group or the CAU Group (as applicable) in the ordinary course of business;
  - (iii) acquires any securities, business, interest in a joint venture, entity or undertaking from another person other than another entity within the CDA Group or the CAU Group (as applicable);
  - (iv) acquires any asset from another person where the value of that asset is in excess of \$20,000 except inventory items in the ordinary course of business;
  - (v) makes any employee or consultant redundant or terminates their employment or consultancy arrangement;



- (vi) takes any action or agrees to do anything that would produce a Material Adverse Change, or that could reasonably be expected to result in a Material Adverse Change;
- (vii) except in respect of goods or services acquired or sold in the ordinary course of business, enters into any agreement, contract, arrangement or understanding with any person which requires the payment by a Group Company of an amount or amounts in excess of \$50,000;
- (viii) enters into any partnership, joint venture, strategic alliance or other business combination with any person;
- (ix) incurs, commits to or undertakes any capital expenditure or project expenditure (other than any capital expenditure and project expenditure budgeted for and the amount of which has been Fairly Disclosed in the Disclosure Material);
- (x) employs or engages any individual to act as an officer of the CDA Group or the CAU Group (as applicable) or employs or engages any individual to fulfil a senior management or key management personnel position within CDA Group or the CAU Group (as applicable);
- (xi) employs or engages any individual to fulfil a position other than that of an officer or member of senior management of the CDA Group or the CAU Group (as applicable) where such individual will be employed or engaged for a term of 12 months or longer as an officer, employee, contractor or consultant having a total annual employment or engagement cost of more than \$100,000;
- (xii) waives or forgives any loans made to any officer or employee of any CDA Group Company or CAU Group Company (as applicable);
- (xiii) changes its accounting policies other than as required by the Accounting Standards;
- (xiv) increases the remuneration of or pay any bonus (excluding sales commission or bonuses under existing sales commission or bonus arrangements which have been disclosed in the CAU Disclosure Letter or the CDA Disclosure Letter (as applicable)) of any of its directors, employees or consultants by more than \$5,000 (excluding in all cases the payment by CAU of all bonuses determined in the proper and ordinary course referable to the financial year ended 30 June 2021);
- (xv) issue any securities or options to, or otherwise vary the employment or consultancy agreements with, any of its directors or any of its employees or consultants;
- (xvi) accelerates the rights of any of its directors or employees to benefits of any kind;
- (xvii) modifies or amends any share-based incentive plan or scheme;
- (xviii) pays a director or employee a termination payment, other than as provided for in an existing employment contract in place as at the date of this agreement and a copy of which has previously been disclosed to the other party in the CDA Disclosure Materials or the CAU Disclosure Materials (as applicable);
- (xix) gives or agrees to give a financial benefit to a related party other than in accordance with the exceptions set out in Chapter 2E of the Corporations Act;
- (xx) incurs any indebtedness or enters into any new financing arrangements;
- (xxi) breaches in any material respect any Existing Credit Facility or any Material Contract to which the CDA Group Company or CAU Group Company (as

applicable) is a party or terminates or amends in any material respect any Existing Credit Facility or any Material Contract, including, in the case of any Existing Credit Facility, by increasing the credit limit or amount of financial accommodation available to the CDA Group or the CAU Group (as applicable) under or pursuant to any of them (or agree to do any of the foregoing);

- (xxii) makes, commences, settles or admits liability in relation to any legal proceedings, claim, investigation, arbitration or other like proceeding;
- (xxiii) takes any action which would be reasonably expected to give rise to a Prescribed Occurrence in respect of that party;
- (xxiv) takes any action in respect of its information technology systems which would have a material adverse impact on those systems; or
- (xxv) agrees to do any of the matters set out above,

except to the extent that any action undertaken by CDA or CAU (as applicable) relates to any matter or event:

- (i) that is expressly required to be done or procured by CDA or CAU (as applicable) or any CDA Group Company or CAU Group Company (as applicable) pursuant to, or which is expressly permitted by, the Transaction Documents;
- (ii) which is in accordance with contractual rights and obligations that exist as at the date of this agreement, provided such rights and obligations have been Fairly Disclosed in the CAU Due Diligence Material or the CDA Due Diligence Material (as applicable);
- (iii) with the prior written consent of the other party (such consent not to be unreasonably withheld or delayed); or
- (iv) which arises as a result of court or Governmental Agency order, injunction or undertaking or is otherwise required in order to comply with any applicable law or regulation.

## 6.2 Access to CAU

- (a) During the Relevant Period, CDA will allow CAU and its Representatives reasonable access to the CDA Properties, the CDA Records and the employees, officers and Advisers (including auditors) of any CDA Group Company to enable CAU, as is reasonably necessary, to:
  - (i) become familiar with the Business and the affairs of the CDA Group;
  - (ii) implement the Transaction; and
  - (iii) plan the integration of CAU and the CDA Group subsequent to Completion occurring under this agreement.
- (b) CAU must ensure that any access under clause 6.2(a) is exercised and conducted in a manner to avoid unreasonable disruption to the conduct of the CDA Business and the activities and operations of the CDA Group and its employees.
- (c) For the purposes of clause 6.2(a), CAU may, with the prior written consent of CDA (which consent may not be unreasonably withheld):
  - (i) make copies of material examined (including electronic copies); and
  - (ii) consult with the senior executives of the CDA Group Companies.

### 6.3 Access to CDA

- (a) During the Relevant Period, CAU will allow CDA and its Representatives reasonable access to the CAU Properties, the CAU Records and the employees, officers and Advisers (including auditors) of any CAU Group Company to enable CDA, as is reasonably necessary, to:
  - (i) become familiar with the CAU Business and the affairs of the CAU Group;
  - (ii) implement the Transaction; and
  - (iii) plan the integration of CAU and the CDA Group subsequent to Completion occurring under this agreement.
- (b) CDA must ensure that any access under this clause 6.3(a) is exercised and conducted in a manner to avoid unreasonable disruption to the conduct of the CAU Business and the activities and operations of the CAU Group and its employees.
- (c) For the purposes of clause 6.2(a), CDA may, with the prior written consent of CAU (which consent may not be unreasonably withheld):
  - (i) make copies of material examined (including electronic copies); and
  - (ii) consult with the senior executives of the CAU Group Companies.

### 6.4 Integration Planning Committee

- (a) From the date of this agreement until Completion, the Integration Planning Committee will plan the integration of CAU and the CDA Group subsequent to Completion.
- (b) The Integration Planning Committee may delegate certain tasks or matters to specific sub-committees.
- (c) Decisions of the Integration Planning Committee must be made by unanimous agreement.

## 7 Completion

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### 7.1 Time and place

If all the Conditions have been fulfilled or (if permitted under this agreement) waived under clause 2, Completion will take place:

- (a) at Thomson Geer, Level 39, Rialto South Tower, 525 Collins Street, Melbourne at 11.00am on the Completion Date; or
- (b) at another time and/or place agreed by the parties.

### 7.2 CDA's obligations

At or before Completion, CDA must:

- (a) deliver to CAU the Share Purchase Deed duly executed by the Major Shareholders;
- (b) deliver to CAU confirmation that a Compulsory Disposition Notice has been given to each Minority Shareholder who has not returned a valid Acceptance and Election Form to CAU in accordance with clause 4.3;
- (c) deliver to CAU duly executed and completed transfers in favour of CAU of the CDA Shares in registrable form together with the relevant share certificates;

- (d) produce to CAU any power of attorney or other authority under which the transfers of the CDA Shares are executed;
- (e) cause the CDA Board to resolve that the transfers of the CDA Shares (subject only to the payment of stamp duty or other Taxes of a similar nature on the transfers) be approved and registered;
- (f) deliver to CAU all CDA Records, including the corporate register, ASIC corporate key and common seal (if any) of each CDA Group Company;
- (g) deliver to CAU a completed consent to act as director signed by each person nominated by CDA for appointment to the CAU Board;
- (h) deliver to CAU an executive services agreement between Guy Headley and CAU, in respect of his appointment as the Chief Commercial Officer of CAU with effect on and from Completion (in the agreed form), duly executed by Guy Headley;
- (i) deliver to CAU an executive services agreement between Dr Benjamin Jansen and CAU, in respect of his appointment as the Chief Medical Officer of CAU with effect on and from Completion (in the agreed form), duly executed by Dr Benjamin Jansen;
- (j) deliver to CAU an executive services agreement between Jessimine Jansen and CAU, in respect of her appointment as the Chief Operating Officer of CAU with effect on and from Completion (in the agreed form), duly executed by Jessimine Jansen;
- (k) deliver to CAU an executive services agreement between Ryan Tattle and CAU in respect of his appointment as General Manager - Distribution of CAU or such other title as agreed between CDA and CAU prior to Completion with effect on and from Completion (in the agreed form), duly executed by Ryan Tattle; and
- (l) deliver to CAU executed copies of the Restriction Agreements entered into by each of the CDA Escrowed Parties in respect of the Consideration Shares to be held by them or their Associates;
- (m) deliver to CAU evidence satisfactory to CAU (in its absolute discretion, acting reasonably) that all of the CDA Shares are fully paid; and
- (n) deliver to CAU evidence satisfactory to CAU that ASIC's records in respect of the Company have been updated and are accurate.

### 7.3 CAU's obligations

- (a) At Completion, CAU must:
  - (i) in event that Condition 1 is waived pursuant to clause 2.2(d), procure that each of Guy Rothwell Headley, Benjamin David Ngahuia Jansen, Marcia Ani Matekino Walker and Kurt Thomas Schmidt are appointed as directors of CAU;
  - (ii) pay an amount equal to the aggregate Cash Consideration in Immediately Available Funds to Link Market Services Limited (which will be held and distributed pursuant to clause 7.5) and deliver irrevocable instructions to Link Market Services Limited to pay the Cash Consideration to the CDA Shareholders in accordance with this agreement and the Acceptance and Election Forms;
  - (iii) issue and allot the Consideration Shares to CDA Shareholders in accordance with clause 4.5 and the Acceptance and Election Form;
  - (iv) subject to the relevant approvals being provided and subject to any changes required by ASX and approved by the parties, issue the Integration Awards;

- (v) deliver to CDA a deed of access, indemnity and insurance in favour of by each person nominated by CDA for appointment to the CAU Board pursuant to clause 5.8(a), duly executed by CAU;
  - (vi) deliver to CDA fully executed copies of the deeds of amendment varying the respective employment agreements of Rodney Cocks, Thomas Howitt and Tyson Craig (in the agreed form);
  - (vii) deliver to CDA executed copies of the Restriction Agreements entered into by each of the CAU Escrowed Parties in respect of the CAU Shares held by them or their Associates;
  - (viii) to the extent required by CDA, deliver to CDA (in a form acceptable to CDA, acting reasonably) a letter of resignation from each of Anna Burke, Daniel Abrahams, Michael Gorenstein and Jason Adler acknowledging that they have no Claim against any CAU Group Company for breach of contract, loss of office, redundancy, compensation, payment or repayment of loans or otherwise, except for payments properly payable as an employee for accrued salary, annual leave and long service leave up to the Completion Date;
  - (ix) deliver to CDA proof that a change of control notification in respect of the change of 'fit and proper persons' and otherwise, the directors and officers of CAU OpCo has been sent to the Secretary of the Department of Health in respect of the licences contained at 01.01.01, 01.01.03 and 01.01.07 of the CAU Data Room; and
  - (x) deliver to CDA proof that a change of control notification in respect of the change of 'responsible persons' and otherwise, the directors and officers of CAU OpCo has been sent to the Secretary of the Department of Health in respect of the licence contained at 01.01.02 of the CAU Data Room.
- (b) Immediately following Completion, CAU must:
- (i) issue holding statements for the Consideration Shares;
  - (ii) apply for Quotation of the Consideration Shares immediately following their issue and allotment; and
  - (iii) use all best endeavours to obtain Quotation of the Consideration Shares,

#### 7.4 **Simultaneous actions at Completion**

In respect of Completion:

- (a) the obligations of the parties under this agreement are interdependent; and
- (b) all actions required to be performed will be taken to have occurred simultaneously on the Completion Date.

#### 7.5 **Distribution of Cash Consideration**

Link Market Services Limited will hold the Cash Consideration received under clause 7.3(a)(i) on trust for the benefit of the CDA Shareholders who are entitled to the Cash Consideration and CAU shall procure that Link Market Services Limited distributes the Cash Consideration in Immediately Available Funds to the relevant CDA Shareholders as soon as practicable following Completion.

#### 7.6 **ASIC, ASX and Governmental Agencies**

CAU must ensure that ASIC, ASX and any relevant Governmental Agencies are notified, in the prescribed form, within the applicable prescribed period after Completion, of the occurrence of those events under this agreement that must be notified to them.

## **8 Warranties by CDA**

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### **8.1 CDA Warranties**

CDA represents and warrants to CAU that (unless expressed to be given at a particular time, in which case it is given at that time) each of the CDA Warranties is true and correct at the date of this agreement and will be true and correct on the Completion Date.

### **8.2 Application of the CDA Warranties**

Each of the CDA Warranties:

- (a) is separate and independent and is not limited by reference to any other CDA Warranty; and
- (b) survives termination of this agreement (but does not survive, and will be taken to have no further force or effect following Completion).

### **8.3 Qualifications**

The CDA Warranties are given subject to and qualified by, and CAU is not entitled to claim that any fact, matter or circumstance causes any of the CDA Warranties to be breached if and to the extent that the fact, matter or circumstance is Fairly Disclosed in:

- (a) this agreement;
- (b) the CDA Disclosure Letter;
- (c) the CDA Due Diligence Material; or
- (d) any information available, on or before the date that is 2 Business Days before the date of this agreement (other than in relation to the Queensland Supreme Court, which will only be information available as at 27 May 2021), on public registers maintained by any of the High Court of Australia, the Federal Court of Australia, the Supreme Court (throughout Australia), IP Australia and ASIC.

### **8.4 Indemnity**

CDA indemnifies CAU against all Losses incurred as a result of any of the CDA Warranties not being true and correct.

## **9 Warranties by CAU**

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### **9.1 CAU Warranties**

CAU represents and warrants to CDA that (unless expressed to be given at a particular time, in which case it is given at that time) each of the CAU Warranties is true and correct at the date of this agreement and will be true and correct on the Completion Date.

### **9.2 Application of the CAU Warranties**

Each of the CAU Warranties:

- (a) is separate and independent and is not limited by reference to any other CAU Warranty; and
- (b) survives termination of this agreement (but does not survive, and will be taken to have no further force or effect following Completion).

### 9.3 Qualifications

The CAU Warranties are given subject to and qualified by, and CDA are not entitled to claim that any fact, matter or circumstance causes any of the CAU Warranties to be breached if and to the extent that the fact, matter or circumstance is Fairly Disclosed in:

- (a) this agreement;
- (b) the CAU Disclosure Letter;
- (c) the CAU Due Diligence Material;
- (d) any announcement made by CAU to ASX prior to the date of this agreement; or
- (e) any information available, on or before the date that is 2 Business Days before the date of this agreement (other than in relation to the Supreme Court, which will only be information available as at 28 May 2021), on public registers maintained by any of the High Court of Australia, the Federal Court of Australia, the Supreme Court (throughout Australia), IP Australia and ASIC.

### 9.4 Indemnity

CAU indemnifies CDA against all Losses incurred as a result of any of the CAU Warranties not being true and correct.

## 10 Exclusivity

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### 10.1 No existing discussions

Other than in relation to discussions with the other party in connection with the Transaction, each party represents and warrants to the other party that as at the date of this agreement, neither it, its Related Entities nor any of their respective Authorised Persons is a party to any agreement with a Third Party entered into for the purpose of facilitating a Competing Proposal.

### 10.2 Restrictions

During the Exclusivity Period, each party must not, and must ensure that its respective Representatives do not, except with the prior written consent of the other party:

- (a) directly or indirectly solicit or invite any Competing Proposal or expression of interest or offer which may lead to a Competing Proposal, or initiate discussions with any Third Party which may reasonably be expected to lead to a Competing Proposal;
- (b) participate or continue to engage in any discussions or negotiations in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal;
- (c) provide any information to a Third Party for the purposes of enabling that person to make an expression of interest, offer or proposal which may reasonably be expected to lead to a Competing Proposal; or
- (d) enter into any deed, arrangement or understanding in relation to a Competing Proposal requiring it to abandon, or otherwise fail to proceed with, the Transaction.

### 10.3 Notice

- (a) During the Exclusivity Period, each party must as soon as possible (and in any event, no later than 10:00 am on the day being 2 Business Days after becoming aware of such matters) promptly notify the other party in writing of:

- (i) any approach or attempt to initiate, resume or continue discussions or negotiations with it or any of its Representatives with respect to a Competing Proposal; and
- (ii) any request for information relating to it or to any other Group Company or any of their businesses or operations or any request for access to their books or records, other than requests occurring in the ordinary course of business,

whether such matters are solicited or unsolicited, and in writing or otherwise.

- (b) A notification given under clause 10.3(a) must be accompanied by all relevant details of the relevant event, including the identity of the relevant person or persons and the key terms and conditions of any Competing Proposal or proposed Competing Proposal (to the extent known) and must be provided no later than two Business Days from receipt of the approach, request, Competing Proposal or proposed Competing Proposal.

#### 10.4 Exceptions

The restrictions in clause 10.2 do not apply to the extent that they restrict a party from taking or refusing to take any action with respect to a bona fide Competing Proposal in respect of that party (which was not encouraged, solicited or invited, facilitated or initiated by that party or its Representatives in contravention of clause 10.2) to the extent that party's board has determined, in good faith and acting reasonably, that:

- (a) such bona fide Competing Proposal is a Superior Proposal; and
- (b) after receiving advice from its external legal Advisers (who must be reputable advisers experienced in transactions of this nature), failing to respond to such bona fide Competing Proposal would constitute a breach of that board's fiduciary or statutory obligations.

## 11 Break Fee

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### 11.1 Background

Each party represents and warrants to the other party that it would not have entered into this agreement without the benefit of this clause 11 and it would not have entered into and continued the negotiations and conducted due diligence leading up to this agreement unless it had a reasonable expectation that the other party would agree to enter into a clause of this kind.

### 11.2 Acknowledgments

- (a) Each party acknowledges that the other party has incurred:
  - (i) significant external advisory costs;
  - (ii) internal costs of a similar kind (including directors' and management time, costs, risk management costs and capital costs);
  - (iii) out of pocket expenses; and
  - (iv) reasonable opportunity costs incurred in pursuing the Transaction and in not pursuing other alternative strategic initiatives,

in relation to the Transaction and will incur further costs if the Transaction is not successful (**Transaction Costs**).

- (b) Each party represents and warrants that:



- (i) it has received legal advice on this agreement and the operation of this clause 11; and
  - (ii) it and its directors consider 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 its shareholders, resulting from the Transaction.
- (c) Each party acknowledges that the amount of the Transaction Costs is inherently unascertainable and that, even after termination of this agreement the Transaction Costs will not be able to be accurately ascertained. As a reasonable pre-estimate of the costs that each party will suffer if the Transaction does not proceed, the parties agree that for the purposes of this clause 11, each party's Transaction Costs will be equal to the amount of the Break Fee (it being acknowledged by the parties that each party's Transaction Costs would most likely be significantly in excess of this amount).

### 11.3 Payment of Break Fee

If this agreement is terminated:

- (a) by CAU under clause 12.2 (other than pursuant to clause 12.2(c) or clause 12.2(d) in which case no Break Fee is payable) CDA must pay the applicable Break Fee to CAU within 5 Business Days of receipt by CDA of a written demand for payment from CAU; and
- (b) by CDA under clause 12.3 (other than pursuant to clause 12.3(b), 12.3(c) or 12.3(d) in which case no Break Fee is payable) CAU must pay the applicable Break Fee to CDA within 5 Business Days of receipt by CAU of a written demand for payment from CDA.

### 11.4 Payment conditions

- (a) No amount is payable by either party under this clause 11 if Completion occurs, and any amount paid under this clause 11 in circumstances where Completion occurs is immediately repayable by the payee.
- (b) Notwithstanding anything else in this agreement, an amount payable by a party under this clause 11 is payable only once.

### 11.5 Limitation of liability

The maximum aggregate amount that a party is required to pay in relation to this agreement (including any breach of this agreement) is the applicable Break Fee and in no event will the aggregate liability of that party in connection with this agreement exceed the applicable Break Fee.

### 11.6 Reduction in amount payable

- (a) The Break Fee is reduced by an amount equal to the amount which is recovered by CDA as a result of a claim against CAU pursuant to any other remedies available to CDA under this agreement including pursuant to clause 8.
- (b) The Break Fee is reduced by an amount equal to the amount which is recovered by CAU as a result of a claim against CDA pursuant to any other remedies available to CAU under this agreement including pursuant to clause 9.
- (c) Where a Break Fee has already been paid by CDA, CAU must, within 5 Business Days of the event contemplated by clause 11.6(a) which would have reduced the amount payable, refund to CDA an amount which is equivalent to that calculated under clause 11.6(a).
- (d) Where a Break Fee has already been paid by CAU, CDA must, within 5 Business Days of the event contemplated by clause 11.6(b) which would have reduced the amount

payable, refund to CAU an amount which is equivalent to that calculated under clause 11.6(b).

### 11.7 **Exclusive remedy**

- (a) Subject to clause 11.7(b), each party agrees that if the Break Fee is paid to it by the other party as required under this clause 11, that payment constitutes its sole and exclusive remedy for any liability of the other party arising under or in connection with this agreement.
- (b) Clause 11.7(a) will not apply in relation to any fraud or wilful misconduct by the party liable to pay the Break Fee, in which case the party entitled to receive the Break Fee retains all rights and remedies it has or may have in connection with this agreement in respect of that fraud or wilful misconduct, in excess of any payment of the Break Fee made by the other party under this clause 11.

## 12 **Termination**

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### 12.1 **Termination if the Transaction is not implemented by the End Date**

This agreement terminates if the Transaction is not implemented by midnight on the End Date.

### 12.2 **Termination by CAU**

CAU may terminate this agreement at any time prior to Completion by notice in writing to CDA:

- (a) if an Insolvency Event has occurred in respect of a CDA Group Company;
- (b) if before the CDA General Meeting a member of the CDA Board:
  - (i) changes, withdraws or adversely modifies their recommendation that CDA Shareholders vote in favour of the CDA Resolution;
  - (ii) recommends a Competing Proposal in respect of CDA; or
  - (iii) makes a public statement or takes any other action that contradicts the recommendation of the Transaction or the CDA Resolution by the CDA Board;
- (c) in relation to a breach or non-fulfilment of Condition 2 in accordance with clause 2.5(b)(iii);
- (d) if a Material Adverse Change occurs in respect of CDA; or
- (e) if CDA commits a material breach of this agreement including a breach of a Warranty where the quantum of the claim exceeds \$500,000 and has not rectified that breach within 10 Business Days' notice from CAU to CDA setting out the substance of the breach, save that CDA shall not be permitted to terminate this agreement if the matter giving rise to a breach of Warranty claim had been Fairly Disclosed to CDA prior to the date of this agreement.

### 12.3 **Termination by CDA**

CDA may terminate this agreement at any time prior to Completion by notice in writing to CAU:

- (a) if an Insolvency Event has occurred in respect of a CAU Group Company;
- (b) if before the CAU General Meeting a member of the CAU Board:
  - (i) changes, withdraws or adversely modifies their recommendation that CAU Shareholders vote in favour of the CAU Resolutions;

- (ii) recommends a Competing Proposal in respect of CAU; or
  - (iii) makes a public statement or takes any action that contradicts the recommendation of the Transaction or the CAU Resolutions by the CAU Board;
- (c) in relation to a breach or non-fulfilment of Condition 1 in accordance with clause 2.5(b)(iii);
- (d) if a Material Adverse Change occurs in respect of CAU; or
- (e) if CAU commits a material breach of this agreement including a breach of a Warranty where the quantum of the claim exceeds \$500,000 and has not rectified that breach within 10 Business Days' notice from CDA to CAU setting out the substance of the breach, save that CAU shall not be permitted to terminate this agreement if the matter giving rise to a breach of Warranty claim had been Fairly Disclosed to CAU prior to the date of this agreement.

#### 12.4 **Effect of termination**

If this agreement is validly terminated by a party, this agreement will be of no force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued before termination and the provisions of this clause 12 and of clauses 1, 8, 9, 11, 13, 14, 15 and 16, which will remain in force after the termination.

#### 12.5 **Termination by written agreement**

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

#### 12.6 **Remedies**

The parties acknowledge that damages may not be a sufficient remedy for breach of this agreement. 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 agreement by any party, notwithstanding the ability of the other party to terminate this agreement or seek damages for such a breach or threatened breach or to demand payment of the Break Fee.

### 13 **Announcements and confidentiality**

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#### 13.1 **Agreed form of ASX announcements**

- (a) CDA acknowledges that CAU has, as a company listed on the ASX, an obligation of continuous disclosure and that, in accordance with this obligation, CAU will make announcements in relation to entry into this agreement (which may include the material terms of this agreement) and any further steps taken in order to give effect to this agreement.
- (b) CDA acknowledges that CAU will lodge the Signing Announcement upon the signing of this agreement.
- (c) CAU agrees, that prior to making any other announcement to the market as required under the ASX Listing Rules in relation to the Transaction or CDA, it must, to the extent lawfully possible:
  - (i) provide to CDA a copy of any proposed announcement; and
  - (ii) afford CDA adequate time to review and make comments on the announcement as reasonable in the circumstances and CAU must take those comments into consideration when preparing the final announcement.

### 13.2 Further disclosure

Subject to clauses 13.1, 13.3 and 13.4, no party may disclose the provisions of this document or the terms on which the CDA Shares are sold unless the parties have first consented in writing.

### 13.3 Legal requirements

Subject to clause 13.1, a party may disclose anything in respect of this agreement or the terms of sale of the CDA Shares if required by any applicable law but, to the extent possible, it must consult with the other party before making the disclosure and use its best endeavours to agree on the form and content of the disclosure.

### 13.4 Disclosure to officers, employees and professional advisers

A party may disclose anything in respect of this document or the terms of the sale of the CDA Shares to its Representatives and financiers, but it must use its best endeavours to ensure all matters disclosed are kept confidential.

### 13.5 Use of Confidential Information following Completion

Subject to clause 13.2:

- (a) CAU will not, and will ensure that its Related Bodies Corporate and representatives do not, on and from the date of this agreement use or disclose or otherwise exploit (or permit any other person to use or disclose or otherwise exploit) for its own benefit or for the benefit of any person other than a CDA Group Company, any Confidential Information without the prior written consent of CDA; and
- (b) CDA will not, and will ensure that its Related Bodies Corporate and representatives do not, on and from the date of this agreement use or disclose or otherwise exploit (or permit any other person to use or disclose or otherwise exploit) for its own benefit or for the benefit of any person other than a CAU Group Company, any Confidential Information without the prior written consent of CAU.

### 13.6 Breach of confidentiality

A party must notify the other party immediately after it becomes aware of any breach of this clause 13 and must promptly take all reasonable steps to prevent or stop any breach of this clause 13 if within its control.

## 14 GST

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### 14.1 Interpretation

In this clause 14, a word or expression defined in the GST Act has the meaning given to it in that Act.

### 14.2 Amounts GST exclusive

Unless expressly stated to be inclusive of GST, the consideration for the supply of goods, services or other things under this agreement has been calculated exclusive of GST.

### 14.3 GST gross up

If a party makes a supply under or in connection with this agreement in respect of which GST is payable, the consideration for the supply but for the application of this clause 14.3 (**GST exclusive consideration**) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.

#### 14.4 Reimbursements

If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with clause 14.3.

#### 14.5 Tax invoice

A party need not make a payment for a taxable supply made under or in connection with this agreement until it receives a tax invoice for the supply to which the payment relates.

### 15 Notices and other communications

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#### 15.1 Service of notices

A notice, demand, consent, approval or communication under this agreement (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by pre-paid post or email to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

#### 15.2 Effective on receipt

A Notice given in accordance with clause 15.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by pre-paid post, 3 Business Days after the date of posting (or 7 Business Days after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by email, when sent by the sender, unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

### 16 Miscellaneous

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#### 16.1 Alterations

This agreement may only be varied or replaced by a document executed by the parties.

#### 16.2 Assignment

A party may only assign this agreement or a right under this agreement with the prior written consent of each other party.

#### 16.3 Approvals and consents

Except as expressly stated otherwise in this agreement, a party may conditionally or unconditionally give or withhold consent to be given under this agreement and is not obliged to give reasons for doing so.

#### 16.4 Costs

- (a) Except as expressly stated otherwise in this agreement, each party must pay its own costs of negotiating, preparing and executing this agreement.

- (b) CAU must pay CDA's reasonable external legal fees in preparing for the Transaction up to an agreed cap of \$150,000 (exclusive of GST) upon delivery by CDA to CAU of an invoice from its external legal advisers.

**16.5 Stamp duty**

Any stamp duty, duties or other Taxes of a similar nature (including fines, penalties and interest) in relation to or in connection with this agreement or any transaction contemplated by this agreement, must be paid by CAU.

**16.6 No merger**

The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this agreement.

**16.7 Survival**

Any indemnity or any obligation of confidence under this agreement is independent and survives termination of this agreement. Any other term by its nature intended to survive termination of this agreement survives termination of this agreement.

**16.8 Entire agreement**

This agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

**16.9 Further action**

Each party must promptly do whatever any other party reasonably requires of it to give effect to this agreement and to perform its obligations under it.

**16.10 Severability**

If a provision of this agreement is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of this agreement.

**16.11 Waiver**

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

**16.12 Relationship**

Except where this agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

**16.13 Counterparts**

This agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one agreement. Delivery of an image of an executed counterpart of this agreement by PDF file (portable document format file) shall be as effective as delivery of a physically executed counterpart of this agreement.

**16.14 Governing law and jurisdiction**

This agreement is governed by the law of Victoria and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

## Schedule 1

### Details of CDA Group Companies

#### 1 CDA

<b>Name:</b>	CDA Health Pty Ltd
<b>ACN</b>	632 054 230
<b>Registered office:</b>	The Rocket c/- WMS Chartered Accountants, Level 14, Suite 1401, 203 Robina Town Centre, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	5 March 2019, Queensland
<b>Share capital:</b>	As set out in Schedule 2
<b>Directors:</b>	Guy Rothwell Headley Benjamin David Ngahuia Jansen
<b>Secretary:</b>	Benjamin David Ngahuia Jansen

#### 2 Other CDA Group Companies

<b>Name:</b>	CDA Clinics Qld Pty Ltd
<b>ACN</b>	636 677 471
<b>Registered office:</b>	WMS Chartered Accountants, Suite 1401, Level 14, 203 Robina Town Centre Drive, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	08/10/2019, Queensland
<b>Share capital:</b>	1,000 fully paid ordinary shares – held by CDA (100%)
<b>Directors:</b>	Benjamin David Ngahuia Jansen
<b>Secretary:</b>	Benjamin David Ngahuia Jansen

<b>Name:</b>	Canview Pty Ltd
<b>ACN</b>	639 650 927
<b>Registered office:</b>	The Rocket c/- WMS Chartered Accountants, Level 14, Suite 1401, 203 Robina Town Centre, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	10/03/2020, Queensland
<b>Share capital:</b>	120 fully paid ordinary shares – held by CDA (100%)
<b>Directors:</b>	Benjamin David Ngahuia Jansen
<b>Secretary:</b>	-

<b>Name:</b>	CDA Operations Pty Ltd
<b>ACN</b>	644 581 831
<b>Registered office:</b>	WMS Chartered Accountants, The Rocket, Level 14, Suite 1401, 203 Robina Town Centre, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	23/09/2020, Queensland

<b>Share capital:</b>	100 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Benjamin David Ngahuia Jansen
<b>Secretary:</b>	Benjamin David Ngahuia Jansen
<b>Name:</b>	Canview Dispensary Queensland Pty Ltd
<b>ACN</b>	642 046 973
<b>Registered office:</b>	WMS Chartered Accountants, Suite 1401, Level 14, 203 Robina Town Centre Drive, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	25/06/2020, Queensland
<b>Share capital:</b>	100 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Benjamin David Ngahuia Jansen
<b>Secretary:</b>	Benjamin David Ngahuia Jansen
<b>Name:</b>	CDA Pharmaceuticals Pty Ltd
<b>ACN</b>	646 713 297
<b>Registered office:</b>	c/- WMS Chartered Accountants, Suite 1401, Level 14, 203 Robina Town Centre Drive, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	18/12/2020, Queensland
<b>Share capital:</b>	100 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Dr Benjamin David Ngahuia Jansen
<b>Secretary:</b>	Dr Benjamin David Ngahuia Jansen
<b>Name:</b>	Burleigh Heads Cannabis Pty Ltd
<b>ACN</b>	615 904 286
<b>Registered office:</b>	The Rocket c/- WMS Chartered Accountants, Level 14, Suite 1401, 203 Robina Town Centre, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	14/11/2016, Queensland
<b>Share capital:</b>	9,306 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Guy Rothwell Headley
<b>Secretary:</b>	Guy Rothwell Headley
<b>Name:</b>	Healthy Not High Pty Ltd
<b>ACN</b>	623 889 930
<b>Registered office:</b>	The Rocket c/- WMS Chartered Accountants, Level 14, Suite 1401, 203 Robina Town Centre, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	18/01/2018, Queensland
<b>Share capital:</b>	2,520 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Guy Rothwell Headley
<b>Secretary:</b>	Guy Rothwell Headley



<b>Name:</b>	Cannabis Doctors Australia Pty Ltd
<b>ACN</b>	623 812 242
<b>Registered office:</b>	The Rocket, c/- WMS Chartered Accountants, Level 14, Suite 1401, 203 Robina Town Centre, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	15/01/2018, Queensland
<b>Share capital:</b>	4,200 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Benjamin David Ngahua Jansen
<b>Secretary:</b>	Benjamin David Ngahua Jansen

<b>Name:</b>	CDA Health Properties Pty Ltd
<b>ACN</b>	648 653 481
<b>Registered office:</b>	Suite 2, 328 Scottsdale Drive, Robina, Queensland 4226
<b>Date and place of incorporation/registration:</b>	12/03/2021, Queensland
<b>Share capital:</b>	100 fully paid ordinary shares – held by CDA (100%)
<b>Director:</b>	Guy Rothwell Headley
<b>Secretary:</b>	Guy Rothwell Headley

<b>Name:</b>	Cannabis Doctors Aotearoa Limited
<b>NZ Co. No.</b>	7141913
<b>NZBN:</b>	9429047148949
<b>Registered office:</b>	c/- Karen Headley, 166a St Heliers Bay Road, St Heliers, Auckland 1071, New Zealand
<b>Date and place of incorporation/registration:</b>	27 November 2018, New Zealand
<b>Share capital:</b>	1,000,000 ordinary shares – held by CDA (100%)
<b>Director:</b>	Guy Rothwell Headley Jessimine Jansen

**Schedule 2**  
**CDA Shareholdings**

**1 Major Shareholders**

Name of CDA shareholder	Number of CDA Shares held at the date of this agreement	% of CDA Shares held at the date of this agreement
<b>Ordinary shares</b>		
Elizabeth Sarah Jansen as trustee for the Stanford Investment Trust	6,714,760	32.88%
Guy Rothwell Headley	6,554,760	32.10%
Matua Hasyo Charlie Jansen as trustee for the Whanau Family Trust	2,847,200	13.94%
<b>TOTAL</b>	<b>16,116,720</b>	<b>78.91%</b>

**2 Current CDA share capital**

Holders	Aggregate number of CDA Shares held at the date of this agreement	Aggregate % of CDA Shares held at the date of this agreement
Major Shareholders	16,116,720	78.91%
Ordinary shareholders (other than those ordinary shares held by Major Shareholders)	2,885,096	14.13%
CSF shareholders (other than those CSF shares held by the Major Shareholders)	1,421,166	9.96%
<b>TOTAL</b>	<b>20,422,982</b>	<b>100%</b>

**Schedule 3**  
**CDA Warranties (clause 8)**

**1 CDA**

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- 1.1 CDA is a body corporate validly existing under the laws of its place of incorporation.
- 1.2 CDA has the corporate power and full authority to enter into and perform or cause to be performed its obligations under this agreement and to carry out the transactions contemplated by this agreement.
- 1.3 CDA has taken all necessary corporate action to authorise the entry into this agreement and the Transaction and, subject to CDA Shareholders approving the CDA Resolution, has taken all necessary corporate action to authorise the performance of this agreement and to carry out the Transaction in accordance with this agreement.
- 1.4 This agreement constitutes CDA's legal, valid and binding obligations, enforceable against it in accordance with its terms.
- 1.5 Entering into and performing its obligations under this agreement will not result in a breach by CDA of:
- (a) any provision of its constituent documents;
  - (b) any agreement or document to which CDA is a party; or
  - (c) any law or any order, judgment or decree of any Governmental Agency by which CDA is party to or subject of or of which it or any other CDA Group Company is bound.

**2 CDA Shares**

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- 2.1 As at the date of this agreement, there are 20,422,982 shares in CDA on issue, and there are no other CDA options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing).
- 2.2 The CDA Shares:
- (a) comprise 100% of the entire issued share capital of CDA;
  - (b) have been validly allotted and issued;
  - (c) will be fully paid up at Completion; and
  - (d) will be free from any Encumbrance at Completion.
- 2.3 There is no agreement or other arrangement in force:
- (a) which provides for the present or future issue, allotment, sale, transfer or other disposal of; or
  - (b) which gives to any person the right (whether or not subject to conditions) to call for the issue, allotment, sale, transfer or other disposal of; or
  - (c) in respect of the rights to vote which are conferred in respect of, any securities of a CDA Group Company.

### **3 The CDA Group Companies**

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- 3.1 Schedule 1 contains complete, accurate and up to date details of each CDA Group Company.
- 3.2 Each CDA Group Company:
- (a) is properly incorporated and validly existing under the laws of its place of incorporation;
  - (b) has the power to own its assets and carry on the CDA Business;
  - (c) has conducted the CDA Business in compliance with its constitution or other constituent documents;
  - (d) except as Fairly Disclosed, does not act as trustee for or nominee of any other person;
  - (e) is not a member of any partnership, joint venture, consortium or unincorporated association (other than a recognised trade association); and
  - (f) is not the legal or beneficial owner of any shares or other equity interests in any body corporate (wherever incorporated) other than in another CDA Group Company.
- 3.3 Except as Fairly Disclosed, no CDA Group Company has any share or option incentive scheme, profit sharing scheme or employee share ownership or performance rights plan for any of its employees, directors, officers or consultants.
- 3.4 No CDA Group Company is subject to an Insolvency Event.

### **4 Information**

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- 4.1 All information provided by CDA to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's report for inclusion in the Explanatory Statement.
- 4.2 The CDA Due Diligence Material and each disclosure in the CDA Disclosure Letter have been disclosed in good faith and, so far as the CDA Board is aware, CDA has not knowingly or recklessly:
- (a) omitted anything from such information such as to make any part of that information false or misleading in any material respect; or
  - (b) included anything materially false or misleading in any material respect.
- 4.3 CDA is not aware of any material information relating to its businesses that has not been disclosed to CAU or its Representatives as at the date of this agreement which:
- (a) is objectively necessary for CAU to make an informed decision as to whether to proceed with the Transaction; or
  - (b) might reasonably be expected to cause CAU to not proceed with the Transaction at all or to only proceed with the Transaction on materially different terms.
- 4.4 To the best of CDA's knowledge, all information CDA has provided to CAU or its Representatives as at and from the date of this agreement is not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all

statements as to future matters and a reasonable basis for all statements of opinion in that information.

## **5 Compliance**

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- 5.1 All CDA Group Companies have complied in all material respects with all applicable laws.
- 5.2 No Prescribed Occurrence has occurred in respect of CDA.
- 5.3 No litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to its knowledge, threatened which, if adversely decided, could reasonably be expected to have a materially adverse effect on the CDA Group.
- 5.4 At the time of its publication and at all times before Completion, there will be no omissions from the Prospectus of information relating to CDA required by the Corporations Act (or any applicable ASIC class orders, regulatory guidance, policies or ASIC modifications) and the Listing Rules.
- 5.5 At the time of its publication and at all times before Completion, the Prospectus will not contain any statements relating to CDA which are misleading or deceptive (including, without limitation, misleading statements within the meaning of section 728(2) of the Corporations Act or false or misleading statements within the meaning of section 1041E of the Corporations Act or section 12BB of the *Australian Securities and Investments Commission Act 2001* (Cth)).
- 5.6 CDA has conducted and will continue until Completion to conduct due diligence, including to make all reasonable enquiries and to take all reasonable steps, to ensure that there are no omissions from the Prospectus of material required by the Corporations Act (or any applicable ASIC guidance) or other applicable laws in respect of CDA and that the statements included in the Prospectus in respect of CDA are not misleading or deceptive in any respect and do not become misleading or deceptive.
- 5.7 CDA has not engaged in, and will not engage in, conduct that is misleading or deceptive or which is likely to mislead or deceive in connection with CAU making the offer to the CDA Shareholders of the Consideration Shares pursuant to the Prospectus.

**Schedule 4**  
**CAU Warranties (clause 9)**

**1 CAU**

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- 1.1 CAU is a body corporate validly existing under the laws of its place of incorporation.
- 1.2 CAU has the corporate power and full authority to enter into and perform or cause to be performed its obligations under this agreement and to carry out the transactions contemplated by this agreement.
- 1.3 CAU has taken all necessary corporate action to authorise the entry into this agreement and the Transaction and, subject to CAU Shareholders approving the CAU Resolutions, has taken all necessary corporate action to authorise the performance of this agreement and to carry out the Transaction in accordance with this agreement.
- 1.4 This agreement constitutes CAU's legal, valid and binding obligations, enforceable against it in accordance with its terms.
- 1.5 Entering into and performing its obligations under this agreement will not result in a breach by CAU of:
- (a) any provision of its constituent documents;
  - (b) any agreement or document to which CAU is a party; or
  - (c) any law or any order, judgment or decree of any Governmental Agency by which CAU is party to or subject of or of which it or any other CAU Group Company is bound.

**2 The CAU Shares**

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- 2.1 As at the date of this agreement, there are 128,750,000 CAU Shares, 2,565,000 options and 60,000 performance rights on issue and CAU has not issued (and is not required to issue) any other securities or instruments which are still outstanding (or may become outstanding) and which may convert into CAU securities by way of new issue.
- 2.2 The CAU Shares on issue at the date of this agreement:
- (a) have been validly allotted and issued; and
  - (b) are fully paid up.
- 2.2 The Consideration Shares, when allotted and issued to the CDA Shareholders, will:
- (a) be fully paid and duly and validly authorised and issued on the same terms and conditions set out in the Prospectus;
  - (b) be free from Encumbrances, other than those provided for in CAU's constitution as disclosed in the Prospectus;
  - (c) rank equally in all respects with other CAU Shares on issue.
- 2.3 Except as Fairly Disclosed, there is no agreement or other arrangement in force:
- (a) which provides for the present or future issue, allotment, sale, transfer or other disposal of; or
  - (b) which gives to any person the right (whether or not subject to conditions) to call for the issue, allotment, sale, transfer or other disposal of; or

- (c) in respect of the rights to vote which are conferred in respect of, any securities of a CAU Group Company.

### **3 The CAU Group Companies**

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- 3.1 Schedule 5 contains complete, accurate and up to date details of each CAU Group Company as at the date of this agreement.
- 3.2 Each CAU Group Company:
- (a) is properly incorporated and validly existing under the laws of its place of incorporation;
  - (b) has the power to own its assets and carry on the CAU Business;
  - (c) has conducted the CAU Business in compliance with its constitution or other constituent documents;
  - (d) does not act as trustee for or nominee of any other person;
  - (e) is not a member of any partnership, joint venture, consortium or unincorporated association (other than a recognised trade association); and
  - (f) is not the legal or beneficial owner of any shares or other equity interests in any body corporate (wherever incorporated) other than in another CAU Group Company.
- 3.3 Except as Fairly Disclosed, no CAU Group Company has any share or option incentive scheme, profit sharing scheme or employee share ownership or performance rights plan for any of its employees, directors, officers or consultants.
- 3.4 No CAU Group Company is subject to an Insolvency Event.

### **4 Information**

---

- 4.1 All information provided by CAU to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's report for inclusion in the Explanatory Statement.
- 4.2 The CAU Due Diligence Material and each disclosure in the CAU Disclosure Letter have been disclosed in good faith and, so far as the CAU Board is aware, CAU has not knowingly or recklessly:
- (a) omitted anything from such information such as to make any part of that information false or misleading in any material respect; or
  - (b) included anything materially false or misleading in any material respect.
- 4.3 CAU is not aware of any material information relating to its businesses that has not been disclosed to CDA or its Representatives as at the date of this agreement which:
- (a) is objectively necessary for CDA to make an informed decision as to whether to proceed with the Transaction; or
  - (b) might reasonably be expected to cause CDA to not proceed with the Transaction at all or to only proceed with the Transaction on materially different terms.
- 4.4 To the best of CAU's knowledge, all information CAU has provided to CDA or its Representatives as at and from the date of this agreement is not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all

statements as to future matters and a reasonable basis for all statements of opinion in that information.

## **5 Compliance**

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- 5.1 As at the date of this agreement, CAU is not in breach of its continuous disclosure obligations under the Corporations Act and the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure other than as disclosed in writing to CDA on or before the date of this agreement.
- 5.2 All CAU Group Companies have complied in all material respects with all applicable laws and the Listing Rules.
- 5.3 No Prescribed Occurrence has occurred in respect of CAU.
- 5.4 No litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to its knowledge, threatened which, if adversely decided, could reasonably be expected to have a materially adverse effect on the CAU Group.
- 5.5 The offer of the Consideration Shares to the CDA Shareholders pursuant to the Prospectus will, when made, comply with the Corporations Act, the Listing Rules and ASIC guidance and all other applicable laws.
- 5.6 At the time of its publication and at all times before Completion, there will be no omissions from the Prospectus of information required by the Corporations Act (or any applicable ASIC class orders, regulatory guidance, policies or ASIC modifications) and the Listing Rules.
- 5.7 At the time of its publication and at all times before Completion, the Prospectus will not contain any statements which are misleading or deceptive (including, without limitation, misleading statements within the meaning of section 728(2) of the Corporations Act or false or misleading statements within the meaning of section 1041E of the Corporations Act or section 12BB of the *Australian Securities and Investments Commission Act 2001* (Cth)).
- 5.8 Any statement of opinion or belief contained in the Prospectus was (at the time made) and at Completion is truly and honestly held by that person and the maker of the statement has reasonable grounds for holding the opinion or the belief.
- 5.9 CAU has conducted and will continue until Completion to conduct due diligence, including to make all reasonable enquiries and to take all reasonable steps, to ensure that there are no omissions from the Prospectus of material required by the Corporations Act (or any applicable ASIC guidance) or other applicable laws and that the statements included in the Prospectus are not misleading or deceptive in any respect and do not become misleading or deceptive.
- 5.10 CAU has not engaged in, and will not engage in, conduct that is misleading or deceptive or which is likely to mislead or deceive in connection with the making of the offer to the CDA Shareholders of the Consideration Shares pursuant to the Prospectus.



## Schedule 5

### Details of the CAU Group Companies

#### 1 CAU

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<b>Name:</b>	Cronos Australia Limited
<b>ACN</b>	629 071 594
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141
<b>Date and place of incorporation/registration:</b>	27 September 2018, Victoria
<b>Share capital:</b>	128,750,000 fully paid ordinary shares
<b>Directors as at the date of this agreement:</b>	<ul style="list-style-type: none"> <li>• Anna Elizabeth Burke</li> <li>• Rodney Damon Cocks</li> <li>• Shane Francis Tanner</li> <li>• Daniel Ernest Abrahams</li> <li>• Michael Ryan Gorenstein</li> <li>• Jason Marc Adler</li> </ul>
<b>Secretary:</b>	Thomas Godfrey Howitt

#### 2 Other CAU Group Companies

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<b>Name:</b>	Cronos Australia Group Pty. Ltd.
<b>ACN</b>	603 433 110
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141
<b>Date and place of incorporation/registration:</b>	18 December 2014, Victoria
<b>Share capital:</b>	24 fully paid ordinary shares – held by CAU (100%)
<b>Director:</b>	Rodney Damon Cocks
<b>Secretary:</b>	Thomas Godfrey Howitt

<b>Name:</b>	Cronos Australia – Operations Pty. Ltd.
<b>ACN</b>	616 243 595
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141
<b>Date and place of incorporation/registration:</b>	2 December 2016, Victoria
<b>Share capital:</b>	120 fully paid ordinary shares – held by Cronos Australia Group Pty Ltd (100%)
<b>Director:</b>	Rodney Damon Cocks
<b>Secretary:</b>	Thomas Godfrey Howitt

<b>Name:</b>	Prominent Brands Pty. Ltd.
<b>ACN</b>	621 292 064
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141

<b>Date and place of incorporation/registration:</b>	24 August 2017, Victoria
<b>Share capital:</b>	120 fully paid ordinary shares – held by Cronos Australia Group Pty Ltd (100%)
<b>Director:</b>	Rodney Damon Cocks
<b>Secretary:</b>	Thomas Godfrey Howitt
<b>Name:</b>	Medical Clinic Holdings Pty. Ltd.
<b>ACN</b>	638 667 062
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141
<b>Date and place of incorporation/registration:</b>	3 January 2020, Victoria
<b>Share capital:</b>	120 fully paid ordinary shares – held by Cronos Australia Group Pty Ltd (100%)
<b>Director:</b>	Rodney Damon Cocks
<b>Secretary:</b>	Thomas Godfrey Howitt
<b>Name:</b>	Cannadoc Health Pty. Ltd.
<b>ACN</b>	632 576 106
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141
<b>Date and place of incorporation/registration:</b>	28 March 2019, Victoria
<b>Share capital:</b>	26,800 fully paid ordinary shares – held by Medical Clinic Holdings Pty Ltd (75.5%) and Robynne Tracy Leigh Feng as trustee for Feng Family Trust (24.5%)
<b>Directors:</b>	<ul style="list-style-type: none"> <li>• Shane Francis Tanner</li> <li>• Rodney Damon Cocks</li> <li>• Jian Hui Feng</li> </ul>
<b>Secretary:</b>	Thomas Godfrey Howitt
<b>Name:</b>	Cannadoc Health (NZ) Limited
<b>NZ Co. No.</b>	8130253
<b>Registered office:</b>	Legalis Limited, Level 1, 21 Devon Street West, New Plymouth, 4310, New Zealand
<b>Date and place of incorporation/registration:</b>	9 October 2020, New Zealand
<b>Share capital:</b>	100 shares – held by Cannadoc Health Pty Ltd (100%)
<b>Directors:</b>	<ul style="list-style-type: none"> <li>• Rodney Damon Cocks</li> <li>• Jian Hui Feng</li> </ul>
<b>Name:</b>	Personal Care Asia Limited
<b>HK Co. No.</b>	2856479
<b>Registered office:</b>	Suite 202, 2/F, Lap Fai Building, 6–8 Pottinger Street, Central Hong Kong

<b>Date and place of incorporation/registration:</b>	25 July 2019, Hong Kong
<b>Share capital:</b>	100 ordinary shares – held by Cronos Australia Group Pty. Ltd. (100%)
<b>Director</b>	Nicholas Gerard Mulcahy
<b>Secretary:</b>	Rachel Ng
<b>Name:</b>	Personal Care Asia GK
<b>Registration no.</b>	0104-03-023225
<b>Registered office:</b>	4-17-33-2F, Minami Aoyama, Minato-ku, Tokyo, Japan 107-0062
<b>Date and place of incorporation/registration:</b>	1 July 2020, Japan
<b>Share capital:</b>	No shares on issue; ¥500,000 contributed capital by Cronos Australia Group Pty. Ltd.
<b>Directors</b>	Rodney Damon Cocks
<b>Secretary:</b>	N/A
<b>Name:</b>	CBD Joint Venture Pty. Ltd.
<b>ACN</b>	638 178 766
<b>Registered office:</b>	Suite 8, Level 3, 299 Toorak Road, South Yarra VIC 3141
<b>Date and place of incorporation/registration:</b>	20 December 2019, Victoria
<b>Share capital:</b>	100 fully paid ordinary shares – held by Cronos Australia Group Pty. Ltd. (50%) and A&S Branding Pty. Ltd. (50%)
<b>Directors</b>	<ul style="list-style-type: none"> <li>• Rodney Damon Cocks</li> <li>• Simon William O'Connor</li> </ul>
<b>Secretary:</b>	Thomas Godfrey Howitt
<b>Name:</b>	Cronos Australia – New Zealand Limited
<b>NZ Co. No.</b>	7073673
<b>Registered office:</b>	Legalis Limited, Level 1, 21 Devon Street West, New Plymouth, 4310, New Zealand
<b>Date and place of incorporation/registration:</b>	12 October 2018, New Zealand
<b>Share capital:</b>	1,200 ordinary shares – held by Cronos Australia Group Pty Ltd (100%)
<b>Director:</b>	Rodney Damon Cocks

**Schedule 6**  
**Timetable (clause 5.1)**

<b>Event</b>	<b>Targeted date</b>
Dispatch of CDA Notice of Meeting and Explanatory Statement	Wednesday, 27 October 2021
Dispatch of CAU Notice of Meeting and Explanatory Statement	Wednesday, 27 October 2021
Lodge Prospectus with ASIC and release to ASX	Wednesday, 27 October 2021
Dispatch Prospectus and Share Purchase Deed to the CDA Shareholders	Wednesday, 27 October 2021
CDA General Meeting	Friday, 19 November 2021
CAU General Meeting	Friday, 26 November 2021
Completion	Monday, 29 November 2021

**Schedule 7**  
**Share Purchase Deed**

See over the page.



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DX 10284 Sydney Stock Exchange

# Share Purchase Deed

relating to the acquisition of shares in CDA Health Pty Ltd ACN 632 054 230

## The Sellers

and

**Cronos Australia Limited** ACN 629 071 594

**Interstate offices**  
Canberra Melbourne

Affiliated offices around the world through the  
Advoc network - [www.advoc.com](http://www.advoc.com)

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# Share Purchase Deed

## Dated

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## Parties

Name	The Sellers listed in Schedule 1 ( <b>Major Shareholders</b> ) and the registered holders of shares in the capital of the Company who have signed this Deed or accede to this Deed pursuant to clause 10.1.2 after the date of this Deed
Short name	<b>Sellers</b>
Name	<b>Cronos Australia Limited ACN 629 071 594</b>
Address	Suite 8, Level 3, 299 Toorak Road, South Yarra, Victoria 3141
Email	<a href="mailto:companysecretary@cronosaustralia.com">companysecretary@cronosaustralia.com</a>
Contact	Company Secretary
Short name	<b>Buyer</b>

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## Background

The Buyer offers to acquire the Shares in consideration for the offer of the Total Consideration under the Prospectus. The Sellers agree to sell the Shares with effect from Completion on the terms of this Deed.

### The Parties agree

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#### 1. Definitions

In this Deed, unless the context otherwise requires:

**Acceptance and Election Form** has the meaning given in the Merger Implementation Agreement.

**ASX** means ASX Limited, or, as the context dictates, the financial market operated by ASX Limited.

**Authorisation** means any licence, certification, accreditation, approval, registration or other authorisation given or issued by a Regulatory Authority.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Melbourne, Victoria.

**Buyer Shares** means fully paid ordinary shares in the Buyer.

**Cash Consideration** has the meaning given to that term in the Merger Implementation Agreement.



**Company** means CDA Health Pty Ltd ACN 632 054 230.

**Completion** means the completion of the sale and purchase of the Shares in accordance with clause 5.

**Completion Date** means the date on which Completion occurs.

**Consideration Shares** has the meaning given in the Merger Implementation Agreement.

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

**Deed of Accession** means the deed of accession in the form set out in Schedule 2.

**Government Agency** means any foreign or domestic governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

**Insolvency Event** means, in relation to a person, any of the following events:

- (a) the person, being an individual, commits an act of bankruptcy;
- (b) the person becomes insolvent;
- (c) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the person or the person enters into a scheme of arrangement with its creditors or is wound up;
- (d) the person assigns any of its property for the benefit of creditors or any class of them;
- (e) the holder of a Security Interest takes any step towards taking possession or takes possession of any assets of the person or exercises any power of sale;
- (f) the person has a judgment or order given against it in an amount exceeding \$20,000 (or the equivalent in another currency) and that judgment or order is not satisfied or quashed or stayed within 20 Business Days after being given;
- (g) an action is taken to do any of the things listed in paragraphs (a) to (f).

**Law** includes:

- (a) any law, regulation, authorisation, ruling, judgment, order or decree of any Government Agency; and
- (b) any statute, regulation, proclamation, ordinance or by-law,

in Australia or any other jurisdiction.

**Merger Implementation Agreement** means the merger implementation agreement dated 14 September 2021 between the Buyer and the Company.

**Party** means a party to this Deed.

**PPS Law** means:

- (a) the PPSA and the *Personal Property Securities Regulations 2010* (Cth) and any other regulations made at any time under the *Personal Property Securities Act 2009* (Cth); and

- (b) any amendment made to any other Law as a consequence of a Law referred to in paragraph (a).

**Prospectus** has the meaning given in the Merger Implementation Agreement.

**Record Date** means 7:00pm on the day that is 2 Business Days prior to the Completion Date.

**Regulatory Authority** means:

- (a) a Government Agency; and
- (b) any other authority, tribunal, agency or entity having powers or jurisdiction under any Law or the listing rules of any recognised stock or securities exchange.

**Representative** of a person means an employee, officer, director, agent, auditor, adviser, partner or consultant of that person or of any Related Body Corporate (as such term is defined in the Corporations Act) of that person.

**Security Interest** means:

- (a) any mortgage, lien, charge, pledge, assignment by way of security, title retention, preferential right or trust arrangement, claim, covenant, profit a prendre, easement, property right or interests, restrictive covenant, restriction on transfer, right of first refusal, option, hypothecation, defect in title, 'security interest' (as defined in the PPS Law) or other security interest or arrangement having the same effect; and
- (b) any agreement to create or grant any arrangement described in paragraph (a).

**Shares** means the ordinary shares in the capital of the Company held by the Sellers on the Completion Date.

**Total Consideration** has the meaning given in the Merger Implementation Agreement.

**Total Entitlement** means, in respect of each Seller, their entitlement to the Total Consideration, calculated as a percentage of the total issued shares in the capital of the Company held by that Seller at Completion.

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## 2. Condition Precedent

- 2.1.1 Completion of the sale and purchase of the Shares is conditional on the Merger Implementation Agreement becoming unconditional in all respects (the **Condition**).
- 2.1.2 If the Condition is not satisfied on or before 31 December 2021 (or such other date as agreed between the Buyer and the Company in writing) this Deed will terminate and no Party will have any liabilities to the other Party except each Party retains the rights it has against any other Party in connection with any loss or claim that has arisen before termination.
- 2.1.3 Other than in accordance with clause 2.1.2, no Party may terminate or rescind this Deed for any reason.

---

### 3. Sale and purchase of Shares

- 3.1.1 Each Seller agrees to sell and the Buyer agrees to buy the Shares for the Total Consideration free from all Security Interests and together with all rights attaching or accruing to those Shares after Completion.
- 3.1.2 Beneficial title to and risk in the Shares will pass from the Sellers to the Buyer on Completion.
- 3.1.3 Each Seller irrevocably waives and releases all restrictions on transfer (including pre-emptive rights or rights with similar effect) that might exist in respect of the Shares, or that might otherwise restrict or prevent all of the Shares being transferred to the Buyer in accordance with this Deed, whether under any shareholders' agreement, constituent document, at Law or otherwise.
- 3.1.4 In consideration of the Buyer entering into this Deed and for other valuable consideration, each Seller irrevocably appoints the Buyer as its attorney from Completion until the Buyer becomes registered as the holder of that Seller's Shares with authority to exercise all powers of a registered holder of the Seller's Shares.

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### 4. Purchase Price

- 4.1.1 The purchase price for the sale of the Shares is the Total Consideration.
- 4.1.2 On Completion, the Buyer must pay each Seller's Total Entitlement as follows:
- (a) in respect of a Seller who has given a valid Acceptance and Election Form electing to receive their Total Entitlement wholly by way of Consideration Shares, by way of the issue of Consideration Shares calculated in accordance with the terms of the Merger Implementation Agreement; and
  - (b) in respect of a Seller who has given a valid Acceptance and Election Form electing to receive their consideration partly as Consideration Shares and partly as Cash Consideration:
    - (i) the Buyer shall procure the payment of the Cash Consideration to the account nominated by the Seller in their Acceptance and Election Form up to the amount specified in their Acceptance and Election Form as may be scaled back pursuant to the terms of the Merger Implementation Agreement; and
    - (ii) the Buyer shall pay the balance of the amount payable to that Seller by way of the issue of Consideration Shares calculated in accordance with the Merger Implementation Agreement; and
  - (c) in respect of any Seller who has not given a valid Acceptance and Election Form, by way of the issue of Consideration Shares calculated in accordance with the terms of the Merger Implementation Agreement.

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### 5. Completion

- 5.1.1 Completion will take place at 11:00am on the date on which the Condition has been satisfied, at the offices of Thomson Geer, Level 39, Rialto South Tower, 525 Collins Street, Melbourne, Victoria 3000.

- 5.1.2 On Completion, the Sellers must deliver executed transfers of the Shares in favour of the Buyer and original certificates for the Shares (or deeds if indemnity in the form reasonably acceptable to the Company and the Buyer prior to Completion in respect of any lost share certificates).
- 5.1.3 On Completion, the Buyer must:
- (a) procure the payment of the Cash Consideration to the account nominated by the Sellers in their Acceptance and Election Form (as applicable); and
  - (b) in respect of the Consideration Shares, procure the issue and allotment of the Consideration Shares and procure that the registry delivers holding statements to the Sellers with respect to their respective Consideration Shares as soon as practicable post-Completion.
- 5.1.4 The obligations of the Parties under this clause 5 are interdependent and:
- (a) are dependent on all of the completion requirements under the Merger Implementation Agreement being satisfied;
  - (b) all actions required to be performed will be taken to have occurred simultaneously on the Completion Date; and
  - (c) the Buyer is not obliged to complete the purchase of any of the Shares unless the purchase of all the Shares is completed simultaneously.

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## 6. Seller Warranties

Each Seller represents and warrants to the Buyer on the date of this Deed and immediately prior to Completion on a several basis that:

- 6.1.1 (in respect of a Seller that is a corporation), it is properly incorporated and validly existing under the Laws of its place of incorporation;
- 6.1.2 it has obtained all necessary approvals, consents and Authorisations to enter into and perform its obligations under this Deed including under its constitution, and the Corporations Act;
- 6.1.3 it has full power and authority to enter into and perform its obligations under this Deed and this Deed constitutes and imposes binding obligations on it and is fully enforceable in accordance with its terms;
- 6.1.4 entering into and performing its obligations under this Deed will not result in a breach by the Sellers of:
- (a) (in respect of a Seller that is a corporation) any provision of its constitution;
  - (b) any agreement or document to which it is a party; or
  - (c) any Law or any order, judgment or decree of any Regulatory Authority by which it is bound;
- 6.1.5 it is not subject to an Insolvency Event;
- 6.1.6 where a Seller has entered into this Deed in its capacity as trustee of a trust (**Trust**):

- (a) it is the only trustee of the Trust and it is not aware of any action to remove it as trustee of the Trust;
  - (b) it has power under the deed establishing the Trust (**Trust Deed**) and has obtained all necessary approvals, consents and Authorisations under the Trust Deed to enter into and perform its obligations under this Deed;
  - (c) it is not in default under the Trust Deed, the Trust has not been terminated and no vesting of the Trust's property has occurred and it is not aware of any action proposed to terminate, or vest the property of, the Trust;
  - (d) the Trust's property has not been resettled, set aside or transferred to any other trust;
  - (e) the entry into and the performance of this Deed is for the benefit of the beneficiaries of the Trust; and
  - (f) it has a right to be indemnified fully out of the Trust's assets in respect of all of the obligations and liabilities incurred by it, or which may be incurred by it, under this Deed and its lien over the Trust's property retains its priority over the rights and interests of the Trust's beneficiaries to the extent provided by Law;
- 6.1.7 each Seller is the sole legal owner of the Shares held by it at Completion, and has the power to transfer the full legal and beneficial interest in those Shares to the Buyer free from Security Interests as contemplated by this Deed; and
- 6.1.8 at Completion, the Shares held by each Seller will be free from Security Interests.

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## 7. Buyer Warranties

The Buyer represents and warrants to the Sellers that:

- 7.1.1 it is properly incorporated and validly existing under the Laws of Australia;
- 7.1.2 it has full power and authority to enter into and perform its obligations under this Deed;
- 7.1.3 it has obtained all necessary approvals, consents and Authorisations to enter into and perform its obligations under this Deed including under its constitution, and the Corporations Act;
- 7.1.4 the Consideration Shares when issued will rank equally with all other Buyer Shares quoted on ASX free from Security Interests other than under this Deed, the Buyer's constitution (a copy of which has been made available to the Sellers on the ASX platform) or as otherwise provided for in the Merger Implementation Agreement;
- 7.1.5 this Deed constitutes and imposes binding obligations on the Buyer and this Deed is fully enforceable in accordance with its terms;
- 7.1.6 entering into and performing its obligations under this Deed will not result in a breach by the Buyer of:
  - (a) any provision of its constitution;
  - (b) any agreement or document to which it is a party; or

- (c) any Law or any order, judgment or decree of any Regulatory Authority by which it is bound;
- 7.1.7 it is not subject to an Insolvency Event; and
- 7.1.8 it is not entering into this Deed as trustee of any Trust.

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## **8. Notices**

### **8.1 Delivery**

- 8.1.1 A notice or other communication required or permitted to be given to a Party under this Deed must be in writing and may be delivered:
  - (a) personally to the Party;
  - (b) by leaving it at the Party's address;
  - (c) by posting it by prepaid post addressed to that Party at the Party's address; or
  - (d) by email to the Party's email address.
- 8.1.2 The address and email address of the Buyer is set out on page 1 under the heading 'Parties'. The address and email address of each Seller is set out in that Seller's Acceptance and Election Form.
- 8.1.3 If a Party is a company, a notice or other communication may be delivered to that Party's registered office.

### **8.2 Time of delivery**

A notice or other communication is deemed delivered:

- 8.2.1 if delivered personally or left at the Party's address (including a Party's registered office), upon delivery;
- 8.2.2 if posted within Australia to an Australian address, 2 Business Days after posting and, in any other case, 5 Business Days after posting;
- 8.2.3 if delivered by email, subject to clause 8.2.4, at the time the email left the sender's email system, unless the sender receives notification that the email was not received by the recipient; and
- 8.2.4 if received after 5.00pm in the place it is received or on a day which is not a business day in the place it is received, at 9.00am on the next Business Day.

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## **9. Interpretation**

### **9.1 In this Deed:**

- 9.1.1 the word 'includes' in any form is not a word of limitation;
- 9.1.2 headings and sub-headings are for ease of reference only and do not affect the interpretation of this Deed;

- 9.1.3 no rule of construction applies to the disadvantage of the Party preparing this Deed on the basis that it prepared or put forward this Deed or any part of it; and
- 9.1.4 a reference to:
- (a) any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
  - (b) any instrument (such as a deed, agreement or document) is to that instrument (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time and from time to time;
  - (c) writing includes writing in digital form;
  - (d) 'this Deed' is to this Deed as amended from time to time;
  - (e) a clause or schedule is a reference to a clause or schedule in or to this Deed;
  - (f) a person includes a firm, partnership, joint venture, association, corporation or other body corporate; and
  - (g) a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee.

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## **10. General**

- 10.1.1 This Deed becomes binding on each Party on the date that it is signed by that Party notwithstanding that all Sellers have not signed it.
- 10.1.2 A Seller may accede to this Deed and be bound by the terms and conditions of this Deed by delivering a duly executed Deed of Accession.
- 10.1.3 This Deed may only be varied by a document executed by the Parties.
- 10.1.4 This Deed may be executed in counterparts, each of which:
- (a) may be executed electronically or in handwriting; and
  - (b) will be deemed an original whether kept in electronic or paper form, and all of which taken together constitute one and the same document.
- 10.1.5 Without limiting the foregoing, if the signatures on behalf of one party are more than one copy of this Deed, this shall be taken to be the same as, and have the same effect as, if all of those signatures were on the same counterpart of this Deed.
- 10.1.6 Each Party consents to the signing of this Deed by electronic means. The Parties agree to be bound by this Deed signed in this way.
- 10.1.7 This Deed:
- (a) constitutes the entire agreement between the Parties; and
  - (b) supersedes and cancels any contract, deed, arrangement, related condition, collateral arrangement, condition, warranty, indemnity or representation

imposed, given or made by a Party (or a Representative of a Party) prior to entering into this Deed.

- 10.1.8 Any provision of this Deed that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 10.1.9 If it is not possible to read down a provision as required by this clause, part or all of the provision of this Deed that is unlawful or unenforceable will be severed from this Deed and the remaining provisions continue in force.
- 10.1.10 The failure of a Party at any time to insist on performance of any provision of this Deed is not a waiver of their right at any later time to insist on performance of that or any other provision of this Deed.
- 10.1.11 Each Party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Deed.
- 10.1.12 The Parties must not sell, transfer, delegate, assign, license or create any Security Interest over any right or obligation under this Deed.
- 10.1.13 This Deed is governed by and is to be construed in accordance with the Laws of Victoria and the Parties submit to the non-exclusive jurisdiction of the courts of Victoria.



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## Schedule 1 Major Shareholders

Name	<b>Guy Rothwell Headley</b>
Address	Level 14, 203 Robina Town Centre Drive, Robina, Queensland 4226
Email	<a href="mailto:guy.headley@cdahealth.org">guy.headley@cdahealth.org</a>
Contact	Guy Headley

Name	<b>Matua Hasyo Charlie Jansen as trustee for the Whanau Family Trust</b>
Address	C/- Walsh Accountants Pty Ltd, Unit 10, 42-46 Bundall Road, Bundall, Queensland 4217
Email	<a href="mailto:matuaj@gmail.com">matuaj@gmail.com</a>
Contact	Matua Jansen

Name	<b>Elizabeth Sarah Jansen as trustee for the Stanford Investment Trust</b>
Address	3/60 Newheath Drive, Arundel, Queensland 4214
Email	<a href="mailto:sarah.jansen.nz@gmail.com">sarah.jansen.nz@gmail.com</a>
Contact	Sarah Jansen

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## Schedule 2 Deed of Accession

### PARTIES

[Name of Seller] of [address] (New Seller)

Cronos Australia Limited of Suite 8, Level 3, 299 Toorak Road, South Yarra, Victoria 3141 (Buyer)

### BACKGROUND

- A. On or around [xxx] 2021, the Buyer and the Sellers entered into a share purchase deed (the **Share Purchase Deed**) pursuant to which the Sellers accepted the offer made by the Buyer to acquire the Shares under the Prospectus.
- B. Under clause 10.1.2 of the Share Purchase Deed, a Seller may accede to the Share Purchase Deed and be bound by the terms and conditions of the Share Purchase Deed by delivering a duly executed Deed of Accession.
- C. By executing this deed, on and from the date of this deed (**Effective Date**), the New Seller agrees to become a party to the Share Purchase Deed.

### AS AGREED

#### 1. DEFINITIONS AND INTERPRETATION

##### Definitions

- 1.1 Unless otherwise defined in this deed, all capitalised terms have the same meaning as set out in the Share Purchase Deed.

##### Interpretation

- 1.2 In the interpretation of this deed, the provisions set out in clause 1 of the Share Purchase Deed will apply to the same extent as if set out in this deed.

#### 2. ACCESSION

- 2.1 By executing this deed, on and from the Effective Date, the New Seller becomes a party to the Share Purchase Deed and covenants to the Buyer to observe, comply with and be bound by, in all respects, the terms of the Share Purchase Deed and all obligations, covenants and undertakings of a Seller under the Share Purchase Deed.
- 2.2 The covenants set out in clause 2.1 and 2.2 are given to and for the benefit of the Buyer.

#### 3. ACKNOWLEDGEMENT

- 3.1 The New Seller confirms that it has received a copy of the Share Purchase Deed.

#### 4. NOTICES

- 4.1 The Seller's address for any notices given under the Share Purchase Deed is as follows:

Name: [insert]

Address: [insert]



Email: [insert]

Attention: [insert]

**5. GOVERNING LAW**

5.1 This deed is governed by the law of Victoria, Australia.

**EXECUTION AND DATE**

Executed as a deed poll.

Date: [date]

Executed as a deed by [name ACN ###] in )  
accordance with s 127(1) and s 127(3) of the )  
Corporations Act 2001: )

.....  
Signature of Director

.....  
Signature of Director/Company Secretary

.....  
Print full name

.....  
Print full name

OR

Signed sealed and delivered by [name] in the )  
presence of: )

.....

.....  
Witness



# Execution Page

Executed by the Parties as a Deed

Executed by **Cronos Australia Limited ACN 629 071** )  
**594** in accordance with s 127(1) of the *Corporations* )  
*Act 2001*: )

.....  
Signature of Director

.....  
Signature of Director/Company Secretary

.....  
Print full name

.....  
Print full name

**Signed sealed and delivered by Elizabeth Sarah** )  
**Jansen as trustee for the Stanford Investment Trust** )  
in the presence of: )

.....  
Signature

.....  
Signature of witness

.....  
Print full name of witness

**Signed sealed and delivered by Guy Rothwell** )  
**Headley** in the presence of: )

)  
.....  
Signature

.....  
Signature of witness

.....  
Print full name of witness

**Signed sealed and delivered by Matua Hasyo** )  
**Charlie Jansen as trustee for the Whanau Family** )  
**Trust** in the presence of: )

)  
.....  
Signature

.....  
Signature of witness

.....  
Print full name of witness

**Schedule 8**  
**Amended CDA Constitution**

See over the page.

**CDA HEALTH PTY LTD**  
**A.C.N. 632 054 230**

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**Company  
Constitution**

*A Proprietary  
Company Limited  
by Shares*

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**Corporations Act**  
**A Company Limited by Shares Constitution of**

**CDA HEALTH PTY LTD A.C.N. 632 054 230**

**Preliminary**

1. This document is the constitution of **CDA HEALTH PTY LTD (“the Company”)**, which is a proprietary Company limited by shares. The rules contained in the “Replaceable Rules” as set out in the *Corporations Act 2001* (Cth) (“**Corporations Act**”) shall not apply to the Company but this constitution will apply to the Company.
2. The liability of the Members is limited. All Members of the Company have liability limited to that amount, if any, that is owed on their issued shares. The Company shall have a minimum of one Member.
3. All words defined in the Corporations Act have the same meaning if used in this constitution unless the context otherwise requires.
4. The Directors may pay out of the moneys of the Company in their hands for formation and registration of the Company and must vest the assets acquired by them.

**Definitions and interpretation**

5. In this constitution, unless the context otherwise requires:

**Act** means the Corporations Act 2001 and expressions defined or used in the Act have the meanings in which they are defined in the Act.

**Address of Member** means the address of a Member as stated in the register or if he or she has given notice in writing to the Company of a changed address, the last address of which he or she has given such notice.

**Alternate or Alternate Director** means a person who holds office for the time being as an Alternative Director under this constitution.

**Auditor** means the auditor for the time being of the Company as defined in the Act.

**Business day** means a day from Monday to Friday excluding public holidays in the jurisdiction where the Company is registered.

**Company Secretary or Secretary** includes an assistant and an acting Company secretary.

**Corporations Act** means the *Corporations Act 2001* (Cth) and any regulations made under it.

**Call** (or any amount called in respect of a share) includes any amount that must be paid at a fixed time or fixed times under the terms of issue of the share.

**Default loan agreement** means the terms set out in Schedule 2.

**Directors** include if sole director of the Company, that Director and in the case of there being two or more Directors, those Directors. The Director of the Company includes a number of them, as have authority to act for the Company acting as a body and includes an attorney for a Director or as an Alternative Director.

**Dividend** includes interim dividends and bonus issues.

**General Meeting or Member Meeting** means a meeting of the Members of the Company and includes a meeting of a class of Members.

**Group employees** means an employee of the Company or its subsidiaries, if any.

**Holder/Shareholder** means the person registered as holder of the Share.

**Legal costs** refer to legal costs incurred by a person as an officer of the Company or its subsidiaries.

**Liability** includes an immediate, future or possible liability incurred by a person as an officer of the Company or one of its subsidiaries.



**Member** means a person who is a shareholder.

**Member present** includes a Member present by proxy or attorney - or, in the case of a Corporation Member, by a representative.

**Notice** includes a notice given by any means of written communication.

**Officer** means what it means in Sections 9 and 179(2) of the Corporations Act.

**Person** includes a legal entity, as well as an entity or group that is not a legal entity.

**Personal representative** in respect of a deceased person, refers to the executor, administrator or legal personal representative of the estate.

**Present** means when used in context of a shareholder in relation to a meeting means present in person or represented by a representative appointed pursuant to these terms or by attorney or by proxy.

**Related body corporate** means what it means in the Corporations Act.

**Register** refers to the register and any branch register of Members under the Corporations Act.

**Reorganisation Event** means:

- a) ~~(i)~~—a bonus issue of Shares;
- b) ~~(ii)~~—a sub-division or consolidation of Shares; ~~or~~
- c) ~~(iii)~~—an event which is deemed to be a Reorganisation Event by a unanimous resolution of the directors; or
- d) ~~(iv)~~—any other reorganisation, reclassification, amendment to or reconstruction of the Company's capital where the Company neither pays nor receives cash including but not limited to under any option pool policy adopted by the directors.

**Representative** means a person authorised in accordance with Section 250D of the Corporations Act.

**Share** is a share in the Company's issued capital.

**Seal** means the common seal of the Company (if any).

**Secretary** means any person appointed to perform the duties of a secretary.

**Written document** includes a document in any form of written communication.

## Interpretation

6. In this Constitution:

- a) Expressions referring to writing shall unless the contrary intention appears be construed as including references to printing, photos and other modes of representing or reproducing words in a visible form.
- b) Terms mentioned in this constitution in the singular shall include the plural and terms in the plural shall include the singular.
- c) References to one gender shall always include the other gender.
- d) The word "person" includes corporations.
- e) References to any officer of the Company include any person acting for the time being as such officer.
- f) The provisions contained in this constitution shall be read and construed subject to the provisions contained in shareholders' agreement entered into between each of the Members of the Company, if any.
- g) The headings and table of contents of this constitution shall not affect the construction of the terms of the constitution.

## Powers of Company

7. The Company possesses all powers of a natural person, subject to any restrictions in the Corporations Act. The powers of the Company may be exercised in any manner permitted by the Corporations Act. In particular, the Company possesses the following powers:
  - a) the power to distribute property of the Company amongst Members in kind or otherwise;

- b) the power to charge uncalled capital assets of the Company as a security;
- c) the power to grant a charge over Company property, whether fixed or floating;
- d) the power to issue and cancel Shares, which shall include redeemable or non -redeemable preference shares, partly paid shares and bonus shares;
- e) the power to grant options over Shares that have not been issued;
- f) the power to issue Company debentures; and
- g) to do any other thing that is permitted by the laws of the relevant jurisdiction or any other law (including the law of a foreign country).

#### **Issue of classes of shares to Members**

8. At any time, the Directors may allot and issue unissued shares subject to clause 7, or grant options over unissued shares, on any condition and at any time they see fit, taking care to preserve any special rights conferred on existing shareholders. Consideration for such shares shall be as resolved by the Directors. No Director may issue bearer shares or stock. No Director may convert Shares to stock. Such Share issues or allotments by the Directors may be as fully or partly paid or as payment. The amount of calls or timing of calls to be paid may be differentiated as between individual Members. Conditions as to any special rights privileges, conditions, restrictions or limitations regarding distributions, dividends, capital returns or voting, whether deferred, qualified, preferred, or guaranteed, or any other matter may be imposed and determined by the Directors.
9. The Directors may grant options on Shares. Issued Shares may be of any class authorised by this Constitution (for table summary see Schedule 1).
10. The rights, privileges and conditions attaching to Ordinary, "A" and "B" Class shares are as follows:
  - a) They shall confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members
  - b) They shall confer the right to attend any meeting of Members and to exercise one vote for every Share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of Share held.
  - d) Upon a winding up of the Company they shall confer to the holders thereof the right to repayment of capital paid upon such Shares.
  - e) Upon a winding up of the Company they shall confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
11. The rights, privileges and conditions attaching to "C" Class shares are as follows:
  - a) They shall confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every Share held.
  - c) They shall not confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of Share held.
  - d) Upon a winding up of the Company they shall not confer to the holders thereof the right to repayment of capital paid upon such Shares.
  - e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
12. The rights, privileges and conditions attaching to "D" Class shares are as follows:
  - a) They shall confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall not confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall not confer to the holders thereof the right to

- repayment of capital paid upon such shares.
- e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
13. The rights, privileges and conditions attaching to “E” Class shares are as follows:
- a) They shall confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall not confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
14. The rights, privileges and conditions attaching to “F” Class shares are as follows:
- a) They shall confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
15. The rights, privileges and conditions attaching to “G” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
16. The rights, privileges and conditions attaching to “H” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall not confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
17. The rights, privileges and conditions attaching to “I” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.

- b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall not confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
18. The rights, privileges and conditions attaching to “J” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
19. The rights, privileges and conditions attaching to “K” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall not confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
20. The rights, privileges and conditions attaching to “L” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall not confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall not confer to the holders thereof the right to participate in any distribution of surplus assets or profits of the Company.
21. The rights, privileges and conditions attaching to “M” Class shares are as follows:
- a) They shall not confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members.
  - b) They shall not confer the right to attend any meeting of Members and to exercise one vote for every share held.
  - c) They shall not confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
  - d) Upon a winding up of the Company they shall not confer to the holders thereof the right to repayment of capital paid upon such shares.
  - e) Upon a winding up of the Company they shall confer to the holders thereof the right to participate

in any distribution of surplus assets or profits of the Company.

22. The rights, privileges and conditions attaching to the “N” redeemable preference shares are as follows:
- a) They shall entitle the holders thereof to receive notice of and to attend any meeting of the Company's Members but shall not confer any right to vote at such meetings except in one or more of the following circumstances:
    - b) on a proposal to reduce the share capital of the Company;
    - c) on a proposal that affects rights attached to the “N” redeemable preference shares;
    - d) on a proposal for the disposal of the whole property, business and undertaking of the Company;
    - e) during the winding up of the Company.
  - f) They shall confer to the holders thereof the right to receive from the profits of the Company a non-cumulative preferential dividend at the rate of 5% per annum on the capital for the time being paid up thereon, in priority to the payment of any dividend on any other share in the Company.
  - g) Upon a reduction of capital or winding up of the Company they shall as regards to return of paid up capital rank in priority to all other shares in the Company, but they shall not confer any right to participate in any distribution of surplus assets or profits of the Company.
  - h) Subject to Sections 254J and 254K of the Law they shall, at the option of the Company, be liable to be redeemed at the consideration paid for the “N” redeemable preference share on or before 30 June 2050, by giving written notice to the holders at their respective registered addresses and each such notice shall be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption shall take place on the seventh day after the date of posting such notice, and any “N” redeemable preference shares not so redeemed on 30 June 2050 shall not thereafter be capable of being redeemed.
23. The rights, privileges and conditions attaching to the "O" redeemable preference shares are as follows:
- a) They shall entitle the holders thereof the right to receive notice of and to attend any meeting of the Company's Members but shall not confer any right to vote at such meetings except in one or more of the following circumstances:
    - i) on a proposal to reduce the share capital of the Company;
    - ii) on a proposal that affects rights attached to the "O" redeemable preference shares;
    - iii) on a proposal for the disposal of the whole property, business and undertaking of the Company; and or
    - iv) during the winding up of the Company.
  - b) They shall confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
  - c) Upon a reduction of capital or a winding up of the Company they shall as regards to return of paid up capital rank after any issued "N", "P" & "S" redeemable preference shares but in priority to all other shares in the Company, but they shall not confer any right to participate in any distribution of surplus assets or profits of the Company.
  - d) Subject to Sections 254J and 254K of the Law they shall, at the option of the Company, be liable to be redeemed at the consideration paid for the "O" redeemable preference share on or before 1 May 2060, by giving written notice to the holders at their respective registered addresses and each such notice must be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption shall take place on the seventh day after the date of posting such notice, and any "O" redeemable preference shares not so redeemed on 1 May 2060 shall not thereafter be capable of being redeemed.
24. The rights, privileges and conditions attaching to the “P” redeemable preference shares are as follows:
- a) They shall entitle the holders thereof the right to receive notice of and to attend any meeting of the Company's Members but shall not confer any right whatsoever to vote at such meetings.
  - b) They shall confer to the holders thereof the right to receive from the profits of the Company a non-cumulative preferential dividend at the rate of 5% per annum on the paid issue price of the “P” class redeemable preference shares held.
  - c) Upon a reduction of capital or winding up of the Company they shall as regards to return of paid up capital rank in priority to all other shares in the Company, but they shall not confer any right to participate in any distribution of surplus assets or profits of the Company.

- d) Subject to Sections 254J and 254K of the Law, the Company shall at any time redeem all or any one or more of the said Redeemable Preference Shares from time to time at the consideration paid for the “P” redeemable preference share, by giving written notice to the holders at their respective registered addresses and each such notice shall be accompanied by the Company’s cheque for the amount payable to the holder to whom such notice is sent. The redemption shall take place immediately upon the expiry of seven days from the delivery or posting of the said notice of redemption and payment.
25. The rights, privileges and conditions attaching to the “Q” redeemable preference shares are as follows:
- a) They shall entitle the holders thereof the right to receive notice of and to attend any meeting of the Company’s Members but shall not confer any right whatsoever to vote at such meetings.
  - b) They shall confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
  - c) Upon a reduction of capital or a winding up of the Company they shall as regards to return of paid up capital rank after any issued “N”, “P” & “S” redeemable preference shares but in priority to all other shares in the Company, but they will not confer any right to participate in any distribution of surplus assets or profits of the Company.
  - d) Subject to Sections 254J and 254K of the Law, the Company shall at any time redeem all or any one or more of the said Redeemable Preference Shares from time to time at the consideration paid for the “Q” redeemable preference share, by giving written notice to the holders at their respective registered addresses and each such notice shall be accompanied by the Company’s cheque for the amount payable to the holder to whom such notice is sent. The redemption shall take place immediately upon the expiry of seven days from the delivery or posting of the said notice of redemption and payment.
26. The rights, privileges and conditions attaching to the “R” redeemable preference shares are as follows:
- a) They shall entitle the holders thereof the right to receive notice of and to attend any meeting of the Company’s Members and confer a right to vote at such meetings and on a show of hands or poll to one vote for every share held.
  - b) They shall confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
  - c) Upon a reduction of capital or a winding up of the Company they shall as regards to return of paid up capital rank after any issued “N”, “P” & “S” redeemable preference shares but in priority to all other shares in the Company, but they will not confer any right to participate in any distribution of surplus assets or profits of the Company.
  - d) Subject to Sections 254J and 254K of the Law, the Company shall at any time redeem all or any one or more of the said Redeemable Preference Shares from time to time at the consideration paid for the “R” redeemable preference shares, by giving written notice to the holders at their respective registered addresses and each such notice shall be accompanied by the Company’s cheque for the amount payable to the holder to whom such notice is sent. The redemption shall take place immediately upon the expiry of seven days from the delivery or posting of the said notice of redemption and payment.
27. The rights, privileges and conditions attaching to the “S” redeemable preference shares are as follows:
- a) They shall entitle the holders thereof the right to receive notice of and to attend any meeting of the Company’s Members but shall not confer any right to vote at such meetings except one or more of the following circumstances:
  - b) on a proposal to reduce the share capital of the Company;
  - c) on a proposal that affects rights attached to the “S” redeemable preference shares;
  - d) on a proposal for the disposal of the whole property, business and undertaking of the Company;
  - e) during the winding up of the Company;
  - f) on a proposal to approve the terms of a buy back agreement;
  - g) during a period in which a dividend or part of a dividend in respect of the shares is in arrears.
  - h) They shall confer to the holders thereof the right to receive from the profits of the Company a fixed cumulative dividend at the rate determined by the directors at the date of issue, the cumulative dividend (plus arrears and interest) to rank after dividends to be paid on “N” redeemable preference shares but in priority of all other shares of the Company on issue.

- i) Upon a reduction of capital or winding up of the Company they shall as regards to return of paid up capital (plus dividends which have not been paid) rank in priority to all other shares in the Company, but they shall not confer any right to participate in any distribution of surplus assets or profits of the Company.
  - j) Subject to Sections 254J and 254K of the Law they shall, at the option of the Company, be liable to be redeemed at the consideration paid for the “S” redeemable preference share plus accumulated dividends before 1 July 2050, by giving written notice to the holders at their respective registered addresses and each such notice shall be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent.
- 28.** No Share may be issued unless the Directors first offer them proportionally to the existing holders of Shares of that class unless the issue of Shares occurs under a Reorganisation Event.
- a) To the extent that is reasonably practicable, such an offer to a shareholder ought to be of a number of Shares that is proportionate to the number of Shares of that class already held.
  - b) The offer must give the shareholders a statement setting out terms of the offer, including the number of Shares being offered and the period for which the offer shall remain open.
  - c) Shares not accepted within 21 days of the receipt of the offer shall then be issued to Members wanting a number of Shares exceeding their offer. If the number of Shares is too small to cover the desired additional Shares, then they shall be distributed as nearly as possible to the proportional numbers of additional Shares demanded.
  - d) If the number of Shares exceeds the desired additional Shares, then the excess may be distributed to Members or non-Members as the directors see fit, insofar as the person is willing to meet the issue price.
  - e) Any Shares so offered and not taken up may then be issued by the directors as they see fit. The price of issued Shares shall be determined by the directors.
- 29.** The directors may allot and issue redeemable or non-redeemable preference shares in accordance with the Corporations Act. The directors may convert preference shares into ordinary shares. The directors may issue preference shares that are liable to be redeemed, whether at the option of the Company or not. No non-redeemable share may be converted to a redeemable share. All rights attached to the preference shares must be set out in this constitution or approved by special resolution if the rights deal with the following:
- a) voting;
  - b) capital repayment;
  - c) priority of payment of dividends and capital in relation to Company property or other shares;
  - d) dividends, whether cumulative or non-cumulative; and
  - e) participation in surplus profits and assets.
- 30.** A general meeting of shareholders may pass an ordinary resolution converting any of the Company's shares to a larger or smaller number of shares and cancel the shares that have been forfeited under the terms on which the shares are on issue. The Company, subject to the law may reduce its share capital in any manner and / or buy back its own shares.
- 31.** No rights of holders of shares of classes with special rights are varied or cancelled by the mere creation of more shares that are equivalent to the shares of that class. No such rights of such holders may be varied or cancelled except by special resolution of the Company and either the written consent of Members holding at least 75% of that class of shares, or a special resolution at a general meeting of Members holding that class of shares.
- 32.** Commission and brokerage may be paid by the Company by paying shares and/or allotting shares in accordance with the Corporations Act.
- 33.** All shareholders must be issued one share certificate, free of charge, for all the shares registered in their name and in the form stipulated by directors in accordance with the Corporations Act. Joint shareholders are entitled to only one share certificate between them, and delivery of the certificate to one of them counts as delivery to all of them.

34. Subject to the Corporations Act, Directors may cancel and replace for a fee any share certificate that has become illegible, and must replace for a fee any destroyed or missing share certificate. The directors must also issue a replacement certificate for any share certificate that the Company receives and cancels.
35. The Company shall not recognise a person holding a share upon any trust except as provided by this constitution or by law. The Company is not bound in any way to recognize any equitable, or any interest in any share except as a right of ownership of the registered holder.

#### **Calls, lien & forfeiture of shares**

36. Subject to the Corporations Act, amounts remaining unpaid on shares of the Company may be called, whether by instalment or otherwise, by the directors at any time, unless a term of the issue stipulates the earliest permissible date for a call. Calls may be revoked or adjourned by the directors who made it.
37. Calls on unpaid amounts shall be made by the directors passing a resolution.
38. Members must comply with calls by paying the amount called, at the time and place specified. If the payments must be made at particular dates and in particular amounts, these conditions must be complied with. Joint holders are jointly and severally liable.
39. At least 10 business days' written notice of a call must be given to the relevant shareholder, unless the failure to give notice is accidental. Such written notice must specify the amount being called, and the time and place of the call. The mere fact that a Member does not receive such notice of a call does not itself make the call invalid.
40. If an issue is subject to the condition that any amount is payable at allotment or a later defined time, then the amount is called without notice being required. In case of non-payment all the relevant provisions of this constitution as to payment of interest and expenses. Forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.
41. If a call is not paid at the stipulated time, then the Member must pay expenses incurred because of this failure, and interest compounded daily at the annual rate set by directors (or if no such rate has been set, then at the Reserve Bank rate as published in the Australian Financial Review) until the date of actual payment. The directors have the right to waive interest.
42. The directors may commence legal action against any Member to recover unpaid called amounts. Proceedings do not affect the Company's right to forfeit shares. The only facts that have to be proven at the proceedings are:
  - a) the defendant is entered as holder of the relevant shares in the share register;
  - b) the minutes of the Company record the resolution making the call; and
  - c) the relevant Member received notice of the call, or the shares were issued subject to the condition that payment was required on or after a defined time.
43. Payments made on a share before a call is made may be accepted by the directors. The directors may authorise the Company to pay interest calculated as under clause [4241](#) from the date at which the amount is paid until and including the date it would have been due under a call. The directors may repay any part of a prepaid amount, provided the Member in question is given at least one months' notice of this intention.
44. The directors may serve a notice of forfeiture on any Member who does not pay a call on time, requiring payment of the amount, interest and expenses. The directors may then resolve that the shares are forfeited if the notice is not complied with, along with any unpaid declared dividends in respect of those shares. The directors may annul such a forfeiture at any time. A notice of forfeiture must state the following:
  - a) a date and time no earlier than 10 working days after the service of the notice on or before which the payment is required, and the place where the payment must be made; and
  - b) the fact that the shares will be liable to be forfeited if the amount is not paid as required.



45. Upon forfeiture, the directors must enter it and its date in the share register. The Company must give notice in writing to Members holding forfeited shares. The mere failure to do so does not in itself affect the validity of the forfeiture. Such forfeiture shall include all dividends.
46. Forfeiture extinguishes all interests in the shares of the former Member. The Member has no claim against the Company in respect of the shares. The Member remains liable to pay the outstanding amount, as well as all calls, instalments, interest and expenses in respect of the forfeited share as of the time of forfeiture; and is also liable to pay interest commencing at the time of forfeiture until and inclusive of the date of payment of the amounts, calculated as in clause ~~42~~41, if the directors see fit. The directors themselves have no obligation to enforce the repayment.
47. Sufficient evidence of forfeiture is the right and title of the Company to sell, dispose and reissue the shares is provided by a certificate in writing issued by the Company and signed by an officer stating that the share is forfeited and providing the date on which it was forfeited.
48. Forfeited shares may be sold or disposed of or reissued by the Company in any way and by any means the directors see fit. The Company may transfer the forfeited share to a person on receipt of consideration for it. The person becomes registered as the holder of that share, but has no responsibility over what is done with the consideration. Irregularities or invalidities in the initial forfeiture or the disposal procedure shall not affect such later entitlement to the share.
49. The person who lost the forfeited share shall be entitled to the balance of the proceeds of sale over the amount outstanding on the share if the share is disposed of under clause ~~49~~48.
50. On each share registered to a Member, the proceeds of sale of such a share, all dividends payable in respect of the share, unpaid due calls or instalments on the share, all amounts the Company has paid under requirements of law in respect of the share or its forfeiture or sale, and all interest and expenses due and payable to the Company in respect of the share, the Company has a first and paramount lien. The directors may exempt a share from such a lien; and any registration of transfer of such a share waives the Company's lien in respect of that share unless the directors decide otherwise.
51. If, under Australian or other law, the Company becomes subject to any liability or requirement to make payment in respect of registered shares or amounts payable to Members in respect of those shares (whether held solely or jointly), including payment of tax, then the Company is entitled to an indemnity against it by the relevant Members. This shall not affect any other rights the Company has in respect of the liability or requirement.
52. The Company shall have a lien on any such shares or amount of money for the amount of the liability or requirement, plus any interest calculated as per clause ~~42~~41 from the time the Company pays the liability or requirement until the Member indemnifies the Company. The directors may waive payment of interest under clause ~~42~~41. The Company may deduct any amount it owes to a Member to the extent the Member owes an amount due under such an indemnity.
53. Holders of shares over which the Company holds a lien may not exercise any rights the holders have in respect of those shares.
54. The Company may sell shares to enforce a lien in any way the directors see fit. Ten days' written notice must first be given to the relevant persons demanding payment of the amount due.
55. If shares are sold under lien, the directors may authorise a person to affect the transfer. The purchaser becomes registered as the holder of that share, but has no responsibility over what is done with the consideration. Irregularities or invalidities in the disposal procedure shall not affect entitlement to the share, nor is the purchaser under any obligation to pay an amount exceeding the amount agreed.
56. The balance of any proceeds under clause ~~56~~55 over the amount in respect of which the lien was enforced (including expenses, and amounts that have become payable since the sale in relation to an event that occurred before the sale) must be paid to the person who was entitled to the shares before sale.

#### Transfer and transmission of shares

57. Pre-emptive Offer

- a) Subject to clause 57c), a Member wishing to Dispose of Securities (**Seller**) must first give to the Company, and the Company must give to each other Member a written notice (**Transfer Notice**) which constitutes an offer by the Seller to Dispose of the Sale Securities [as defined in clause 57b)(i)] at the consideration stated in the Transfer Notice and in the manner outlined in this clause.
  - b) The Transfer Notice must set out:
    - (i) the number and class of Securities it proposes to Dispose of (**Sale Securities**);
    - (ii) the name of any proposed third-party buyer;
    - (iii) the consideration payable per Sale Security; and
    - (iv) the key terms of any offer from a purchaser or agreement between the Seller and the purchaser concerning the Seller's Securities.
  - c) Clauses 57 to 63 inclusive do not apply ~~where~~:
    - (i) to the Disposal of Securities pursuant to clauses 51 to ~~75~~77 inclusive; and
    - (ii) where the person or entity receiving the Disposal is an Affiliate of the Seller.
- 58.** A Member wishing to purchase Sale Securities (**Accepting Member**) in response to a Transfer Notice must, within 15 Business Days after receipt of the Transfer Notice, irrevocably notify the Company of the number of Sale Securities it is willing to purchase (**Transfer Acceptance**).
- 59.** Allocation
- a) If the aggregate Transfer Acceptances received by the Company in accordance with clause 58 is less than the total number of Sale Securities, each Accepting Member's allocation of Sale Securities (**Allocation**) is the amount of Securities set out in its Transfer Acceptance.
  - b) If the aggregate Transfer Acceptances received by the Company in accordance with clause 58 is greater than the total number of Sale Securities, each Accepting Member's Allocation is the lesser of:
    - (i) its Transfer Acceptance; and
    - (ii) the relevant Accepting Member's Respective Proportion of the Sale Securities.
  - c) Any Sale Securities which remain unallocated must be re-offered to those remaining Accepting Shareholders who in their Transfer Acceptance specified a number of Sale Securities greater than their Respective Proportion of the Sale Securities and this process will be repeated until either all Sale Securities are allocated, or every Shareholder offered Securities under this clause has rejected the offer. If, after three completed Allocation rounds any Sale Securities remain unallocated, the provisions of clause 60 will be deemed to be immediately enlivened.
- 60.** Transfer of Securities to third party
- If there are unallocated Sale Securities after all Allocations have been exhausted under clause 59:
- a) the Company must, within 2 Business Days notify the Seller of the unallocated Sale Securities; and
  - b) the Seller is free to Dispose of the unallocated Sale Securities to any other party within 90 days of the date of the Transfer Notice on terms no more favourable to the other party than those set out in the Transfer Notice.
- 61.** Deleted.
- 62.** Completion
- At completion, the Seller must transfer, and each Accepting Shareholder must accept, the respective Allocation of Securities on the terms set out in the Transfer Notice.
- 63.** Additional defined terms
- In clauses 57 to and including ~~66~~65:
- Affiliate** in relation to a Seller means:
- (a) a related body corporate, as defined in the Corporations Act, of the Seller;

- (b) a director or company secretary of the Seller;
- (c) an entity the Seller Controls;
- (d) a trust (whether a unit trust, investment trust or other form of trust) of which the Seller is a beneficiary and from which the Seller has received more than 45% of the distributions from that trust in the last three completed financial years before the date the Seller makes the Disposal to that trust;
- (e) a limited partnership whose general partner is a related body corporate of the Seller;
- (f) a general partnership all of whose general partners are related bodies corporate of the Seller;
- (g) a trust (whether a unit trust, investment trust or other form of trust) of which a related body corporate, as defined in the Corporations Act, of the Seller is the responsible entity, trustee, manager or investment adviser of the trust; or
- (h) where the Seller is an individual a relative of that person, where a relative means the husband, wife, widow, widower, de-facto partner, child, grandchild, parent, brother or sister of that person.

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

**Dispose** means to sell, assign, transfer, convey, exchange, create a Security Interest over or otherwise dispose of a legal or beneficial interest and “**Disposal**” shall be construed accordingly

**Security** means a security of the Company and includes the Shares, options, any convertible notes, warrants or other securities capable of conversion into Shares issued by the Company.

- 64. Notwithstanding clauses 5857 to 63, a Member may sell, transfer or dispose of its interest in any of its Securities without following the procedure under clauses 5857 to 63 on terms approved by a resolution of the directors approving such dealing.
- 65. Transfers of Securities by a Member may be by means of a written instrument of transfer in any usual form or in any other form approved by the directors and permitted by law. Such an instrument should be signed by the transferor and transferee.
- 66. A written instrument of transfer must be delivered to the Company’s registered office for registration accompanied by the certificate of the shares to which it relates and such other information as the directors properly require to show the right of the transferor to make the transfer and there upon the Company shall, subject to the powers vested in the directors by this Constitution, register the transferee as a Member. If the share certificate is lost or destroyed, evidence of this fact that is satisfactory to the directors should be produced.
- 67. If a Member intends to transfer shares, he or she must notify the Company in writing, along with the Member’s price for the shares. Parcels of shares to be transferred may be covered by one notice, separate notice then being deemed to have been given for the transfer of each parcel of shares.
- 68. Transfer notices may only be withdrawn with the approval of the directors.
- 69. The directors in their absolute and uncontrolled discretion may refuse to register a share transfer any reason. The directors must always refuse registration if such a refusal is required by the Corporations Act or stamp duty or some other law.
- 70. The person who lodged the transfer must be given written notice within 30 days after the refusal. The Company must return the transfer to that person unless fraud is suspected. The mere failure to give notice of a refusal to register does not invalidate the refusal.
- 71. The registration of transfer may be suspended for a period determined by the directors but not longer than 30 days in one calendar year.
- 72. If a shareholder dies, and the shareholder does not own shares jointly, the Company shall recognise only the legal personal representative of the deceased as entitled to the deceased’s interest in the

shares. The personal representative is entitled to the same rights as the deceased shareholder, whether or not registered as the holder of the shares.

73. The personal representative may elect to be registered as the holder of the shares by giving written and signed notice to the Company (upon which the Company must register the personal representative as the holder of the shares); and may elect to transfer the shares to another person by giving a completed transfer form to the Company (such a transfer being subject to the same rules as apply to share transfers generally).
74. If a shareholder dies, and the shareholder owns shares jointly, only the surviving joint holder of the appropriate shares shall be recognised by the Company as being entitled to the deceased's interest in the shares. The estate of the deceased shall not then be released from any liability in respect of the shares.
75. A person entitled to be registered as shareholder upon the death of the original shareholder shall be entitled to receive payments in respect of the relevant shares, including dividends, to which the original holder would have been entitled had the holder not died. Before this takes place, the person must furnish the directors with any information they properly require. The person shall not be entitled to any of the other rights attached to the shares until registration of that person.
76. Subject to the *Bankruptcy Act 1966*, if a person becomes entitled to shares because of the shareholder's bankruptcy, and the person gives the directors of the Company all information they reasonably require to establish the person's entitlement to be registered as the holder of the shares, that person may elect to be registered as the holder of the shares by giving written and signed notice to the Company (upon which the Company must register the personal representative as the holder of the shares); and may elect to transfer the shares to another person by giving a completed transfer form to the Company (such a transfer being subject to the same rules as apply to share transfers generally).
77. If a person becomes entitled to shares due to the mental incapacity of a shareholder, that person may elect to be registered as the holder of the shares by giving written and signed notice to the Company (upon which the Company must register the personal representative as the holder of the shares); and may elect to transfer the shares to another person by giving a completed transfer form to the Company (such a transfer being subject to the same rules as apply to share transfers generally), so long as the person gives the directors all reasonably required information for establishing that person's entitlement to be registered as holder of the shares. The person shall be entitled to the same rights as the original shareholder, whether or not registered as the holder of the shares.
78. The transferor of any shares in the Company remains the holder of the shares until the registration of the transfer and the entering of the name of the transferee in the register in respect of the shares.
79. The Company must register any share transfer or transmission of shares if:
  - a) the requirements of this constitution have been met;
  - b) the transfer and share certificate (if any) are lodged at the registered office; and
  - c) the fee (if any) for registration is paid; and
  - d) the directors have been given the reasonably required further information (if any) to establish the right of the transferor to make the transfer.
80. The directors may refuse to register a transfer of shares if:
  - a) the shares are not fully-paid; or
  - b) the Company has a lien on the shares.
- ~~81. Where a Member or Members holding at least 50% of the Shares wishes/wish to sell any of their shares to a third party that Member or those Members may require the remaining Members (Other Members) to transfer their Shares pro rata in proportion to their shareholding to the third party by issuing a notice in writing to the Other Members (Drag Along Notice), provided that:
  - a) all Shares sold to the third party are sold on the same terms and conditions; and
  - b) the Shares are sold at a price that is not less than fair market value as determined by an independent accountant determined by the directors.~~

- ~~82. Where a Member or Members are entitled to issue a Drag Along Notice but does not issue any such notice, any of the Other Members may issue a notice (**Drag Along Notice**) requiring the relevant Member to procure that the third party purchase from the Other Members the same proportion of its shares at the same time and price as those to be sold to the third party by the relevant Member.~~
- ~~83. If any of the Other Members issues a Drag Along Notice then shares may only be sold to a third party in accordance with that notice, provided that it complies with the Drag Along clause.~~

### Drag Along Option

81. If a proposed Third Party purchaser (Third Party Purchaser) makes a bona fide arm's length offer (Offer) to purchase all the shares held by one or more Shareholders who are collectively entitled to Dispose of more than 50% of all Shares on issue (Selling Shareholders), and the Selling Shareholders agree to the terms of sale to the Third Party Purchaser, then provided that the Expert Valuer determines that the Drag Consideration constitutes Fair Value for the Shares in accordance with clauses 82 to 85 (inclusive), the Selling Shareholders will have an option to require all other Shareholders (Called Shareholders) to sell and transfer all of their Shares to the Third Party Purchaser (or to such person as the Third Party Purchaser directs) in accordance with this clause 81 (Drag Along Option).
82. The Selling Shareholders shall instruct the Company to appoint an independent valuer (whose identity shall be agreed between the board and the Selling Shareholders acting reasonably) (Expert Valuer) as soon as practicable after receiving the Offer. The Expert Valuer shall determine whether the Drag Consideration constitutes Fair Value for the Shares on the following assumptions and bases:
- a) valuing the Shares on an arm's-length sale between a willing (but not anxious) seller and a willing (but not anxious) buyer;
  - b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - c) that the Shares are capable of being transferred without restriction; and
  - d) reflect any other factors which the Expert Valuer reasonably believes should be taken into account.
83. The Expert Valuer shall be requested to determine the Fair Value within a reasonable time period following their appointment and to notify the board of their determination.
84. The board will give the Expert Valuer access to all accounting records or other relevant documents of the Company subject to them agreeing to such confidentiality provisions as the board may reasonably impose.
85. The Expert Valuer shall deliver their report setting out its decision to the Company. As soon as the Company receives the report it shall deliver a copy of it to the Selling Shareholders. The cost of obtaining the report shall be paid by the Company.
86. If the Expert Valuer determines that the Drag Consideration does not constitute Fair Value for the Shares, then the Selling Shareholders will be prohibited from exercising the Drag Along Option and the restrictions on the Disposal of Shares in clauses 57 to 63 (inclusive) shall apply.

### Exercise of Drag Along Option

87. The Selling Shareholders may exercise the Drag Along Option by giving written notice to the Called Shareholders to that effect (Drag Along Notice) not less than 15 Business Days prior to the transfer of the Selling Shareholders' Shares to the Third Party Purchaser. The Drag Along Notice must specify the following things:
- a) that the Called Shareholders are required to transfer all of their Shares (Called Shares) pursuant to clause 81;
  - b) the identity of the Third Party Purchaser to whom the Called Shares are to be transferred;
  - c) the consideration per Share (or class of Share) for which the Shares are to be transferred (which

may include cash, new shares in the capital of the Third Party Purchaser (Share Consideration) or a combination thereof) (Drag Consideration);

d) that the Expert Valuer has determined that the Drag Consideration constitutes Fair Value for the Shares;

e) the proposed date of the transfer of the Called Shares; and

f) the form of any sale agreement or form of acceptance or any other document of similar effect that the Called Shareholders are required to sign in connection with the sale of the Called Shares (the Sale Agreement).

(and, in the case of paragraphs (b), (c) and (e) above, whether actually specified or to be determined in accordance with a mechanism described in the Drag Along Notice).

88. Once issued, a Drag Along Notice is irrevocable but will lapse if for any reason there is not a sale of the Selling Shareholders' Shares to the Third Party Purchaser within 60 Business Days after the date of service of the Drag Along Notice. The Selling Shareholders will be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

89. The Drag Consideration stipulated in the Drag Along Notice as being payable to the Called Shareholders for their Called Shares must be the same, on a per Share basis, as that being paid by the Third Party Purchaser to the Selling Shareholders for their Shares of the same class.

90. Where the Drag Consideration is Share Consideration or a combination of cash and Share Consideration and the directors determine in their absolute discretion that it is not reasonable for the Company to investigate and comply with local securities laws in the jurisdiction in which a Foreign Shareholder is resident, the directors may direct the Third Party Purchaser to satisfy their obligation to pay the Drag Consideration to the Foreign Shareholder by way of cash only and not by Share Consideration. For the avoidance of doubt, the cash received by the Foreign Shareholder shall be the same value that the Foreign Shareholder would have received for their Called Shares if the Drag Consideration was paid in cash and Consideration Shares or only Consideration Shares.

91. Within 5 Business Days of the Selling Shareholders sending the Drag Along Notice to the Called Shareholders (or such later date as may be specified in the Drag Along Notice) (the Drag Completion Date), each Called Shareholder shall deliver:

a) duly executed share transfer form(s) for its Called Shares in favour of the Third Party Purchaser;

b) the relevant share certificate(s) (or a duly executed indemnity for lost certificate in a form acceptable to the board of directors) to the Company;

c) duly executed Sale Agreement, if applicable, in the form specified in the Drag Along Notice; and

d) an acceptance and election form, or application form, where the Drag Consideration includes Share Consideration,

(together the Drag Documents).

92. Completion of the sale of the Called Shares must take place on the same date as the completion of the sale of the Shares of the Selling Shareholders unless all of the Shareholders otherwise agree.

93. In respect of a transaction that is the subject of a Drag Along Notice and with respect to any Drag Document, a Called Shareholder shall only be obliged to undertake to transfer its Called Shares with full title guarantee in receipt of the Drag Consideration when due and shall not be obliged to give warranties or indemnities except warranties that go to its proper incorporation, solvency and capacity to enter into a Drag Document, warranties that go to its title to sell the Called Shares and warranties that the Called Shares will be transferred free of Security Interests.

94. If a Called Shareholder fails to deliver the Drag Documents for its Called Shares to the Company by the Drag Completion Date, the Company and each Director shall be constituted the agent of such defaulting Called Shareholder to take such actions and enter into any Drag Document or such other agreements or documents as are necessary to effect the transfer of the Called Shareholder's Shares pursuant to clause 81 (including the documents listed in clause 91) and the Company and the directors shall be authorised to transfer the Called Shareholder's Shares on the Called Shareholder's behalf to the Third Party Purchaser to the extent the Third Party Purchaser has, by the Drag Completion Date,



paid, allotted or transferred the Drag Consideration for the Called Shareholder's Shares. The board shall then authorise registration of the transfer once appropriate stamp duty (if any is required) has been paid. Each Called Shareholder will be deemed to ratify and confirm all such actions carried out on its behalf under this clause 94.

95. Any transfer of Shares to a Third Party Purchaser pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the restrictions on the Disposal of Shares in clauses 57 to 63 (inclusive).

96. If any person (other than a Third Party Purchaser (or such other person as a Third Party Purchaser directs)), following the issue of a Drag Along Notice, becomes a Shareholder, whether pursuant to the exercise of pre-existing options to acquire Shares or otherwise, then the Drag Along Notice will also be deemed to have been served upon the new Shareholder on the same terms as the previous Drag Along Notice, and each such new Shareholder will therefore be bound to sell and transfer all Shares acquired by it to the Third Party Purchaser (or such person as the Third Party Purchaser directs) and the provisions of clauses 81 to 95 (inclusive) will apply, with appropriate changes, to the new Shareholder.

97. For the purposes of clauses 81 to 96 (inclusive):

a) Associate has the meaning given to that term in the Corporations Act.

b) Foreign Shareholder means a Member that is (in the case of an individual) normally resident outside of Australia and (in the case of a body corporate) a Member whose registered office or ordinary place of business is located outside of Australia.

c) Security Interest has the meaning given in the *Personal Property Securities Act 2009 (Cth)*.

d) Third Party means a person other than the Company or a Member or a Related Body Corporate or Associate of the Company or a Member.

#### **Appointment, resignation & removal of directors**

~~94.98~~ 94.98 The Company must always have at least two directors. The number of directors of the Company must never exceed 10. Any Member (shareholder) of the Company can also act as Director of the Company. In a one Member (shareholder) Company the Member must also act as a Director of the Company.

~~95.99~~ 95.99 The names of the first directors shall be determined in writing by the persons specified in the application for the Company's registration under the Law as persons who consent to become directors of the Company.

~~96.100~~ 96.100 Where a director of the Company is its only director and only Member, the director may exercise all the powers of the Company except those required to be exercised in general meeting.

~~97.101~~ 97.101 A resolution at a general meeting of the Company may change the maximum and minimum numbers of directors, so long as the minimum is always at least two.

~~98.102~~ 98.102 If, at any time, the number on the board falls below the minimum under the constitution, any directors are to cease acting as directors immediately until such time as the number reaches the minimum, except with respect to the following powers:

- a) acting in an emergency situation;
- b) exercising the power to appoint directors; and
- c) exercising the power to convene Company general meetings.

~~99.103~~ 99.103 A Member holding 14% or more of the Shares may appoint one director (and remove that director as they see fit, as many times as they determine) as their nominee director which does not need to be confirmed by a resolution passed at a general meeting.

~~99.104~~ 99.104 The directors of the Company may appoint a person as a director of the Company. The Company must confirm such an appointment by resolution passed at a general meeting within 2 months after the appointment is made. If the Company does not confirm the appointment, the person ceases to be a director of the Company upon the expiration of 2 months after the appointment was made.

- ~~94.105.~~ The Company may appoint a person as a director of the Company by resolution passed by a general meeting. The appointment could be to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors does not at any time exceed 10.
- ~~92.106.~~ Any director appointed by the existing directors must have his or her appointment confirmed by a resolution at a Company general meeting within two months of the appointment, failing which the new director shall cease to be a director.
- ~~93.107.~~ A director of the Company may resign by giving written notice to the registered office of the Company to that effect, upon which the resignation shall be effective either at the time specified in the notice, or at the time the notice was given, whichever is earlier.
- ~~94.108.~~ The Company may remove a person as director of the Company (other than a nominee director) by resolution passed by a general meeting and may by resolution appoint another person to replace that director.
- ~~95.109.~~ In the following circumstances a director shall cease to be a director:
- a) the director ceases to be of sound mind;
  - b) the director is removed, ceases to be a director or is prohibited from being a director by operation of the Corporations Act or any other law, regulation or an order made there under, or under this constitution;
  - c) the director enters an arrangement or composition with their creditors or a class thereof or becomes insolvent;
  - d) the director or their estate becomes liable to be dealt with under mental health law;
  - e) the directors declare the director's office vacant for the reason that he or she fails to attend director meetings for six consecutive months without some special leave from the other directors; or
  - f) the director fails to pay any call on the director's shares until a month or some longer period allowed by the directors has passed since that call.
- ~~96.110.~~ Any appointment of a director, nominee director or alternate director must:
- a) have due regard to that person being reasonably compatible with other directors and being able to meaningfully contribute skills, expertise and experience relevant to the Company;
  - b) be a fit and proper person as set out in the Department of Health: Office of Drug Control guidelines for Fit and Proper Persons and Suitable Staff; and
  - c) maintain such standing during any appointment as a director or alternate Director.
- If the directors determines that a director has breached this obligations under this clause the director, by notice may remove that director.
- ~~97.111.~~ Directors of the Company shall be paid the remuneration that is decided upon by a resolution of a general meeting of the Company, or by resolution of the directors until such time as the general meeting can reasonably pass such a resolution.
- ~~98.112.~~ The Company may pay directors' expenses, including travel and accommodation expenses, where the director incurs such expenses in attending directors' meetings, committee meetings, general meetings, or otherwise in connection with the Company's business.
- ~~99.113.~~ If the directors do not set different fee amounts for different directors, then all the fees must be equal. Directors' fees accrue daily.
- ~~100.114.~~ Directors are entitled to be remunerated for other work (including professional work) for the Company, and are entitled to hold another office with the Company. The exception is that no director may hold an office of auditor or do auditing work for the Company.
- ~~101.115.~~ If a director of the Company has a material personal interest in a matter that relates to the affairs of the Company, that director shall notify the other directors of the Company of that interest in accordance with Section 191(1) of the Corporations Act if Section 191 of the Corporations Act so requires.



~~402~~ 116. If a director of the Company has a material personal interest in a matter that relates to the affairs of the Company, and:

- a) the director does not need to disclose the nature and extent of that interest under Section 191 of the Corporations Act; or
- b) the director discloses, at a director meeting, the nature and extent of the interest and its relation to the affairs of the Company, in accordance with Section 191 of the Corporations Act; then:
  - i) the director is permitted to vote on matters relating to the interest;
  - ii) the transactions relating to that interest may proceed;
  - iii) the director may benefit from the transaction, and does not have to account to the Company for any profits arising therefrom;
  - iv) the director shall not be disqualified from office for the reason only that such a personal interest exists; and
  - v) the Company is not permitted to avoid the transaction for the reason only that such a personal interest exists.

~~403~~ 117. General notice that a director is an officer or Member of any specified firm or corporation or has some interest therein may be given by the director at the registered office. That notice thereafter becomes effective as disclosure of that interest in any subsequent matter involving the Company and that firm or corporation; but only to the extent that the director's interest does not at that subsequent time exceed the interest stated in that general notice. The general notice must accurately set out the extent and nature of the interests, as well as their existence.

~~404~~ 118. A person who is a director of the Company, at the time the Company incurs any liability in the course of acting or purporting to act as a trustee, shall be liable to discharge the whole or part of that liability under the following circumstances:

- a) the Company is unable to discharge the liability in whole or in part;
- b) the Company is not entitled to indemnity out of the trust property because:
- c) the Company has breached trust;
- d) the Company acted beyond the scope of its powers as trustee; or
- e) some term of the trust deed otherwise denying the right to an indemnity to the Company in whole or in part.

Any such liability shall be individual and joint, with the Company and with anyone else liable under this clause.

### **Powers and duties of directors**

~~405~~ 119. All business and all activities of the Company shall be managed by or under the direction of the board of directors. No management by the directors shall otherwise than in accordance with the Corporations Act and with lawful resolutions of the Company. All powers of the Company may be exercised by the board, except where the Act or this constitution requires such powers to be exercised in general meeting.

~~406~~ 120. The directors have the following specific powers:

- a) the power to issue shares;
- b) the power to borrow or raise money for the Company; and
- c) the power to secure payments, including by way of charge on all the Company's assets and undertakings, present and future, or by mortgage or debenture.

~~407~~ 121. The directors of the Company are permitted to delegate any of their powers. Such delegation must be recorded in the Company's minute book. The delegate must exercise the power in accordance with the directions of the relevant director. The directors may continue to exercise those powers themselves. The exercise of that power shall be as effective when exercised by a delegate as if it were exercised by the relevant director, including the power to sub-delegate that power.

~~408~~ 122. Delegation of powers, whether by power of attorney or otherwise, may be to any of the following persons:

- a) a committee of directors;

- b) another director of the Company;
- c) an employee of the Company; or
- d) any other person.

~~409~~123 All negotiable instruments, and all receipts of money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, where there is one director, by that director, and where there are two or more directors by any two directors or in such other manner as the directors determine.

~~440~~124 If the directors or any of them or any person become personally liable for the payment of any sum due from the Company, the directors may execute or cause to be executed any charge or security over or affecting the whole or any part of the assets of the Company in order to secure the directors or persons so becoming liable from any loss in respect of such liability.

#### **Alternate directors**

~~441~~125 Any director of the Company may, with the approval of the other directors, appoint an alternate director to exercise some or all of the director's powers for any specified period. The appointment must be in writing. The alternate must be given notice of directors' meetings if the appointing director so requests.

~~442~~126 The exercise of powers by an alternate director shall be just as effective as if the powers were exercised by the director for whom they act as alternate director.

~~443~~127 An alternate director need not be paid any remuneration by the Company beyond reasonable travelling, accommodation and similar expenses incurred in attending meetings of directors, meetings of Members, meetings of committees of directors, or otherwise in connection with Company business.

~~444~~128 An alternate director is never the agent of the appointing director and remains responsible for their conduct. The alternate director may exercise the same powers on the same conditions as the appointing director, including voting powers at meetings, and has all the same rights as the appointing director.

~~445~~129 If the appointing director so requests, their alternate may be entitled to notice of director meetings. Resignation of alternate director takes place immediately upon notice being given to the registered office. The appointment of the alternate director ceases if the appointing director ceases to be a director in the Company. The other directors may dismiss the appointment of alternative director in a general meeting after giving the appointing director a notice before the general meeting.

#### **Company secretary**

~~446~~130 A Company secretary holds the office of Company secretary only on the terms and conditions determined by the directors, including terms of remuneration. The Company secretary acts as in accordance with the Corporations Act and acts as the Company's public officer.

~~447~~131 At any time, without cause, the directors may remove a Company secretary or vary or revoke the appointment of the Company secretary.

#### **Managing director**

~~448~~132 The directors of the Company may appoint one or more of their number to the office of managing director (M D) of the Company. The directors of the Company are permitted to decide upon the period and terms (including as to remuneration) of the appointment. For so long as MD is the director of the Company, he will be the chairperson of every meeting of Members of the Company.

~~449~~133 The MD of the directors of the Company may confer any powers exercisable by the directors. Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the directors.

~~420~~134 Any person may be appointed by the directors as temporary MD upon the MD being unable to act in that office. Multiple MDs shall hold the office jointly.

~~424~~135 The resignation, disqualification or removal of an MD shall take place in similar manner as with other directors, with any necessary modifications. Any removal of an MD from office must accord with any employment contract between the Company and the MD. The appointment of any MD shall automatically terminate if he ceases to be a director of the Company.

~~422~~136 The powers of the MD shall be those powers entrusted to the MD by the directors of the Company. The directors shall not be excluded from exercising any of their powers merely because that power has been entrusted to the MD.

~~423~~137 The directors are permitted to revoke or vary the appointment of an MD, at any time, with or without cause.

### Execution of documents

~~424~~138 Any 2 directors of the Company, or director and Company secretary, or 1 director who is a sole director or who is both a director and Company secretary, may sign, draw, accept, endorse or otherwise execute a negotiable instrument or other documents.

~~425~~139 At any time, the director(s) may determine that a negotiable instrument or other documents may be signed, drawn, accepted, endorsed or otherwise executed in a different manner.

~~426~~140 A Company seal may be used by the directors. The directors are responsible for the safe-keeping of the seal. A duplicate of the seal must be an exact facsimile and include the words "SHARE SEAL" on its face. If multiple duplicates are to be used in different places, then the duplicates must also include the name of the location where it is to be used on their faces.

### Inspection of books

~~427~~141 The name of the Company must be displayed prominently at all places of business open to the public and at the registered office. The first page of all negotiable instruments and public documents of the Company must display the name and ACN of the Company except where the Corporations Act permits otherwise.

~~428~~142 The registered office of the Company shall be at any place decided on by the directors. At this location the name of the Company and the words "REGISTERED OFFICE" must be displayed.

~~429~~143 It is the Company's responsibility to ensure that all minutes of general meetings, director meetings and director committee meetings are signed within a reasonable time, either by the chairperson of that meeting or that chairperson of the subsequent meeting.

~~430~~144 Minute books must be kept by the Company, recording:

- a) member meetings, their proceedings and resolutions;
- b) director meetings, their proceedings and resolutions;
- c) director committee meetings, their proceedings and resolutions;
- d) resolutions passed by Members without a meeting;
- e) resolutions passed by directors without a meeting; and
- f) declarations made by a sole director.

Books containing minutes of proceedings of meetings of the Company Members and resolutions passed by Members without a meeting will be open for inspection by any Member without a charge.

~~431~~145 All minutes of the passing of resolutions without a meeting must be signed by a director, again within a reasonable time. Declarations made by a sole director must be signed by the sole director within a reasonable time.

~~432~~146 Any minute that is recorded and signed in accordance with the constitution shall constitute evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

~~433~~147 Proper financial records and accounts must be maintained by the directors. Financial and directors' reports must be distributed as specified in the Corporations Act.

~~134~~148 A register of mortgages and charges specifically affecting the property of the Company must be kept by the Company as stipulated in the Corporations Act.

~~135~~149 No Member who is not a director is entitled to any information concerning the business, trading or customers of the Company, or any confidential information of the Company. A Member may be authorised to inspect the books of the Company by the directors of the Company or by a resolution passed at a general meeting of the Company.

### Director meeting

~~136~~150 Any director may, by giving reasonable written or oral notice to all other directors, call a directors' meeting at any time. Directors may have meetings, adjourn meetings and regulate the meetings in any way they see fit.

~~137~~151 No defect in the appointment to or continuance in any office of any person, and no person's disqualification from or disentitlement to vote, shall cause any action done by that person at a director meeting or committee or by that person claiming to act as director or under the Company's power of attorney, to be invalid, provided this is not discovered until after the action is taken.

~~138~~152 A sole director may pass resolutions by means of a written record of that resolution signed by the sole director.

~~139~~153 Where there is more than one director of the Company, the directors may pass a resolution without a director's meeting being held. All the directors entitled to vote on the resolution must sign a document containing a statement that they favour the resolution set out in the document. All directors must be given reasonable notice of the resolution. If separate copies of such a document are signed, they must all be identical in the wording of the resolution and the statement. The resolution shall be passed at the time that the last of the directors signs the resolution. The minutes of the meetings of directors must duly note the resolution.

~~140~~154 Upon consent by a majority of directors, director meetings may take place using some technological medium. This consent may only be withdrawn a reasonable time before such a meeting is to take place. A technological medium used for such a meeting must be capable of giving all participants a reasonable opportunity to participate in the meeting.

~~141~~155 The location of the meeting shall be deemed to be the place where the largest number of participants is located; or if there is no such place, then the place where the chair is located. Upon any failure of the technology such as to deprive any director of a reasonable participation, then the chair must announce the adjournment of the meeting until the problem is fixed, or, if the problem is not fixed within one hour, then until such a date and time as the chair believes all the directors will be able to participate.

~~142~~156 A director's meeting of the type detailed in clause ~~141~~154 may not be held if any director withdraws their consent to the meeting at least 48 hours before the meeting.

~~143~~157 Any director who leaves a meeting of the type detailed in clause ~~141~~154 but does not obtain the express consent of the chair before doing so, shall be presumed to have been present throughout the meeting, but only for the purpose of deciding whether the quorum was met.

~~144~~158 The directors may appoint one of their number as a chair for directors' meetings. The directors may determine the period for which the director is to be the chair. Where a chair is unavailable or declines to act for any part of a directors' meeting, or no chair has been elected for the meeting, the directors must elect a director present to be the chair.

~~145~~159 In case of an equality of votes, the chairperson of the meeting has a casting vote in addition to any vote he may have in his capacity as a director.

~~146~~160 If a director who was not given notice of a meeting waives the requirement of notice after the meeting, then the resolutions of that meeting are valid.

~~147~~161 Notwithstanding anything contained in the Constitution to the contrary, where the Company acts as trustee of a Superannuation Fund, the directors shall convene meetings and the voting rights at those

meetings shall be exercised in accordance with the SIS Act or otherwise in accordance with the procedures listed in the fund's trust deed.

~~148~~162 The quorum for directors' meetings is two directors unless the directors determine otherwise. The quorum must be present at all times during the meetings. If there is one director, the quorum is met with that one director.

~~149~~163 Where the Company acts and while the Company continues to act as trustee of a superannuation fund, such number of directors as is required to comply with the SIS Act or as is otherwise applicable to the superannuation fund will form a quorum for directors.

~~150~~164 At any director meeting, the following rules apply:

- a) a resolution of the directors must be passed by a majority of the votes cast by those directors entitled to vote on the resolution;
- b) an alternate director who is also a non-alternate director has one vote for him or herself and one vote for each of their absent appointers;
- c) the chair shall have one casting vote in addition to any vote they have in their capacity as a director; and
- d) if there is only one director, resolutions must be passed in accordance with Section 248B of the Corporations Act.

~~151~~165 Minutes of the director meetings must be kept by the directors as stipulated in the Corporations Act, recording the following details:

- a) the names of directors (including alternates) present at each meeting;
- b) proceedings, resolutions and orders;
- c) declarations of interest made by and notices of interest given by any director; and
- d) any other matter that the Corporations Act requires to be recorded in the Company books.

### Director committee meetings

~~152~~166 Any of the powers of the directors may be delegated to a committee of specified directors, which must comply with any conditions those directors set on their powers. Rules applicable to directors meetings apply also to committees, unless the committee consists of one director. Directors may revoke this delegation. Any power properly exercised by the committee counts as having been exercised by the directors.

~~153~~167 The rules applicable to minutes of director meetings apply to committee minutes, with any necessary modifications. If the committee consists of one person, then a minute signed by that person counts as a minute of the committee.

### General meetings

~~154~~168 At any time a director may call a general meeting of the Members of the Company. A general meeting shall be convened by the directors on request of the Members in accordance with section 249D of the law. Members of the Company may convene a meeting in accordance with the Corporations Act (Section 249E and 249F). Directors may not compulsorily convene an annual general meeting of the Company.

~~155~~169 Technological media may be used to allow a meeting to take place in multiple locations simultaneously, provided the medium allows all the participating Members reasonable opportunity to participate in the meeting, and allows the chair to be fully aware of the proceedings. The technology must permit all participating Members to vote by means of a show of hands or poll. Such a meeting is deemed to take place where the largest number of Members is located; or, if there is no such place, then the place where the chair is present. Upon any failure of the technology such as to deprive any Member of a reasonable participation, then the chair must announce the adjournment of the meeting until the problem is fixed, or, if the problem is not fixed within one hour, then until such a date and time as the chair believes all the Members will be able to participate.

~~156~~170 Those persons entitled under the Corporations Act to receive a notice of a general meeting must be

given at least 21 days' notice, unless consent for shorter notice is given in accordance with the Corporations Act. Shorter notice may be given for an annual general meeting if all Members entitled to vote at the meeting agree beforehand.

~~457.~~171. Notice of a general meeting must specify:

- a) the time and location of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
- b) the general nature of the intended business to be transacted;
- c) details of special resolutions intended to be passed;
- d) any technological medium to be used;
- e) the right to appoint proxies if a Member is entitled to 2 or more votes;
- f) that any Member who appoints 2 proxies must specify what proportion of the Member's votes each proxy will be appointed to exercise; and
- g) any further information stipulated by the Corporations Act.

Even if such notice is not given, or is not received, to any person entitled to the notice, the validity of the proceedings or resolutions passed at the proceedings shall not be affected, so long as this failure was accidental.

~~458.~~172. The directors have the power to cancel any meeting that was convened by them. If a meeting was convened by Members, then the directors may only cancel it if they receive a signed notice from all the relevant Members withdrawing the request for a meeting.

~~459.~~173. The directors have the power to change the venue at which a general meeting is to be held, or to postpone the meeting. The meeting that was adjourned is restricted from transacting any business other than that set out in the notice for the original meeting. In addition, upon cancellation or adjournment of a meeting, the directors must make at least a bona fide effort to give notice of this fact to each person entitled to receive such notice. Such a notice must state the new time and/or venue for the meeting. Even if such notice is not given, or is not received, to any person entitled to the notice, the validity of the cancellation or adjournment shall not be affected, so long as this failure was accidental.

~~460.~~174. Where a meeting is adjourned, notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

~~461.~~175. The quorum for a general meeting is any number of Members provided those Members hold at least 50% of the total shares (either personally or by proxy) of the Company,. The quorum must be present at all times during the meeting. If a quorum does not turn up at a general meeting within 30 minutes after the time set out in the notice for the meeting, the meeting shall be adjourned to the time, date and place specified by the directors. If no date is specified, the date shall be the same day in the next week. If no time is specified, the time shall be the same time as the adjourned meeting. If no place is specified, the place shall be the same place as the adjourned meeting. If the Company has only one Member, that Member may pass a resolution by the Member recording it and signing the record.

~~462.~~176. This subsequent meeting must be dissolved automatically if a quorum fails to turn up within 30 minutes of the appointed time of the meeting.

~~463.~~177. The directors may appoint an individual as a chair for general meetings. Where a chair is unavailable or declines to act for any part of a general meeting, or no chair has been elected for the meeting, the directors must elect an individual present to be the chair.

~~464.~~178. The Members at a general meeting must elect a Member who is present to chair the meeting or any part of it if a chair has not previously been elected by the directors for that meeting, or an elected chair has declined to act for is unavailable to act for the meeting or part of the meeting.

~~465.~~179. There can be no motion of dissent from a ruling of the chair at a general meeting, whose rulings on any matter are final, so long as such rulings relate to the order of business, procedure and conduct of that general meeting.

~~466.~~180. The chair of a general meeting must adjourn the meeting if the Members who are present with a majority of votes at the meeting agree or direct that the chair should do so.



~~467.~~181. A resolution passed at an adjourned meeting shall be deemed to be passed on the day of that adjourned meeting. If the adjournment of a meeting is for 30 days or more, then notice must be given of the adjourned meeting and the business to be transacted at the meeting. Such notice must be in the form required for a general meeting. Only business from the original meeting shall be transacted at the adjourned meeting.

~~468.~~182. Each Member of the Company entitled to attend and vote at a general meeting may attend a general meeting. Each Member of a class of Members who is entitled to attend and vote may attend a general meeting or a meeting of the class of Members. Such entitlements are all subject to any rights or restrictions attaching to classes of shares held by the Members at the time. A Member who is a corporation may vote by means of an individual representative. A Member who is an individual may vote by proxy or attorney. No persons other than Members, Members of a class of Members, proxies or attorneys of Members or individual representatives of a corporate Member may vote at general meetings or meetings of a class of Members.

~~469.~~183. At a general meeting of the Company's Members a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before a vote is taken or before or immediately after the declaration of the result of the show of hands) demanded by the chairperson or by at least two Members entitled to vote in the resolution or by a Member or Members with at least 5% of the votes that may be cast on the resolution on a poll.

- a) A demand for a poll may only be withdrawn prior to the poll.
- b) A poll demanded on the election of a chair or on adjournment must be taken immediately; all other polls may be taken in whatever manner and at whatever time the chair directs.

~~470.~~184. At a general meeting:

- a) each Member has one vote on a show of hands; and
- b) each Member has one vote for each share they hold on a poll (unless the shares are of a particular class whose rights supersede this).

~~471.~~185. In the case of an equality of votes on a resolution, by show of hands or on a poll, the chairperson of the meeting of the Company's Members at which the show of hands takes place or at which the poll is demanded, has a casting vote in addition to any vote the chairperson may have in his capacity of being a Member.

~~472.~~186. If a share is held jointly, and more than one holder of that share attempts to vote in respect of that share, the vote that counts is the vote of the Member whose name appears first in the register of Members' counts.

~~473.~~187. A challenge to the right to vote at a general meeting must be made only at that meeting. The chair determines the challenge, and the chair's decision is final.

~~474.~~188. Members who are minors, or of unsound mind, or whose estates are, liable to be dealt with in any way under any law relating to mental health, may vote instead by the person or body who has management or guardianship of the person or the estate. If this second person or body wishes to vote by a representative or proxy, they must first satisfy the directors that they themselves have the right to vote under this clause.

~~475.~~189. No Member is entitled to vote or be present at a general meeting if they have not yet paid in full all calls and other payable amounts in respect to their shares.

~~476.~~190. If a vote is allowed by the chair, then it shall be deemed valid for all purposes. All objections to any person's right to vote or the validity of any person's vote at a general meeting must be raised at that meeting. Any such objection shall be referred to the chairperson of the meeting, whose decision is final. A vote not disallowed pursuant to any objection is a valid vote for all purposes.

~~477.~~191. The chair must inform the general meeting if any proxy votes have been received in respect of that meeting, and how the proxy votes are to be cast. The chair must inform the general meeting of this before any vote is taken at that meeting.

~~478.~~192. Subject to any rights or restrictions attached to any class or classes of shares:

- a) at any meeting each Member is entitled to vote may vote in person or by proxy or by a representative or by attorney; and
- b) on a show of hands every person present who is a Member or a proxy or an attorney or a representative of a Member has one vote and on a poll every person present in person or by proxy or attorney or by a representative has one vote for each share he holds.

~~179~~193 A declaration by the chair of the result of a vote by show of hands shall be conclusive evidence of the result, provided the declaration reflects the show of hands and proxy votes. The chair and minutes do not need to state the number of proportion of votes recorded in favour or against a resolution, but only the result. A resolution is passed if the number of votes cast in favour of the resolution exceeds the number of votes cast against the resolution, subject to the Corporations Act.

~~180~~194 Persons who are not Members may attend and address a general meeting on the invitation of the chair. A Company with a sole Member may pass resolutions by the Member recording the resolution in writing signed.

~~181~~195 The Members may pass a resolution without a general meeting being held. All the Members entitled to vote on the resolution must sign a document containing a statement that they favour the resolution set out in the document. All Members must be given reasonable notice of the resolution. If separate copies of such a document are signed, they must all be identical in the wording of the resolution and the statement. Where shares are jointly held, the joint Members must sign the same statement. The resolution shall be passed at the time that the last of the Members signs the resolution. The minutes of the general meetings must note the resolution.

~~182~~196 However, the following may not be resolved by circular:

- a) resolutions to remove or replace directors; or
- b) resolutions to remove auditors under Section 329 of the Corporations Act.

~~183~~197 A Member of a Company entitled to attend and cast a vote at a general meeting may appoint an individual or body corporate as their proxy, to attend the meeting and vote for the Member. An appointment of a proxy may specify the number of proportion of votes that the proxy may cast.

- a) An instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing or, if the appointor is a body corporate, either under seal or in accordance with the Law or under the hand of an officer or attorney duly authorised.
- b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote in the resolution except as specified in the instrument.
- c) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

~~184~~198 Members entitled to cast 2 or more votes may appoint 2 proxies, but no more than 2. The 2 proxies may then exercise half the votes of the Member unless the appointment specifies otherwise. Any proxy vote that is a fraction of a vote is disregarded.

~~185~~199 The form set out in Schedule 3 may be used for proxy appointments:

~~186~~200 The Member who has appointed a proxy may also revoke that appointment at any time by providing notice to the Company in writing. The mere attendance of the Member at the same meeting with their proxy does not itself revoke the appointment; however, the proxy is not permitted to vote in such a situation unless the appointing Member refrains from voting.

~~187~~201 No authority to exercise a Member's voting rights at a general meeting shall be valid unless the Company's registered office or other place specified in the notice of meeting is given at least 48 hours' notice before the appointed commencement of the relevant meeting or adjourned meeting. Faxed documents may be sent. Any proxy or power of attorney must be accompanied by the authority under which the proxy was signed or a certified copy of the relevant power of attorney.

~~188~~202 At a general meeting, anyone appointed to exercise the voting rights of a Member shall have the same rights to speak and vote as the appointing Member, except at such times when the appointing Member is physically present at the meeting. Proxies or other appointed persons must obey directions when



voting. If no direction exists, the person may vote only if they are separately entitled to vote on the resolution. Such persons are permitted to demand a poll as if they were Members.

~~189~~203 Votes by persons having the authority of a Member shall not have their validity affected by the following unless the registered office is notified of the fact at least 48 hours in advance of the commencement of the relevant meeting or adjourned meeting:

- a) the death of the appointing Member;
- b) the loss of mental capacity of the appointing Member;
- c) the bankruptcy or liquidation of the appointing Member;
- d) the revocation of the authority by the appointing Member; or
- e) any transfer of shares.

~~192~~204 If all the joint holders of any share appoint a single proxy, then that proxy's vote shall be counted to the exclusion of the votes of any other proxy of those joint holders. The chair may require evidence from a proxy that he or she is in fact the person named in the form, a failure to provide which may be grounds for excluding that proxy from voting.

~~194~~205 The same rules applicable to general meetings shall apply to meetings of Members of a class of shares, with any necessary modifications, except to the extent that the matter is dealt with specifically by any rules for such class meetings.

~~192~~206 If all the Members entitled to vote on a resolution have signed a document containing a statement that they are in favour of that resolution of the Members in terms set out in the document, a resolution in those shall be deemed to have been passed at a meeting of the Company's Members held on the day on which the document was signed.

## Capital and Profits

~~193~~207 An amount from the Company profits may be set aside by the directors as a reserve. This reserve may be used for the same purposes for which profits may be properly used, at the discretion of the directors.

~~194~~208 At any time an amount from the Company profits may be carried forward rather than reserved or distributed, at the discretion of the directors.

~~195~~209 Company profits may be capitalised by the directors or by a general meeting, subject to any special share rights or restrictions, and subject to the Corporations Act. Such capitalisations must be distributed to the Members, in proportion to the entitlements of Members in the dividends from the profits. If a resolution to capitalise profits is made by general meeting, the directors must do everything necessary to implement it. Actions that may be undertaken to implement capitalisation include:

- a) where securities then become issuable in fractions, the directors may make cash payments or decide that fractions are to be ignored;
- b) vest in trustees any cash or assets on trust for all Members entitled to dividends;
- c) authorise persons to issue securities as fully paid up to Members entitled to further securities; and
- d) authorise persons to pay amounts outstanding on the existing shares of Members entitled to further securities.

Any agreements made under this clause shall bind all Members.

~~196~~210 Where share classes exist, the directors have the discretion to distribute capital in different amounts according to class, or to exclude one class from distribution.

~~197~~211 Upon the passing of a resolution to that effect in a general meeting, the Company may alter its capital in the following ways:

- a) dividing or combining shares, upon which any amount unpaid on the shares is divided equally among their successor shares;
- b) cancelling forfeited shares; and
- c) converting shares from one class to another.

~~198~~212 The Company has the power to reduce share capital in accordance with the Corporations Act. The Company has the power to do a share buyback in accordance with the Corporations Act.

~~199~~213 The Company may pay dividends according to the resolution of the directors. Payments of dividends are subject to share class rights and restrictions and must always be paid in accordance with the Corporations Act. Where share classes exist, the directors have the discretion to distribute dividends in different proportions according to class, or to exclude one class from distribution. The directors of the Company may determine that a dividend is payable and fix the amount, time and method of payment.

No interest will be payable to Members, if dividend is paid later than the time stipulated in the directors declaration. The directors are permitted to use any part of a dividend to satisfy the debt of that Member to the Company on account of the relevant shares.

The Company must not pay a dividend unless it is paid under circumstances described in section 254T of the Corporations Act. These circumstances are:

- a) the Company's assets exceed its liabilities (calculated in accordance with the accounting standards in force at the relevant time) immediately before the dividend is declared and the excess is sufficient for the payment of the dividend; and
- b) the payment of the dividend is fair and reasonable to the Company's shareholders as a whole; and
- c) the payment of the dividend does not materially prejudice the Company's ability to pay its creditors, such as, the Company becoming insolvent as a result of dividend payment.

A general meeting shall not declare a dividend larger than recommended by the directors. The crediting or payment of partly paid shares with dividends must allow for the amounts unpaid or uncredited, ignoring any amounts paid before a call is made. If, during the relevant period, the amount paid or credited on that share changes, then the dividend is credited or paid to the share allowing for this change. Any share shall rank for dividends on the date, if any, that was relevantly stipulated upon issue.

The method of dividend payment may be by cash, issue of further shares or other securities, the grant of options or the transfer of other assets. Shares in a second Company must be fully paid to be used as payments in specie. The difficulties that arise in relation to a payment in specie may be dealt with at the discretion of the directors, including:

- d) fixing the value of a specific asset;
- e) making cash payments on the basis of their valuation; or
- f) putting any cash or assets on trust for all relevant Members.

Dividends may be distributed by the Company paying a cheque to the address of the relevant member as listed in the share register. Where the dividend is paid to joint holders, the address for payment shall be the address listed in the share register for the first named joint holder; unless all the joint holders indicate otherwise in a written request. Joint holders are bound if one of their numbers receives a distribution.

Dividends that are not yet claimed may be used by the Company for its own benefit as stipulated in the Corporations Act.

## Notice and payments

~~200~~214 Notice from the Company to Members may be given by the following methods:

- a) personal service on the Member;
- b) posting it to the Member's address as shown on the share register, or at any alternative address for notice that is supplied by the Member; and
- c) faxing or sending the notice electronically including by email to any electronic address or fax number for notice that has been supplied by the Member.

~~201~~215 Notice to the first named joint holder in the share register is deemed to be given to all that holder's joint holders.

~~202~~216 If a person becomes entitled to shares when a Member dies or becomes bankrupt or becomes entitled to the shares under any law relating to mental health, then notice may be given to that person by the following means:

- a) personal service on the person;
- b) posting it to any address supplied by the person; and
- c) by any means that would have been permissible in serving notice on the original Member.

~~203~~217 The following persons must be given notice of a general meeting:

- a) all Members;
- b) all directors; and
- c) all persons who become entitled to shares when a Member dies or becomes bankrupt or become entitled to the shares under any law relating to mental health.

~~204~~218 No person without an address in the share register shall be entitled to be given notice, unless they have supplied an address or number for the giving of such notice.

~~205~~219 The time at which notice is taken to be given is:

- a) if the notice is of a meeting, then the business day after it is posted if it is posted to an Australian address, or 5 business days after it is posted if it is posted to a foreign address;
- b) if the notice is of any other type, then it is taken to be given at the time it would be delivered in the normal course of posting or sending; and
- c) a notice sent by fax is taken to be given on the business day on which it was sent, so long as the sender receives a transmission report confirming that the entire message was sent to the correct number.

~~206~~220 The signing of any notice may be by some mechanical or other means if the directors so decide.

## Winding up

~~207~~221 When a Company is wound up and the assets do not equal the amount needed to repay the whole issued capital of the Company, then the assets are distributed so that profit or loss is given to the Members in proportion to capital they had paid or ought to have paid as of the moment of winding up, ignoring any amount paid in advance of a call.

~~208~~222 Upon winding up, the assets may be divided by the liquidator between Members, in the following manner:

- a) the liquidator has the discretion to set what is a fair value for the assets;
- b) the liquidator may decide on how to divide the assets between Members and classes; and
- c) the liquidator may place any assets on trust for Members, but not if the Member would thereby be forced to accept a security or share on which a liability is owing.

~~209~~223 The liquidator may decide problems arising from distributions, including whether or not to round amounts up to the nearest whole number, whether or not fractions should be ignored; and whether any assets should be vested in a trustee of a trust for the Members entitled.

~~210~~224 Unless a general meeting decides otherwise, no director or liquidator may be remunerated from the proceeds from sale or realisation of Company property or undertakings upon winding up.

~~211~~225 With a special resolution to that effect, the liquidator may vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit. No Member shall be required to accept any shares or securities or any other property that carries a liability.

## Indemnity

~~212~~226 The Company must indemnify any officer and former officer of the Company, and also any employee, auditor, authorised agent or adviser of the Company if a general meeting so approves, against

expenses, losses or liabilities incurred in a relevant capacity. Such indemnities are only applicable if:

- a) expenses, losses and liabilities in question are to persons other than the Company or a related body corporate, and does not arise from mala fides; and
- b) any liability in question must be for costs and expenses where the person gained a judgement in their favour, or was acquitted, in civil or criminal proceedings; or where the person has been granted relief under the Corporations Act in an application in relation to such proceedings.

~~243~~227. The directors have the discretion to cause the Company to enter into and pay for a policy insuring an officer or former officer of the Company against a liability incurred in a relevant capacity, subject to the Corporations Act. The following liabilities may not be insured against:

- a) those arising from wilful breaches of duty to the Company; and
- b) those arising from contraventions of the Corporations Act.

~~244~~228. Anyone entitled to an indemnity under clause ~~242~~226 may not be indemnified by the Company as well, except to the extent that the insurance policy fails to fully indemnify the person.

~~245~~229. If clause ~~242~~226 is deleted or changed, then it only continues to apply in relation to any acts or omissions from before that date.

### Loans to Members

~~246~~230. The Company may loan amounts to Members by way of a resolution passed by the directors.

~~247~~231. Unless a written agreement by both the Company and Member involved states otherwise, such loans shall be governed by the Default Loan Agreement as per Schedule 2. The Member continues to be bound by the Default Loan Agreement even upon ceasing to be a Member.

~~248~~232. If a person or associate becomes a Member only after borrowing money from the Company, then the Default Loan Agreement will likewise apply from the date of registration, unless a written agreement by both the Company and Member involved states otherwise.

~~249~~233. “Associate” and “Loan” in the preceding two clauses shall have the same meaning as in the Default Loan Agreement.

Schedule 1

**Classes of shares & Rights and restrictions attached to shares**

Right to receive notice of and to attend any meeting of the Company's Members	Right to attend any meeting of Members and to exercise one vote for every share held	Right to participate in any dividends declared and payable on the class of share held	Upon winding up right to repayment of capital paid upon such shares	Upon winding up right to participate in any distribution of surplus assets or profits
<b>ORD</b>	<b>ORD</b>	<b>ORD</b>	<b>ORD</b>	<b>ORD</b>
<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
<b>B</b>	<b>B</b>	<b>B</b>	<b>B</b>	<b>B</b>
<b>C</b>				
<b>D</b>	<b>D</b>			
<b>E</b>	<b>E</b>	<b>E</b>		
<b>F</b>	<b>F</b>	<b>F</b>	<b>F</b>	
		<b>G</b>	<b>G</b>	<b>G</b>
			<b>H</b>	<b>H</b>
		<b>I</b>		<b>I</b>
		<b>J</b>	<b>J</b>	
		<b>K</b>		
			<b>L</b>	
				<b>M</b>

### Classes of Redeemable preference shares & Rights and restrictions attached to shares

Class of Redeemable Preference Shares	Right to receive notice of and to attend any meeting of the Company's Members	Right to vote at the meeting	Right to dividends	Upon winding up right to repayment of capital paid upon such shares
N	Yes	Only in certain specified circumstances	Non-cumulative (@ 5% p.a.)	First Priority
O	Yes	Only in certain specified circumstances	Dividend declared on the class of share held	Second Priority (After N,P,S)
P	Yes		Non-cumulative (@ 5% p.a.)	First Priority
Q	Yes		Dividend determined by directors to be paid on that share	Second Priority (After N,P,S)
R	Yes	1 share = 1 vote	Dividend determined by directors to be paid on that share	Second Priority (After N,P,S)
S	Yes	Only in certain specified circumstances	Fixed cumulative dividend determined by the directors at the date of issue	First Priority

**Default Loan Agreement**

**LOAN FACILITY AGREEMENT** made at  
on     /     /

**PARTIES**

**BETWEEN:**

CDA HEALTH PTY LTD A.C.N. 632 054 230 (the "Lender")

**AND:**

The Member or Members ("Borrower")

**RECITALS:**

The Lender has agreed to provide a loan facility to the Borrower in accordance with this Agreement.

**THE PARTIES AGREE:**

Definitions for Default Loan Agreement

In this Agreement, unless the context or subject matter otherwise require:

**Act** means the Income Tax Assessment Act 1936 and 1997, as amended, consolidated, rewritten or re-enacted from time to time, and includes any regulations made pursuant to that Act;

**Advance** means any advance or loan made to the Borrower by the Lender after the date of this Agreement;

**Agreement** means this loan facility agreement (including the recitals);

**Amalgamated loan** means the total of all the loans made under this agreement that are made in a particular year of income and are not repaid by the end of that year.

**Associate** means what it means in Division 7A of the ITAA 1936.

**Authorised Representative** means:

- in respect of a party which is a corporation:
  - a Company secretary or director or any officer of the corporation whose title or office includes the words "manager" or "director"; or
  - a person acting with the title or in the office of manager or director; and
- in respect of each party, a solicitor of that party or a person nominated by Notice to the other party as an authorised representative;

**Claim** means, in relation to a person, a claim, demand, remedy, suit, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained, or immediate, future or contingent;

**Company** means the Company of whose constitution this Schedule forms part.

**Controller** has the meaning given in Section 9 of the Corporations Act;

**Due Date** in relation to an Advance, is defined in this agreement when the advance is to be repaid.

**ITAA 1936** means the *Income Tax Assessment Act 1936* (Cth), as amended from time to time.

**Insolvency Provision** means any law relating to insolvency, sequestration, liquidation or bankruptcy (including any law relating to the avoidance of conveyances in fraud of creditors or of preferences and any law under which a liquidator or trustee in bankruptcy may set aside or avoid transactions) and any provision of any agreement, arrangement or scheme, formal or informal, relating to the administration of any of the assets of any person.

**Interest Rate**, in relation to a year, is defined in this agreement;

**Jurisdiction** means the state/territory of Queensland;

**Loan** means any of the following:

- an advance of money;
- a provision of credit or of some other financial accommodation;
- a payment of an amount for or on behalf of or at the request of the borrower where there is an express or implied obligation to repay the amount;
- a transaction which in substance effects a loan of money; or
- it includes any of these that is deemed to have been made under the ITAA 1936.

**Member** means any person who is a Member of the Company at the relevant time.

**Notice** means a written notice, consent, approval, direction, order or other communication;

**Obligation** means any legal, equitable, contractual, statutory or other obligation, agreement, covenant, commitment, duty, undertaking or liability;

**Outstanding Balance** means, on any day, the aggregate of all money owing or payable actually or contingently by the Borrower to the Lender under this Agreement on that day;

**Principal Sum** means the total of all Advances made by the Lender to the Borrower;

**Term**, in relation to an Advance, is defined as the period of the advance as specified in this agreement

**Year** means the Lender's year of income as defined in the Act.

## **Interpretation**

In the interpretation of this Agreement, unless the context or subject matter otherwise require:

- singular includes plural and vice versa;
- any gender includes every gender;
- a reference to a person includes corporations, trusts, associations, partnerships, a Government Authority, and other legal entities, and where necessary, include successor bodies;
- references to months are references to calendar months;
- headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of this Agreement;
- a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns.

The facility

### **The Term**

The term for each Advance shall be deemed to have commenced on the date the Advance was made, and the Due Date for each Advance shall be one business day before the date on which the Term expires.

### **Interest**

A Member must pay interest at the benchmark interest rate as defined in the ITAA 1936 Sec 109N(2) from 1 July following the loan being made by the Company to that Member. The Interest Rate must be determined afresh at the beginning of each Year, but thereafter remains constant throughout the Year. Interest shall be calculated daily by applying the Interest Rate to the Outstanding Balance (less any



Advances made during the current Year). Interest shall become payable on the last day of each Year.

### **Minimum repayments**

Members must at least meet the annual minimum repayments, with interest by its due date or as defined in Section 109E(5) of the ITAA 1936, by 30th June every year.

### **Repayment**

All loans must be repaid by the Member to the Company by the end of the term, including any interest, by no later than 7 years from the date the loan was made or deemed to have been made under the ITAA 1936 Section 109N(3)(b).

The Borrower shall make one repayment in respect of the entire Outstanding Balance on or before the last day of each Year. The amount of this repayment shall be the minimum amount necessary to prevent the Outstanding Balance being treated as a dividend by reason of Section 109E of the Act.

The parties acknowledge that unless and until Section 109E of the Act is amended, or any regulations are made hereunder, the amount referred to in paragraph above is the minimum yearly repayment worked out in accordance with Section 109E(6) of the Act.

### **Capitalising interest**

If any interest is due on a loan and unpaid, the Company may choose to capitalise it. This capitalised portion counts as part of the loan, backdated to the date the interest became due.

### **Security**

Reasonable security for obligations of Members to the Company may at any time be requested by the Company.

### **Costs**

All costs reasonably incurred by the Company in connection with this agreement, and any security the member offers or provide under this agreement, must be paid by the Member to the Company. This shall include stamp duty costs.

### **Default**

#### **Acceleration of amounts**

In the following circumstances the Company may choose to treat loans to the Member as payable automatically and immediately (including any interest):

- An amount payable under this agreement is not paid by the Member.
- Any of the Member's property is assigned to the benefit of creditors or a class of creditors.
- Any legal process causes the Member's interest under this agreement to be attached or taken in execution.
- Any assets of the Member are taken possession of by a mortgagee or similar, or steps are taken toward the taking of such possession, or the assets have a power of sale exercised over them by the mortgagee or similar.
- A major part of the conduct of the business of the Member is ceased or suspended or such action is threatened, except where the Company has approved of an amalgamation or solvent reconstruction for the purpose of which such action takes place or is to take place.
- The assets of the Member are disposed of, or such action is threatened, except where the Company has approved of an amalgamation or solvent reconstruction for the purpose of which such action takes place or is to take place. This only applies if the Member is a Company.
- The Member becomes subject to the enforcement or enforceability of a security interest.
- Some form of execution for more than \$1,000, including a distress or attachment, is levied or enforced against the Member.
- The Member is granted legislation-based protection against creditors, or takes steps to gain such a grant.

- The Member becomes insolvent or commits an act of bankruptcy.
- An administrator of the Member is appointed or the Member passes a resolution to appoint one.
- A winding up order is made against the Member.
- An order appointing a liquidator or provisional liquidator of the Member is made.
- An order is made or a resolution is passed for the Member to enter into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Company.
- The Member is unable to pay its debts, or states that it is unable to do so, or is taken under applicable legislation to be unable to do so, unless this is the result of a failure to pay a claim or debt that is the subject of a dispute in good faith.
- The Member stops or suspends payment of its debts or a class of its debts, or threatens to do so.
- Any part of the Member's assets or undertakings has a receiver, receiver and manager, controller, administrator or similar appointed to it.
- The Company reasonably deduces that the Member is the subject of an event of a type described in Section 459C(2) from any statement the Member makes, or the Member is in fact subject to such an event.
- Any other occurrence that has a substantially similar effect or is analogous to any events listed above.

## General

### Warranties

The Borrower warrants to the Lender that:

- it has full legal capacity and power to enter into, exercise its rights and perform its obligations under this Agreement;
- all conditions and things required by applicable law to be fulfilled or done in order:
  - to enable it lawfully to enter into, and exercise its rights and perform its obligations under, this agreement;
  - to make this agreement admissible in evidence in the courts in this jurisdiction;
  - have been fulfilled or done;
- this Agreement constitutes its valid and legally binding obligations, enforceable against it in accordance with their respective terms except to the extent limited by equitable principals and laws affecting creditors' rights generally;
- no litigation, arbitration or administrative proceedings are taking place, pending or, to the knowledge of the borrower, threatened against it or any of its property which, if adversely determined, could have, either separately or in aggregate, a material adverse effect on it;

### Payment

If the Company so wishes, it may inform the Member in writing that payment under this agreement must be made in a specified way.

### Liability

Where a Member comprises multiple persons, any obligations imposed by this agreement on that Member shall be imposed on those persons individually and jointly. A breach by any one of those persons is deemed to be a breach by all of them.

### Costs

The Borrower shall pay to the Lender all stamp duty payable on or in respect of this Agreement, all legal and other costs, charges and expenses incurred or paid by the Lender relating to the negotiation,

preparation, execution and enforcement of this Agreement.

#### **Waiver**

A waiver of the exercise of a right or performance of a duty under this agreement may only occur when and to the extent that it is specifically waived in writing by the lender. A right may only be waived by Notice, signed by the party (or its Authorised Representative) to be bound by the waiver.

#### **Severability**

If anything in this agreement is unenforceable, then it is severed to that extent. All provisions not severed are unaffected by this severance. Provisions in this agreement are to be interpreted in a manner that makes them enforceable.

#### **Assignment**

No party shall be entitled to assign its rights or obligations under this Agreement without the prior written consent of the other parties, which consent may be given or withheld, or given on conditions, in the absolute discretion of the other parties.

#### **Notices**

Notices given under this Agreement shall be:

- in writing; and
- signed by the party giving the Notice or by that party's Authorised Notices must be either:
- delivered by hand;
- posted by pre paid security or certified mail; or
- transmitted by facsimile.

#### **Jurisdiction**

This agreement shall be governed by the law of Queensland. Each party submits to the jurisdiction of the courts of Queensland. No party may argue, on the basis of forum non convenience or any other basis that the courts of Queensland should not exercise jurisdiction.

#### **Variations**

No variation of this Agreement or consent to a departure by a party from a provision, shall be of effect unless it is in writing, signed by the parties or by the party giving it. Any such variation or consent shall be effective only to the extent to or for which it may be made or given.

#### **Liability of parties**

If a party consists of more than one person:

- an obligation of those parties is a joint obligation of all of them and a several obligation of each of them;
- a right given to those parties is a right given jointly and severally to each of them, and if exercised by one of them, is deemed to be exercised jointly; and
- a representation, warranty or undertaking made by those parties is made by each of them.

#### **Warranty of authority**

Each person signing this Agreement on behalf of another person warrants that so far as he or she is aware he or she has the authority to do so.

#### **Execution**

I (name of Member) agree to abide to the terms and conditions of this Loan Agreement

---

Member's Signatures

\_\_\_\_\_  
Witness Signatures

\_\_\_\_\_  
Directors Signature

\_\_\_\_\_  
Witness Signature

Schedule 3

**PROXY FORM**  
**[Company name and ACN]**

**Meeting Date Place Time**

I/We, [names and addresses of Member(s)] am/are a Member/members of [Company name and ACN]. I/We appoint the following person/persons as proxy/proxies to vote at the specified meeting and any adjournments on my/our behalf:

[name and address of proxy or office of proxy]

I/We appoint the following alternate person/persons as proxy/proxies to vote at the specified meeting and any adjournments on my/our behalf if the appointed proxy/proxies is/are unable to vote:

[name and address of proxy/proxies]

The following are instructions regarding the voting of the proxy/proxies: [instructions]

Signed,  
[signature/signatures of Member/members making appointment]

**Schedule 9**  
**Integration Awards**

<b>Total no.</b>	<b>Type of securities to be granted by CAU</b>	<b>To be granted to</b>
2,173,913	Performance rights	CDA employees
3,000,000	Performance rights	CDA executives and directors
13,500,000	Options	CDA executives
434,783	Performance rights	CAU employees
3,000,000	Performance rights	CAU executives and directors
9,000,000	Options	CAU executives

*NOTE: The above awards are subject to any changes required by ASX and approved by the parties.*

**Schedule 10**  
**Restriction Agreement**

See over the page.

## Escrow Deed

between

**##**  
(Shareholder)

and

**Cronos Australia Limited**  
ACN 629 071 594  
(Company)



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**This deed** is made on the \_\_\_\_ day of \_\_\_\_\_ 2021

between [##] of [##] (Shareholder)

and **Cronos Australia Limited** ACN 629 071 594 of Suite 8, Level 3, 299 Toorak Road, South Yarra, Victoria 3141 (Company)

## Recitals

- A The Company is admitted to the official list of ASX and its Shares are quoted on ASX.
- B [[FOR CDA SHAREHOLDERS: The Shareholder will be issued the Escrow Shares under the Merger Implementation Agreement.] OR
- C [FOR EXISTING CAU SHAREHOLDERS: The Shareholder agrees that all Shares held by the Shareholder as at the date of this deed (comprising the Escrow Shares) will be subject to the voluntary escrow arrangements set out in this deed]]
- D In order to help promote a stable market for Shares on ASX, the Shareholder undertakes to the Company to be bound by the terms and conditions of this deed.

**Now it is covenanted and agreed** as follows:

## 1 Definitions and interpretation

---

### 1.1 Definitions

The following definitions apply unless the context requires otherwise.

**ASX** means ASX Limited ABN 98 008 624 691 or the Australian Securities Exchange, as appropriate.

**Business Day** means a day which is not a Saturday, Sunday or a public holiday in Melbourne, Victoria.

**Completion** means the completion of the sale and purchase of the shares in the Sale Company under the Share Purchase Deed.

**Completion Date** means the date on which Completion occurs.

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

**Dispose** has the meaning given to 'dispose' in the Listing Rules.

**Escrow Period** means the period commencing on the Completion Date and ending on the Escrow Release Date.

**Escrow Release Date** means the first anniversary of the Completion Date.

**Escrow Shares** means the Shares held by the Shareholder referred to in the schedule to this deed (as appropriately adjusted in accordance with the Listing Rules for any reorganisation of capital undertaken by the Company).

**Holding Lock** has the meaning given to 'holding lock' in the Listing Rules.

**Issuer Sponsored Subregister** has the meaning given to 'issuer sponsored subregister' in the Listing Rules.

**Listing Rules** means the Listing Rules of ASX (including the ASX Settlement Operating Rules).

**Merger Implementation Agreement** means the merger implementation agreement dated 14 September 2021 between the Company and the Sale Company.

**Restricted Action** has the meaning given to that term in clause 2.1.

**Sale Company** means CDA Health Pty Ltd ACN 632 054 230.

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

**Share Purchase Deed** means the share purchase deed dated [###] between the Sellers (as such term is defined therein) and the Company in relation to the sale and purchase of all of the shares in the Sale Company.

## 1.2 Interpretation

The following rules apply unless the context requires otherwise.

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The singular includes the plural and conversely.
- (c) A gender includes all genders.
- (d) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (e) A reference to a clause is a reference to a clause of this deed.
- (f) Words and expressions defined in the Listing Rules, and not in this deed, have the meanings given to them in the Listing Rules.
- (g) A reference to an agreement or document (including a reference to this deed) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this deed or that other agreement or document.
- (h) Specifying anything in this deed after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included.
- (i) A reference to a party to this deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (j) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

## 2 Escrow restrictions

---

### 2.1 Shareholder restrictions

During the Escrow Period, the Shareholder must not:

- (a) Dispose of, or agree or offer to Dispose of, any or all of the Escrow Shares;
- (b) create, or agree or offer to create, any security interest in any or all of the Escrow Shares; or
- (c) do or omit to do any act which may have the effect of transferring effective ownership or control of any or all of the Escrow Shares,

(each a **Restricted Action**), other than in accordance with clause 2.3.

## 2.2 CHESS or Issuer Sponsored Subregister

- (a) The Shareholder agrees that the Escrow Shares will be:
- (i) kept on an electronic CHESS subregister; or
  - (ii) held on the Company's Issuer Sponsored Subregister (as that term is defined in the ASX Listing Rules),
- and agrees to the application of a Holding Lock to the Escrow Shares for the Escrow Period.
- (b) The Company agrees to do all things necessary to ensure that the Holding Lock is released:
- (i) to the extent necessary to permit disposals of Escrow Shares permitted by this deed; and
  - (ii) to the extent applicable at the conclusion of the Escrow Period.

## 2.3 Permitted transfers

During the Escrow Period, the Shareholder may only undertake a Restricted Action if:

- (a) the Shareholder has obtained the prior written consent of the Company (which must not be unreasonably withheld or delayed) to transfer the Escrow Shares if:
- (i) the transfer is to a person that is:
    - (A) a spouse or child of the Shareholder or child of the Shareholder's spouse (**Immediate Family Member**);
    - (B) a company wholly owned by the Shareholder, an Immediate Family Member or a person that controls the Shareholder;
    - (C) a trustee of a trust in relation to which the Shareholder or an Immediate Family Member is the beneficiary; or
    - (D) a trustee company either controlled by the Shareholder or an Immediate Family Member a person that controls the Shareholder of a trust in relation to which the Shareholder or an Immediate Family Member is the beneficiary (including, for the avoidance of doubt, the trustee of any self-managed superannuation fund controlled by the Shareholder or an Immediate Family Member);
  - (ii) the transferee executes a deed pursuant to which the transferee agrees to be bound by terms substantially similar to this deed (provided that the Company may not require any change to the Escrow Period or the Escrow Release Date or to the nature of the restrictions contemplated by this deed); and
  - (iii) the transfer does not result in a change to the beneficial ownership of the Escrow Shares;
- (b) the Restricted Action is required by law (including an order of a court of competent jurisdiction);
- (c) the Shareholder obtains the prior written consent of the Company (such consent not to be unreasonably withheld or delayed, following a representation to the board of the Company by the Shareholder which demonstrates to the board that the action is necessary to alleviate financial hardship);
- (d) the Restricted Action is the acceptance of:

(i) a bona fide takeover bid under Chapter 6 of the Corporations Act for all of the Shares in the Company; or

(ii) a proportional takeover bid under Chapter 6 of the Corporations Act,

provided that:

(iii) such acceptance occurs following a public announcement by the Company that the board of directors of the Company recommends a takeover bid; or

(iv) the holders of at least 50% of the bid class securities that are not subject to escrow, and to which the offers under the bid relate, have accepted and the Escrow Shares continue to be held on the terms of this deed if the relevant bid does not become unconditional or does not otherwise proceed;

(e) the Restricted Action is the transfer or cancellation of the Shares as part of a scheme of arrangement under Part 5.1 of the Corporations Act, provided that scheme of arrangement takes effect; or

(f) the Restricted Action is the transfer or cancellation of Shares in connection with a share buy back, capital return or capital reduction which has been made available to holders of Shares on a pro rata basis and in accordance with the Corporations Act.

## 2.4 Dividends and voting rights

The parties agree that the terms of this deed will have no effect on any rights of the Shareholder to receive and dividends or other distributions attaching to the Escrow Shares or to exercise voting rights in respect of the Escrow Shares.

## 2.5 Shareholder to notify Company

If the Shareholder becomes aware:

(a) that a dealing in any Escrow Shares has occurred, or is likely to occur, during the Escrow Period in breach of this deed; or

(b) of any other matter which is likely to give rise to a dealing in any Escrow Shares during the Escrow Period in breach of this deed,

that Shareholder must notify the Company as soon as practicable after becoming aware of the dealing or those matters giving rise the dealing, and provide full details.

## 2.6 Release

(a) Notwithstanding clause 2.1, the Shareholder will be free to undertake the actions referred to in clause 2.3 in respect of the Escrow Shares on or after the expiry of the Escrow Period.

(b) At the end of the Escrow Period, the Company must take such steps as are reasonable to facilitate the release from escrow referred to in this clause including facilitating the removal of any Holding Lock from any such Escrow Shares.

## 3 Breach

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### 3.1 Prevention of anticipated breach

The parties acknowledge and agree that if it appears to the Company that the Shareholder may breach this deed, the Company:

(a) may take the steps necessary to prevent the breach or to enforce this deed, as soon as the Company becomes aware of the potential breach; and

- (b) subject to the Listing Rules, may refuse to acknowledge, deal with, accept or register any sale, assignment, transfer or conversion of any of the Escrow Shares (in addition to the other rights and remedies of the Company).

### 3.2 Damages insufficient remedy

The parties agree that damages would be an insufficient remedy for breach of this deed and the Shareholder agrees that the Company is entitled to seek and obtain an injunction or specific performance as a remedy for any actual or threatened breach of this deed, in addition to any other remedies available to the Company at law or in equity under or independently of this deed.

## 4 Representations and warranties

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### 4.1 Shareholder representations and warranties

The Shareholder represents and warrants that:

- (a) **(power)** it has power to enter into and comply with all of the terms and conditions of this deed applicable to it;
- (b) **(authority)** it has taken all necessary corporate actions and authorisations to permit it to enter into this deed and to observe all of its terms and no such corporate action or authorisation has since been rescinded or varied;
- (c) **(deed effective)** this deed constitutes a legal, valid and binding obligation on it and is enforceable against it in accordance with its terms;
- (d) **(Escrow Shares)** [upon the issue of the Escrow Shares and] at all times during the Escrow Period, it will be the legal and beneficial holder of the Escrow Shares; and
- (e) **(no encumbrances)** [upon the issue of the Escrow Shares and] at all times during the Escrow Period, the Escrow Shares are free from all encumbrances, security interests and other third party interests or rights.

### 4.2 Reliance on representations and warranties

The Shareholder acknowledges that the Company has executed this deed in reliance on the representations and warranties that are made in this clause.

### 4.3 No representations by the Company

The Shareholder acknowledges that it has not relied and will not rely on any representation statement or promise made by or on behalf of the Company in deciding to enter into this deed.

## 5 Compliance with Listing Rules

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

- (a) notwithstanding anything contained in this deed, if the 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 Listing Rules require to be done;
- (c) if the 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 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 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 Listing Rules, this deed is deemed not to contain that provision to the extent of the inconsistency.

## 6 Notices

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Any notice, demand, consent or other communication (**Notice**) given or made under this deed:

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below or the address or email address last notified by the intended recipient to the sender:
  - (i) to the Company: Suite 8, Level 3  
299 Toorak Road  
South Yarra, Victoria 3141  
  
Attention: Company Secretary  
  
Email: companysecretary@cronosaustralia.com
  - (ii) to the Shareholder: [address]  
  
Attention: [insert]  
  
Email: [insert]
- (c) will be taken to be duly given or made:
  - (i) in the case of delivery in person, when delivered;
  - (ii) in the case of delivery by post, 2 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country); and
  - (iii) in the case of email, on the day of transmission, provided that the sender does not receive an automated notice generated by the sender's or the recipient's email server that the email was not delivered,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

## 7 General

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### 7.1 Governing law

This deed is governed by the laws of Victoria. Each party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

### 7.2 Further assurances

Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this deed and the transactions contemplated by it.

### 7.3 Waiver and exercise of rights

- (a) No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.
- (b) A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed expressly states otherwise.

### 7.4 Entire agreement

This deed contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct on relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

### 7.5 Amendment

This deed may be amended only by another deed executed by all the parties and, where the ASX has required an escrow to be implemented, the approval of the ASX of the variation.

### 7.6 Severability

Any provision of this deed which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this deed enforceable, unless this would materially change the intended effect of this deed.

### 7.7 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

### 7.8 Costs

Each party must pay its own costs of negotiating, preparing and executing this deed.



## Schedule

Shares held by the Shareholder: [##]

**Executed** as a deed

Shareholder

**Signed, sealed and delivered** by the said  
**[insert name]**  
in the presence of:

\_\_\_\_\_  
**[insert name]**

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Name of witness  
BLOCK LETTERS

**[OR]**

**Executed** as a deed by **[insert shareholder]** in  
accordance with section 127(1) of the  
*Corporations Act 2001* (Cth):

\_\_\_\_\_  
Director

\_\_\_\_\_  
\*Director/\*Company Secretary

\_\_\_\_\_  
Name of Director  
BLOCK LETTERS

\_\_\_\_\_  
Name of \*Director/\*Company Secretary  
BLOCK LETTERS  
\*please strike out as appropriate

Company

**Executed** as a deed by **Cronos Australia  
Limited** ACN 629 071 594 in accordance with  
section 127(1) of the *Corporations Act 2001*  
(Cth):

\_\_\_\_\_  
Director

\_\_\_\_\_  
\*Director/\*Company Secretary

\_\_\_\_\_  
Name of Director  
BLOCK LETTERS

\_\_\_\_\_  
Name of \*Director/\*Company Secretary  
BLOCK LETTERS  
\*please strike out as appropriate

**Schedule 11**  
**Escrowed Parties**

**1 CAU Escrowed Parties**

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Cronos Global Holdings Inc

NewSouthern Investment Holdings 1 Pty Ltd

NewSouthern Investment Holdings A Pty Ltd

**2 CDA Escrowed Parties**

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Guy Rothwell Headley

Matua Hasyo Charlie Jansen as trustee for the Whanau Family Trust

Elizabeth Sarah Jansen as trustee for the Stanford Investment Trust

**Schedule 12**  
**Signing Announcement**

See over the page.



## **MERGER BETWEEN CRONOS AUSTRALIA AND CDA HEALTH PTY LTD – COMBINED GROUP TO BECOME AN AUSTRALIAN MARKET LEADER**

**Melbourne, Australia, 14 September 2021** – Cronos Australia Limited (ASX:CAU, “Cronos Australia” or the “Company”) is pleased to announce that it has executed a Merger Implementation Agreement to acquire 100% of the issued share capital of Queensland-based medicinal cannabis company CDA Health Pty Ltd (“CDA”) (“Merger”), subject to customary conditions including both Cronos Australia and CDA obtaining the required shareholder approvals. The consideration payable by the Company to CDA shareholders will comprise a combination of Cronos Australia shares and cash with CDA shareholders holding approximately 73.7% of the shares in Cronos Australia on completion of the Merger (“Completion”), assuming that the full cash component is paid.

The Merger is unanimously endorsed and supported by the board of Cronos Australia, subject to no superior proposal for Cronos Australia emerging.

### **1 About CDA**

Founded in 2018 by Guy Headley, Dr Ben Jansen, Jessimine Jansen and Dr Matua Jansen, CDA has cemented itself as an Australian market leader in the medicinal cannabis sector. CDA has seen rapid growth over the last two financial years generating over \$21 million<sup>1</sup> in sales for FY2021 and generating a profit.

CDA operates across various facets of the medicinal cannabis industry:

- **Nationwide wholesale distribution of medicinal cannabis products – BHC's CanView**

CDA’s wholly-owned subsidiary Burleigh Heads Cannabis Pty Ltd (“BHC”) operates a successful pharmacy and doctor online portal “CanView” which distributes over 120 different product SKUs within Australia from some of the most well-known international and domestic producers.

Since launching CanView in June 2020, BHC has opened 2,169 pharmacy wholesale accounts and registered 565 doctor accounts to its CanView platform, resulting in 194,561 medical cannabis products having been sold in the same period, 78% of which have been sold in 2021, amounting to close to 400,000 units on an annualised basis given the current monthly sales rate.

- **Medicinal Cannabis Clinics – CDA Clinics**

CDA, via its subsidiary Cannabis Doctors Australia Pty Ltd (“CDA Clinics”), operates a successful network of clinics on the Gold Coast, Brisbane and Sunshine Coast, in addition to nationwide telehealth services. CDA also operates Cannabis Doctors Aotearoa Ltd, which imports medicinal cannabis products prescribed by doctors in New Zealand.

Since launching in 2018, CDA Clinics has developed into one of the most well-established medicinal cannabis clinic brands in Australia. In the last financial year, the clinics completed more than 30,000 consultations with CDA’s medical practitioners.

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<sup>1</sup> Based on unaudited accounts for CDA for the year ended 30 June 2021.

- **Hemp-based foods – Healthy Not High**

CDA also owns Healthy Not High Pty Ltd, a hemp food business operating in Australia.

The competitive landscape in which CDA operates has seen many new entrants emerge in the last couple of years, however CDA's established industry relationships and continued innovation has enabled CDA to remain a leader in the space.

CDA is continuing to pursue growth of its business and to focus further on product development, in-house clinical trials for Schedule 3 over-the-counter products and supply chain technological advancements over the next 12 months.

## 2 **Merger rationale**

The Company believes that the Merger with CDA will provide a material increase in both size and scale of its operations and a route to early profitability for the integrated group. The prominent position already held by CDA in the Australian medicinal cannabis industry, when added to the Company's existing operations and strategic opportunities, should deliver synergistic benefits for the integrated group where the combined value exceeds the sum of its parts.

Post-Completion, existing Cronos Australia shareholders will benefit from the significant market share held by CDA and the profitable businesses it operates. The current multinational medicinal cannabis products, clinic and consumer operations, public markets and corporate experience, all offered by Cronos Australia, will assist the expansion of the operations of both businesses and maximise the opportunities available to them, with the aim of delivering increased shareholder value for all post-Completion shareholders in the Company.

Post-Completion, Cronos Australia will also continue to benefit from its strong relationship with shareholder, Cronos Group Inc (NASDAQ: CRON, TSX: CRON, "Cronos Group"), a global leader in the cannabis industry. This relationship is unique amongst the Australian listed medicinal cannabis players. Cronos Group's President and CEO will sit on the Cronos Australia board post-Completion.

"The merger with CDA Health is another key milestone achieved by Cronos Australia since its IPO in late 2019. This transaction should propel the integrated business to a position of market leadership in Australia and position it for sustainable, profitable growth. We look forward to Guy Headley, Dr Ben Jansen and Dr Marcia Walker joining the Company's board, in addition to Cronos Group's President and CEO Kurt Schmidt, who brings a wealth of experience to the team," said Cronos Australia Chairman, Shane Tanner.

"We are looking forward to joining forces with the Cronos Australia team to create a market leader in the Australian listed medicinal cannabis space. Since founding CDA in 2018, we have established a successful medicinal cannabis business with our exceptional team and supported by our shareholders. The integrated Cronos Australia and CDA business will allow us to take the company to the next level of growth, both in Australia and offshore," said CDA founders Guy Headley and Dr Ben Jansen.

"The merger with CDA Health is a game changer for Cronos Australia and its shareholders. I am very much looking forward to working closely with Guy Headley, Dr Ben Jansen and the broader team in the integrated business. Moving forward as an executive team we are fully aligned in the bold vision for the Company as we scale existing operations and move into new markets and exploit strategic opportunities," said Cronos Australia CEO Rodney Cocks.

As part of the negotiations for the Merger, Cronos Australia also took the opportunity to review its optionality position on a leasehold site in Smeaton, Victoria for the purposes of constructing a cultivation and manufacturing facility on the site. As a result of this review, Cronos Australia

will not be exercising its rights under the Agreement for Lease with Glenbrook Pastoral Pty Ltd which lapse on 30 June 2022.

### 3 Key terms

Cronos Australia has entered into a merger implementation agreement with CDA dated 14 September 2021 ("Merger Implementation Agreement") pursuant to which it has agreed to acquire all of the shares in CDA from its existing shareholders in consideration for the issue of Cronos Australia shares to CDA's shareholders and the payment of cash (subject to the satisfaction of certain conditions precedent set out below). The cash amount payable is subject to a maximum of \$5 million.

A summary of the key terms of the Merger, as contemplated by the Merger Implementation Agreement, is as follows:

- Cronos Australia will offer a total of up to 439,784,282 fully paid ordinary shares ("Consideration Shares") to CDA's shareholders to acquire 100% of the issued capital of CDA.
- CDA shareholders will be offered 21.534 Cronos Australia shares for every 1 CDA share held by them 2 business days before the Completion date.
- The Consideration Shares (as well as certain incentive securities to be granted by Cronos Australia, as described below) will be offered to CDA shareholders under a prospectus to be prepared in accordance with Part 6D.2 of the *Corporations Act 2001* (Cth) ("Corporations Act") and lodged with the Australian Securities and Investments Commission ("Prospectus") and an associated Share Purchase Deed.
- The maximum number of Consideration Shares to be issued by Cronos Australia will be reduced to the extent that certain CDA shareholders elect to take a portion of the consideration payable by Cronos Australia in cash.
- Cronos Australia has agreed to pay up to \$5 million of the total consideration payable in cash (at an effective deemed value of \$0.138 per Consideration Share).
- Following Completion, CDA shareholders will own between 75.3% (if no cash was elected) and fall to 73.7% (if the full \$5 million is taken up in cash) of the issued share capital in Cronos Australia.

CDA has more than 500 shareholders at present (having raised capital in 2019 through a crowd-sourced funding round). In addition to entering into the Merger Implementation Agreement with CDA, the 3 largest CDA shareholders (who currently own approximately 78.9% of the shares in CDA) will enter into a Share Purchase Deed with Cronos Australia, pursuant to which Cronos Australia will agree to acquire the shares in CDA held by those shareholders subject to the satisfaction of the conditions precedent in the Merger Implementation Agreement. The offer will also be extended to all CDA shareholders under the Prospectus and CDA shareholders will be able to elect whether to receive Cronos Australia shares and/or cash.

To the extent that CDA shareholders do not accept the offer, in accordance with its constitution, the major shareholders may exercise their rights to drag the remaining minority shareholders' shares in CDA (who collectively hold 21.1% of the shares on issue in CDA) into the Merger on the same terms as the other shareholders.

The parties have agreed under the Merger Implementation Agreement that, upon Completion, Cronos Australia's board will be restructured as set out in paragraph 5 below.

Following Completion, the merged group will remain listed on ASX under the Cronos Australia name, with the various businesses operating under their existing trading names.

#### 4 Conditions

Key customary conditions to the implementation of the Merger include:

- (a) approval by Cronos Australia shareholders of resolutions set out in a Notice of Meeting to be prepared, including to:
  - (i) approve the issue of the Consideration Shares including for the purposes of section 611(7) of the Corporations Act, as certain of the CDA shareholders will acquire voting power of more than 20% in Cronos Australia;
  - (ii) approve the issue of 15,176,065 Cronos Australia shares to Cronos Group Inc (or its nominee) upon the conversion of its existing loan to a wholly-owned subsidiary of Cronos Australia;
  - (iii) appoint Guy Headley, Dr Benjamin Jansen, Dr Marcia Walker and Kurt Schmidt as directors of Cronos Australia;
  - (iv) approve the issue of performance rights and options to existing and future directors and senior executives of Cronos Australia, to current Cronos Australia employees and to existing CDA employees (who will become employees of the merged group);
  - (v) amend the constitution of Cronos Australia to remove the casting vote held by the Chairman at Cronos Australia board meetings; and
  - (vi) amend the constitution of Cronos Australia to provide that a quorum for a Cronos Australia board meeting is the majority of the Directors (which quorum must be present and voting at all times during the meeting);
- (b) approval of the amendment of the CDA constitution by CDA's shareholders in order to facilitate the Merger;
- (c) there being no material adverse change or prescribed occurrence (each as defined in the Merger Implementation Agreement) in relation to either CDA or Cronos Australia;
- (d) Cronos Australia's board confirming that the Merger will not trigger the early vesting of any options on issue in the Company as at the date of the Merger Implementation Agreement;
- (e) amending the intellectual property license agreement between Cronos Group and a wholly-owned subsidiary of the Company on terms agreed by the parties thereto;
- (f) conversion of the existing loan from Cronos Group, currently a substantial shareholder of the Company, to a wholly-owned subsidiary of the Company into Cronos Australia shares (at an effective conversion price of \$0.138 per Cronos Australia share); and
- (g) other conditions customary for a transaction of this nature.

The Merger Implementation Agreement includes reciprocal exclusivity arrangements (including customary non-solicitation and no-talk restrictions and notification obligations) and break fees apply to both parties. The exclusivity mechanisms are subject to customary exceptions that enable either party's directors to comply with their fiduciary and/or statutory duties.



Full details of the terms and conditions of the Merger are set out in the Merger Implementation Agreement, a copy of which is set out in **Annexure A**.

## **5 Governance and management**

Post-Completion, Shane Tanner will continue as Cronos Australia's Independent Chairman and Rodney Cocks will remain as Executive Director and Chief Executive Officer of Cronos Australia.

Subject to and with effect from Completion, CDA is entitled to appoint three directors to the board of Cronos Australia. CDA has nominated Guy Headley, Dr Ben Jansen and Dr Marcia Walker who will be put forward for election at the extraordinary general meeting of shareholders expected to take place in November 2021. Cronos Group CEO, Kurt Schmidt, will also be appointed to the board of Cronos Australia at that time.

Current Directors Michael Gorenstein, Jason Adler, Daniel Abrahams and Anna Burke AO have each agreed to resign as Directors of Cronos Australia with effect from Completion. The Directors who are resigning are in unanimous support of the Merger. In advance of their proposed resignations, Cronos Australia would like to acknowledge and thank Michael, Jason, Daniel and Anna for their vision, efforts and support of the Company over the past years.

Accordingly, following Completion, the board of Cronos Australia is expected to comprise the following Directors:

- **Shane Tanner – Independent Chairman**
- **Rodney Cocks – Non-Independent Executive Director and CEO**
- **Guy Headley – Non-Independent Executive Director**

Guy has operated in the Australian Medical Cannabis space since 2016. He is a founding director of CDA Health and has acted as a director of BHC over the last four years. He brings a wealth of knowledge regarding medicinal cannabis distribution and compliance in the heavily regulated industry. Prior to working in the cannabis space, Guy spent 15+ years in the construction and development sector overseeing the procurement and management of multimillion dollar projects across New Zealand, Australia and the United Kingdom.

- **Dr Benjamin Jansen – Non-Independent Executive Director**

As a founding Director of CDA Health and Cannabis Doctors Australia, Dr Jansen has played a key role in advancing and advocating access and education for Medicinal Cannabis patients within Australia and New Zealand. Dr Jansen is arguably Australia's most experienced medicinal cannabis clinician, having been directly involved with the treatment of thousands of patients. Dr Jansen is a Fellow of both the Royal Australian and Royal New Zealand College of General Practitioners, and a Fellow of the Royal New Zealand college of Urgent Care Physicians. He received a Bachelors degree of Medicine, a Bachelors degree of Surgery, a Bachelors degree of Human Biology, and a Post Graduate Diploma in Community Emergency Medicine from the University of Auckland. He also received a Post Graduate Diploma in Sports Medicine from the University of Otago, NZ. Dr Jansen was also a founder of BHC and served as a director of BHC.

- **Dr Marcia Walker – Independent Non-Executive Director**

Dr Walker brings significant experience in Medical Governance. She currently serves as a board member of the New Zealand Medical Association, a member of the General Practitioner Council of the NZMA, a member of the Medicines Classifications

Committee for the Ministry of Health NZ. She also acts as a Medical Examiner for the Royal New Zealand College of General Practitioners. Previously, Dr Walker acted as a Medical Advisor to the Rua BioScience (formerly Hikurangi Hemp Company) and Treasurer for the New Zealand Resident Doctors Association. She received a Bachelor of Medicine and a Bachelor of Surgery/Chirurgery from the University of Auckland and is a fellow of the Royal New Zealand College of General Practitioners. Dr Walker also acts as the Medical Director of both the Manly Medical Centre and The Cosmetic Clinic NZ.

- **Kurt T. Schmidt – Non-Independent Non-Executive Director**

Kurt Schmidt serves as Cronos Group's President and Chief Executive Officer. Before joining Cronos Group, Kurt served as director and Chief Executive Officer of Blue Buffalo Company, Ltd. from 2012 through 2016. Prior to joining Blue Buffalo, Kurt was Deputy Executive Vice President at Nestlé S.A., where he was responsible for Nestlé Nutrition, including several science-oriented and heavily regulated businesses. He also served as a member of Nestlé Nutrition's Executive Committee. Kurt joined Nestlé in 2007 as part of its acquisition of Gerber Products from Novartis, where he was the President and Chief Executive Officer of Gerber Products Company from 2004 to 2007. Prior to Gerber, Kurt held a variety of leadership roles at Kraft Foods, Inc. Kurt currently serves on the board of directors of Campbell Soup Company. He received a Bachelor of Science in Chemistry from the United States Naval Academy and a Master of Business Administration (MBA) from the University of Chicago.

Shareholder approval for the appointment of each of the abovementioned new directors will be sought at the Cronos Australia general meeting.

Thomas Howitt will continue as Chief Financial Officer and Company Secretary of the merged group.

Guy Headley will become Chief Commercial Officer of Cronos Australia, Dr Benjamin Jansen will become Chief Medical Officer of Cronos Australia and Jessimine Jansen will become Chief Operating Officer of Cronos Australia.

No redundancies are anticipated to occur as a result of the Merger.

## 6 Shareholder approvals

Cronos Australia has consulted ASX with respect to the Merger and ASX has provided in-principle advice that it will not require Cronos Australia to seek approval of its shareholders under ASX Listing Rule 11.1.2 and will not require Cronos Australia to re-comply with Chapters 1 and 2 of the ASX Listing Rules. However, as noted in paragraph 4(a) above, Cronos Australia will seek shareholder approval for certain matters in relation to the Merger at an extraordinary general meeting which it is currently anticipated will take place in November 2021.

As certain CDA shareholders will acquire voting power of more than 20% in Cronos Australia under the Merger, the Cronos Australia board has engaged an Independent Expert to provide an opinion as to whether the Merger is fair and reasonable to Cronos Australia shareholders.

## 7 Financial impact of the Proposed Transaction

The table below sets out the indicative impact of the Proposed Transaction based on financial information for the year ended 30 June 2021 (FY2021) before any adjustments to reflect the combination of the groups e.g., transactions between the respective parties, differences in accounting policies, the recognition of goodwill etc:

Measure	Cronos Australia <sup>1</sup>	CDA <sup>2</sup>	Merged Group
<b>Total assets</b>	\$12,688,076	\$8,707,761	\$21,395,837
<b>Total equity</b>	\$9,222,430	\$3,767,186	\$12,989,616
<b>Revenue</b>	\$1,692,840	\$21,724,241	\$23,417,081
<b>EBITDA</b>	\$(3,927,493)	\$2,206,026	\$(1,721,467)

<sup>1</sup> Extracted from Cronos Australia audited accounts for FY2021

<sup>2</sup> Extracted from CDA unaudited management accounts for FY2021

Further details will be included in the Notice of Meeting and Prospectus with respect to the Proposed Transaction.

## 8 Effect on capital structure

The following table shows the anticipated capital structure of Cronos Australia on Completion, and on a fully diluted basis, assuming that the full \$5 million of cash being offered as part consideration is paid out:

Type of Cronos Australia securityholder	Before Completion (undiluted)		Before Completion (on a fully diluted basis)		After Completion (undiluted)		After Completion (on a fully diluted basis)	
	No. of Shares	% of total no. of Shares	No. of securities	% of total no. of securities	No. of Shares	% of total no. of Shares	No. of securities	% of total no. of securities
Shares held by existing shareholders	128,750,000	100%	128,750,000	98.00%	143,926,065 <sup>1</sup>	26.3%	143,926,065	24.8%
Shares held by CDA shareholders	0	0%	0	0%	403,552,398	73.7%	403,552,398	69.4%
Performance rights holders <sup>2</sup>	0	0%	60,000	0.05%	0	0%	8,668,696 <sup>3</sup>	1.5%
Optionholders <sup>2</sup>	0	0%	2,565,000	1.95%	0	0%	25,065,000 <sup>4</sup>	4.3%
<b>TOTAL</b>	<b>128,750,000</b>	<b>100%</b>	<b>131,375,000</b>	<b>100%</b>	<b>547,478,463</b>	<b>100%</b>	<b>581,212,159</b>	<b>100%</b>

<sup>1</sup> This includes the issue of 15,176,065 shares to Cronos Group Inc on conversion of its loan to a wholly-owned subsidiary of Cronos Australia.

<sup>2</sup> Performance rights and options are unlisted. There are currently 60,000 performance rights on issue and 2,565,000 options on issue.

<sup>3</sup> Upon completion of the Proposed Merger, subject to ASX approval of the terms and approval of Cronos Australia Shareholders, Cronos Australia has agreed to issue 8,608,696 performance rights to existing directors, senior executives and employees of Cronos Australia and CDA Health.

<sup>4</sup> Upon completion of the Proposed Merger, subject to the approval of Cronos Australia Shareholders, Cronos Australia has agreed to issue 22,500,000 options as long term incentives to senior executives of Cronos Australia and CDA Health subject to time based vesting and performance hurdles based on the revenue of the combined group for the three years following Completion.

In order to provide stability and security for investors, the current 3 largest Cronos Australia shareholders (who collectively hold approximately 62.1% of the shares currently on issue in Cronos Australia) have agreed to voluntary escrow for a period of 12 months following Completion, even once their current ASX-mandated escrow ends on 7 November 2021. In addition, certain key CDA shareholders, including founders Guy Headley, Dr Ben Jansen and Dr Matua Jansen (who are collectively expected to represent approximately 59.5% of the shares on issue in Cronos Australia post-Completion) have also agreed that

their (or their associates') holdings in Cronos Australia post-Completion will be subject to the same voluntary escrow for a 12-month period following Completion.

## 9 Timetable and next steps

Cronos Australia shareholders do not need to take any action in relation to the Merger at this stage.

A Notice of Meeting containing information in relation to the Merger, including the basis for the Cronos Australia board's unanimous recommendation, an Independent Expert's Report and details of the Merger is expected to be circulated to all Cronos Australia shareholders in the coming weeks.

An indicative timetable to complete the Merger is set out below:

Event	Date
Dispatch of CDA Notice of Meeting and Explanatory Statement to CDA shareholders	Wednesday, 27 October 2021
Dispatch of Cronos Australia Notice of Meeting and Explanatory Statement to Cronos Australia shareholders	Wednesday, 27 October 2021
Lodge Prospectus with ASIC and release to ASX	Wednesday, 27 October 2021
Dispatch Prospectus and Share Purchase Deed to CDA shareholders	Wednesday, 27 October 2021
CDA General Meeting	Friday, 19 November 2021
Cronos Australia General Meeting	Friday, 26 November 2021
Completion of the Merger – issue of shares to CDA's shareholders	Monday, 29 November 2021

**\*\* ENDS \*\***

### About Cronos Australia

Cronos Australia Limited is listed on the ASX (ASX:CAU). The vision of Cronos Australia is to become a leading health and wellness company in the Asia Pacific region through the creation and distribution of premium health and consumer cannabinoid products and services. The Company's largest shareholder is Cronos Group Inc. (NASDAQ:CRON; TSX:CRON).

- Cronos Australia distributes the Adaya and PEACE NATURALS™ ranges of medicinal cannabis products nationwide in Australia through medical practitioners via the Special Access Scheme and Authorised Prescribers. See [www.adaya.co](http://www.adaya.co)
- Cronos Australia owns 75.5% of Cannadoc Health Pty Ltd, a medicinal cannabis clinic business that undertakes face-to-face and nationwide telehealth consultations with patients seeking access to medicinal cannabis. See [www.cannadoc.com.au](http://www.cannadoc.com.au) and [www.cannadoc.co.nz](http://www.cannadoc.co.nz)
- Cronos Australia has established operations in Hong Kong and Japan for the development of ranges of cannabinoid brands and products and their distribution into global consumer markets. The current three ranges of products are Bathing Shed, see [www.bathingshed.com](http://www.bathingshed.com), FCTR, see [www.getfctr.com](http://www.getfctr.com) and Saiph, see [www.saiphlife.com](http://www.saiphlife.com)
- Cronos Australia has a 50/50 joint venture with A&S Branding, the founders of Sukin Organic Skincare, for the development of CBD products for sale in domestic and export markets.

### Authorised by

Rodney Cocks, Chief Executive Officer and Executive Director

**Contact**

**Cronos Australia Limited**

Rodney Cocks

Chief Executive Officer & Executive Director

1300 799 491

info@cronosaustralia.com

**Forward-looking statements**

This announcement may include forward-looking statements. These forward-looking statements are based on Cronos Australia's expectations and beliefs concerning future events. Forward-looking statements are necessarily subject to risks, uncertainties and other factors, many of which are outside the control of Cronos Australia, which could cause actual results to differ materially from such statements. Cronos Australia makes no undertaking to update or revise the forward-looking statements made in this announcement to reflect any change in circumstances or events after the date of this announcement.

**Schedule 13**  
**Acceptance and Election Form**

See over the page.

# Acceptance and Election Form

[xxx]

**Name of CDA Shareholder**

[xxx]

**Address of CDA Shareholder**

## OFFER BY CRONOS AUSTRALIA LIMITED TO ACQUIRE CDA HEALTH PTY LTD

<b>Number of CDA Shares currently held:</b>	<b>[##]</b>
<b>Total Entitlement:</b>	<b>#[##]</b>
<b>Maximum number of Consideration Shares you are entitled to:</b>	<b>[##]</b> On the basis of 21.534 Consideration Shares for every 1 CDA Share held

This is a personalised form for the sole use of the CDA Shareholder recorded above. It is an important document and requires your attention. If you have any doubt as to how to deal with it, please consult your legal, financial or other professional advisers.

Please complete and return this form by 6.00pm (Melbourne time) on [insert date] 2021 (**Closing Date**) in accordance with the instructions below in order to accept the offer by Cronos Australia Limited ACN 629 071 594 (**CAU**) to acquire all of your shares in the capital by CDA Health Pty Ltd ACN 632 054 230 (**CDA**) as part of its proposed acquisition of 100% of the shares in CDA (**Offer**) pursuant to the prospectus prepared by CAU dated [insert date] 2021 (**Prospectus**).

Once completed, please send this form via email to [##] at [email], together with any power of attorney under which it is signed. Your completed form and any power of attorney must be received no later than the Closing Date.

Unless otherwise defined, all capitalised terms in this form have the same meaning given to them in the Prospectus.

**NOTE: IF YOU DO NOT COMPLETE AND RETURN THIS FORM BY THE CLOSING DATE, THE MAJOR SHAREHOLDERS WILL EXERCISE THEIR OPTION TO REQUIRE YOU TO ACCEPT THE OFFER AND SELL YOUR SHARES TO CAU AS DESCRIBED IN THE PROSPECTUS AND YOU WILL RECEIVE YOUR TOTAL ENTITLEMENT ENTIRELY IN CONSIDERATION SHARES (SEE SECTION [#] OF THE PROSPECTUS).**

**A. Election to receive Consideration Shares/Cash Consideration**

You may elect to receive your Total Entitlement in Consideration Shares only or elect to receive some Cash Consideration (with the balance payable in Consideration Shares), as described in Section [#] of the Prospectus. To the extent that CDA Shareholders make elections for Cash Consideration which in aggregate exceed \$5,000,000, then the amount of the Total Entitlement to be received by the CDA Shareholders as Cash Consideration will be scaled back in accordance with the mechanism set out in Section [#] of the Prospectus until the \$5,000,000 of Cash Consideration has been fully apportioned. The balance of your Total Entitlement will be satisfied by the issue to you of Consideration Shares.

**Option 1**

To receive all of my/our Total Entitlement in Consideration Shares.

Tick here to accept Option 1

*Your Consideration Shares will be registered in the name appearing on the CDA Shareholder register.*

**Option 2**

To receive part of my/our Total Entitlement in cash.

Tick here to accept Option 2

Insert the amount of your Total Entitlement (if any) that you would like to receive in cash.

\$ \_\_\_\_\_

*If elections for Cash Consideration amongst all CDA Shareholders exceed \$5,000,000 in aggregate, the balance of your Total Entitlement once the Cash Consideration has been apportioned (if any) will be satisfied by the issue of Consideration Shares which will be registered in the name appearing on the CDA Shareholder register. If your election here is greater than your Total Entitlement, you will be deemed to have elected an amount equal to your Total Entitlement.*

**B. Additional details**

Please provide contact details in case we need to speak to you about this form

Name

Contact number

Email address

Shareholder address (please confirm this information for the purposes of the CAU share register)

as set out on page 1 of this form

\_\_\_\_\_

Date of birth (for individual shareholders only, in order to conduct a search of the Personal Property Securities Register to confirm that your shares are free from encumbrances)

\_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (DD/MM/YYYY)



By signing this Acceptance and Election Form, I/we understand and agree that:

- I/we accept the Offer on the terms and conditions set out in the Prospectus including the warranties set out in Section [#] of the Prospectus;
- I/we accede to and agreed to be bound by the Share Purchase Deed set out in Appendix [#] to the Prospectus;
- I/we agree to be bound by the provisions (as amended from time to time) of CAU's Constitution; and
- that if I/we incorrectly complete this Acceptance and Election Form (as determined by CAU acting reasonably), I/we will be deemed to have accepted the offer to receive 100% of my/our Total Entitlement as Consideration Shares.

<b>C. Sign here</b>					
<b>Please sign below in according with the instructions overleaf</b>					
Signed sealed and delivered as a deed poll by (choose one of the below)	Insert name of Shareholder				
Individual	<p>.....</p> <p>Signature of individual shareholder</p> <p>.....</p> <p>Signature of witness</p> <p>.....</p> <p>Print full name of witness</p>				
Company (sole director)	<p>.....</p> <p>Signature of sole director</p>				
Company (two or more directors)	<table border="1"> <tr> <td>.....</td> <td>.....</td> </tr> <tr> <td>Signature of director</td> <td>Signature of director/company secretary</td> </tr> </table>	.....	.....	Signature of director	Signature of director/company secretary
.....	.....				
Signature of director	Signature of director/company secretary				

<b>D. Date</b>	
<b>Please insert date of signature</b>	

**Schedule 14**  
**Indicative Capital Table**

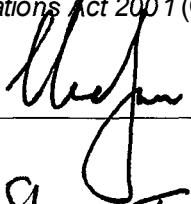
Securities in CAU	Pre-Transaction		Post-Transaction	
	CAU securities	% of CAU securities	CAU securities	% of CAU securities
<b>CAU shareholders</b>				
Cronos Global Holdings Inc.	40,000,000	30.45%	55,176,065	8.94%
NewSouthern Investment Holdings 1 Pty. Ltd.	20,000,000	15.22%	20,000,000	3.24%
NewSouthern Investment Holdings A Pty. Ltd.	20,000,000	15.22%	20,000,000	3.24%
Other CAU shareholders	48,750,000	37.11%	48,750,000	7.90%
<b>Total CAU Shares held by CAU Shareholders</b>	<b>128,750,000</b>	<b>98.00%</b>	<b>143,926,065</b>	<b>23.31%</b>
<b>CDA shareholders</b>				
Elizabeth Sarah Jansen atf the Stanford Investment Trust	-	-	144,594,257	23.42%
Guy Rothwell Headley	-	-	141,148,850	22.86%
Matua Hasyo Charlie Jansen atf the Whanau Family Trust	-	-	61,311,018	9.93%
Other CDA shareholders	-	-	92,730,158	15.02%
<b>Total CAU Shares held by CDA Shareholders</b>	-	-	<b>439,784,282</b>	<b>71.23%</b>
<b>Total ordinary shares (undiluted)</b>	<b>128,750,000</b>	<b>98.00%</b>	<b>583,710,347</b>	<b>94.54%</b>
Performance rights	60,000	0.05%	8,668,696	1.40%
Options over ordinary shares	2,565,000	1.95%	25,065,000	4.06%
<b>Total number of CAU securities (fully diluted)</b>	<b>131,375,000</b>	<b>100.00%</b>	<b>617,444,043</b>	<b>100.00%</b>

*NOTE: The above table assumes that no CDA Shareholder elects to take any proportion of their Total Entitlement as Cash Consideration (that is, all CDA Shareholders elect to take their Total Entitlement as Consideration Shares). This table therefore represents the maximum number of Consideration Shares that can be issued to CDA Shareholders on Completion.*

**Signing page**

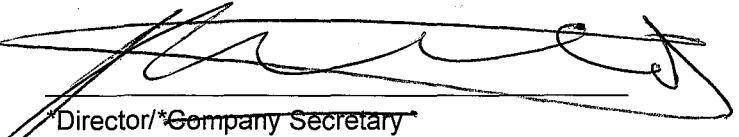
**Executed** as an agreement

**Executed by Cronos Australia Limited** ACN 629 071 594 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

  
\_\_\_\_\_  
Director

Name of Director  
BLOCK LETTERS

Shane Tanner

  
\_\_\_\_\_  
\*Director/\*Company Secretary\*

Name of Director  
BLOCK LETTERS  
\*please strike out as appropriate

RODNEY DAMON COEKS

**Executed by CDA Health Pty Ltd** ACN 632 054 230 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

\_\_\_\_\_  
Guy Rothwell Headley  
Director

\_\_\_\_\_  
Benjamin David Ngahuia Jansen  
Director and Company Secretary

**Signing page**

**Executed** as an agreement

**Executed by Cronos Australia Limited** ACN 629 071 594 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

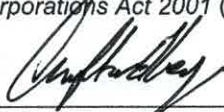
\_\_\_\_\_  
Director

\_\_\_\_\_  
\*Director/\*Company Secretary

\_\_\_\_\_  
Name of Director  
BLOCK LETTERS

\_\_\_\_\_  
Name of Director  
BLOCK LETTERS  
\*please strike out as appropriate

**Executed by CDA Health Pty Ltd** ACN 632 054 230 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



\_\_\_\_\_  
Guy Rothwell Headfey  
Director



\_\_\_\_\_  
Benjamin David Ngahuia Jansen  
Director and Company Secretary