



Beautiful business

## MARKET RELEASE

### Convertible Notes Offering Circular

**WELLINGTON, 5 June 2024** - Further to the announcements by Xero Limited (ASX:XRO) (“Xero”) on 4 and 5 June 2024, Xero attaches the Offering Circular in respect of the US\$925m 1.625 per cent senior unsecured convertible notes due 2031 to be issued by Xero Investments Limited and guaranteed by Xero.

*Authorised for release to the ASX by the Xero CFO*

#### Contact

Kate McLaughlin - Communications  
Mobile: +64 27 533 4529  
[kate.mclaughlin@xero.com](mailto:kate.mclaughlin@xero.com)

Nicole Mehalski - Investor Relations  
Mobile: +61 400 947 145  
[nicole.mehalski@xero.com](mailto:nicole.mehalski@xero.com)

#### About Xero

[Xero](#) is a global small business platform with 4.2 million subscribers. Xero’s smart tools help small businesses and their advisors to manage core accounting functions like tax and bank reconciliation, and complete other important small business tasks like payroll and payments. Xero’s extensive ecosystem of connected apps and connections to banks and other financial institutions provide a range of solutions from within Xero’s open platform to help small businesses run their business and manage their finances more efficiently.

## IMPORTANT NOTICE

**NOT FOR DISTRIBUTION TO ANY PERSON OR ADDRESS IN THE UNITED STATES. THIS OFFERING IS AVAILABLE ONLY TO INVESTORS WHO ARE ADDRESSEES OUTSIDE OF THE UNITED STATES.**

**IMPORTANT:** You must read the following disclaimer before continuing. The following disclaimer applies to the attached offering circular (the “**Offering Circular**”). You are advised to read this disclaimer carefully before accessing, reading or making any other use of the Offering Circular. In accessing the Offering Circular, you agree to be bound by the following terms and conditions, including any modifications to them from time to time, each time you receive any information from us as a result of such access.

**Confirmation of Your Representation:** The Offering Circular is being sent to you at your request and by accepting the e-mail and accessing the attached Offering Circular, you shall be deemed to represent to Goldman Sachs International and Morgan Stanley & Co. International plc (together, the “**Joint Lead Managers**”) that (1) the e-mail address that you gave us and to which this e-mail has been delivered is not located in the United States, its territories or possessions, and (2) you consent to the delivery of the attached Offering Circular and any amendments or supplements thereto by electronic transmission.

The attached Offering Circular has been made available to you in electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of transmission and consequently none of the Joint Lead Managers or their respective affiliates, directors, officers, employees, representatives, advisers or agents or any person who controls any Joint Lead Manager or its affiliates accepts any liability or responsibility whatsoever in respect of any discrepancies between the document distributed to you in electronic format and the hard copy version. By accessing the attached Offering Circular, you consent to receiving it in electronic form. We will provide a hard copy version to you upon request.

**Restrictions:** The attached Offering Circular is being furnished in connection with an offering in “offshore transactions” as defined in, and in reliance on, Regulation S under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”) solely for the purpose of enabling a prospective investor to consider the purchase of the securities described herein. You are reminded that the information in the attached Offering Circular is not complete and may be changed.

**NOTHING IN THIS ELECTRONIC TRANSMISSION CONSTITUTES AN OFFER OF SECURITIES FOR SALE IN THE UNITED STATES OR ANY OTHER JURISDICTION WHERE IT IS UNLAWFUL TO DO SO. THE SECURITIES (THE “SECURITIES”), THE GUARANTEE AND THE ORDINARY SHARES TO BE ISSUED ON CONVERSION OF THE NOTES (EACH AS DESCRIBED IN THE OFFERING CIRCULAR) HAVE NOT BEEN, AND WILL NOT BE, REGISTERED UNDER THE SECURITIES ACT, OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND THE SECURITIES MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES, EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE STATE OR LOCAL SECURITIES LAWS.**

Nothing in this electronic transmission constitutes an offer or an invitation by or on behalf of either the Issuer (as defined in the attached Offering Circular), the Company (as defined in the attached Offering Circular) or the Joint Lead Managers to subscribe for or purchase any of the securities described therein, and access has been limited so that it shall not constitute in the United States or elsewhere directed selling efforts (within the meaning of Regulation S under the Securities Act). If a jurisdiction requires that the offering be made by a licensed broker or dealer and the Joint Lead Managers or any of their respective affiliates is a licensed broker

or dealer in that jurisdiction, the offering shall be deemed to be made by the Joint Lead Managers or such affiliate on behalf of the Issuer or the Company in such jurisdiction.

You are reminded that you have accessed the attached Offering Circular on the basis that you are a person into whose possession the attached Offering Circular may be lawfully delivered in accordance with the laws of the jurisdiction in which you are located and you may not nor are you authorised to deliver this document, electronically or otherwise, to any other person. If you have gained access to this transmission contrary to the foregoing restrictions, you are not allowed to purchase any of the securities described in the attached.

**Actions that You May Not Take:** If you receive the attached Offering Circular by e-mail, you should not reply by e-mail to this e-mail, and you may not purchase any securities by doing so. Any reply e-mail communications, including those you generate by using the “Reply” function on your e-mail software, will be ignored or rejected.

**THE OFFERING CIRCULAR MAY NOT BE FORWARDED OR DISTRIBUTED TO ANY OTHER PERSON AND MAY NOT BE REPRODUCED IN ANY MANNER WHATSOEVER AND IN PARTICULAR, MAY NOT BE FORWARDED TO ANY U.S. ADDRESS. ANY FORWARDING, DISTRIBUTION OR REPRODUCTION OF THIS DOCUMENT IN WHOLE OR IN PART IS UNAUTHORISED. FAILURE TO COMPLY WITH THIS DIRECTIVE MAY RESULT IN A VIOLATION OF THE SECURITIES ACT OR THE APPLICABLE LAWS OF OTHER JURISDICTIONS.**

**IF YOU HAVE GAINED ACCESS TO THIS TRANSMISSION CONTRARY TO ANY OF THE FOREGOING RESTRICTIONS, YOU ARE NOT AUTHORISED AND WILL NOT BE ABLE TO PURCHASE ANY OF THE SECURITIES DESCRIBED THEREIN.**

You are responsible for protecting against viruses and other destructive items. If you receive this document by e-mail, your use of this e-mail is at your own risk and it is your responsibility to take precautions to ensure that it is free from viruses and other items of a destructive nature.



## **Xero Investments Limited**

(NZBN 9429047029439)

### **U.S.\$925,000,000 1.625 per cent. Guaranteed Senior Unsecured Convertible Notes due 2031**

## **Xero Limited**

(NZBN 9429034042984)

### **Issue Price: 100.0 per cent.**

The U.S.\$925,000,000 1.625 per cent. Guaranteed Senior Unsecured Convertible Notes due 2031 (the “**Notes**”) will be issued by Xero Investments Limited (the “**Issuer**”), a company incorporated under the laws of New Zealand, and guaranteed (the “**Guarantee**”) by Xero Limited (the “**Company**” or the “**Guarantor**” or “**Xero**”), a company incorporated under the laws of New Zealand and solely listed on the Australian Securities Exchange operated by ASX Limited (ABN 98 008 624 691) (the “**ASX**”, which shall also mean where the context requires it, the Australian Securities Exchange). The Issuer is a wholly-owned subsidiary of the Company.

The Notes will bear interest from (and including) 12 June 2024 (the “**Closing Date**”) at the rate of 1.625 per cent. per annum payable semi-annually in arrear on 12 June and 12 December in each year, commencing with the first interest payment date falling on 12 December 2024.

Subject to and as provided in the Terms and Conditions of the Notes (the “**Terms and Conditions of the Notes**” or the “**Conditions**”), each Note will, at any time on or after 23 July 2024 (the “**Initial Conversion Period Commencement Date**”) to the date falling 101 Sydney business days prior to the Final Maturity Date (the “**Initial Conversion Period End Date**”) (both days inclusive) (the “**Initial Conversion Period**”), entitle the holder to convert such Note for an amount equal to the relevant Cash Settlement Amount (as defined in the Terms and Conditions of the Notes). Unless a Physical Settlement Election (as defined in the Terms and Conditions of the Notes) is made by the Issuer in respect of the relevant exercise of Conversion Rights (as defined in the Terms and Conditions of the Notes), the Issuer shall pay the relevant Noteholder the relevant Cash Settlement Amount in accordance with the Terms and Conditions of the Notes. Upon exercise of a Conversion Right during the Initial Conversion Period, the Issuer may in its sole discretion make a Physical Settlement Election to satisfy the exercise of such Conversion Right in respect of the relevant Notes by the delivery of Ordinary Shares equal to the relevant Reference Shares (as defined in the Terms and Conditions of the Notes) in accordance with the Terms and Conditions of the Notes.

Subject to and as provided in the Terms and Conditions of the Notes, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, at any time from the date falling 100 Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period Commencement Date**”) to the date falling three Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period End Date**”) (both days inclusive) (the “**Final Conversion Period**”). Prior to the Final Conversion Period Commencement Date and no earlier than the date falling 105 Sydney business days prior to the Final Maturity Date (both days inclusive), the Issuer will make a determination (a “**Final Conversion Period Determination**”) by giving notice to the Noteholders in accordance with the Terms and Conditions of the Notes and to the Trustee and each Conversion Agent in writing (a “**Final Conversion Period Determination Notice**”). The Final Conversion Period Determination Notice shall state that any Conversion Rights exercised by a Noteholder during the Final Conversion Period will be wholly satisfied and settled

either by an amount equal to the relevant Cash Settlement Amount or by the delivery of Ordinary Shares equal to the relevant Reference Shares. A Final Conversion Period Determination shall be at the sole discretion of the Issuer and the Final Conversion Period Determination Notice shall be irrevocable.

The initial Conversion Price (as defined in the Terms and Conditions of the Notes) is U.S.\$109.6453 per Ordinary Share (based on a fixed exchange rate of A\$1.00 = U.S.\$0.6649). The Conversion Price will be subject to adjustment in the manner described in the Terms and Conditions of the Notes. The closing price of the Ordinary Shares on the ASX on 4 June 2024 was A\$131.80 per Ordinary Share.

Unless previously purchased and cancelled, redeemed or converted as provided in the Terms and Conditions of the Notes, the Notes will be redeemed at their principal amount plus any interest accrued but unpaid to (but excluding) the Final Maturity Date on 12 June 2031 (the “**Final Maturity Date**”). The Issuer may, on giving not less than 30 nor more than 60 days’ notice (an “**Optional Redemption Notice**”) to the Noteholders and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), redeem all but not some only of the Notes on the date (an “**Optional Redemption Date**”) specified in the Optional Redemption Notice at their principal amount, together with accrued but unpaid interest to but excluding such Optional Redemption Date if, and at any time prior to the date the relevant Optional Redemption Notice is given: (i) at any time on or after 12 June 2029, the Closing Price of the Ordinary Shares (as published by or derived from the Relevant Stock Exchange) (translated into U.S. dollars at the Prevailing Rate) for each of any 20 Dealing Days within a period of 30 consecutive Dealing Days, the last of which shall not fall earlier than five calendar days prior to the date upon which notice of such redemption is published, was at least 130 per cent. of the applicable Conversion Price (as defined in the Terms and Conditions of the Notes); or (ii) Conversion Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions effected in respect of 85 per cent. or more in principal amount of the Notes originally issued. The Notes may also be redeemed in whole but not in part by the Issuer at their principal amount, together with accrued but unpaid interest to but excluding the Tax Redemption Date (as defined in the Terms and Conditions of the Notes) in the event that the Issuer (or if the Guarantee were called, the Guarantor) has or will become obliged to pay additional amounts in respect of payments on the Notes (or under the Guarantee, as the case may be) as a result of any change in, or amendment to, the laws or regulations of New Zealand or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after 4 June 2024, and such obligation cannot be avoided by the Issuer (or the Guarantor, as the case may be) after taking reasonable measures available to it, subject to a Noteholder’s right to elect that such Noteholder’s Note(s) shall not be redeemed. Following the occurrence of a Delisting (as defined in the Terms and Conditions of the Notes) or a Change of Control (as defined in the Terms and Conditions of the Notes), the holder of each Note will have the right at such holder’s option, to require the Issuer to redeem all or some only of that holder’s Notes on the Relevant Event Redemption Date (as defined in the Terms and Conditions of the Notes) at their principal amount, together with accrued but unpaid interest to but excluding the Relevant Event Redemption Date. The holder of each Note will also have the right at such holder’s option, to require the Issuer to redeem all or some only of such holder’s Notes on 12 June 2029 (the “**Put Option Date**”) at their principal amount, together with accrued but unpaid interest to (but excluding) such date. In addition, the Issuer and/or the Guarantor may change its place of domicile, and/or change the listing of and quotation for the Ordinary Shares to an Alternative Stock Exchange (as defined in the Terms and Conditions of the Notes), in each case subject to certain conditions described in the Terms and Conditions of the Notes but without requiring consent of Noteholders.

Concurrent with the offering of the Notes (the “**Offering**”), Goldman Sachs International and Morgan Stanley & Co. International plc (in their capacity as dealer managers) will assist the Issuer and the Company with the repurchase by the Issuer (the “**Concurrent Repurchase**”) of its existing U.S.\$700,000,000 Zero Coupon Guaranteed Senior Unsecured Convertible Notes due 2025 guaranteed by the Guarantor (the “**2025 Convertible Notes**”) (of which U.S.\$700,000,000 currently remains outstanding as at 31 March 2024) which will be satisfied and settled by payment of cash. The Concurrent Repurchase will be conducted concurrently with the offering of the Notes, and is expected to close on or about the Closing Date.

Approval in-principle has been received from the Singapore Exchange Securities Trading Limited (the “**SGX-ST**”) for the listing of and quotation for the Notes on the Official List of the SGX-ST. The SGX-ST assumes no responsibility for the correctness of any of the statements made or opinions expressed or reports contained in this Offering Circular. Admission to the Official List of the SGX-ST and quotation of the Notes to the Official List of the SGX-ST is not to be taken as an indication of the merits of the Issuer, the Company, any of their subsidiaries and associated companies (if any), the Notes or the Ordinary Shares. The Ordinary Shares are listed on the ASX and application will be sought from the ASX (or an Alternative Stock Exchange (as defined in the

Terms and Conditions of the Notes), as the case may be) for the quotation of any new Ordinary Shares which may be issued on exercise of the conversion rights attached to the Notes.

**Investing in the Notes and the Ordinary Shares involves certain risks. See “*Risk Factors*” beginning on page 18 for a discussion of certain factors to be considered in connection with an investment in the Notes.**

**The Notes, the Guarantee and the Ordinary Shares to be issued upon conversion of the Notes have not been, and will not be, registered under the U.S. Securities Act of 1933, as amended (the “Securities Act”) or the securities laws of any state of the United States and they may not be offered or sold within the United States. The Notes and the Guarantee are being offered and sold solely outside the United States in “offshore transactions” as defined in, and in reliance on Regulation S under the Securities Act. For a description of these and certain further restrictions on offers and sales of the Notes, the Guarantee and the Ordinary Shares to be issued upon conversion of the Notes and the distribution of this Offering Circular, see “*Subscription and Sale*”.**

The Notes will be represented by beneficial interests in a permanent global certificate (the “**Global Certificate**”) in registered form, which will be registered in the name of a nominee of, and shall be deposited on or about the Closing Date with, a common depository for Euroclear Bank SA/NV (“**Euroclear**”) and Clearstream Banking S.A. (“**Clearstream**”). Beneficial interests in the Global Certificate will be shown on, and transfers thereof will be effected only through, records maintained by Euroclear and Clearstream. Except as described in the Global Certificate, certificates for Notes will not be issued in exchange for interests in the Global Certificate.

#### **Joint Lead Managers**

**Goldman Sachs International**

**Morgan Stanley**

The date of this Offering Circular is 5 June 2024

## IMPORTANT NOTICE

### GENERAL

#### About this document

This document (the “**Offering Circular**”) is issued by the Issuer and the Company. Any offering of the Issuer’s Notes is made under this Offering Circular.

Neither this Offering Circular nor any other disclosure document in relation to the Notes has been lodged with the Australian Securities and Investments Commission (“**ASIC**”) and is not, and does not purport to be, a prospectus or document containing disclosure to investors for the purposes of Part 6D.2 or Part 7.9 of the Corporations Act 2001 (Cth) (the “**Corporations Act**”). This Offering Circular is not intended to be used in connection with any offer for which such disclosure is required and does not contain all the information that would be required if this Offering Circular was a prospectus, disclosure document or product disclosure statement under Part 6D.2 or Part 7.9 of the Corporations Act. This Offering Circular is not to be provided to any “retail client” as defined in section 761G of the Corporations Act. The Issuer and the Company are not licensed to provide financial product advice in respect of the Notes or the Ordinary Shares. Cooling-off rights do not apply to the acquisition of the Notes or Ordinary Shares.

A person may not make or invite an offer of the Notes for issue or sale in Australia (including an offer or invitation which is received by a person in Australia) or distribute or publish this Offering Circular or any other offering material or advertisement relating to the Notes in Australia unless the minimum aggregate consideration payable by each offeree is at least A\$500,000 calculated in accordance with both section 708(9) of the Corporations Act and regulation 7.1.18 of the Corporations Regulations 2001 (Cth) or the offer or invitation otherwise does not require disclosure to investors in accordance with Part 6D.2 (including sections 708(8) and 708(11)) of the Corporations Act, and such action complies with all applicable laws, regulations and directives.

None of ASIC or the ASX or their respective officers takes any responsibility for the contents of this Offering Circular or the merits of the investment to which this Offering Circular relates. The fact that the ASX has quoted the Ordinary Shares and may quote the Ordinary Shares into which the Notes may convert is not to be taken in any way as an indication of the merits of the Ordinary Shares, the Notes, the Issuer or the Company.

This Offering Circular and the information contained in or accompanying this Offering Circular:

- (a) are not, and are under no circumstances to be construed as, an offer of Notes to any person who requires disclosure under Part 3 of the New Zealand Financial Markets Conduct Act 2013 (“**FMC Act**”); and
- (b) are not a product disclosure statement under the FMC Act and do not contain all the information that a product disclosure statement is required to contain under New Zealand law.

This Offering Circular has not been registered, filed with or approved by any New Zealand regulatory authority under the FMC Act. The Notes are not being offered or sold in New Zealand (or allotted with a view to being offered for sale in New Zealand) other than to a person who is a “wholesale investor” within the meaning of clause 3 of Schedule 1 of the FMC Act.

The Issuer and the Company have confirmed to Goldman Sachs International and Morgan Stanley & Co. International plc (the “**Joint Lead Managers**”) that this Offering Circular contains or incorporates by reference all information regarding the Issuer, the Company and the Company’s subsidiaries as a whole (collectively, the “**Group**”), the Notes, the Guarantee and the Ordinary Shares which is (in the context of the issue of the Notes) material; such information is true and accurate in all material respects and is not misleading or deceptive or

likely to mislead or deceive in any material respect; any opinions, intentions and expectations expressed in this Offering Circular on the part of the Issuer, the Company and the Group are honestly held and based on reasonable assumptions and reasonable grounds; there will be no facts in relation to the Issuer, the Company and the Group, the Notes, the Guarantee or the Ordinary Shares the omission of which would, in the context of the issue and offering of the Notes, make any statement in this Offering Circular misleading or deceptive or likely to mislead or deceive in any material respect; all reasonable enquiries have been made to ascertain and to verify the accuracy of all such information and statements; and this Offering Circular complies with all applicable laws and regulations. The Issuer and the Company accept responsibility for the information contained in this Offering Circular. This Offering Circular should be read in its entirety. It contains general information only and does not take into account the specific objectives, financial situation or needs of any investor. In the case of any doubt, investors should seek the advice of a financial or other professional adviser.

None of the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee (as defined in the Conditions) or the Agents (as defined in the Conditions) or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them guarantees the success of the offering of the Notes (the “**Offering**”), or any particular rate of capital or income return. Investment-type products are subject to investment risk, including possible loss of income and capital invested.

None of the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them is providing investors with any legal, business or tax advice in this Offering Circular. Investors should consult their own advisers to assist them in making their investment decision and to advise themselves whether they are legally permitted to purchase the Notes. Investors must comply with all laws that apply to them in any place in which they buy, offer or sell any Notes or possess this Offering Circular. Investors must also obtain any consents or approvals that they need in order to purchase the Notes. None of the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them are responsible for investors’ compliance with any such legal requirements. Neither the Issuer, the Company, nor any member of the Group has authorised the making or provision of any representation or information regarding the Issuer, the Company or the Notes other than as contained in this Offering Circular or as approved for such purpose by the Issuer or the Company, as the case may be. Any such representation or information should not be relied upon as having been authorised by the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them.

Neither the delivery of this Offering Circular nor the offering, sale or delivery of any Note shall in any circumstance create any implication that there has been no adverse change, or any event reasonably likely to involve any adverse change, in the condition (financial or otherwise) of the Issuer, the Company or the Group since the date of this Offering Circular.

In this Offering Circular, unless otherwise specified, references to “**NZ\$**” and “**New Zealand Dollars**” are to New Zealand dollars, “**A\$**” and “**Australian Dollars**” are to Australian dollars, “**U.S.\$**”, “**U.S. dollars**” and “**U.S. Dollars**” are to United States dollars, “**Pound Sterling**” are to British Pound sterling and “**Canadian Dollar**” are to Canadian dollars; and references to “**United States**”, “**U.S.**” and “**US**” are to the United States of America.

Any offer, invitation to offer or agreement made in connection with the purchase or acquisition of the Notes or pursuant to this Offering Circular shall (without liability or responsibility on the part of the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective



affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them) lapse and cease to have any effect if (for any reason whatsoever) the Notes are not issued by the Issuer to the Joint Lead Managers.

Singapore SFA Production Classification: In connection with Section 309B of the Securities and Futures Act 2001 of Singapore (the “SFA”) and the Securities and Futures (Capital Markets Products) Regulations 2018 of Singapore (the “CMP Regulations 2018”), the Issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA), that the Notes are ‘prescribed capital markets products’ (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

Furthermore, no comment is made or advice is given by any of the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates, directors, or any person who controls any of them in respect of taxation matters relating to any Notes or the legality of the purchase of Notes by an investor under applicable or similar laws. The Joint Lead Managers, the Trustee and the Agents and each of their respective affiliates, advisers, agents, representatives, employees, officers, associates and directors and each person who controls any of them do not undertake to review the financial condition or affairs of the Issuer or the Company during the life of the arrangements contemplated by this Offering Circular nor to advise any investor or potential investor in the Notes of any information coming to the attention of the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them.

#### **No representations or recommendations**

No person has been authorised to give any information or to make any representation other than those contained in this Offering Circular in connection with the Offering and the Guarantee and, if given or made, such information or representations must not be relied upon as having been authorised by the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them. Neither the delivery of this Offering Circular nor any sale made hereunder shall, under any circumstances, constitute an offer of, or an invitation by, or on behalf of, the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them to subscribe for, or purchase, any of the Notes. This Offering Circular does not constitute an offer, and may not be used for the purpose of an offer, to anyone in any jurisdiction or in any circumstances in which such an offer is not authorised or is unlawful.

None of the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them has separately verified the information contained in or incorporated in this Offering Circular. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Joint Lead Managers, the Trustee or any Agent or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them as to the accuracy or completeness of the information (including the financial information) contained or incorporated in this Offering Circular or any other information (including the financial information) provided by the Issuer or the Company or in connection with the Notes or their distribution. Nothing contained or incorporated in this Offering Circular is, or shall be relied upon as, a promise or representation by the Joint Lead Managers, the Trustee or any Agent or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them.

This Offering Circular is not intended to provide the basis of any credit or other evaluation and nor should it be considered as a recommendation by the Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them that any recipient of this Offering Circular should purchase the Notes. Each potential purchaser of Notes should determine for itself the relevance of the information contained in this Offering Circular and its purchase of Notes should be based upon such investigations as it deems necessary.

Third parties named in this Offering Circular have not consented to the inclusion of their names in this Offering Circular, or to any statement attributed to them, or statement upon which a statement has been based. The directors of the Issuer and the Company assume responsibility for the reference to those entities and statements which include those references.

### **Restrictions in certain jurisdictions**

This Offering Circular does not constitute an offer or invitation in any place in which, or to any person to whom, it would not be lawful to make such an offer or invitation.

Any purchase or acquisition of the Notes is in all respects conditional on the satisfaction of certain conditions set out in the Subscription Agreement (as defined herein) and the issue of the Notes by the Issuer to the Joint Lead Managers pursuant to the Subscription Agreement.

The distribution of this Offering Circular and the offering, sale and delivery of Notes and the Ordinary Shares to be issued on conversion of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Circular comes are required to inform themselves about and to observe any such restrictions. For a description of certain restrictions on offers, sales and deliveries of Notes and on distribution of this Offering Circular and other offering material relating to the Notes, see “*Subscription and Sale*”.

The Notes, the Guarantee and the Ordinary Shares to be issued upon conversion of the Notes have not been, and will not be, registered under the Securities Act and may not be offered or sold within the United States. The Notes are being offered and sold solely outside the United States in “offshore transactions” as defined in, and in reliance on Regulation S under the Securities Act.

Any offering of Notes in Australia is made under this Offering Circular and is open only to select investors who are sophisticated or professional investors as respectively defined within sections 708(8) or 708(11) of the Corporations Act and are not “retail clients” within the meaning of section 761G of the Corporations Act.

The Notes are not being offered or sold in New Zealand (or allotted with a view to being offered for sale in New Zealand) other than to a person who is a “wholesale investor” within the meaning of clause 3 of Schedule 1 of the FMC Act.

Prospective purchasers of the Notes must comply with all laws that apply to them in any place in which they buy, offer or sell any Notes or possess this Offering Circular. Each prospective investor must also obtain any consents or approvals that they need in order to purchase any Notes. The Issuer, the Company, any member of the Group, the Joint Lead Managers, the Trustee and the Agents and each of their respective affiliates, advisers, agents, representatives, employees, officers, associates and directors and each person who controls any of them are not responsible for the compliance with relevant legal requirements by the prospective purchasers.

### **MiFID II product governance/Professional investors and ECPs only target market**

Solely for the purposes of a manufacturer’s product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties and professional clients only, each as defined in Directive 2014/65/EU (as amended, “**MiFID II**”); and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any

person subsequently offering, selling or recommending the Notes (a “**distributor**”) should take into consideration such manufacturer’s target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining such manufacturer’s target market assessment) and determining appropriate distribution channels.

#### **UK MiFIR product governance/Professional investors and ECPs only target market**

Solely for the purposes of a manufacturer’s product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is only eligible counterparties, as defined in the FCA Handbook Conduct of Business Sourcebook, and professional clients, as defined in Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**UK MiFIR**”); and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a “**distributor**”) should take into consideration such manufacturer’s target market assessment; however, a distributor subject to the FCA Handbook Product Intervention and Product Governance Sourcebook (the “**UK MiFIR Product Governance Rules**”) is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining such manufacturer’s target market assessment) and determining appropriate distribution channels.

#### **PRIIPs regulation/prohibition of sales to EEA retail investors**

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (“the **EEA**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, “**MiFID II**”); or (ii) a customer within the meaning of Directive (EU) 2016/97 (as amended, the “**Insurance Distribution Directive**”), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II. Consequently, no key information document required by Regulation (EU) No 1286/2014 (as amended, the “**PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

#### **UK PRIIPs regulation/prohibition of sales to United Kingdom retail investors**

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (the “**UK**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (the “**EUWA**”); or (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the Financial Services and Markets Act 2000 (the “**FSMA**”) to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA. Consequently, no key information document required by Regulation (EU) No 1286/2014 as it forms part of domestic law by virtue of the EUWA (the “**UK PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

#### **Listing of the Notes on the SGX-ST**

Approval in-principle has been received from the SGX-ST for the listing of and quotation for the Notes on the Official List of the SGX-ST. The SGX-ST assumes no responsibility for the correctness of any of the statements

made or opinions expressed or reports contained in this Offering Circular. Admission to the Official List of the SGX-ST and quotation of the Notes to the Official List of the SGX-ST is not to be taken as an indication of the merits of the Issuer, the Company, any of their subsidiaries and associated companies (if any), the Notes or the Ordinary Shares. The Notes will be traded on the SGX-ST in a minimum board lot size of S\$200,000 (or its equivalent in other currencies) for so long as any of the Notes are listed on the SGX-ST and the rules of the SGX-ST so require.

### **Listing of Ordinary Shares**

The Ordinary Shares of the Company are quoted on the ASX. If conversion of the Notes is settled by the issuance of Ordinary Shares rather than a cash payment, then upon conversion of the Notes, application will be made for quotation of the Ordinary Shares issuable upon conversion of the Notes on the ASX (or an Alternative Stock Exchange (as defined in the Terms and Conditions of the Notes), as the case may be).

### **Global Certificate**

The Notes will be in registered form. The Notes will be represented on issue by a Global Certificate. On or around the Closing Date, the Global Certificate will be registered in the name of a nominee of, and deposited with, a common depository for Euroclear and Clearstream. The Global Certificate will be exchangeable, in whole or in part, for individual definitive Notes in registered form, serially numbered, in denominations of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof (but only in the limited circumstances described in the Global Certificate).

### **Further information on the Group**

The Company, being incorporated in New Zealand, is subject to reporting and disclosure obligations under the New Zealand Companies Act 1993 (the “**Companies Act**”). The Company is also a “disclosing entity” for the purposes of certain sections of the Corporations Act and is subject to regular reporting and disclosure obligations under the listing rules of the ASX (the “**ASX Listing Rules**”). Copies of documents regarding the Company lodged with the New Zealand Companies Office or the ASX, respectively, may be obtained from, or inspected at, the Company’s online public records at the New Zealand Companies Office or the ASX, respectively.

In addition, a copy of the following documents may be obtained, as described below:

- the audited consolidated financial statements of the Group for the financial years ended 31 March 2022, 31 March 2023 and 31 March 2024 (which includes the comparatives of the financial statements for the financial years ended 31 March 2021, 31 March 2022 and 31 March 2023 respectively); and
- any other document used to notify the ASX of information relating to the Group under the continuous disclosure provisions of the ASX Listing Rules and the Corporations Act after the lodgement with the New Zealand Companies Office of the audited consolidated financial statements of the Group for the financial year ended 31 March 2024 and before lodgement of this Offering Circular with the ASX.

These documents may be obtained from the Company, free of charge, by contacting the Company Secretariat at the head office of the Company at 19-23 Taranaki Street, Te Aro, Wellington 6011, New Zealand. These documents, and all other regular reporting and disclosure documents of the Company, are also available electronically on the website of the ASX at [www.asx.com.au](http://www.asx.com.au) and the Company at [www.xero.com](http://www.xero.com).

### **Risk Factors**

Prospective purchasers of Notes should carefully consider the risks and uncertainties described in this Offering Circular before making a decision to invest in the Notes. An investment in the Notes should be considered speculative due to various factors, including the nature of the Group’s business. See “*Cautionary Statement Regarding Forward-Looking Statements*” (below) and “*Risk Factors*” outlined below.

## **Goldman Sachs International**

Goldman Sachs International is exempt from the requirement to hold an Australian financial services licence (“AFSL”) under the Corporations Act in respect of the financial services it provides, and does not therefore hold an AFSL. Goldman Sachs International is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority under UK laws, which differ from Australian laws.

## **NOTICE TO CAPITAL MARKET INTERMEDIARIES AND PROSPECTIVE INVESTORS PURSUANT TO PARAGRAPH 21 OF THE HONG KONG SFC CODE OF CONDUCT**

Prospective investors should be aware that certain intermediaries in the context of this Offering, including certain Joint Lead Managers, are “capital market intermediaries” (“CMI”) subject to Paragraph 21 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (the “SFC Code”). This notice to prospective investors is a summary of certain obligations the SFC Code imposes on such CMIs, which require the attention and cooperation of prospective investors. Certain CMIs may also be acting as “overall coordinators” (“OC”) for this Offering and are subject to additional requirements under the SFC Code.

Prospective investors who are the directors, employees or major shareholders of the Issuer, the Guarantor, a CMI or its group companies would be considered under the SFC Code as having an association (“Association”) with the Issuer, the Guarantor, the CMI or the relevant group company. Prospective investors associated with the Issuer, the Guarantor or any CMI (including its group companies) should specifically disclose this when placing an order for the Notes and should disclose, at the same time, if such orders may negatively impact the price discovery process in relation to this Offering. Prospective investors who do not disclose their Associations are hereby deemed not to be so associated. Where prospective investors disclose their Associations but do not disclose that such order may negatively impact the price discovery process in relation to this Offering, such order is hereby deemed not to negatively impact the price discovery process in relation to this Offering.

Prospective investors should ensure, and by placing an order prospective investors are deemed to confirm, that orders placed are bona fide, are not inflated and do not constitute duplicated orders (i.e. two or more corresponding or identical orders placed via two or more CMIs). If a prospective investor is an asset management arm affiliated with any relevant Joint Lead Manager, such prospective investor should indicate when placing an order if it is for a fund or portfolio where the relevant Joint Lead Manager or its group company has more than 50% interest, in which case it will be classified as a “proprietary order” and subject to appropriate handling by CMIs in accordance with the SFC Code and should disclose, at the same time, if such “proprietary order” may negatively impact the price discovery process in relation to this Offering. Prospective investors who do not indicate this information when placing an order are hereby deemed to confirm that their order is not a “proprietary order”. If a prospective investor is otherwise affiliated with any relevant Joint Lead Manager, such that its order may be considered to be a “proprietary order” (pursuant to the SFC Code), such prospective investor should indicate to the relevant Joint Lead Manager when placing such order. Prospective investors who do not indicate this information when placing an order are hereby deemed to confirm that their order is not a “proprietary order”. Where prospective investors disclose such information but do not disclose that such “proprietary order” may negatively impact the price discovery process in relation to this Offering, such “proprietary order” is hereby deemed not to negatively impact the price discovery process in relation to this Offering.

Prospective investors should be aware that certain information may be disclosed by CMIs (including private banks) which is personal and/or confidential in nature to the prospective investor. By placing an order, prospective investors are deemed to have understood and consented to the collection, disclosure, use and

transfer of such information by the relevant Joint Lead Manager and/or any other third parties as may be required by the SFC Code, including to the Issuer, the Guarantor, any OCs, relevant regulators and/or any other third parties as may be required by the SFC Code, it being understood and agreed that such information shall only be used for the purpose of complying with the SFC Code, during the bookbuilding process for this Offering. Failure to provide such information may result in that order being rejected.

### **CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This Offering Circular may contain forward-looking statements concerning anticipated developments in the Group's operations in future periods, the adequacy of the Group's financial resources and other events or conditions that may occur in the future. Forward-looking statements are frequently, but not always, identified by words such as "expects", "anticipates", "believes", "intends", "estimates", "potential", "targeted", "plans", "possible" and similar expressions, or statements that events, conditions or results "will", "may", "could" or "should" occur or be achieved.

Forward-looking statements are statements about the future and are inherently uncertain, and actual achievements of the Group or other future events or conditions may differ materially from those reflected in the forward-looking statements due to a variety of risks, uncertainties and other factors, including, without limitation, those referred to in this Offering Circular under the heading "*Risk Factors*". The Group's forward-looking statements are based on the beliefs, expectations and opinions of management on the date the statements are made, and the Group does not assume any obligation to update forward-looking statements if circumstances or management's beliefs, expectations or opinions should change. For the reasons set forth above, investors should not place undue reliance on forward-looking statements. Any forward-looking statements speak only as of the date of this Offering Circular. Comparisons of results for current and any prior periods are not intended to express any future trends or indications of future performance and should only be viewed as historical data.

## TABLE OF CONTENTS

	<b>Page</b>
INCORPORATION BY REFERENCE.....	1
THE OFFERING.....	2
DESCRIPTION OF THE CALL SPREAD TRANSACTIONS.....	14
MARKET PRICE INFORMATION .....	16
DIVIDENDS AND DIVIDEND POLICY .....	17
RISK FACTORS .....	18
USE OF PROCEEDS.....	41
CAPITALISATION AND INDEBTEDNESS .....	42
SUMMARY FINANCIAL INFORMATION .....	46
ISSUER.....	50
BUSINESS OF THE GROUP.....	51
DIRECTORS AND MANAGEMENT.....	58
PRINCIPAL SHAREHOLDERS .....	63
TERMS AND CONDITIONS OF THE NOTES .....	64
SUMMARY OF PROVISIONS RELATING TO THE NOTES IN GLOBAL FORM.....	121
RIGHTS AND LIABILITIES OF ORDINARY SHARES .....	124
TAXATION .....	126
SUBSCRIPTION AND SALE .....	130
ADDITIONAL INFORMATION.....	138
GENERAL INFORMATION .....	140

## INCORPORATION BY REFERENCE

The audited consolidated financial statements of the Group as at and for the financial years ended 31 March 2024 (the “**2024 Audited Consolidated Financial Statements**”), 31 March 2023 (the “**2023 Audited Consolidated Financial Statements**”) and 31 March 2022 (the “**2022 Audited Consolidated Financial Statements**”) and together with the 2024 Audited Consolidated Financial Statements and the 2023 Audited Consolidated Financial Statements, the “**Group’s Audited Consolidated Financial Statements**”), including the respective auditors’ report in respect of the Group’s Audited Consolidated Financial Statements, which have been filed with the New Zealand Companies Office and the ASX, respectively, are deemed to be incorporated by reference into, and to form part of, this Offering Circular.

The 2024 Audited Consolidated Financial Statements consists of consolidated financial information of the Group as at and for the financial year ended 31 March 2024 and comparative consolidated financial information of the Group as at and for the financial year ended 31 March 2023. The 2023 Audited Consolidated Financial Statements consists of consolidated financial information of the Group as at and for the financial year ended 31 March 2023 and comparative consolidated financial information of the Group as at and for the financial year ended 31 March 2022. The 2022 Audited Consolidated Financial Statements consists of consolidated financial information of the Group as at and for the financial year ended 31 March 2022 and comparative consolidated financial information of the Group as at and for the financial year ended 31 March 2021. The Group’s Audited Consolidated Financial Statements should be read in conjunction and in entirety with their respective related notes thereto.

Each document incorporated herein by reference is current only as at the date of such document, and the incorporation by reference of such documents shall not create any implication that there has been no change in the affairs of the Issuer, the Company and the Group, as the case may be, since the date thereof or that the information contained therein is current as at any time subsequent to its date. Any statement contained therein shall be deemed to be modified or superseded for the purposes of this Offering Circular to the extent that a subsequent statement contained in another incorporated document herein modifies or supersedes that statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Offering Circular. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes.

The making of a modifying or superseding statement is not to be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made.

Copies of the documents incorporated herein by reference may be obtained on request without charge from the Company Secretariat at 19-23 Taranaki Street, Te Aro, Wellington 6011, New Zealand. These documents are also available electronically without charge through the internet from the ASX ([www.asx.com.au](http://www.asx.com.au)) or the Company ([www.xero.com](http://www.xero.com)) as set out in the “Important Notice” section.

Prospective investors are advised to obtain and read the documents incorporated by reference herein before making their investment decision in relation to the Notes.



## THE OFFERING

*The following is a summary of the principal features of the Notes and the Offering. Terms defined under “Terms and Conditions of the Notes” or elsewhere in this Offering Circular shall have the same respective meanings in this summary.*

*The following summary is qualified in its entirety by the more detailed information appearing in the “Terms and Conditions of the Notes” section in this Offering Circular. If there is any inconsistency between this summary and the more detailed information in the “Terms and Conditions of the Notes” section of this Offering Circular, then the “Terms and Conditions of the Notes” shall prevail.*

<b>Issuer</b>	Xero Investments Limited.
<b>Guarantor</b>	Xero Limited.
<b>The Notes</b>	U.S.\$925,000,000 1.625 per cent. Guaranteed Senior Unsecured Convertible Notes due 2031.
<b>Issue Price</b>	100.00 per cent. of the principal amount of the Notes.
<b>Denomination</b>	U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof.
<b>Closing Date</b>	12 June 2024.
<b>Interest Rate</b>	The Notes bear interest from and including the Closing Date at the rate of 1.625 per cent. per annum payable semi-annually in arrear in equal instalments of U.S.\$8.125 per Calculation Amount (as defined in the Terms and Conditions of the Notes) on 12 June and 12 December in each year.
<b>Status</b>	See Condition 5 of the Terms and Conditions of the Notes. The Notes will constitute direct, unconditional, unsubordinated and (subject to Condition 2 of the Terms and Conditions of the Notes) unsecured obligations of the Issuer ranking <i>pari passu</i> and rateably, without any preference among themselves. The payment obligations of the Issuer under the Notes will rank equally with all its other existing and future unsecured and unsubordinated obligations, save for such obligations that may be preferred by provisions of law that are mandatory and of general application.
<b>Guarantee</b>	The Guarantor will unconditionally and irrevocably guarantee in the Trust Deed, on the terms and conditions set out in the Trust Deed, the payment of all sums expressed to be payable by the Issuer under the Trust Deed and the Notes. The payment obligations of the Guarantor shall, save for such obligations that may be preferred by provisions of law that are mandatory and of general application, at all times rank at least equally with all its other present and future unsecured and unsubordinated obligations.

## **Initial Conversion Period**

During the Initial Conversion Period, subject to and as provided in the Terms and Conditions of the Notes, each Note shall entitle the holder to convert such Note for an amount equal to the relevant Cash Settlement Amount. Unless a Physical Settlement Election is made by the Issuer in respect of the relevant exercise of Conversion Rights, the Issuer shall pay the relevant Noteholder the relevant Cash Settlement Amount in accordance with Condition 6 of the Terms and Conditions of the Notes.

Subject to, and as provided in the Terms and Conditions of the Notes, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, and subject to any applicable fiscal or other laws or regulations and as provided in the Terms and Conditions of the Notes, at any time on or after 23 July 2024 (the “**Initial Conversion Period Commencement Date**”) to the date falling 101 Sydney business days prior to the Final Maturity Date (the “**Initial Conversion Period End Date**”) (both days inclusive) or, if such Note is to be redeemed pursuant to Condition 7(b) of the Terms and Conditions of the Notes or Condition 7(c) of the Terms and Conditions of the Notes prior to the Initial Conversion Period End Date, not later than the 10<sup>th</sup> Sydney business day before the date fixed for redemption thereof pursuant to Condition 7(b) of the Terms and Conditions of the Notes or Condition 7(c) of the Terms and Conditions of the Notes, unless there shall be default in making payment in respect of such Note on such date fixed for redemption, in which event the Conversion Right may be exercised up to the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given to Noteholders in accordance with Condition 17 of the Terms and Conditions of the Notes or, if earlier, the date falling 101 Sydney business days prior to the Final Maturity Date (the “**Initial Conversion Period**”), provided that, in each case, if such final date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of Conversion Rights by Noteholders shall end on the immediately preceding business day at the place aforesaid.

See Condition 6(a) of the Terms and Conditions of the Notes.

## **Physical Settlement Election during the Initial Conversion Period**

Upon exercise of a Conversion Right during the Initial Conversion Period, the Issuer may, in its sole discretion, make an election to satisfy the exercise of such Conversion Right in respect of the relevant Notes by the

delivery of Ordinary Shares equal to the relevant Reference Shares (a “**Physical Settlement Election**”) by giving a written notice (a “**Physical Settlement Election Notice**”) to the relevant Noteholder by no later than the date falling two Sydney business days following the relevant Conversion Date to the address, fax number or email address provided in the relevant Conversion Notice. The Physical Settlement Election Notice shall specify the number of Reference Shares as at the relevant Conversion Date to be issued to, or transferred to, the Noteholder and delivered by the Guarantor in respect of the relevant exercise of Conversion Rights. Each Noteholder consents to become a member of the Issuer and to be bound by the constitution of the Issuer in respect of any Ordinary Shares issued on exercise of a Conversion Right.

A Physical Settlement Election shall be irrevocable and shall specify the Conversion Price in effect on the relevant Conversion Date.

See Condition 6(b) of the Terms and Conditions of the Notes.

#### **Final Conversion Period and Final Conversion Period Determination**

Subject to, and as provided in the Terms and Conditions of the Notes, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, and subject to any applicable fiscal or other laws or regulations and as hereinafter provided, at any time from the date falling 100 Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period Commencement Date**”) to the date falling three Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period End Date**”) (both days inclusive) or, if such Note is to be redeemed pursuant to Condition 7(b) of the Terms and Conditions of the Notes or Condition 7(c) of the Terms and Conditions of the Notes prior to the Final Conversion Period End Date, not later than the 10<sup>th</sup> Sydney business day before the date fixed for redemption thereof pursuant to Condition 7(b) of the Terms and Conditions of the Notes or Condition 7(c) of the Terms and Conditions of the Notes, unless there shall be default in making payment in respect of such Note on such date fixed for redemption, in which event the Conversion Right may be exercised up to the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given to Noteholders in accordance with Condition 17 of the Terms and Conditions of the Notes or, if earlier, the date falling three Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period**”), provided that, in

each case, if such final date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of Conversion Rights by Noteholders shall end on the immediately preceding business day at the place aforesaid.

Prior to the Final Conversion Period Commencement Date and no earlier than the date falling 105 Sydney business days prior to the Final Maturity Date (both days inclusive), the Issuer will make a determination (a “**Final Conversion Period Determination**”) by giving notice to the Noteholders in accordance with Condition 17 of the Terms and Conditions of the Notes and to the Trustee and each Conversion Agent in writing (a “**Final Conversion Period Determination Notice**”). The Final Conversion Period Determination Notice shall state that any Conversion Rights exercised by a Noteholder during the Final Conversion Period will be wholly satisfied and settled either by an amount equal to the relevant Cash Settlement Amount or by the delivery of Ordinary Shares equal to the relevant Reference Shares and to which Noteholder the Issuer shall pay the relevant Cash Settlement Amount by transfer to a U.S. dollar account with a bank in New York City or, as the case may be, issue or transfer the relevant Reference Shares to the Noteholder, in accordance with the instructions contained in the relevant Conversion Notice.

A Final Conversion Period Determination shall be at the sole discretion of the Issuer and the Final Conversion Period Determination Notice shall be irrevocable.

See Condition 6(c) of the Terms and Conditions of the Notes.

#### **Conversion Price**

The initial Conversion Price (as defined in the Terms and Conditions of the Notes) shall be U.S.\$109.6453 per Ordinary Share (based on a fixed exchange rate of A\$1.00 = U.S.\$0.6649). The Conversion Price (as defined in the Terms and Conditions of the Notes) will be subject to adjustment in certain circumstances described in Condition 6(e) of the Terms and Conditions of the Notes.

#### **Final Maturity Date**

Unless previously purchased and cancelled, redeemed or converted as provided in the Terms and Conditions of the Notes, the Notes will be redeemed at their principal amount plus any interest accrued but unpaid to (but excluding) the Final Maturity Date on 12 June 2031.

#### **Redemption at the Option of the Issuer**

On giving not less than 30 nor more than 60 days’ notice (an “**Optional Redemption Notice**”) to the Noteholders in accordance with Condition 17 of the Terms and

Conditions of the Notes and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), the Issuer may redeem all but not some only of the Notes on any date specified in the Optional Redemption Notice at their principal amount, together with accrued but unpaid interest to but excluding such date if, at any time prior to the date the relevant Optional Redemption Notice is given:

- (a) at any time on or after 12 June 2029, the Closing Price of the Ordinary Shares (as published by or derived from the Relevant Stock Exchange) (translated into U.S. dollars at the Prevailing Rate) for each of any 20 Dealing Days within a period of 30 consecutive Dealing Days, the last of which shall not fall earlier than five calendar days prior to the date upon which notice of such redemption is published, was at least 130 per cent. of the applicable Conversion Price (as defined in the Terms and Conditions of the Notes); or
- (b) Conversion Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions effected in respect of 85 per cent. or more in principal amount of the Notes originally issued (which shall for this purpose include any further Notes issued pursuant to Condition 18 of the Terms and Conditions of the Notes and consolidated and forming a single series with the Notes).

#### **Redemption for a Relevant Event**

Following the occurrence of a Relevant Event, the holder of each Note will have the right at such holder's option, to require the Issuer to redeem all or some only of that holder's Notes on the Relevant Event Redemption Date (as defined in the Terms and Conditions of the Notes) at their principal amount, together with accrued but unpaid interest to but excluding the Relevant Event Redemption Date.

A "**Relevant Event**" occurs when:

- (a) there is a Delisting; or
- (b) there is a Change of Control.

See Condition 7(e) of the Terms and Conditions of the Notes.

#### **Redemption at the Option of the Noteholders**

The Issuer will, at the option of the holder of any Note, redeem all or some only of such holder's Notes on 12 June 2029 (the "**Put Option Date**") at their principal amount together with accrued but unpaid interest to but excluding the Put Option Date.

## **Withholding Taxes**

See Condition 7(f) of the Terms and Conditions of the Notes.

All payments of principal and/or interest made by or on behalf of the Issuer or the Guarantor in respect of the Notes or under the Guarantee (as the case may be) will be made free from any restriction or condition and be made without deduction or withholding for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of New Zealand or any political subdivision or any authority thereof or therein having power to tax, unless deduction or withholding of such taxes, duties, assessments or governmental charges is required to be made by law. In the event that any such withholding or deduction is required to be made, the Issuer or, as the case may be, the Guarantor will pay such additional amounts as will result in the receipt by the Noteholders of the amounts which would otherwise have been receivable had no such withholding or deduction been required save for such exceptions as set out in Condition 9(a) of the Terms and Conditions of the Notes.

The Issuer or the Guarantor, as the case may be, is required by law to deduct New Zealand resident withholding tax from a payment of interest to the holder of any Note on the due date of payment of principal and/or interest on the Notes, including in the circumstances as described in Condition 9(b) of the Terms and Conditions of the Notes.

If the Issuer and/or the Guarantor becomes subject to, or accepts deposits or makes payments in respect of the Notes at any time in, any taxing jurisdiction of a territory or a taxing authority of or in that territory with power to tax other than or in addition to New Zealand or any political subdivision or any authority thereof or therein having power to tax, the Issuer and/or the Guarantor, as the case may be, will notify the Trustee in writing as soon as practicable after it becomes aware of such change and give the Trustee an undertaking as described in Condition 9(c) of the Terms and Conditions of the Notes.

See Condition 9 of the Terms and Conditions of the Notes.

## **Redemption for Taxation Reasons**

At any time the Issuer may, having given not less than 30 nor more than 60 days' notice (a "**Tax Redemption Notice**") to the Noteholders in accordance with Condition 17 of the Terms and Conditions of the Notes and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), redeem

(subject to Condition 7(c)) all but not some only of the Notes on the date (the “**Tax Redemption Date**”) specified in the Tax Redemption Notice at their principal amount, together with accrued but unpaid interest to but excluding such date, if the Issuer and/or the Guarantor satisfies the Trustee immediately prior to the giving of such notice that:

- (a) the Issuer (or if the Guarantee were called, the Guarantor) has or will become obliged to pay additional amounts in respect of payments on the Notes (or under the Guarantee, as the case may be) as a result of any change in, or amendment to, the laws or regulations of New Zealand or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after 4 June 2024; and
- (b) such obligation cannot be avoided by the Issuer (or the Guarantor, as the case may be) after taking reasonable measures available to it,

provided that no such Tax Redemption Notice shall be given earlier than 90 days prior to the earliest date on which the Issuer (or the Guarantor, as the case may be) would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

If the Issuer gives a Tax Redemption Notice, each Noteholder will have the right to elect that such Noteholder’s Note(s) shall not be redeemed and that the provisions of Condition 9(a) shall not apply in respect of any payment of interest to be made on such Note(s) which falls due after the relevant Tax Redemption Date whereupon no additional amounts shall be payable in respect thereof pursuant to Condition 9(a) and payment of all amounts of interest on the Notes shall be made subject to the deduction or withholding of the taxation required to be withheld or deducted by New Zealand or any political subdivision or any authority thereof or therein having power to tax.

See Condition 7(c) of the Terms and Conditions of the Notes.

### **Negative Pledge**

So long as any of the Notes remain outstanding (as defined in the Trust Deed), neither the Issuer nor the Guarantor will create or permit to subsist, and the Guarantor will ensure that none of the Subsidiaries will create or permit to subsist, any mortgage, charge, lien,

pledge or other form of encumbrance or security interest (each a “**Security Interest**”), other than a Permitted Security Interest, upon the whole or any part of its present or future property or assets (including any uncalled capital) to secure any Relevant Indebtedness or to secure any guarantee of or indemnity in respect of any Relevant Indebtedness unless in any such case, before or at the same time as the creation of the Security Interest, any and all action necessary shall have been taken to ensure that:

- (a) all amounts payable by the Issuer or the Guarantor under the Notes and the Trust Deed are secured equally and rateably with the Relevant Indebtedness or guarantee or indemnity, as the case may be; or
- (b) such other Security Interest or guarantee or indemnity or other arrangement (whether or not including the giving of a Security Interest) is provided in respect of all amounts payable by the Issuer or the Guarantor under the Notes and the Trust Deed either:
  - (i) as the Trustee shall in its sole discretion deem not materially less beneficial to the interests of the Noteholders; or
  - (ii) as shall be approved by an Extraordinary Resolution (as defined in the Trust Deed) of the Noteholders.

See Condition 2 of the Terms and Conditions of the Notes.

**Events of Default**

The Terms and Conditions of the Notes will contain certain events of default provisions as further described in Condition 10 of the Terms and Conditions of the Notes.

See Condition 10 of the Terms and Conditions of the Notes.

**Trust Deed**

The Notes will be constituted by a trust deed to be dated the Closing Date between the Issuer, the Guarantor and the Trustee.

**Trustee**

The Hongkong and Shanghai Banking Corporation Limited.

**Principal Paying and Conversion Agent**

The Hongkong and Shanghai Banking Corporation Limited.

**Registrar and Principal Transfer Agent**

The Hongkong and Shanghai Banking Corporation Limited.

**Governing Law**

The Notes and the Trust Deed will be governed by, and construed in accordance with, English law.

**Form of the Notes and Delivery**

The Notes will be in registered form without coupons attached and will be represented by a Global Certificate



registered in the name of a nominee of, and deposited with, a common depository for Euroclear and Clearstream on or about the Closing Date.

### **Selling Restrictions**

There are restrictions on offers and sales of the Notes, *inter alia*, in the United States, the United Kingdom, Australia, New Zealand, the European Economic Area, Switzerland, Japan, Hong Kong and Singapore. See the “*Subscription and Sale*” section of this Offering Circular for full details.

### **Listing**

Approval in-principle has been received from the SGX-ST for the listing of and quotation for the Notes on the Official List of the SGX-ST. The Notes will be traded on the SGX-ST in a minimum board lot size of S\$200,000 (or its equivalent in other currencies) for so long as any of the Notes are listed on the SGX-ST and the rules of the SGX-ST so require. The Issuer has not applied to have the Notes admitted to dealing on the ASX.

Upon conversion of the Notes, application will be made for quotation of the Ordinary Shares issuable upon conversion of the Notes on the ASX or an Alternative Stock Exchange (as defined in the Terms and Conditions of the Notes), as the case may be.

### **Lock up**

Each of the Issuer and the Guarantor has undertaken in the Subscription Agreement that none of the Issuer, the Guarantor or any person acting on their behalf will:

- (a) issue, offer, sell, pledge, contract to sell or otherwise dispose of or grant options, issue warrants or offer rights entitling persons to subscribe or purchase any interest in any shares or securities of the same class as the Notes or the Ordinary Shares or any securities convertible into, exchangeable for or which carry rights to subscribe or purchase the Notes, the Ordinary Shares or securities of the same class as the Notes, the Ordinary Shares or other instruments representing interests in the Notes, the Ordinary Shares or other securities of the same class as them;
- (b) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of the ownership of the Ordinary Shares;
- (c) enter into any transaction with the same economic effect as, or which is designed to, or which may reasonably be expected to result in, or agree to do, any of the foregoing, whether any such transaction of the kind described in (a), (b) or (c) is to be settled

by delivery of Ordinary Shares or other securities, in cash or otherwise; or

- (d) announce or otherwise make public an intention to do any of the foregoing,

in any such case without the prior written consent of the Joint Lead Managers (not to be unreasonably withheld or delayed) between the date of the Subscription Agreement and the date which is 90 calendar days after the Closing Date except for:

- (i) the Notes and the Ordinary Shares issued on conversion of the Notes;
- (ii) Ordinary Shares issued on exercise of the upper strike call option transaction(s) entered into by the Issuer and the Guarantor with each Joint Lead Manager in relation to the Notes;
- (iii) the securities (or instruments convertible into securities) issued in respect of the acquisition of any business or company (whether occurring before or after the date of the Subscription Agreement); and
- (iv) any securities (or instruments convertible into securities) issued in connection with an Employee Share Scheme (as that term is defined in the Terms and Conditions of the Notes).

<b>ISIN</b>	XS2834365350
<b>Common Code</b>	283436535
<b>Legal Entity Identifier</b>	25490002CIY32NFE4689
<b>Use of Proceeds</b>	The net proceeds will be used for the purposes as set out in the “ <i>Use of Proceeds</i> ” section of this Offering Circular.
<b>Call Spread Transactions</b>	The 2025 Call Spread Transactions and the 2031 Call Spread Transactions (each as defined below). See the “ <i>Description of the Call Spread Transactions</i> ” section of this Offering Circular.
<b>Delta Hedging and Reference Share Price</b>	Delta hedging activities by the Joint Lead Managers (“ <b>Delta Hedging</b> ”) has facilitated some of the hedging activity in relation to the Notes, the 2025 Convertible Notes and the call spread transactions. The reference share price is A\$126.85, the clearing price of the Delta Hedging (“ <b>Reference Share Price</b> ”). The Reference Share Price will be used to determine the Initial Conversion Price of the Notes and the reference price for the unwinding of the 2025 Call Spread Transactions and for the 2031 Call Spread Transactions.
<b>Concurrent Repurchase</b>	Concurrent with the Offering, Goldman Sachs International and Morgan Stanley & Co. International plc

(in their capacity as dealer managers) will assist the Issuer and the Company with the repurchase by the Issuer (the “**Concurrent Repurchase**”) of the 2025 Convertible Notes (of which U.S.\$700,000,000 currently remains outstanding as at 31 March 2024) which will be satisfied and settled by payment of cash. The Concurrent Repurchase will be conducted concurrently with the offering of the Notes, and is expected to close on or about the Closing Date. The Concurrent Repurchase will not be conducted within the United States, nor will it be offered to the United States or to any person located or resident in the United States.

The Repurchase Price for the Concurrent Repurchase shall be calculated as follows:

$$CB\ Ask\ Price\ (\%) + (Reference\ Price - Close\ Price) \times Reference\ Delta \times Conversion\ Ratio + Repurchase\ Premium\ (\%)$$

Where

“CB Ask Price” = the ask price of the Existing Notes of 95.5% on the day of the launch of the reverse bookbuilding (4 June 2024)

“Close Price” = the closing price of the Ordinary Shares on ASX on the day of the reverse bookbuilding: A\$131.80

“Reference Price” is the clearing price of the Delta Hedging

“Reference Delta” = 25%

“Conversion Ratio” = 1,484.5104

“Repurchase Premium” =

- for Holders of the Existing Notes who provide irrevocable orders to (1) accept the invitation to tender their Existing Notes pursuant to the Concurrent Repurchase and (2) participate in the Offering of the New Notes at the final pricing terms, 1.0% (New Note Premium). The New Note Premium will be payable only on the proportion of a Holder’s Existing Notes that is committed to participate in the Offering of the New Notes at the final pricing terms.
- for all other Holders who participate in the concurrent repurchase, 0.50%

The Guarantor and the Issuer intend to unwind the call spread transactions entered into with the Joint Lead Managers (and certain other counterparties) at the time of issuance of the 2025 Convertible Notes (the “**2025 Call**”

**Spread Transactions**”) to the extent that 2025 Convertible Notes are repurchased (or as otherwise agreed between the Issuer, the Guarantor and the Joint Lead Managers) (and certain other counterparties).

## DESCRIPTION OF THE CALL SPREAD TRANSACTIONS

In connection with the issuance and pricing of the Notes, the Issuer has entered into call spread transactions with one or more of the Joint Lead Managers (or their respective affiliates) (and certain other counterparties), (together, the “**Option Counterparties**”) as follows:

- call option transaction(s) involving the sale of call option(s) by the Option Counterparties to the Issuer with a strike price equal to the Conversion Price (the “**Lower Strike Call Option**”); and
- call option transaction(s) involving the sale of call option(s) by the Issuer to the Option Counterparties exercisable at an overall average strike price of approximately U.S.\$134.95 (the “**Upper Strike Call Option**”),

(together, the “**2031 Call Spread Transactions**”).

The combination of the unwinding of the 2025 Call Spread Transactions (described below) and the entry into the 2031 Call Spread Transactions will realise a net outflow of U.S.\$55.8 million for the Group.

The Lower Strike Call Option is expected generally to offset any cash payments the Issuer is required to make in excess of the principal amount of converted Notes and/or reduce or offset the potential dilution upon conversion of the Notes, as the case may be. The Lower Strike Call Option will cover, subject to anti-dilution adjustments substantially similar to those applicable to the Notes, the equivalent number of Ordinary Shares underlying the Notes.

The Lower Strike Call Option comprises a number of tranches, each of which can only be exercised once, and will expire, on each of its expiry date under the terms of the Lower Strike Call Option ranging from, on or around the Final Conversion Period Commencement Date to, on or around the Final Conversion Period End Date (each as defined in the Terms and Conditions of the Notes) (subject to adjustment in accordance with the terms of the Lower Strike Call Option). Each tranche will be automatically exercised on its expiry date unless, in the case of cash settlement only, the Issuer notifies the relevant Option Counterparty prior to the expiration time on such date in accordance with the terms of the Lower Strike Call Option, or in the case of physical settlement only, the volume weighted average price per Ordinary Share, as measured under the terms of the Lower Strike Call Option, is equal to or less than the strike price with respect to such tranche. The Lower Strike Call Option will be settled in cash, other than where the Issuer elects physical settlement (and obtains all necessary approvals to do so). If cash settled, the Issuer will receive an amount of cash generally based on the amount by which the volume weighted average price per Ordinary Share, as measured under the terms of the Lower Strike Call Option, is greater than the strike price of the Lower Strike Call Option on each of its expiry date under the terms of the Lower Strike Call Option. If physically settled, the Guarantor will receive with respect to each tranche a number of Ordinary Shares determined by reference to the number of options exercised under that tranche, against payment by the Issuer to the relevant Option Counterparty of an amount determined by reference to the strike price multiplied by the number of options exercised under that tranche.

The Upper Strike Call Option comprises a number of tranches, each of which can only be exercised once, and will expire, on each of its expiry date under the terms of the Upper Strike Call Option ranging from on or around the Final Conversion Period Commencement Date to, on or around the Final Conversion Period End Date (each as defined in the Terms and Conditions of the Notes) (subject to adjustment in accordance with the terms of the Upper Strike Call Option). Each tranche will be automatically exercised on its expiry date unless the relevant Option Counterparty notifies the Issuer prior to the expiration time on such date in accordance with the terms of the Upper Strike Call Option or the volume weighted average price per Ordinary Share, as measured under the terms of the Upper Strike Call Option, is equal to or less than the strike price with respect to such tranche. Each tranche of the Upper Strike Call Option will be settled by delivery from the Issuer to the relevant Option Counterparty of, with respect to each tranche, a number of Ordinary Shares determined by reference to the

number of options exercised under that tranche, against payment by the relevant Option Counterparty to the Issuer of an amount determined by reference to the strike price multiplied by the number of options exercised under that tranche. Such delivery of Ordinary Shares at settlement will be effected by the issuance of new Ordinary Shares by the Guarantor to the Option Counterparties.

In connection with the Concurrent Repurchase, the Guarantor and the Issuer intend to unwind the 2025 Call Spread Transactions to the extent that 2025 Convertible Notes are repurchased (or as otherwise agreed between the Issuer, the Guarantor, the Joint Lead Managers and certain other counterparties). As part of establishing, maintaining and unwinding their hedges in relation to these transactions, the counterparties to the 2025 Call Spread Transactions, the Option Counterparties and the holders of 2025 Convertible Notes and Notes are expected to enter into various derivative transactions with respect to, and/or purchase, and/or sell, Xero's ordinary shares at their discretion. This activity could affect the market price of Xero's ordinary shares, the 2025 Convertible Notes or the Notes otherwise prevailing at that time. If any such transactions fail to become effective, whether or not the Offering is completed, the relevant parties may unwind their hedge positions with respect to the ordinary shares.

In addition, the Option Counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to the Ordinary Shares and/or by purchasing or selling Ordinary Shares or other securities of the Company in secondary market transactions following the pricing of the Notes and prior to the maturity of the Notes (and are likely to do so during any observation period related to a conversion of the Notes). This activity could also cause or avoid an increase or a decrease in the market price of the Ordinary Shares or the Notes, which could affect a Noteholder's ability to convert the Notes and, to the extent the activity occurs following conversion or during any observation period related to a conversion of Notes, it could affect the value of the consideration that a Noteholder will receive upon conversion of the Notes.

In addition, if any such 2031 Call Spread Transactions fail to become effective, whether or not this offering of Notes is completed, the Option Counterparties may unwind their hedge positions with respect to Ordinary Shares, which could adversely affect the value of Ordinary Shares and, if the Notes have been issued, the value of the Notes.

The 2031 Call Spread Transactions are separate transactions (in each case that the Issuer entered into with the Option Counterparties), are not part of the Terms and Conditions of the Notes and will not change the Noteholders' rights under the Notes. A Noteholder will not have any rights with respect to the 2031 Call Spread Transactions.

The Group does not make any representation or prediction as to the direction or magnitude of any potential effect that the transactions described above may have on the price of the Notes or the Ordinary Shares. In addition, the Group does not make any representation that the Option Counterparties will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

For a discussion of the potential impact of any market or other activity by the Option Counterparties in connection with the 2031 Call Spread Transactions, see "*Risk Factors – Risks Relating to the Call Spread Transactions – The Call Spread Transactions may affect the value of the Notes and the Ordinary Shares*" and "*Risk Factors – Risks Relating to the Call Spread Transactions – The Group is subject to counterparty risk with respect to the 2031 Call Spread Transactions*".

## MARKET PRICE INFORMATION

### Price of Ordinary Shares

The Company's Ordinary Shares are listed on the ASX.

The following table sets out the high and low closing prices, in Australian Dollars on the ASX, as well as the aggregate of total volumes of Ordinary Shares on the ASX.

Period	High	Low	Total trading volume of Ordinary Shares
	(A\$)		(000s)
<b>FY24</b>			
Fourth Quarter	138.79	106.9	32,402
Third Quarter	122.24	100	30,422
Second Quarter	127.68	113.25	25,916
First Quarter	121.29	91.62	36,274
<b>FY23</b>			
Fourth Quarter	90.85	70.55	35,034
Third Quarter	79.94	67.75	42,777
Second Quarter	100.5	75.18	36,384
First Quarter	108.4	74.48	42,310
<b>FY22</b>			
Fourth Quarter	146.37	93.93	42,047
Third Quarter	156.65	134.34	27,164
Second Quarter	154	134.66	27,619
First Quarter	148	119.29	33,885

*Source: Bloomberg L.P has published this trading data and has not consented to the use of the trading data in this Offering Circular.*

Note:

- (1) First Quarter is 1 April to 30 June; Second Quarter is 1 July to 30 September; Third Quarter is 1 October to 31 December; and Fourth Quarter is 1 January to 31 March.

## **DIVIDENDS AND DIVIDEND POLICY**

The Company has never declared or paid any cash dividends on its securities. The Company does not have any present intention to pay cash dividends on its shares in the foreseeable future. The Company currently intends to invest its future earnings, if any, to fund its growth. However, any future determination as to the declaration and payment of dividends will be at the discretion of the Company's Board of Directors and will depend on the Group's financial condition, operating results, contractual restrictions, capital requirements, business prospects and other factors the Company may deem relevant.



## RISK FACTORS

*There are numerous widespread risks associated with investing in any form of business and with investing in notes and the share market generally. There are also a range of specific risks associated with the Group's business and an investment in the Notes or Ordinary Shares should be considered speculative. Many of these risk factors are largely beyond the control of the Issuer, the Company and their respective directors.*

*Investors should carefully consider the risks described below before making a decision to invest in the Notes. The risks described below do not necessarily comprise all those faced by the Issuer and the Company and are not intended to be presented in any assumed order of priority.*

*The investment referred to in this Offering Circular may not be suitable for all of its recipients. Investors are advised to examine the contents of this Offering Circular and to consult their professional advisers before making a decision to subscribe for Notes.*

### RISKS RELATING TO THE GROUP

#### Strategic risks

***The success of the Group's business is dependent on its ability to retain existing customers and attract new customers***

The Group's business depends on its ability to retain its existing customers and the Group's growth depends on its ability to attract further business from existing customers and to attract new customers.

There is a risk that the Group's customers could reduce their use of the Group's software as a service ("SaaS") solution ("SaaS Solution"), for example, in terms of the number of users, number of products sold per customer and volume of transactions, which could result in a reduction in the level of payments they make to the Group. The Group generally does not require customers to enter long term contracts requiring minimum levels of usage or minimum time commitments, and the Group's customer contracts can typically be terminated by either party on one month's notice. Therefore, there is a risk that if customers terminate their contracts with the Group, or reduce their usage of the Group's SaaS Solution, revenue could decrease. There is also a risk that existing customers fail to expand their use of the Group's SaaS Solution or that new customers fail to select the Group's SaaS Solution for their businesses.

The Group's ability to retain and attract customers and the Group's customers' levels of usage of its products, depends on many factors including the adequacy of the Group's products with respect to matters such as functionality, reliability, availability, cost-effectiveness, pricing, customer support and value compared to competing products. This may be affected as the Group implements changes to optimise pricing and packaging. In addition, customers' use of the Group's SaaS Solution may be affected by external factors including a slowdown in global or regional trade, competition or changes to laws and regulations which affect the Group's customers' business. If the Group's customers do not continue to use its SaaS Solution or do not increase their use over time, and if new customers do not choose to use the Group's SaaS Solution, the growth in the Group's revenue may slow, or the Group's revenue may decline.

***The Group operates in a competitive environment that may negatively impact its operating results***

Competition is and will continue to be intense and disruptive in the markets in which the Group operates, including from existing and potential competitors ranging from large established businesses to emerging start-ups. The Group faces risks that:

- existing competitors, including larger and well capitalised competitors who may have greater technical, marketing and other resources, greater name recognition, larger installed bases of customers, and well-

established relationships with our existing and potential customers, could increase their competitive position through aggressive marketing campaigns, new technologies, product innovation, price discounting or acquisitions;

- existing companies, with significant established consumer user bases and broad based platforms, may change or expand the focus of their business strategies and marketing to target our customers;
- new software products, updates, features and services may not be well received by customers or may fail to meet customer expectations and the Group may be unable to implement necessary changes to these products to improve customer satisfaction;
- the Group may fail to anticipate and respond to technology changes as quickly as its competitors;
- competitors may increase their product offering or value proposition to compete with the Group on a larger scale; and
- new competitors could develop products which compete with the Group's products.

New technologies and technological change also have the potential to generally disrupt the markets in which the Group operates. Competitors may introduce superior products and services, successfully implement new technologies such as artificial intelligence that may affect customer demand for our products or services.

Changes in the role and competitive dynamics affecting third parties with whom we have important business relationships for additional services and distribution, such as accountants and bookkeepers, may also disrupt the markets in which the Group operates and adversely affect the success of our business model.

If the Group does not continue to offer attractive products to its customers (including small businesses and accounting or bookkeeping partners), customers may choose to purchase products from the Group's competitors. The actions of an existing competitor or the entry of new competitors in the market may also have a material adverse effect on business performance.

***Growth depends upon the Group's ability to capitalise on market trends and to innovate and deliver products in line with technological and customer behavioural trends***

Commitment to investment in customer-led innovation and development of new products, services, features and functionality that meet the Group's customers' needs is important in maintaining and growing the Group's customer base, as well as attracting and retaining development talent. This investment is expensive and often involves an extended period of time to achieve a return on investment, of which there can be no assurance of realising. A failure to deliver in alignment with customer expectations and ahead of competitors could impact the Group's financial performance and reduce its share price. This could also result if the Group is not able to effectively use data on its platform to deliver and demonstrate customer value, or develop products and services. There can be no assurance that the Group will achieve the necessary technological advances or have the financial resources needed to introduce new products or services or that it will otherwise have the ability to compete effectively in the markets that it participates in. Furthermore, if the Group devotes resources to the pursuit of new technologies and products that fail to be commercially viable, all or part of these expenses related to research and development may be lost and the business may suffer.

The Group believes that it must continue to dedicate resources to its innovation efforts to develop the Group's software and technology product offering and maintain its competitive position. The Group also believes it must manage the risks and opportunities from the application of artificial intelligence and machine learning to product and platform features, including investment and deployment of generative artificial intelligence and machine learning-powered solutions with appropriate governance, and ethical and responsible use of data. However, the Group's use of these technologies, and similar technologies developed by third parties, could

result in unintended consequences, and the Group may not receive significant revenues from these investments for several years, or may not realise such benefits at all.

***The Group's business depends on its strong reputation and the value of its brand***

The Group's brand equity is essential to ongoing growth. The Group considers its reputation for trustworthiness and integrity as important in maintaining customer goodwill and confidence for its operations and products. A range of events, including a material non-compliance with regulations or license terms, a significant outage, a breach of its information systems, or other disclosure of customers' personal information, could have an adverse impact on the Group's reputation and the value of its brand. This could also increase expenditure due to additional security costs and/or potential claims for compensatory damages. Damage to the Group's reputation and reduction in brand equity may reduce customer demand and negatively impact the Group's future financial performance and could also reduce its share price.

In addition, the success of the Group's business is dependent in part on the ongoing strength of its brand. As the cloud-based accounting or small business platform industries become increasingly competitive, the Group expects its success will be dependent in part on maintaining and enhancing its brand strength, which may become increasingly difficult and more costly. If the Group is unable to maintain and enhance the strength of its brand, then its ability to retain and expand its customer base and its attractiveness to existing and potential partners may be impaired, and its business, financial condition and results of operations will be adversely affected. If the Group does not set, make progress on, or deliver environmental, social and governance commitments in accordance with evolving stakeholder expectations, its reputation and social licence to operate may also be damaged. In addition, maintaining and enhancing the Group's brand may require the Group to make increased investment in its business activities, which may not deliver requisite returns. If the Group does not maintain and enhance its brand successfully, or if it incurs excessive cost in this effort, the Group's business, financial condition and results of operations may be adversely affected.

***The Group's intellectual property rights are valuable and any inability to protect them could reduce the value of the Group's products, services and brand***

The Group has significant intellectual property rights including copyright, trademarks and patent assets which are important to its business. The Group regards its copyright, trademarks, domain names, patents, trade secrets, customer databases and similar intellectual property as critical to its success. The Group relies on a combination of copyright and trademark laws, patents, trade secret protection, confidentiality and non-disclosure agreements and other contractual provisions in order to protect its intellectual property. These efforts may not be adequate, and third parties may infringe or misappropriate the Group's proprietary rights. A material failure to obtain or protect the Group's intellectual property rights could damage the Group's business and result in increased expenses and lost revenues. The process of applying for intellectual property protection can be time-consuming and expensive. There can also be no assurance that its current or future applications will be successful. For example, consultants, vendors, former employees and current employees may breach their obligations regarding non-disclosure and restrictions on use. Intellectual property laws in various jurisdictions may afford differing and limited protection, may not permit the Group to gain or maintain a competitive advantage, and may not prevent its competitors from duplicating its products or gaining access to its proprietary information and technology. A party could seek to challenge, invalidate, circumvent or render unenforceable any of the Group's intellectual property. Also, similar to other companies operating in the software industry, the Group could fall victim to attempts by a non-practising entity (commonly referred to as a patent troll) looking to enforce patent rights against the Group with the sole aim of gaining financial reward through settlement, licensing or litigation. Such claims, whether or not valid, could require the Group to spend significant amounts in litigation, pay damages, re-brand or re-engineer products or services, acquire licenses to third party intellectual property and

may turn management attention away from the business, which may have a material adverse effect on the Group's businesses, financial condition and results of operations.

***The Group may not successfully execute its strategic initiatives***

The ability of the Group to successfully execute its strategic initiatives may affect customer, operational, financial and reputational outcomes. The Group implements program and project governance frameworks in respect of strategic initiatives involving executive sponsorship and accountability for each strategic initiative, combined with regular review, oversight and reporting. Further, strategic initiatives are sought to be aligned with annual operational plans, objectives and key results, and are subject to Board oversight through regular briefings on progress, challenges and outcomes. However, there can be no certainty that this will result in the successful outcome of the Group's strategy. In particular, the Group may fail to adequately allocate financial and people resources, or fail to plan, prioritise, co-ordinate and deliver projects and programs of work in line with plans, leading to missed or delayed outcomes. The Group may also allocate capital to strategic initiatives such as acquisitions, partnerships, sales initiatives and new products that do not result in the expected value or outcomes, or that insufficient capital is dedicated to priorities that have the ability to be more impactful.

***The Group's financial performance may be impacted by the identification and availability of attractive investment opportunities in the future***

The Group has acquired assets and businesses, and entered into strategic partnerships and minority investments, in order to expand its operations and the Group is continually looking for opportunities to strengthen its platform and business. The financial performance of the Group and the returns available to its shareholders will be impacted by the identification and availability of attractive acquisition and investment opportunities in the future. There is no guarantee that the Group will be able to identify suitable assets or businesses and to acquire them or enter into joint ventures, minority investments or strategic partnerships on favourable terms. There is also a risk that not all material risks in connection with any such acquisition or the establishment of a joint venture, strategic partnership or minority investment will be identified in the due diligence process and will not be or could not be sufficiently taken into account in the decision to acquire an asset or business, or the decision to enter into a joint venture, strategic partnership or minority investment. These risks could materialise only after such acquisition has been completed or joint venture/partnership/minority investment entered into. Such transactions may also give rise to substantial administrative and other expenses, and may also be subject to regulatory oversight, governmental or other approvals. Furthermore, investment opportunities can be subject to market conditions and other factors outside of the control of the Group (including without limitation, commercial or regulatory changes), which may result in there being limited or unsuitable acquisition or investment opportunities at the relevant time. Additionally, if such investment opportunities are ineffective, poorly implemented or implemented later than expected, this may result in underperformance of the business, delays, increases in costs and expenses, disputes and/or proceedings, impairment of the acquisition, or other adverse consequences that may have a material adverse effect on the Group's performance.

***The Group may not be able to integrate acquired companies or businesses successfully***

The Group's corporate strategy includes growth driven by the acquisition of or investment in businesses. The Group expends significant time and management attention on integration activities, including negotiating terms of initial restructuring, training, providing know-how and business support and creating new incentive structures for management and employees. However, there is no assurance that such measures will be effective in successfully integrating the acquired companies or businesses into the Group's existing operations or to create growing profitable businesses. Delays in integration or unresolved corporate culture issues may divert management attention and resources or delay or prevent revenue growth in the Group's other investments and may therefore materially and adversely affect the Group's business, results of operations or financial position. Further, such acquisitions may involve a number of risks inherent in assessing the values, strengths, weaknesses

and growth in profitability of the relevant business or assets (including risks arising from operating businesses in new foreign jurisdictions or risks associated with acquired capabilities not previously possessed or conducted by the Group) and it is possible that unexpected problems may arise which could have a material adverse effect on the Group's business, results of operations, financial condition and prospects. No assurance can be given as to the impact of acquisitions and investments on the Group's overall financial performance in the future.

***The Group may require access to additional funding for future growth***

The Group may require additional funding in the future in order to maintain and/or expand its business and to retain an ability to allocate resources appropriately and productively. Under such circumstances, the Group may have to obtain banking facilities or obtain access to other forms of debt or equity financing to finance its operations and business activities. There is no certainty as to the availability of such financing facilities or that the Group would be able to obtain such additional funding on favourable terms and further interest charged on these financing facilities may have a material effect on the Group's results of operations. Any breach by the Group of covenants given in relation to such financing facilities may give rise to rights exercisable by the lenders. Such rights include, *inter alia*, terminating the relevant facilities, enforcing any security granted in relation to those banking facilities or accelerating the repayment of the outstanding loan amounts. Any such breaches may have a material and adverse impact on the Group's results of operations and financial position. Further, there is also a risk that a failure of short-term performance to meet external market expectations may also adversely affect access to and cost of capital. If the Group is not able to secure relevant financing facilities at commercially reasonable terms, the Group may not be able to implement its future growth plans fully. In addition, offerings of equities could also have an adverse effect on the financial position or voting power of any individual shareholder.

**Operational risks**

***The Group needs to maintain, develop and manage business relationships or the Group's business may be negatively affected***

The Group's growth is supported by its ability to develop and maintain business relationships (e.g. banks, financial institutions, ecosystem partners, accountants and bookkeepers). The Group relies on these partnerships to provide bank and other data, additional services and distribution. Failure to develop and maintain these relationships may reduce the Group's revenues and profits and cause it to lose customers.

In particular, the Group relies heavily on accountants and bookkeepers to support distribution of the Xero product to their customers. If this key relationship category was negatively impacted in some way, through for example product quality issues, the ability to attract new small business customers could be adversely impacted.

The Group also relies on third party business relationships to support business operations. The failure of these third parties to provide acceptable and sufficiently high-quality products, services and technologies or to update their products, services and technologies could result in a disruption to the Group's business operations and its customers, which may reduce the Group's revenues and profits, cause the Group to lose customers and damage its reputation.

The Group does not control the relevant third parties, who may decide to increase their prices for services or discontinue their relationship with the Group (subject to any applicable contractual arrangements). There is no assurance that the Group will be able to negotiate or maintain terms commercially acceptable to it, or put in place alternative arrangements on a timely basis.

Changes in the Group's relationships with third parties could materially and adversely affect the Group's business and operations, as well as its profitability and competitiveness.

### ***The Group's success is dependent on its key contracts and arrangements***

The Group relies on a number of key contracts and arrangements, including contracts and arrangements that relate to key operational matters such as:

- hosting the platform;
- security and access gateway for customers to access the platform;
- software relating to operating the platform;
- customer relationship management;
- customer support;
- banks and financial institutions;
- ecosystem and other product partners; and
- business operations (eg ERP, payroll systems).

Any failure by the Group to maintain, renew or replace key contracts and arrangements on commercially acceptable terms, or any failure by a counterparty to perform its obligations under such contracts or arrangements, could have a material adverse effect on the Group's business, operations and financial performance. Certain key contracts and arrangements may be terminated by the counterparty for convenience, and some contracts are due to expire within the next 12 months. In these cases, the Group may not have contractual certainty in respect of the term of the relevant contract or arrangement or the operation of such contract or arrangement. As a result, these contracts and arrangements may give rise to a greater risk of unexpected termination or renegotiation of key commercial terms, or disputes.

### ***A substantial portion of the Group's revenue comes from small businesses which may have fewer resources to weather an economic downturn***

Most of the Group's revenues come directly or indirectly from small businesses. These customers may be materially and adversely affected by economic downturns, to a greater extent than larger, more mature and established businesses. Small businesses typically have more limited financial resources, including capital-borrowing capacity, than larger entities. If small businesses experience financial hardship as a result of a weak economy, the overall demand for the Group's products and services could be significantly affected.

### ***Security incidents, improper access to, or disclosure of, the Group's data or customers' data, or other cyberattacks on, or cybersecurity breaches relating to, the Group's or its customers' systems, could expose the Group or its customers to a risk of loss of system functionality or loss or misuse of Group or customer data and could significantly disrupt the Group's or customers' businesses or operations and damage the Group's brand and reputation and negatively impact its business***

The Group's systems contain large amounts of customer data, as well as the data of employees, end customers, and suppliers of the Group's customers. The Group uses commercially available security technologies and processes to limit access to this data. The Group places a strong focus on developing multi-layered processes to protect this data, however, such measures cannot guarantee absolute security.

The Group's systems may be the target of various forms of cyberattacks (including ransomware attacks) that could result in a data breach, loss of functionality and unavailability of the Group's platform, and disruption to the Group's and its customers' businesses. The Group is aware that no security system is perfect and has technology and procedures in place to minimise the likelihood and potential impact of any breach.

Any resulting damage to the Group's brand or reputation as a result of such unavailability or data breaches could have a material adverse effect on customer loyalty, relationships with key suppliers, employee retention rates and demand for the Group's products and services, any of which could materially and adversely impact the Group's market share and financial and operating performance.

***Security measures the Group implements may not prevent all instances of unauthorised access to its systems and the Group's customers' personal data***

The Group processes large amounts of personal customer data (including name, address and bank details) as part of its business and therefore must comply with strict data protection and privacy laws in jurisdictions in which it operates. Such laws may restrict the Group's ability to collect and use personal information relating to platform users and potential users including the marketing use of that information. The Group has put in place both systems and procedures and cyber security mechanisms which seek to ensure that personal customer data is handled appropriately and in compliance with applicable data protection and privacy laws. Notwithstanding these measures, the Group is exposed to the risk that, as a result of human error, cyber-crime or otherwise, personal customer data could be wrongfully appropriated, lost or disclosed, or processed in breach of data protection regulation, by or on its behalf. For example, outside parties may induce employees, customers, or users to disclose sensitive information to gain access to the Group's systems. Inadequate use of security controls or security practices by the Group's customers or its employees could also lead to unauthorised access to data held in customer accounts. Outside parties may also use stolen identity information to gain unauthorised access to data held in customer accounts. Such an occurrence could result in the Group facing liability under data protection laws, the loss of its customers, the loss of goodwill of its customers and the deterrence of new customers, any or a combination of which could have a material adverse effect on the Group's reputation, business, financial condition and results of operations.

***The Group's systems are subject to network failure or interruption risks which could have negative impact on the stability of the platform and quality of the services offered by the Group and, as a result, on demand from consumers (through consequent disruption to customers' businesses, impact on customer experience or reputational damage) and consequently volume of revenue***

The Group's ability to provide its services to its customers and to effectively operate its services depends to a great extent on the reliability, stability and security of the information technology systems and third-party networks it uses. Information technology systems and the networks used by the Group are potentially subject to damage and interruption caused by human error, problems relating to telecommunications networks, natural disasters, sabotage, viruses and similar events. Failures of, and interruptions to, the systems and networks could have a negative impact on the stability of the platform and quality of the services offered by the Group and, as a result, on demand from consumers (through consequent disruption to customers' businesses, impact on customer experience or reputational damage) and consequently on the volume of revenue. In addition, interruptions in the system could result in the termination of certain of the Group's licenses or contracts or lead to the incurrence of compensatory damages.

***A cybersecurity incident affecting the third parties the Group relies on could expose the Group or its customers to a risk of loss or misuse of customer data and significantly damage the Group's reputation***

The Group depends on third parties such as partners and vendors for the conduct of its business. The Group and/or its customers may grant access to customer data to these third parties in the ordinary course of business. While the Group assesses the security controls of these third parties, the Group cannot guarantee the effectiveness of such control measures. A cybersecurity incident involving these third parties may lead to disclosure of Group or customer data or sensitive business information. This could significantly damage the Group's reputation and cause other adverse consequences.

***If the Group fails to effectively process transactions or adequately protect against potential fraudulent activities, its business may be harmed***

The Group or its partners process large volumes (both in number and value) of transactions daily. Despite efforts to ensure that effective systems and controls are in place to handle these transactions appropriately, it is possible that errors may be made, or that funds may be misappropriated due to fraud.

***Business interruption or failure of the Group's technology may impact the availability of the Group's products and services and may impact access to or result in loss of data of customers, which may damage its reputation and harm its future financial results***

The Group's disaster recovery planning may not sufficiently anticipate all eventualities. The Group's SaaS Solution utilises data processing and storage capabilities provided by Amazon Web Services ("AWS"). If the relevant AWS hosting region ever becomes unavailable, customers may not be able to access some or all of the Group's platform which could significantly impact the Group's future performance and financial results.

The Group's business operations are vulnerable to damage or interruption from natural disasters, fire, computer viruses, power loss, telecommunication failures, terrorist attacks and other events beyond the Group's control. In addition, the Group's corporate headquarters are located near a seismic fault in New Zealand. In the event of a major natural or man-made disaster, the Group's insurance coverage may not completely compensate the Group for the Group's losses and its future financial results may be impacted.

***The Group continually invests in its systems and software platforms to create appropriate technology architecture, to support platform availability and scalability for its rapidly growing customer base and to provide enterprise systems to support the experience and efficacy of its people. If these investments do not deliver the desired results, the Group's operations could be disrupted, and the Group's business could be harmed***

If the Group experiences prolonged delays or difficulties in upgrading the scalability of its platform and associated systems, the platform may experience outages and the Group may not be able to deliver the level of service that its customers expect. This could result in material loss of customer revenue or damage to the Group's reputation. If the Group is not successful in transforming its core enterprise systems and maintaining them appropriately this may impact the experience and efficacy of its people in executing its strategy.

***The Group is dependent on its key management team and skilled employees***

The Group's operating and financial success will depend partly upon the performance, efforts and expertise of its people. There can be no assurance that the Group will be able to attract in sufficient numbers in the required regions, key management, operating and technical employees and/or be able to retain these individuals. Operations could be adversely affected if the Group was unable to attract and develop such staff or were to lose key employees which it was unable to replace with equally qualified personnel. The loss of key executives or the delay in their replacement, or the inability to attract key executives with the requisite skills and experience, could materially and adversely affect the Group's ability to implement its business strategies. There is also a risk that a failure to maintain and protect the wellbeing, health and safety of the Group's employees may adversely affect the Group's ability to attract, develop and retain employees.

The Group's success also depends on the continued efforts and ability to hire and retain skilled professionals with the requisite software development product management and cloud-industry based technical experience. The dynamic and rapid changes in the software development industry requires the Group's skilled professionals to keep abreast of changing industry standards and trends to adapt to the changing requirements and business environment. Competition to attract such skilled professionals and personnel is intense and there is no assurance



that the Group will be successful in attracting, developing or retaining skilled professionals and the lack of availability of such skills may materially and adversely affect operations.

The Group's ability to attract, develop and retain employees will also be dependent on the current and future organisational culture and there is no assurance that the Group will be successful in evolving its culture towards its aspirations as a purpose and performance-driven company. There is also a risk that the Group is not able to maintain its current organisational culture as it continues to evolve.

***The Group is subject to the credit risk of its customers and counterparties***

Credit risk is the risk that a customer or counterparty fails to meet its contractual obligations under a financial instrument and that this results in a loss to the Group. The Group may be exposed to counterparty credit risk arising from its operating activities.

***The Group is exposed to risks involving an inadequacy or failure of its internal controls***

There is a risk that a failure or inadequacy of internal controls, people or procedures, or external events, may give rise to failures or disruptions in operational systems and controls. Such events may include but are not limited to fraud, security failures, unavailability of products and services, Group and customer data loss, manual processing errors and unauthorised access to systems or premises. Such failures may have an impact on the Group's reputation, ability to attract and retain customers and key personnel, and may subsequently impact upon the financial performance and position of the Group.

***The Group is exposed to the foreign exchange markets***

The Group's financial statements are presented in New Zealand Dollars. However, a significant proportion of the Group's revenue and expenses are denominated in other currencies, most notably Australian Dollars, Pound Sterling, U.S. Dollars and Canadian Dollars. As a result, the Group's revenues are highly sensitive to movements in the exchange rate between those currencies and the New Zealand Dollar where currency translation effects occur. This could diminish the impact of positive results or increase the impact of negative results recorded in the Group's financial statements. While the Group hedges a portion of its foreign currency exchange rate exposure through derivative instruments based on the Group's treasury policy, the Group does not seek to hedge all of its foreign currency exchange rate exposure. There can be no assurance that the Group's hedging activities will be successful in mitigating the impact of exchange rate fluctuations. In addition, significant volatility in exchange rates may increase the Group's hedging costs, limit its ability to hedge its exchange rate exposure, particularly against unfavourable movements in the exchange rates of certain emerging market currencies, and could have an adverse impact on the Group's results of operations, particularly the Group's profitability. Any of the factors above may have a material adverse effect on the Group's business, financial condition and results of operations.

***The Group may be impacted by health epidemics***

The Group's financial and operational performance may be negatively affected by the effects of health epidemics. Health epidemics could have a negative impact on the economy, and could thereby adversely impact the revenues and results of operations of the Group. It may also impact the financial performance and future growth of the Group due to potential business closures and liquidations, or other longer term adverse economic impacts. Other operational risks faced by the Group as a result of health epidemics include business continuity risks associated with the provision of the Group's SaaS Solution. Such risks could arise from potential impacts to the Group's people, processes and technology, suppliers and partners. The impact of these factors, if they eventuate, could have a detrimental effect on the Group's financial performance, and depending on the extent of the disruption, any such effect could be material to the Group.

### ***Climate change may affect the Group's business***

The Group's climate strategy involves minimising its net climate impact and growing its business as the climate changes, including mitigation of business-wide climate risk, reducing net climate impact and harnessing climate related opportunities. The Group may not be successful in implementing this strategy. The impacts of climate related risks on the Group may include the impact of acute and chronic climate changes causing disruption to critical inputs, such as employees, electricity, and communication infrastructure, that affects Xero's ability to service customers and impacting customers and demand for Xero's services. The Group may also be affected by changes in operating costs due to the pace and timing of the renewable energy transition and shifts in regulatory requirements and stakeholder expectations related to climate change.

### **Legal and compliance risks**

#### ***The Group is subject to the risk of investigations, disputes and legal proceedings***

The risk of litigation and claims is a general risk that applies across the Group's business. The Group may become involved in investigations, inquiries or disputes, debt recoveries, and contractual claims with respect to its activities with suppliers, customers and employees. The Group may become the subject of legal proceedings or regulatory investigations or action arising from any defects in the Group's products and services which results in potential non-compliance by users with applicable regulatory requirements. The Group may also become subject to infringement claims, including patent, copyright, trade secret, and trademark infringement claims. Litigation may be required to determine the validity and scope of the intellectual property rights of others. A negative outcome from litigation or the cost of responding to potential or actual litigation or investigation can have a significant negative impact on the financial performance and reputation of the Group, and require significant management focus.

#### ***Laws and regulations regarding financial services, privacy, data protection and artificial intelligence could result in claims, regulatory impacts and changes to the Group's business processes, penalties, increased cost of doing business or otherwise harm the Group's business***

Regulations relating to the provision of cloud services are evolving as governments continue to adopt or modify laws and regulations regarding data privacy, data protection, and the collection, processing, storage, transfer, use of personal data, artificial intelligence and mandatory notification of breaches of data security. In addition, there is a risk that laws and regulations that were historically formulated to regulate financial institutions either evolve or are interpreted by regulatory authorities to apply to aspects of the Group's products and services.

Any new or altered laws or regulations which affect the Group's business could require the Group to increase spending and employee resources on regulatory compliance and/or change or restrict the Group's business practices, which could adversely affect the Group's operations and profitability. For example, to address the GDPR (EU's General Data Protection Regulation) and other data privacy regulations, the Group has made changes to its products and business processes. The Group may also be subjected to new laws and regulations in relation to new business products or services. If the Group fails to address these changing requirements or fails to support its customers to meet their regulatory obligations that may arise in connection with use of the Group's platform, demand for the Group's offerings could decline. In addition, the Group could incur penalties for non-compliance with these laws which may be significant.

#### ***Changes in government regulation regarding open data could impact the Group's competitive positioning and financial performance***

Changes in regulation which result in more open access to banking and financial data may impact on the Group's ability to innovate and differentiate from competitors and reduce the ability to attract new customers. The future

evolution of such regulation could extend to other sectors beyond banking with additional implications for the Group.

***The Group is subject to government regulations and legal requirements***

As a globally available SaaS platform, the Group faces ongoing legal risk arising from its exposure to a wide range of laws and regulatory requirements in various jurisdictions. There is a risk that laws, regulations and governmental agency administrative procedures may be adopted with respect to the Group's products and services, covering issues such as user privacy, the content and quality of products and services, intellectual property rights, and information security. The Group may also be subject to new regulatory regimes or requirements in areas not directly related to the Group's products and services (for example, environment and climate change and health epidemics). These changes could limit the Group's proposed scope of business activities and require significant investments by the Group. In particular, changes in government regulation regarding location of data hosting and data storage may require the Group to invest in new data storage locations and may materially increase its cost base, therefore impacting the Group's financial performance. Further, there can also be no assurance that any jurisdiction in which the Group operates will not change its licensing requirements, including the terms and conditions to which any existing licences and approvals are subject, or introducing new licensing or approval requirements. If the regulatory scheme of any jurisdiction in which the Group operates in were to change its licensing or approvals requirements, the Group may be required to expend significant capital or other resources in order to comply with the new requirements and/or may be required to modify its product offering or its operations in order to comply with the new requirements and/or may not be able to meet the new requirements, any or a combination of which could have a material adverse effect on its business, financial condition and results of operations. In addition, tax and accounting laws and requirements applying to customers of the Group's platform, or changes in those laws and requirements, may impact the product functionality requirements of the Group's platform and may require significant investment by the Group. Further, any inability to meet those laws and requirements may result in loss of customers or liability to customers.

***The Group utilises open source software and failure to comply with its legal terms and conditions could result in the Group being subject to significant damages and incur significant legal expenses in defending such allegations***

Some of the Group's solutions incorporate and are dependent on the use and development of "open source" software. Open source software is generally licensed under open source licenses which may include a requirement that the Group make available, or grant licenses to, any modifications or derivative works created using the open source software. If an author or other third party that uses or distributes such open source software were to allege that the Group had not complied with the legal terms and conditions of one or more of these licenses, the Group could incur significant legal expenses defending against such allegations and could be subject to significant damages.

**General business risks**

***The Group is subject to changes in accounting policy***

The Group must report and prepare financial statements in accordance with prevailing accounting standards and policies. There may be changes in these accounting standards and policies in the future which may have an adverse impact on the Group. The Group adheres to the Generally Accepted Accounting Practice in New Zealand ("NZ GAAP") and the Group's financial statements comply with New Zealand equivalents to International Financial Reporting Standards ("NZ IFRS") as well as International Financial Reporting Standards ("IFRS"), and other New Zealand accounting standards and authoritative notices that are applicable to entities that apply NZ IFRS as established by the New Zealand Accounting Standards Board ("ASB"). These

accounting practices, standards and notices are out of the control of the Group. From time to time, the ASB may introduce new or refined accounting standards which may affect the future measurement and recognition of key income statement or statement of financial position items. Such changes may also be as a result of harmonisation of NZ IFRS with international accounting standards. There is also a risk that interpretations of existing NZ IFRS, including those relating to the measurement and recognition of key income statement and statement of financial position items, may differ.

***The Group is exposed to risks associated with the performance of the global economy and the prevailing economic and political conditions in the markets in which it operates***

The Group's operating and financial performance is influenced by a variety of general economic and business conditions, including the level of inflation, interest rates, ability to access funding, oversupply and demand conditions, government fiscal, monetary and regulatory policies and global trade relations. Prolonged deterioration in these conditions, including an increase in interest rates or an increase in the cost of capital, could have a material adverse impact on the Group's operating and financial performance.

Geopolitical events, including an outbreak or a material escalation of hostilities including a declaration of war, acts of terrorism, the deterioration of trade or other relations between countries or regions or political instability, may affect the global economic and commercial environment and in turn directly or indirectly affect the Group's future revenues, operations and financial performance.

***The Group is subject to changes in taxation laws***

Changes to the current taxation regimes which apply to the Group globally in respect of its operations, or to its shareholders or Noteholders, including changes in interpretation or application of the law by courts or taxation authorities, may affect the Group or its shareholders and Noteholders. The Group's tax position is based on current tax law and an understanding of the practice of the relevant tax authorities in respect of the application of that law. An interpretation of taxation laws by the relevant tax authority that differs from the Group's view of the application of those laws may reduce the pool of tax losses available or increase the amount of tax that is payable by the Group. There is also the potential for changes to taxation law or changes in the position of tax authorities that may impact the Group's tax position, which in turn may impact the Group's financial performance. Tax authorities in the Group's largest markets, including Australia, are focused on the tax positions of multinational enterprises, and the impact of such tax changes could materially impact the Group's domestic and international tax positions and disclosure obligations. These tax matters include (but are not limited to) Pillar Two (minimum taxes), characterisation of cross border transactions and public country-by-country reporting.

In addition, the Group may from time-to-time be subject to reviews, audits or investigation from relevant tax authorities, the outcome of which may impact the amount of tax payable by (or losses available to) the Group and impact the financial performance of the Group.

***The Group is exposed to interest rates changes***

Changes in interest rates will affect borrowings which bear interest at floating rates. Any increase in interest rates will affect the Group's costs of servicing borrowings, and may affect the relative strength of the Australian Dollar, the New Zealand Dollar, the U.S. Dollar, Pound Sterling and Canadian Dollar, each of which could materially and adversely affect the Group's financial performance and position.

***The Group is exposed to force majeure events***

Events may occur within or outside the Group's key geographies that negatively impact global, New Zealand, Australian, United States, Canadian, United Kingdom or other local economies relevant to the Group's financial performance, the operations of the Group and/or the price of the Notes and Ordinary Shares. These events

include, but are not limited to, acts of terrorism, an outbreak of international hostilities, fires, floods, earthquakes, labour strikes, civil wars, natural disasters, outbreaks of disease or other man-made or natural events or occurrences that may have a material adverse effect on the Group's ability to perform its obligations.

***The Group is subject to fluctuations in the price of its Ordinary Shares***

The market price of Ordinary Shares will fluctuate due to various factors including general movements in interest rates, the Australian and international investment markets, economic conditions, global geo-political events and hostilities, investor perceptions and other factors.

***Trading in Ordinary Shares may not be liquid***

There may be relatively few potential buyers or sellers of the Ordinary Shares on the ASX at any time. This may increase the volatility of the market price of Ordinary Shares. It may also affect the prevailing market price at which shareholders are able to sell their Ordinary Shares. This may result in shareholders receiving a market price for the Ordinary Shares that is less or more than the price at which the shareholders acquired or subscribed for the Ordinary Shares.

***There is no assurance that the Company will pay dividends***

The Company has not declared or paid any cash dividends on its securities and does not have any present intention to pay cash dividends on its shares in the foreseeable future.

Nonetheless, the Company's ability to pay dividends or make other distributions in the future is contingent on its profits and certain other factors, including the capital and operational expenditure requirements of the business and the capital management policies of the Group. Therefore, there is no assurance that dividends will be paid. Moreover, to the extent the Company pays any dividends, its ability to offer fully imputed dividends is contingent on making taxable profits. The value of imputation credits to a shareholder will differ depending on the shareholder's particular tax circumstances.

***There is no assurance that the Group's shareholders may not suffer dilution***

In the future, the Company may elect to issue Ordinary Shares (including pursuant to employee and management equity incentive arrangements) or engage in fundraisings including to fund acquisitions or growth initiatives that the Group may pursue. While the Company will be subject to the constraints of the ASX Listing Rules regarding the percentage of its capital that it is able to issue within a 12 month period (other than where exceptions apply), shareholders may be diluted as a result of such issues of Ordinary Shares and fundraisings.

***There is no assurance that expected future events will occur***

There can be no guarantee that the assumptions and contingencies contained within forward looking statements, opinion or estimates (including projections, guidance on future earnings and estimates) will ultimately prove to be valid or accurate. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance and achievements of the Group to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements.

## **RISKS RELATING TO THE NOTES AND THE GUARANTEE**

***The Notes are complex instruments and may not be a suitable investment for all investors***

Each potential investor in the Notes must determine the suitability of that investment in light of its own circumstances. Furthermore, each potential investor in the Notes should:

- have sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained in this Offering Circular;
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes or where the currency for payment is different from the potential investor's currency;
- understand thoroughly the terms of the Notes and be familiar with the behaviour of any relevant indices and financial markets; and
- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic and other factors that may affect its investment and its ability to bear the applicable risks.

A potential investor should not invest in the Notes unless it has the expertise (either alone or with the help of a financial adviser) to evaluate how the Notes will perform under changing conditions, the resulting effects on the value of such Notes and the impact this investment will have on the potential investor's overall investment portfolio.

In addition, the investment activities of certain investors may be subject to legal investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent:

- the Notes constitute legal investments for it;
- the Notes can be used as collateral for various types of borrowing; and
- other restrictions apply to any purchase or pledge of any Notes by the investor.

Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of the Notes under any applicable risk-based capital or similar rules and regulations.

#### ***Lack of a public market for the Notes***

The Notes are a new issue of securities for which there is currently no established trading market when issued, and one may never develop. Approval in-principle has been received from the SGX-ST for the listing of and quotation for the Notes on the Official List of the SGX-ST. However, there can be no assurance that the Issuer will be able to maintain such a listing or that, if listed; a trading market will develop for the Notes on the SGX-ST. If a market does develop, it may not be liquid. Therefore, investors may not be able to sell their Notes easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market. Illiquidity may have an adverse effect on the market value of Notes.

If an active trading market were to develop, the Notes could trade at a price that may be lower than the initial offering price of the Notes. Whether or not the Notes will trade at lower prices depends on many factors, including:

- prevailing interest rates and the market for similar securities;
- general economic, market and political conditions;
- the Group's financial condition, financial performance and future prospects as well as the market price and volatility of the Ordinary Shares;

- the publication of earnings estimates or other research reports and speculation in the press or investment community; and
- changes in the industry and competition affecting the Group.

***The Noteholders do not have the benefit of any security interest with respect to the Notes and will rank behind the claims of the Group's secured creditors and payments under the Notes will be structurally subordinated to liabilities and obligations of the subsidiaries of the Group***

Neither the Trust Deed nor the Notes create any security interest in favour of Noteholders to secure the payment obligations arising under the Notes. The Notes will rank senior in right of payment to any indebtedness that is expressly subordinated in right of payment to the Notes and equal in right of payment to any indebtedness that is not so subordinated. The Notes will be effectively junior in right of payment to any secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all indebtedness and other liabilities (including trade payables) and any preferred equity of the Group's current and future subsidiaries.

Investors should be aware that in the event of bankruptcy, liquidation, reorganisation or other winding up procedures, any of the Group's assets which are the subject of a valid security arrangement will be only available to pay obligations on the Notes after such secured indebtedness has been repaid in full, and the assets of the relevant subsidiaries will be only available to pay obligations on the Notes after all such relevant indebtedness and other liabilities (including trade payables) and any preferred equity of such subsidiaries have been repaid in full. As a result, the Group may not have sufficient assets remaining to pay amounts due on any or all of the Notes which are outstanding at the time of such bankruptcy, liquidation, reorganisation or other winding up procedures and the Noteholders may receive less, rateably, than holders of any current or future accrued indebtedness. Save for and subject to the negative pledge covenant under Condition 2 of the Terms and Conditions of the Notes, the Trust Deed and the Terms and Conditions of the Notes do not also prohibit the Group from incurring additional senior debt or secured debt, nor do they prohibit any of the Group's current and future subsidiaries from incurring additional indebtedness or other liabilities (including trade payables) or issuing preferred equity. The Group may in the future have other liabilities, including contingent liabilities, that may be significant.

As of 31 March 2024, the Group had NZ\$1,173.1 million indebtedness relating to its 2025 Convertible Notes. It is intended that this indebtedness will be repaid out of proceeds from the Offering.

***The Cash Settlement Amount payable to investors will be subject to market price volatility during the 90 dealing day calculation period***

Upon exercise of a Conversion Right, the conversion of the Notes will be settled in cash unless the Issuer elects to deliver Ordinary Shares by either:

- providing a Physical Settlement Election Notice to the relevant Noteholder during the Initial Conversion Period; or
- electing to deliver Ordinary Shares in the Final Conversion Period Determination.

The Cash Settlement Amount will be calculated using the average of the volume weighted average price of the Ordinary Shares over 90 consecutive dealing days. During the Initial Conversion Period, the Cash Settlement Amount will be calculated after the investor's lodgement of a Conversion Notice. As such, an investor will need to wait for the calculation period to be completed before receiving any payment of the Cash Settlement Amount. The calculation of the Cash Settlement Amount will be affected by share price movements and volatility during this 90 dealing day period. In the case of a Conversion Notice being delivered by an investor after a redemption

notice being delivered pursuant to Condition 7, the relevant Cash Settlement Amount may be paid after the relevant Redemption Date of the Notes.

In addition, the concept of dealing day will exclude trading days on which there is Market Disruption Event, which includes either a Trading Disruption, an Exchange Disruption or an Early Closure (each as defined in the Terms and Conditions of the Notes). The occurrence of each of these events may extend the Cash Settlement Calculation Period and delay the time at which an investor will be paid the relevant Cash Settlement Amount. During the Final Conversion Period, it is possible that the Cash Settlement Amount will be paid after the Final Maturity Date of the Notes if there are a number of Market Disruption Events during the Cash Settlement Calculation Period.

Refer also to “*Risk Factors – Risks relating to the Notes and the Guarantee – Noteholders will bear the risk of fluctuation in the price of the Ordinary Shares*”.

***Noteholders will bear the risk of fluctuation in the price of the Ordinary Shares***

The trading price of the Ordinary Shares will directly affect the trading price of the Notes. It is impossible to predict whether the price of the Ordinary Shares will rise or fall. This may result in greater volatility in the market price of the Notes than would be expected for non-convertible debt securities. The market price of a publicly traded stock is affected by many variables not directly related to the success or the performance of the Group.

There are various risks associated with investing in any form of business and with investing in the stock market generally. The value or trading price of the Ordinary Shares and the value of the Ordinary Shares issued upon conversion of the Notes will depend upon the general stock market and economic conditions as well as other factors including, but not limited to, the Company’s credit quality, operating results, economic and financial prospects and other factors. In addition, the price of the Ordinary Shares is also subject to varied and often unpredictable influences on the market for equities, including, but not limited to:

- general economic conditions, including the performance of the New Zealand Dollar, the Australian Dollar, the U.S. Dollar, Pound Sterling, Canadian Dollar and commodities on world markets;
- inflation rates, foreign exchange rates and interest rates;
- changes to government policy, legislation or regulation;
- industrial disputes; and
- general operational and business risks.

There is no guarantee of profitability, dividends, return of capital, or the price at which the Ordinary Shares will trade on the ASX or an Alternative Stock Exchange (as defined in the Terms and Conditions of the Notes), as the case may be, after conversion of the Notes. The past performance of the Ordinary Shares is not necessarily an indication as to future performance as the trading price of shares can fluctuate.

***Noteholders have limited anti-dilution protection***

The Conversion Price will be adjusted in the event that there is a share subdivision or consolidation or reclassification, rights offering and equity issuances at less than the then Current Market Price (as defined in the Terms and Conditions of the Notes), bonus issue, Dividends (as defined in the Terms and Conditions of the Notes) and other analogous dilutive events, but only in the circumstances and only to the extent provided in Condition 6 of the Terms and Conditions of the Notes. There is no requirement that there should be an adjustment for every corporate or other event that may affect the value of the Ordinary Shares. In particular, there is no Conversion Price adjustment for Ordinary Shares issued pursuant to any Employee Share Scheme (as that term is defined in the Terms and Conditions of the Notes). There is no threshold above which the issue



of Ordinary Shares pursuant to an Employee Share Scheme would result in a change in the Conversion Price. Such events, should they occur, may adversely affect the value of the Ordinary Shares and, therefore, where no adjustment is required to be made, adversely affect the value of the Notes.

***There is an absence of covenant protection for the Notes***

Other than as described herein, the Trust Deed will not limit the Company's ability to incur additional debt or liabilities (including secured indebtedness). The Trust Deed will not contain any provision specifically intended to protect holders of the Notes in the event of a future leveraged transaction by the Company (other than secured capital markets transactions in the circumstances described in the Terms and Conditions of the Notes).

The Company may in future incur further indebtedness and other liabilities. The Company has provided, and may in the future provide, guarantees and/or indemnities in respect of such liabilities.

***The Issuer and/or the Company as Guarantor may be unable to redeem or repay the Notes when due***

In the event the Ordinary Shares cease to be listed on the ASX (or any Alternative Stock Exchange, as the case may be) or are suspended from trading for a period of 30 consecutive dealing days, a holder of the Notes may require the Issuer to redeem all of such Noteholder's Notes. The Issuer may also be required to redeem all the Notes upon the occurrence of a Change of Control. Following acceleration of the Notes upon an Event of Default, the Issuer and the Company would be required to pay all amounts then due in accordance with the Terms and Conditions of the Notes. Upon exercise of any Conversion Right, unless the Issuer elects to deliver Ordinary Shares, the Issuer will be required to pay the relevant Cash Settlement Amount. Unless previously redeemed, converted or purchased and cancelled, the Issuer will be required to redeem the Notes on the Final Maturity Date. The Issuer and/or the Company as guarantor may not be able to redeem all or any of such Notes or pay all or any amounts due under the Notes if the Issuer and/or the Company as guarantor do not have sufficient cash flows to do so. The Issuer and the Company as guarantor cannot assure the Noteholders that, if required, they would have sufficient cash or other financial resources to redeem the Notes.

***Although the Issuer will decrease the Conversion Price if a relevant holder converts its Notes during a Change of Control Period, the decrease may not adequately compensate such holder for the option value that such holder may lose as a result of the relevant Change of Control***

If a Change of Control occurs and a holder elects to convert its Notes during the Change of Control Period for such Change of Control, the Issuer will decrease the Conversion Price applicable to such holder's Notes. The amount by which the Issuer will decrease the Conversion Price during a Change of Control Period will be determined based on the number of days from the first day of the Change of Control Period to the day before the Final Maturity Date. Although the adjustment to the Conversion Price is intended to compensate such holder for the option value that such holder will lose as a result of a Change of Control, the decrease in the Conversion Price is based on a pre-set formula that does not account for many of the factors that will determine the amount of option value that such holder will lose upon the occurrence of a Change of Control. For example, although the formula that determines the decrease in the Conversion Price generally accounts for any time value the holder may lose, the formula does not account for any change in the volatility of the Ordinary Shares that may occur upon a Change of Control or whether the market price of the Ordinary Shares at the time the Change of Control occurs is near the Conversion Price of the Notes.

***Unless and until the Issuer elects to deliver Ordinary Shares on conversion, Noteholders will not be entitled to any shareholder rights, but will be subject to all changes affecting the Ordinary Shares***

Unless and until the Noteholders acquire the Ordinary Shares upon conversion of the Notes, they will have no rights with respect to the Ordinary Shares, including any voting rights or rights to receive any regular dividends or other distributions with respect to the Ordinary Shares. Upon conversion of the Notes if the Issuer elects to

deliver Ordinary Shares, these holders will be entitled to exercise the rights of holders of the Ordinary Shares only as to actions for which the applicable record date occurs after the date of conversion.

***Short selling of the Ordinary Shares by purchasers of the Notes could materially and adversely affect the market price of the Ordinary Shares***

The issuance of the Notes may result in downward pressure on the market price of the Ordinary Shares. Many investors in convertible Notes seek to hedge their exposure in the underlying equity securities, often through short selling the underlying equity securities or similar transactions. Any short selling or similar hedging activity could place significant downward pressure on the market price of the Ordinary Shares, thereby having a material adverse effect on the market value of the Ordinary Shares as well as on the trading price of the Notes.

***Future issuances of Ordinary Shares or equity-related securities may depress the trading price of the Ordinary Shares***

Any issuance of the Company's equity securities after the offer of the Notes could dilute the interest of the existing shareholders and could substantially decrease the trading price of the Ordinary Shares. The Company may issue equity securities in the future for a number of reasons, including to finance its operations and business strategy (including in connection with acquisitions, strategic collaborations or other transactions), to adjust its ratio of debt to equity, to satisfy its obligations upon the exercise of outstanding warrants, options or other convertible notes or for other reasons. Sales of a substantial number of Ordinary Shares or other equity-related securities in the public market (or the perception that such sales may occur) could depress the market price of the Ordinary Shares and impair the Company's ability to raise capital through the sale of additional equity securities. There is no restriction on the Company's ability to issue further unsecured notes or the ability of any of the Company's shareholders to dispose of, encumber or pledge the Ordinary Shares, and there can be no assurance that the Company will not issue further unsecured notes or that the Company's shareholders will not dispose of, encumber or pledge the Ordinary Shares. The Company cannot predict the effect that future sales of the Ordinary Shares or other equity-related securities would have on the market price of the Ordinary Shares. In addition, the price of the Ordinary Shares could be affected by possible sales of the Ordinary Shares by investors who view the Notes as a more attractive means of obtaining equity participation in the Company and by hedging or engaging in arbitrage trading activity involving the Notes.

***The Trustee may request Noteholders to provide an indemnity and/or security and/or prefunding to its satisfaction***

In certain circumstances (including without limitation the giving of notice to the Issuer and the Company pursuant to Condition 10 of the Terms and Conditions of the Notes and the taking of steps and/or actions and/or the instituting of proceedings pursuant to Condition 15 of the Terms and Conditions of the Notes), the Trustee may (at its sole discretion) request Noteholders to provide an indemnity and/or security and/or prefunding to its satisfaction before it takes any steps and/or actions and/or institutes proceedings on behalf of Noteholders. The Trustee shall not be obliged to take any such steps and/or actions and/or institute any such proceedings if not indemnified and/or secured and/or prefunded to its satisfaction. Negotiating and agreeing to an indemnity and/or security and/or prefunding can be a lengthy process and may impact on when such steps and/or actions can be taken and/or when such proceedings can be instituted. The Trustee may not be able to take such steps and/or actions and/or institute such proceedings, notwithstanding the provision of an indemnity and/or security and/or prefunding to it, in breach of the terms of the Trust Deed or the Terms and Conditions of the Notes and in such circumstances, or where there is uncertainty or dispute as to the applicable laws or regulations, to the extent permitted by the Trust Deed and the Terms and Conditions of the Notes and applicable laws and regulations, it will be for the Noteholders to take such steps and/or actions and/or institute such proceedings directly.

### ***Modifications, waivers and other changes***

The Terms and Conditions of the Notes will contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions will permit majorities to bind all Noteholders including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority.

The Terms and Conditions of the Notes will also provide that the Trustee may, without the consent of Noteholders, agree:

- to any modification of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Notes or the Terms and Conditions of the Notes (except as mentioned in the Trust Deed) which in the opinion of the Trustee will not be materially prejudicial to the interests of Noteholders; and
- to any modification of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Notes or the Terms and Conditions of the Notes which in the opinion of the Trustee is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law.

In addition, the Trustee may, without the consent of the Noteholders, authorise or waive any proposed breach or breach of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Notes or the Terms and Conditions of the Notes (other than a proposed breach, or a breach relating to the subject of certain reserved matters) if, in the opinion of the Trustee, the interests of the Noteholders will not be materially prejudiced thereby.

In addition, the Terms and Conditions of the Notes will allow the Issuer and/or the Guarantor to:

- change its place of domicile; and/or
- change the listing of and quotation for the Ordinary Shares to an Alternative Stock Exchange (as defined in the Terms and Conditions of the Notes),

in each case subject to certain conditions set out in the Terms and Conditions of the Notes but without requiring consent of Noteholders, the effect of the above provisions is that a Noteholder may be unable to prevent certain modifications as a consequence of such changes from being made in respect of the Notes in accordance with the Terms and Conditions of the Notes.

### ***The insolvency laws of New Zealand and other local insolvency laws may differ from those of another jurisdiction with which the Noteholders are familiar***

As each of the Issuer and the Company is incorporated under the laws of New Zealand, any insolvency proceedings relating to the Issuer or the Company would likely involve New Zealand insolvency laws, the procedural and substantive provisions of which may differ from comparable provisions of the insolvency laws of jurisdictions with which the Noteholders are familiar.

### ***The Issuer may issue additional Notes in the future***

The Issuer may, from time to time, and without prior consultation with or consent from the Noteholders, create and issue further notes having the same terms and conditions as the outstanding Notes in all respects (except for the issue date and the first date on which Conversion Rights may be exercised) or otherwise raise additional capital through such means and in such manner as it may consider necessary. There can be no assurance that such future issuance or capital raising activity will not adversely affect the market price of the Notes.

***Developments in other markets may adversely affect the market price of the Notes***

The market price of the Notes may be adversely affected by declines in the international financial markets and world economic conditions. The market for the Notes is, to varying degrees, influenced by economic and market conditions in other markets. Although economic conditions are different in each country, investors' reactions to developments in one country can affect the securities markets and the securities of issuers in other countries, including Australia and Singapore. For example, the international financial markets have experienced significant volatility from events such as the sub-prime mortgage crisis in 2008 and the COVID-19 pandemic. If similar developments occur in the international financial markets in the future, the market price of the Notes could be adversely affected.

***The Issuer does not currently conduct business operations, and therefore may need to rely on remittances from the Company, its and the Company's subsidiaries and investments to make payments under the Notes***

The Issuer does not currently conduct business operations or any other activities other than the offering, sale and issuance of debt securities and instruments and the lending or investment of the proceeds thereof (including holding certain of those investments) and any other activities in connection therewith or related thereto. The value of investments and other assets held by the Issuer will be subject to ongoing valuation requirements which may require them to be valued downwards in certain situations. The Issuer may not make a sufficient return on investments and its ability to make payments under the Notes may depend on its receipt of timely remittances from the Company, its and the Company's subsidiaries or investments.

***The Notes are subject to changes of law***

The Terms and Conditions of the Notes will be governed by English law. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of issue of the Notes. The Issuer and the Company must also comply with various legal requirements including requirements imposed by securities laws and company laws in Australia and New Zealand (as applicable). Should any of those laws change over time, the legal requirements to which the Issuer and the Company may be subject could differ materially from current requirements.

***Regulatory actions may adversely affect the trading price and liquidity of the Notes***

Investors in, and potential purchasers of, the Notes may employ, or seek to employ, a convertible arbitrage strategy with respect to the Notes. Investors that employ a convertible arbitrage strategy with respect to the Notes that do not rely solely on derivative hedging arrangements like swaps, typically implement the strategy by selling short the securities underlying the Notes. As a result, any specific rules regulating short selling of securities or other regulatory action that interfere with the ability of investors in, or potential purchasers of, the Notes to effect short sales in the Ordinary Shares could adversely affect the ability of such investors in, or potential purchasers of, the Notes to conduct the convertible arbitrage strategy with respect to the Notes. This could, in turn, adversely affect the trading price and liquidity of the Notes.

***Securities law restrictions on the resale and conversion of the Notes and the resale of Ordinary Shares issuable and/or deliverable upon their conversion following the Issuer's Physical Settlement Election may impact the Noteholder's ability to sell the Notes***

The Notes and the Ordinary Shares into which the Notes are convertible have not been registered under the Securities Act or any state securities laws. Unless and until they are registered, the Notes and the Ordinary Shares issuable and deliverable upon conversion (following the Issuer's Physical Settlement Election) may not be offered, sold or resold except pursuant to an exemption from registration under the Securities Act and applicable state laws or in a transaction not subject to such laws. The Notes are being offered and sold only to non-US persons outside the United States in "offshore transactions" as defined in, and in reliance on, Regulation

S under the Securities Act. The Issuer is not required to register the Notes or the Ordinary Shares into which the Notes are convertible under the Terms and Conditions of the Notes. Hence, future resales of the Notes and the Ordinary Shares into which the Notes are convertible may only be made pursuant to an exemption from registration under the Securities Act and applicable state laws or in a transaction not subject to such laws.

***The liquidity and price of the Notes following this offering may be volatile***

The price and trading volume of the Notes may be highly volatile. Factors such as variations in the revenues, earnings and cash flows of the Group and proposals of new investments, strategic alliances and/or acquisitions, interest rates and fluctuations in prices for comparable companies could cause the price of the Notes to change. Any such developments may result in large and sudden changes in the volume and price at which the Notes will trade. There can be no assurance that these developments will not occur in the future.

***The Notes will initially be represented by a Global Certificate and holders of a beneficial interest in the Global Certificate must rely on the procedures of the relevant Clearing system(s)***

The Notes will initially be represented by a Global Certificate. The Global Certificate will be deposited with a common depository for Euroclear and Clearstream (each of Euroclear and Clearstream, a “**Clearing System**”). Except in the circumstances described in the Global Certificate, investors will not be entitled to receive definitive Notes. The relevant Clearing System(s) will maintain records of the beneficial interests in the Global Certificate. While the Notes are represented by the Global Certificate, investors will be able to trade their beneficial interests only through the Clearing Systems.

While the Notes are represented by the Global Certificate, the Issuer will discharge its payment obligations under the Notes by making payments to the common depository for Euroclear and Clearstream for distribution to their account holders. A holder of a beneficial interest in the Global Certificate must rely on the procedures of the relevant Clearing System to receive payments under the Notes. None of the Issuer, the Guarantor, the Trustee or the Agents or any of their respective affiliates, advisers, agents, representatives, employees, officers, associates or directors or any person who controls any of them has any responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Certificate.

***Noteholders may be adversely affected by certain exchange rate risks and exchange controls***

The Issuer will make payments to Noteholders in U.S. Dollars. This presents certain risks relating to currency conversions if an investor’s financial activities are denominated principally in a currency or currency unit (the “**Investor’s Currency**”) other than the U.S. Dollar. These include the risk that exchange rates may significantly change (including changes due to devaluation of the U.S. Dollar or revaluation of the Investor’s Currency) and the risk that authorities with jurisdiction over the Investor’s Currency may impose or modify exchange controls that could adversely affect an applicable exchange rate. An appreciation in the value of the Investor’s Currency relative to the U.S. Dollar would decrease:

- the Investor’s Currency-equivalent yield on the Notes;
- the Investor’s Currency-equivalent value of the amounts payable on the Notes; and
- the Investor’s Currency-equivalent market value of the Notes.

Government and monetary authorities may impose exchange controls that could adversely affect the availability of a specified foreign currency at the time of payment of amounts on a Note. As a result, the payments received by investors may be adversely affected.

## **RISKS RELATING TO THE CALL SPREAD TRANSACTIONS**

### ***The Call Spread Transactions may affect the value of the Notes and Ordinary Shares***

In connection with the issuance and pricing of the Notes, the Issuer entered into privately negotiated 2031 Call Spread Transactions with the Option Counterparties. The 2031 Call Spread Transactions are expected generally to reduce or offset potential dilution upon any conversion of the Notes and/or offset any cash payments the Issuer is required to make in excess of the principal amount of the converted Notes, as the case may be.

In addition, in connection with the Concurrent Repurchase, the Guarantor and the Issuer intend to unwind the 2025 Call Spread Transactions to the extent that 2025 Convertible Notes are repurchased (or as otherwise agreed between the Issuer, the Guarantor, the Joint Lead Managers and certain other counterparties). As part of establishing, maintaining and unwinding their hedges in relation to these transactions, the counterparties to the 2025 Call Spread Transaction, the Option Counterparties and the holders of 2025 Convertible Notes and Notes are expected to enter into various derivative transactions with respect to, and/or purchase, and/or sell, Xero's ordinary shares at their discretion. This activity could affect the market price of Xero's ordinary shares, the 2025 Convertible Notes or the Notes otherwise prevailing at that time. If any such transactions fail to become effective, whether or not the Offering is completed, the relevant parties may unwind their hedge positions with respect to the ordinary shares.

In addition, the Option Counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to Ordinary Shares and/or purchasing or selling Ordinary Shares or other securities of the Company in secondary market transactions following the pricing of the Notes and prior to the maturity of the Notes (and are likely to do so during any observation period related to a conversion of the Notes). This activity could also cause or avoid an increase or a decrease in the market price of Ordinary Shares or the Notes, which could affect a Noteholder's ability to convert the Notes and, to the extent the activity occurs following conversion or during any observation period related to a conversion of Notes, it could affect the value of the consideration that a Noteholder will receive upon conversion of the Notes.

In addition, if any such 2031 Call Spread Transactions fail to become effective, whether or not this offering of Notes is completed, the Option Counterparties may unwind their hedge positions with respect to Ordinary Shares, which could adversely affect the value of Ordinary Shares and, if the Notes have been issued, the value of the Notes.

The 2031 Call Spread Transactions are separate transactions (in each case that the Issuer entered into with the Option Counterparties), are not part of the Terms and Conditions of the Notes and will not change the Noteholders' rights under the Notes. A Noteholder will not have any rights with respect to the 2031 Call Spread Transactions.

The Group does not make any representation or prediction as to the direction or magnitude of any potential effect that the transactions described above may have on the price of the Notes or the Ordinary Shares. In addition, the Group does not make any representation that the Option Counterparties will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice. See "*Description of the Call Spread Transactions*".

### ***The Group is subject to counterparty risk with respect to the 2031 Call Spread Transactions***

The Option Counterparties are financial institutions, and the Group will be subject to the risk that any or all of them might default under the 2031 Call Spread Transactions. The Group's exposure to the credit risk of the Option Counterparties will not be secured by any collateral. Past global economic conditions have resulted in the actual or perceived failure or financial difficulties of many financial institutions. If an Option Counterparty becomes subject to insolvency proceedings, the Issuer will become an unsecured creditor in those proceedings with a claim equal to the Issuer's exposure at that time under the 2031 Call Spread Transactions with such

Option Counterparty. The Issuer's exposure will depend on many factors but, generally, an increase in the Issuer's exposure will be correlated to an increase in the market price and in the volatility of Ordinary Shares.

In addition, upon a default by an Option Counterparty, the Group may suffer adverse tax consequences and more dilution than the Group currently anticipates with respect to Ordinary Shares. The Group can provide no assurances as to the financial stability or viability of the Option Counterparties.

***The Issuer may be unable to achieve equity classification on the call spread***

The Issuer is required to account for the 2031 Call Spread Transaction under the IFRS. The transactions are highly complex arrangements, and judgement is required to determine the appropriate accounting treatment under IFRS. It is expected that the Upper Strike Call Option will be equity classified under IFRS. However, there is a risk that the instrument could be required to be classified as a derivative liability. Classification as a derivative liability will result in a requirement for fair value re-measurement of the instrument. Its fair value will be subject to the Company's share price and other market factors. Under this scenario, increases in the Company's share price could result in material fair value losses being recognised in the Group's and the Issuer's income statements.

**The risks described above do not necessarily comprise all those faced by the Group and are not intended to be presented in any assumed order of priority.**

**The investment referred to in this Offering Circular may not be suitable for all of its recipients. Investors are accordingly advised to consult an investment adviser before making a decision to subscribe for Notes.**

## USE OF PROCEEDS

The net proceeds from this Offering will be approximately U.S.\$908 million, after deduction of commissions, professional fees and other administrative expenses.

The Group intends to use the residual net proceeds:

- (i) to fund the 2031 Call Spread Transactions described in “*Description of the Call Spread Transactions*”;
- (ii) to repurchase up to U.S.\$700 million in aggregate principal amount of the 2025 Convertible Notes;
- (iii) for potential acquisitions and strategic investments; and
- (iv) for general corporate purposes.

Pending these uses, the Group may invest the net proceeds in short-term, interest-bearing instruments or other investment securities.

In respect of potential acquisitions and strategic investments, the Group is continually looking for opportunities to strengthen its platform and deliver a better experience for its customers, whether that is by building new products within Xero, partnering with like-minded organisations, or acquiring businesses that complement the Xero platform. At any time, the Group may be considering and examining any number of such opportunities.

The combination of the unwinding of the 2025 Call Spread Transactions and the entry into the 2031 Call Spread Transactions will realise a net outflow of U.S.\$55.8 million. See “*Description of the Call Spread Transactions*”.



## CAPITALISATION AND INDEBTEDNESS

### Capitalisation and Indebtedness of the Group

The following table sets forth the Group’s cash, cash equivalents and short-term deposits as well as capitalisation and indebtedness as of 31 March 2024:

- on an actual basis representing amounts reflected in the audited Annual Financial Statements, except for the measurement of the 2025 Convertible Notes; and
- on an “as adjusted” basis to reflect the:
  - issuance of the Notes in this Offering, after deducting the estimated transaction costs incurred by the Issuer and Group in relation to this Offering of approximately NZ\$1,522.3 million;
  - part repayment of NZ\$1,036.3 million of the 2025 Convertible Notes out of net proceeds from this Offering;
  - net outflow from the early unwind of the 2025 Call Spread Transactions entered into in conjunction with the 2025 Convertible Notes and the purchase of the 2031 Call Spread Transactions of NZ\$93.5 million; and
  - assumption that the remaining net proceeds are held as cash or cash equivalents.

This table should be read in conjunction with the “*Use of Proceeds*” section in this Offering Circular and the Group’s Financial Statements and their respective related notes thereto which are incorporated by reference into this Offering Circular. The table has not been audited.

	<b>At 31 March 2024</b>	
	<b>Actual</b>	<b>As Adjusted</b> <small>(5)(6)(7)</small>
	<i>(NZ\$000s)</i>	
Cash and cash equivalents <sup>(1)</sup> .....	498,791	891,231
Short term deposits.....	1,031,079	1,031,079
Cash and cash equivalents and short term deposits.....	1,529,870	1,922,310
Long-term debt		
2025 Convertible Notes <sup>(1)(2)(3)</sup> .....	1,173,119	91,125
Convertible notes due 2031 offered hereby <sup>(1)(3)(4)</sup> .....	—	1,550,193
<i>Shareholders’ equity</i>		
Share capital <sup>(4)</sup> .....	1,854,983	1,854,983
Reserves.....	(193,268)	(193,268)
Accumulated losses.....	(268,768)	(268,768)
Total equity.....	1,392,947	1,392,947
<b>Total capitalisation and indebtedness.....</b>	<b>2,566,066</b>	<b>3,034,265</b>

---

Notes:

- (1) The exchange rate used to translate the net proceeds of the 2025 Convertible Notes and the resulting debt liability is the closing rate on 31 March 2024 of NZ\$1.000 to U.S.\$0.5967.
- (2) Consists of U.S.\$700 million aggregate principal amount of 2025 Convertible Notes outstanding as at 31 March 2024, which amount does not reflect the debt discount and deferred debt issuance costs that is recognised in the Group's consolidated balance sheet. The early repayment of all or part of the 2025 Convertible Notes will result in the realisation of a loss in the Issuer's and the Group's income statement which is not reflected in the table above.
- (3) In accordance with NZ IFRS, convertible debt that may be wholly or partially settled in cash is separated into a debt liability component and a derivative liability component, such that interest expense reflects the Issuer's non-convertible debt interest rate. Upon issuance, a debt discount is recognised as a decrease in debt liability and an increase in derivatives liabilities. The debt component will accrete up to the principal amount over the expected term of the debt. The accounting treatment does not affect the actual amount that may be repaid. The amount shown in the table above for the Notes offered under this Offering Circular is the aggregate principal amount of the Notes and does not reflect the debt discount that the Group will be required to recognise in its Consolidated Statement of Financial Position.
- (4) Share capital does not reflect any Ordinary Shares that may be issued upon conversion of the Notes offered by this Offering Circular or Ordinary Shares issued on the exercise of the Upper Strike Call Option detailed in this Offering Circular (see "*Effects of the Notes on the Company*" below), or Ordinary Shares issued in connection with the Group's equity incentive arrangements after 31 March 2024.
- (5) Amounts shown in the table above do not reflect the recording of the cash conversion feature separately as a derivative liability.
- (6) The 2031 Call Spread Transactions described in "Description of the Call Spread Transactions" section will be accounted for as follows:
  - the Lower Strike Call Option will be accounted for as derivative assets;
  - the Upper Strike Call Option is anticipated to be accounted for as equity instruments; and
  - the cost of the Call Spread will be paid for from the proceeds of the Notes.The derivative asset and equity instruments relating to the 2031 Call Spread Transactions are not reflected in the above table.
- (7) The closeout of the 2025 Call Spread Transactions entered into as part of the issue of the 2025 Convertible Notes section will be accounted for as follows:
  - the closeout of the 2025 lower strike call options is expected to result in a realised loss to the income statement that will largely offset the embedded derivative gain on early repayment of the 2025 Convertible Notes;
  - the closeout of the 2025 upper strike call options is expected to result in a loss recognised in equity; and
  - the proceeds from the closeout of the 2025 Call Spread Transactions of NZ\$19.7 million is included in cash in the table above.The gain, or loss on closeout of the derivative asset and equity instruments relating to the 2025 Call Spread Transactions are not reflected in the above table.

### Current equity capital

<b>Description</b>	<b>No. of Ordinary Shares</b>
Number of Ordinary Shares on issue as at 31 March 2024 .....	152,326,912
Number of Ordinary Shares issued between 1 April 2024 and 31 May 2024 <sup>(1)</sup> .....	280,802
Number of Ordinary Shares on issue as at 31 May 2024.....	152,607,714

---

Note:

- (1) Includes 280,802 Ordinary Shares issued to employees in connection with the Group's equity incentive arrangements.

### **Restricted shares**

Ordinary Shares on issue as at 31 May 2024 include 31,080 restricted shares that have been forfeited and are held on a restricted basis in connection with the Company's equity incentive arrangements.

### **Options and restricted stock units on issue**

As at 31 May 2024, there were 34 individuals holding a total of 787,474 unlisted options at an average exercise price of A\$91.86 per option. If each of those options vested and were exercised, Xero would issue 797,474 Ordinary Shares.

As at 31 May 2024, there were 131 individuals holding a total of 684,529 restricted stock units ("RSUs"). If each of those RSUs vested, Xero would issue 684,529 Ordinary Shares.

### **Future issues in respect of the acquisition of Tickstar AB**

On 1 April 2021, Xero announced the acquisition of Tickstar AB ("Tickstar"). Under the terms of the acquisition, if certain performance hurdles are met in respect of the Tickstar business, Ordinary Shares up to a value of SEK 20 million (calculated with reference to the volume weighted average price per Ordinary Share for the 5 days preceding the issue), may be issued following the end of the performance measurement period on 30 June 2024.

### **Effects of the Notes on the Company**

The issue of the Notes and the entering into of the 2031 Call Spread Transactions may result in the issue (or cancellation in certain circumstances) by Xero of Ordinary Shares at some time in the future.

The issue of Ordinary Shares by Xero may arise:

- if the Issuer elects to settle the conversion of the Notes physically by the delivery of Xero Ordinary Shares; or
- if the Upper Strike Call Option is exercised.

Further, if the Lower Strike Call Option is exercised and elected by the Issuer to be physically settled, then (subject to gaining relevant approvals under New Zealand law), the Ordinary Shares may be delivered to the Guarantor, resulting in a cancellation of the relevant Ordinary Shares.

As a result, the net effect of the issue of the Notes and the entering into of the 2031 Call Spread Transactions on the capital structure of Xero will depend on a number of variables.

By way of example, in the event of a full conversion of the Notes issued, and based on the initial Conversion Price of the Notes, using the closing price per Ordinary Share on 31 March 2024 of A\$133.32 and the closing foreign exchange rate on 31 March 2024 of A\$1.000 to U.S.\$0.6519, if the Issuer elects to settle conversion of the Notes by the delivery of Ordinary Shares, Xero would be obliged to issue 7,080,416 new Ordinary Shares. In the event that the Upper Strike Call Option is exercised, the same amount of Ordinary Shares would be issued.

Alternatively, if the conversion of the Notes is cash-settled, and the Upper Strike Call Option is not exercised (for example, because in respect of each tranche of the Upper Strike Call Option the strike price of such tranche is equal to or greater than the volume weighted average price per Ordinary Share, as measured under the terms

of the Upper Strike Call Option), then the issue of the Notes and the 2031 Call Spread Transactions may not result in any Ordinary Shares being issued by Xero.

Any Ordinary Shares issued upon conversion of the Notes or the exercise of the Upper Strike Call Option will be issued fully paid and will rank from the date of issue equally for dividend and other rights with existing Ordinary Shares. Upon issue of Ordinary Shares, the Company will apply to the ASX or an Alternative Stock Exchange (as defined in the Terms and Conditions of the Notes), as the case may be, for quotation of the Ordinary Shares.

**Debt Facilities**

The Company does not currently have any external debt facilities.

## SUMMARY FINANCIAL INFORMATION

The following tables set out certain selected consolidated financial information of the Group as at and for the periods indicated.

The selected consolidated financial information of the Group as at and for the financial years ending 31 March 2024, 2023 and 2022 set forth below is derived from the Groups' Audited Consolidated Financial Statements, which are incorporated by reference into and deemed to be included in this Offering Circular. Such consolidated financial information of the Group should be read in conjunction with the Groups' Financial Statements and their respective notes thereto.

Copies of the 2024 Audited Consolidated Financial Statements, the 2023 Audited Consolidated Financial Statements and the 2022 Audited Consolidated Financial Statements can be obtained from the 2024, 2023 and 2022 financial reports of the Group respectively, each of which are available on the ASX at [www.asx.com.au](http://www.asx.com.au) or the Groups' website at [www.xero.com/about/investors/](http://www.xero.com/about/investors/).

### Consolidated Income Statement

	Derived from audited financial statements		
	Year ended 31 March 2022	Year ended 31 March 2023	Year ended 31 March 2024
	(NZ\$000s)	(NZ\$000s)	(NZ\$000s)
Subscription revenue .....	1,049,618	1,326,278	1,630,761
Other operating revenue.....	47,201	73,606	83,006
<b>Total operating revenue .....</b>	<b>1,096,819</b>	<b>1,399,884</b>	<b>1,713,767</b>
Cost of revenue.....	(139,388)	(177,943)	(202,505)
<b>Gross profit .....</b>	<b>957,431</b>	<b>1,221,941</b>	<b>1,511,262</b>
<i>Operating expenses</i>			
Sales and marketing.....	(405,653)	(471,831)	(541,235)
Product design and development .....	(372,024)	(490,048)	(526,183)
General and administration.....	(144,172)	(168,077)	(185,122)
Restructuring costs	—	(34,692)	(3,013)
<b>Total operating expenses .....</b>	<b>(921,849)</b>	<b>(1,164,648)</b>	<b>(1,255,553)</b>
Other income .....	45,177	18,130	14,674
Other expenses.....	(14,090)	(12,540)	(6,348)
Asset impairments and disposals .....	(24,695)	(122,680)	(26,414)
Reversal of asset impairments.....	—	—	1,934
<b>Earnings before interest and tax.....</b>	<b>41,974</b>	<b>(59,797)</b>	<b>239,555</b>
Finance income.....	4,080	29,119	67,477
Finance expense.....	(43,691)	(44,999)	(45,125)
<b>Net profit/(loss) before tax.....</b>	<b>2,363</b>	<b>(75,677)</b>	<b>261,907</b>
Income tax expense .....	(11,477)	(37,855)	(87,267)
<b>Net profit/(loss) after tax .....</b>	<b>(9,114)</b>	<b>(113,532)</b>	<b>174,640</b>

## Consolidated Statement of Financial Position

Derived from audited financial statements

	As at 31 March 2022	As at 31 March 2023	As at 31 March 2024
	(NZ\$000s)	(NZ\$000s)	(NZ\$000s)
<i>Current Assets</i>			
Cash and cash equivalents.....	404,192	230,624	498,791
Short-term deposits .....	531,866	886,563	1,031,079
Trade and other receivables .....	112,311	128,998	176,486
Derivative assets .....	6,233	5,570	4,065
Income tax receivable	8,551	4,406	32,533
Assets held for sale	—	—	—
Other current assets.....	8,601	7,450	4,499
<b>Total current assets</b> .....	<b>1,071,754</b>	<b>1,263,611</b>	<b>1,747,453</b>
<i>Non-current assets</i>			
Property, plant and equipment .....	158,317	138,094	125,228
Intangible assets .....	959,354	963,032	984,156
Deferred tax assets .....	97,069	92,000	31,714
Derivative assets .....	56,269	31,853	61,329
Other non-current assets.....	577	1,565	1,544
<b>Total non-current assets</b> .....	<b>1,271,586</b>	<b>1,226,544</b>	<b>1,203,971</b>
<b>Total assets</b> .....	<b>2,343,340</b>	<b>2,490,155</b>	<b>2,951,424</b>
<i>Current liabilities</i>			
Trade and other payables .....	55,461	52,204	85,679
Employee entitlements.....	82,727	95,708	103,239
Provisions	560	42,925	1,867
Lease liabilities .....	14,292	17,258	19,369
Derivative liabilities.....	2,511	5,544	7,175
Income tax payable .....	936	3,607	2,760
Other current liabilities .....	40,003	37,819	43,993
<b>Total current liabilities</b> .....	<b>196,490</b>	<b>255,065</b>	<b>264,082</b>
<i>Non-current liabilities</i>			
Term debt.....	884,839	1,019,794	1,107,784
Lease liabilities .....	121,926	106,163	96,967
Derivative liabilities.....	56,624	28,147	64,463
Deferred tax liabilities .....	13,377	12,859	13,112
Contingent consideration	13,817	1,152	—
Other non-current liabilities .....	22,344	13,069	12,069

**Derived from audited financial statements**

	<b>As at 31 March 2022</b>	<b>As at 31 March 2023</b>	<b>As at 31 March 2024</b>
	<i>(NZ\$000s)</i>	<i>(NZ\$000s)</i>	<i>(NZ\$000s)</i>
<b>Total non-current liabilities .....</b>	<b>1,112,927</b>	<b>1,181,184</b>	<b>1,294,395</b>
<b>Total liabilities.....</b>	<b>1,309,417</b>	<b>1,436,249</b>	<b>1,558,477</b>
Share capital.....	1,580,858	1,710,392	1,854,983
Reserves.....	(217,059)	(213,078)	(193,268)
Accumulated losses .....	(329,876)	(443,408)	(268,768)
<b>Total equity.....</b>	<b>1,033,923</b>	<b>1,053,906</b>	<b>1,392,947</b>
<b>Total liabilities and shareholders' equity ...</b>	<b>2,343,340</b>	<b>2,490,155</b>	<b>2,951,424</b>

## Consolidated Statement of Cash Flows

**Derived from audited financial  
statements**

	<b>Year ended 31 March 2022</b>	<b>Year ended 31 March 2023</b>	<b>Year ended 31 March 2024</b>
	<i>(NZ\$000s)</i>	<i>(NZ\$000s)</i>	<i>(NZ\$000s)</i>
<b>Operating activities</b>			
Receipts from customers .....	1,089,806	1,394,237	1,705,595
Other income.....	3,161	1,422	5,221
Interest received .....	2,926	21,768	60,777
Payments to suppliers and employees.....	(830,568)	(1,006,411)	(1,124,792)
Interest paid.....	(8,715)	(9,271)	(8,488)
Income tax paid .....	(20,239)	(11,296)	(46,554)
<b>Net cash flows from operating activities .....</b>	<b>236,371</b>	<b>390,449</b>	<b>591,759</b>
<b>Investing activities</b>			
Capitalised development costs	(205,348)	(262,496)	(226,985)
Purchase of property, plant and equipment.....	(19,029)	(6,752)	(6,587)
Capitalised contract acquisition costs	(16,344)	(16,587)	(14,958)
Business acquisitions .....	(185,423)	(15,879)	(8,663)
Business divestments	—	—	9,550
Other investing activities.....	(3,900)	(3,182)	5,635
<b>Net cash flows from investing activities .....</b>	<b>(430,044)</b>	<b>(304,896)</b>	<b>(242,008)</b>
<b>Financing activities</b>			
Proceeds from short-term deposits .....	963,878	1,427,144	2,025,864
Payments for short-term deposits .....	(1,044,173)	(1,742,659)	(2,140,828)
Proceeds from borrowings.....	4,279	2,146	—

**Derived from audited financial  
statements**

	<b>Year ended 31 March 2022</b>	<b>Year ended 31 March 2023</b>	<b>Year ended 31 March 2024</b>
Repayment of borrowings .....	(2,433)	(4,888)	—
Share options exercised .....	35,981	31,709	39,614
Payment of lease liabilities .....	(13,599)	(16,547)	(17,910)
Payments for buyback of convertible notes .....	(5,455)	—	—
<b>Net cash flows from financing activities.....</b>	<b>(61,522)</b>	<b>(303,095)</b>	<b>(93,260)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>	<b>(255,195)</b>	<b>(217,542)</b>	<b>256,491</b>
Foreign currency translation adjustment.....	1,538	43,974	11,676
<b>Cash and cash equivalents at the beginning of the period</b> .....	<b>657,849</b>	<b>404,192</b>	<b>230,624</b>
<b>Cash and cash equivalents at the end of the period</b>	<b>404,192</b>	<b>230,624</b>	<b>498,791</b>



## ISSUER

### Overview history

The Issuer was incorporated in New Zealand under the Companies Act 1993 on 17 September 2018. The registered office of the Issuer is 19-23 Taranaki Street, Te Aro, Wellington 6011 New Zealand. The Issuer is a wholly-owned subsidiary of the Company. The Issuer has five subsidiaries, Xero (NZ) Holdings Limited, Xero Software Solutions (India) Private Limited, Waddle Loans Pty Ltd, Waddle SaaS Pty Ltd and Tickstar AB.

### Business activity

The Issuer was originally established for the purpose of issuing the U.S. \$300,000,000 2.375 per cent. Guaranteed Senior Unsecured Convertible Notes due 2023 guaranteed by the Guarantor (the “**2023 Convertible Notes**”). In 2020, the 2023 Convertible Notes were repurchased and the Issuer issued the 2025 Convertible Notes. Proceeds raised from the 2025 Convertible Notes have been invested in short-term deposits and money market instruments and have been used for acquisitions directly or indirectly through the Company. Some proceeds from the Notes may be loaned to (or otherwise transferred to or invested in) the Company or other Group entities to use to make acquisitions, strategic investments and/or for general corporate purposes.

### Directors and officers

The directors of the Issuer as at the date of this Offering Circular are Kirsty Godfrey-Billy and Rebecca Small. There is no company secretary of the Issuer.

The Issuer currently has no employees.

### Financial statements

The Issuer has not published financial statements, and does not propose to publish, any financial statements in the future. The Issuer is, however, required to keep records that:

- are sufficient to show and explain the Issuer’s transactions; and
- will, at any time, enable the financial position of the Issuer to be determined with reasonable accuracy.

### Share capital

The Issuer’s share capital consists of 3,468,528 fully paid ordinary shares. The shares are held by the Company. The register of members of the Issuer is maintained at its registered office in New Zealand. No part of the equity securities of the Issuer is listed or dealt in on any stock exchange and no listing or permission to deal in such securities is being or is proposed to be sought.

As at 31 March 2024, the Issuer has outstanding borrowings totalling U.S.\$700 million in respect of the 2025 Convertible Notes. The Issuer is also a counterparty to the 2025 Call Spread Transactions.

## **BUSINESS OF THE GROUP**

### **Business overview**

Xero was founded in 2006, bringing cloud accounting tools to small businesses globally. Xero's launch meant accountants and bookkeepers could collaborate with their small business clients in real time to help them manage their businesses more effectively.

Xero has evolved into a global small business platform. In addition to accounting, Xero's platform extends to payroll, payments and other solutions that support the key Jobs to be Done (“**JTBD**”) for small business, accountants and bookkeepers. Xero's open ecosystem of connected apps and connections to banks and other financial institutions helps small businesses access a range of solutions within its platform.

The Group had approximately 4.2 million global subscribers as at 31 March 2024, and, as at the date of this Offering Circular, subscribers are located across Australia, the UK, the US and more than 180 other countries.

As at 31 March 2024, the total lifetime value of Xero's subscribers was NZ\$15.5 billion. For the year ended 31 March 2024, the Company generated operating revenue of NZ\$1.7 billion, of which 95 per cent was recurring subscription revenue. Xero is listed on the ASX under the ticker code ASX-XRO, and had a market capitalisation of A\$20.3 billion as at 31 March 2024.

As at 31 March 2024, the Group defined its subscribers as each unique subscription to a Xero-offered product that is purchased by a user (e.g. small business or accounting partner) and which is, or is available to be, deployed. Subscribers that have multiple subscriptions to integrated products on the Xero platform are counted as a single subscriber.

Xero's vision is to be the most insightful and trusted small business platform. This means offering a fully integrated platform that gives customers powerful insights, drives meaningful discussions with their advisers, and helps them make informed decisions. Xero's vision is supported by its strategy, and is realised through its relationships with customers and partners, its products, its people, and its commitment to sustainability.

### **Xero's customers**

Xero is focused on helping customers in its primary segments – small businesses with 1-20 employees – to complete their most important JTBD, accounting, payroll and payments. Xero designs primarily for these segments, but it also continues to support its customers who use its products across all segments – self-employed businesses with higher revenues and medium (21-100 employees) businesses who have multiple JTBD – who also value its product.

Xero regularly engages with its customers and partners to help drive further digital adoption. The global Xerocon events and regional roadshows provide an opportunity for Xero's partner community to connect and learn more about Xero's suite of offerings and latest features.

Xero also uses digital channels to connect directly with small business customers that use Xero without a connected partner, as another important aspect of its growth. Xero supports its direct customer channel acquisition through digital marketing, and retention through support and education.

Xero provides support within the Xero platform and offers a 24/7 customer learning and support portal, Xero Central. On Xero Central, customers can browse support questions, access videos and guides, join community discussions and raise cases with the customer experience team.

### **Product description**

Xero's product vision aligns with the company strategy to create winning solutions for the three most critical JTBD for small businesses – accounting, payroll and payments – and to support adjacent JTBD through

embedded capabilities and strategic partnerships. Many of Xero's products use artificial intelligence to streamline tasks, deliver insights and help its customers get the answers they need.

Xero's small business platform includes a range of integrated products to help small businesses complete their JTBD, such as:

- Accounting – Accounting and compliance software for small businesses and their advisers, providing a trusted digital system of record that supports data ingestion, bookkeeping, annual tax management and filing, and reporting and insights.
- Payroll – Software for small businesses that helps simplify paying employees and contractors, so they can better run their business.
- Payments – Software for small businesses that helps them collect and make payments, to manage cash flow. This includes allowing small businesses to invoice (or eInvoice) their customers, and manage and pay their bills through Xero and other payment services integrated with Xero.
- Adjacent JTBD – Software for small businesses that helps them improve how they manage day-to-day operations beyond accounting and compliance needs, such as time, attendance and scheduling, expenses, projects and inventory.

During FY24, Xero launched a number of new product features and updates, as well as entering into new strategic partnerships to help customers across its three largest markets (Australia, the United Kingdom and the United States) complete their three most important JTBD. Xero also worked to reimagine the customer journey, including embedding and extending to adjacent JTBD. As part of Xero's focused strategy, it continues to optimise how it allocates capital to get the right results for customers, Xero and its stakeholders. Aligned with this, Xero also confirmed a decision to retire its Planday business in Australia. Planday will continue to focus on its core business in Europe, including the UK.

### **AI vision**

Xero's artificial intelligence strategy and vision aims to improve how small businesses and advisers can manage their accounting by integrating artificial intelligence into business-facing tasks to automate them, help improve efficiency, and empower customers with better insights to run their business. Xero is doing this by:

- developing conversational interfaces on apps and surfaces (i.e. mobile, email and Whatsapp) where Xero customers need support;
- automating and streamlining important but repetitive and time-consuming accounting tasks; and
- helping customers make better business decisions, by delivering the right insights at the right time.

Artificial intelligence already powers many of Xero's everyday features, saving customers time and delivering important insights. Xero's artificial intelligence vision builds on its strong foundation of experience in building data-driven products, and holds true to the responsible data use commitments that guide its decisions.

### **Xero's relationships with partners**

Trusted relationships with Xero's partners – including accountants and bookkeepers, third-party app developers, and banks and financial service providers – are an important part of how Xero operates. Its network of accounting and bookkeeping partners continues to be a key factor to its success as Xero works together to introduce Xero to more small businesses.

Xero's strategic partnerships allow the Group to expand its capabilities beyond products that it builds itself. Xero leverages these strong ecosystem and strategic partnerships by embedding services into the Xero platform

to create a seamless experience and better serve customers in its three largest markets by embedding more JTBD into the Xero platform, including:

- launch of automatic sales tax capabilities, powered by Avalara, a leading provider of cloud-based tax compliance automation for businesses in the US. Advanced sales tax management is now embedded within Xero, which has created a more seamless customer experience;
- announcement of a strategic partnership with BILL, a leader in financial automation software in the US. Once available, the solution will deeply integrate BILL's robust payments options, allowing customers to more efficiently pay their bills without leaving Xero; and
- announcement of a new strategic partnership in Australia with app partner Deputy, the global people platform for hourly work, to support JTBD such as time, attendance and scheduling. Once available, Deputy's workforce management capability will be deeply integrated into the Xero platform, bringing workforce management together with Xero's payroll and accounting in one place for its Australian customers.

Xero's ecosystem partner relationships are supported through the Xero App Store, which allows small businesses to find, try and buy apps based on their needs. It also gives app developers access to insights, tools, and billing payment capabilities, to help them grow their business.

### **Xero's people**

Xero's team of more than 4,000 employees is driven by its purpose to make life better for people in small business, their advisers and communities around the world. Its objective is to help its people to do the best work of their lives by embedding its purpose, values and culture within all its activities.

Diversity, inclusion and belonging in the workplace supports Xero's people to thrive and help it to better understand and serve its customers, attract top talent, and innovate successfully.

Xero's values reflect how its people work with each other, and its aspirations to better serve its customers and communities.

### **Environment, Sustainability and Governance**

Xero is committed to building a socially responsible and environmentally sustainable business, throughout its operations and supply chain. Xero recognises that it also has a responsibility to help small businesses become more sustainable. It does this through its Xero App Store, and by providing access to education and other tools.

Xero's approach to managing its carbon emissions and setting and reviewing its emissions reduction targets is set out in the Social and Environmental section of the FY24 Annual Report and Climate Appendix available on the Investor Centre: [www.xero.com/investors/](http://www.xero.com/investors/).

### **Xero Small Business Insights (XSBI)**

Xero uses anonymised and aggregated customer data for secondary purposes, including to generate insights into the small business economy through the XSBI program. Operating within Xero's Responsible Data Use Commitments, XSBI improves understanding about small businesses and is widely shared with governments, researchers and advisers. Anyone can access this anonymised and aggregated data and the XSBI analysis, at no cost, at [www.xero.com/xerosbi](http://www.xero.com/xerosbi)

### **Geographic presence**

Xero currently has three offices in New Zealand (Wellington, Auckland and Napier), three offices in the United States (Denver, San Francisco and New York), five offices in Australia (Melbourne, Sydney, Canberra, Brisbane

and Perth), three offices in the United Kingdom (Milton Keynes, London and Manchester) as well as offices in Canada, Singapore, South Africa, Denmark, Germany, Norway and Sweden.

Xero's customer base by market is shown in the following table.

	<b>At 31 March 2024</b>	<b>Year ended 31 March 2024</b>	
	<b>Number of Subscribers (to nearest 1,000)</b>	<b>Operating Revenue</b>	<b>% Total Operating Revenue</b>
		<i>(NZ\$ in million)</i>	
Australia.....	1,771,000	770.4	44.95
New Zealand.....	605,000	199.5	11.64
United Kingdom.....	1,077,000	461.0	26.9
North America.....	422,000	112.1	6.54
Rest of World.....	285,000	170.8	9.97

### **Company history**

Xero was incorporated in New Zealand in 2006, under the name “Accounting 2.0”. By 2007, Xero had grown to 50 employees and released its first public software solution, followed by an additional regional version of the software for the United Kingdom. In 2007, Xero listed on the NZX. Australian and global versions of the software solution were released in 2008. In the same year, a Partner Edition was launched, targeting accounting practices. In 2010, Xero had around 100 staff and hosted its first Xerocon, an accounting industry conference that showcases Xero's new products to accountants, bookkeepers and other ecosystem partners in New Zealand.

In 2011, Xero released a mobile-enabled version of its software, opened a US office in San Francisco, and expanded Xerocon into Australia.

Xero expanded further in 2012, opening offices in Canberra and the United Kingdom and launched Xerocon in the United Kingdom. In addition, Xero also became dual listed across both the NZX and the ASX and acquired WorkflowMax, a project management solution that was designed to help businesses track and report on their profitability.

By 2013, Xero had grown to over 500 employees and hosted its first Xerocon in the US. In addition, Xero conducted a NZ\$180 million capital raising to fund its global growth, of which a majority was raised from US and New Zealand based investors including existing shareholders Matrix Capital management and Valar Ventures.

In 2014, Xero surpassed 250,000 subscribers and its employee base doubled to approximately 1,000. By 2015 subscriber levels had exceeded 500,000 and in February 2015, Xero raised NZ\$147 million to fund continued innovation and growth globally. In both 2014 and 2015, Xero was ranked number one on the “Forbes World's 100 Most Innovative Growth Companies List”.

In 2016, Xero changed its ASX admission category from an ASX Listing to an ASX Foreign Exempt Listing.

Xero opened an Asia office in Singapore in 2016 to service the markets in Asia. By 2017, Xero completed its migration to the AWS cloud platform, and reached one million subscribers.

In early 2018, Xero moved to a sole listing on the ASX (and delisted from the NZX) and was included in the S&P/ASX 100 Index for the first time.

Steve Vamos was appointed Xero's Chief Executive Officer, effective on 1 April 2018, taking over from Xero's founder Rod Drury.

In July 2018, Xero announced a strategic partnership with the full-service US payroll platform Gusto, in order to provide customers with access to full-service payroll in all fifty US states.

In August 2018, Xero announced the acquisition of Hubdoc Inc. for an initial payment of U.S.\$60 million, funded with cash and equity (with an additional U.S.\$10 million in equity, paid in early 2020 following from the achievement of certain operational targets and conditions). Hubdoc Inc. automatically collects bank statements, bills and receipts from financial institutions, telecom providers, utilities and suppliers, thereby delivering streamlined data capture and integration with accounting solutions.

In October 2018, Xero undertook a successful capital raise of U.S.\$300 million via convertible notes with a 2.375 per cent coupon, with net proceeds approximately U.S.\$242 million to be used for potential acquisitions of, and investments into, strategic and complementary businesses and assets to drive long-term shareholder value.

During the financial year ended 31 March 2019, Xero achieved various financial milestones, including growing operating revenue to more than NZ\$500 million and achieving its first positive free cash flow.

In October 2020, Xero completed the acquisition of Waddle. Subsequently, Waddle was sold by Xero in October 2023.

In November 2020, Xero undertook a successful capital raise of U.S.\$700 million, via zero coupon convertible notes (i.e. the 2025 Convertible Notes), to raise U.S.\$408 million of capital after associated transaction costs and early repayment of the majority of the 2023 convertible notes.

In March 2021, Xero announced the acquisition of Planday for up to €183.5 million. Planday provides a workforce management platform serving employers and their employees in Europe, the UK and the US. Planday simplifies worker scheduling, payroll compliance, and communication with employees. The purpose of this acquisition was to help grow Xero's small business platform by expanding it to serve more employing businesses and their employees.

In March 2021, Xero also announced the acquisition of e-invoicing provider Tickstar for up to SEK150 million. Tickstar provides e-invoicing network access points and capabilities that promise to enable faster, more secure transactions and help drive cloud accounting.

In May 2021 Xero launched the monthly Xero Small Business Index ("**XSBI**"). This index measures a number of important indicators within the small business segment and uses anonymised aggregated data from hundreds of thousands of small businesses, to give monthly insights across its largest markets.

In November 2021, Xero acquired LOCATE Inventory, a US cloud-based inventory management provider, and in December 2021, Xero acquired TaxCycle, a Canadian tax preparation software company for accountants and bookkeepers.

In May 2022, Xero reported on the steps taken to implement the Task force on Climate-related Financial Disclosures ("**TCFD**") framework in its "TCFD Journey 2022" report.

In November 2022, Xero announced the appointment of Sukhinder Singh Cassidy as Xero's new CEO effective 1 February 2023, following Mr Vamos' decision to retire as CEO after serving almost five years as CEO.

In March 2023, Xero announced a program to streamline Xero’s operations, realign the business to drive greater operating efficiency and better balance its growth and profitability. This required an organisational restructure to strengthen its ability to deliver value for all its stakeholders and position Xero for the future.

At Xero’s 2023 Annual Meeting in August 2023, Xero’s founder Rod Drury retired as a non-executive director from the Xero Board. Rod founded Xero in 2006, serving as an executive director for 12 years, and as a non-executive director for five. Rod continues to act as an adviser to Xero.

In February 2024, Xero hosted its inaugural Investor Day which provided investors with the opportunity to hear from and meet Xero’s Executive Leadership Team, and learn more about its strategy and products. During Investor Day, Xero announced its FY25-27 strategy, Winning on Purpose, which comprises four strategic priorities: Win the 3x3; Build a Winning GTM Playbook; Focused Bets to Win the Future; and Unleash Xero(s) to Win. The strategy is simple, focused, and anchored in Xero’s purpose.

As part of Investor Day, Xero also announced a strategic partnership with BILL, a leading financial operations platform for small and midsize businesses with more than 470,000 businesses using its financial automation solution. The partnership will strengthen Xero’s US payments offering, adding more value for US customers, and reflects how Xero will look to use strategic partnerships to deeply embed key JTBD.

In April 2024, Xero announced a strategic partnership with Deputy to bring workforce management together with Xero’s payroll and accounting for Australian customers. Xero invested U.S.\$25million to take a minority position in Deputy to further increase the two businesses’ focus and alignment.

### Key business statistics

Item	Description
Total assets .....	NZ\$2,951,424,000 (as at 31 March 2024)
Total operating revenue .....	NZ\$1,713,767 (for the year ended 31 March 2024)
Market capitalisation .....	A\$20.3 billion (as at 31 March 2024)
Free float .....	152,552,964 shares, 99.96 per cent. (as at 31 May 2024)
Largest shareholder(s) .....	HSBC Custody Nominees (Australia) Limited J P Morgan Nominees Australia Limited Citicorp Nominees Pty Limited Ms Anna Margaret Clare Stuck and Rodney Kenneth Drury and Scott Moran (as at 31 May 2024)
ASX ticker code .....	XRO
Year listed.....	Xero listed on the NZX in 2007, listed on the ASX in 2012, (foreign exempt listing) and subsequently delisted from the NZX in 2018 (with a sole primary listing on the ASX)
Key market sectors .....	Software
Employees .....	4,322 Full Time Equivalents (“FTEs”) (as at 31 March 2024)
Countries with operations.....	Australia, Canada, New Zealand, South Africa, Singapore, United Kingdom, the United States,

Denmark, Germany, Norway and Sweden (as at 31 March 2024)

## Recent developments

### ***Concurrent Repurchase***

Concurrent with the Offering, Goldman Sachs International and Morgan Stanley & Co. International plc (in their capacity as dealer managers) will assist the Issuer and the Company with the repurchase by the Issuer of its existing 2025 Convertible Notes (of which U.S.\$700,000,000 currently remains outstanding as at 31 March 2024) which will be satisfied and settled by payment of cash. The Concurrent Repurchase will be conducted concurrently with the offering of the Notes, and is expected to close on or about the Closing Date (as defined herein). Following settlement of the Concurrent Repurchase, the 2025 Convertible Notes repurchased by the Issuer will be cancelled.

### ***Publication of Xero's audited annual financial statements as at and for the year ended 31 March 2024***

Xero reported its full year earnings as at and for the year ended 31 March 2024 in the audited Consolidated Financial Statements released on 23 May 2024.

Xero's operating results included operating revenue growth of 22% (21% in constant currency ("CC")), and an operating expense to revenue ratio of 73.3% (in line with guidance). This was supported by EBITDA of NZ\$497.4 million (mainly impacted by the non-cash impairment of Xero Go of NZ\$28.9 million). This resulted in free cash flow increasing to NZ\$342.1 million and a free cash flow margin of 20.0%, improving from 7.3% in the prior period. As a result, Xero delivered a Rule of 40<sup>1</sup> outcome of 41.0%, demonstrating its ability to drive both growth and profitability.

Operating revenue increased to NZ\$1.7 billion, driven by average revenue per user ("ARPU") expansion and subscriber growth. Annualised monthly recurring revenue ("AMRR") grew by 26% to NZ\$1.96 billion (22% in CC). Total subscriber lifetime value ("LTV") grew 16% (12% in CC) to NZ\$15.5 billion. Average monthly churn (0.99%) remained below pre-pandemic levels, and ARPU improved a further 14% (10% in CC), underscoring Xero's macro resilience and the value customers place in Xero to help them manage changing environments.

EBITDA, free cash flow, Rule of 40, ARPU, AMRR and LTV presented above are non-GAAP financial measures. These have been included as Xero believes they provide useful information for readers in understanding Xero's financial performance.

---

<sup>1</sup> Rule of 40 is defined as the sum of annual revenue growth percentage in constant currency and annual free cash flow margin percentage (free cash flow as a percentage of revenue).



## DIRECTORS AND MANAGEMENT

### Board of Directors – Company

Brief profiles of the directors of the Company as at the date of this Offering Circular are as follows:

#### **David Thodey AO**

*Chair of the Board*

*Independent Director since June 2019 and Chair since February 2020*

Mr Thodey is a business leader focused on innovation, technology and telecommunications, with more than 30 years of experience creating brand and shareholder value. He is active in public policy, innovation and corporate governance.

Mr Thodey is chair of Ramsay Health Care (a global hospital group), co-chair of the Great Barrier Reef Foundation and the Climate Leaders Coalition, and Chancellor-designate at the University of Sydney.

He was CEO of IBM Australia and New Zealand (1999-2001) and Telstra (2009-2015), and has wide experience as a board director including as a past director of Vodafone Group, CSIRO, CSL, and Telstra.

Mr Thodey holds a Bachelor of Arts in Anthropology and English from Victoria University of Wellington, and completed the post-graduate General Management Program at Northwestern University's Kellogg School of Management. He received an honorary Doctorate in Science from Deakin University in 2016, an honorary Doctorate in Technology from University of Technology in 2018, an honorary Doctorate in Business from University of Sydney in 2022 and was recognised for his services to business and ethical business leadership with an Order of Australia (AO) in 2017.

#### **Steven Aldrich**

*Non-Executive Director*

*Independent Director since October 2020*

Mr Aldrich is an entrepreneur and professional director with more than 25 years' experience in product development within the technology and accounting software industries. Mr Aldrich is currently a non-executive director of Semrush, an online visibility management SaaS platform, and a previous non-executive director of Avantax.

Mr Aldrich has held a range of senior executive roles, including at GoDaddy, the world's largest services platform for entrepreneurs, where most recently he was Chief Product Officer. Prior to this, Mr Aldrich was the CEO of Outright, an online bookkeeping service, which was acquired by GoDaddy. Mr Aldrich has also held various senior management roles at Intuit, including Vice President of Strategy and Innovation for the small business division. Mr Aldrich holds a Bachelor of Arts in Physics from the University of North Carolina and a Master of Business Administration from Stanford University.

#### **Mark Cross**

*Non-Executive Director*

*Independent Director since April 2020*

Mr Cross is an experienced professional director with more than 20 years of international experience in corporate finance and investment banking. Mr Cross is currently the chair of Chorus, a board member of the Accident Compensation Corporation (ACC) New Zealand and chair of the ACC Investment Committee. His recent previous directorships include Milford Asset Management (Chair) and Z Energy.

Mr Cross was at Deutsche Bank for 10 years, initially based in Sydney in Mergers and Acquisitions, then in London as a Managing Director and co-head of a European mergers and acquisitions (“M&A”) industry group. Mr Cross holds a Bachelor of Business Studies (Accounting & Finance) degree from Massey University New Zealand, is a member of Chartered Accountants Australia and New Zealand, a chartered member of the New Zealand Institute of Directors and a member of the Australian Institute of Company Directors.

### **Anjali Joshi**

*Non-Executive Director*

*Independent director since July 2023*

Ms Joshi is an experienced technology and product leader and professional director with more than 30 years’ experience in engineering and product management. Ms Joshi is currently a director of LocoNav and was previously a director of Alteryx, Lattice Semiconductor, Iteris, Mobileiron, and McClatchy. Ms Joshi is on the advisory board of the Markkula Center for Applied Ethics at Santa Clara University and an adviser to Insight Partners in New York.

Ms Joshi spent 13 years in senior product leadership at Google, during which time she was instrumental in building and scaling new products globally across internet, mobile and video platforms. Prior to joining Google, Ms Joshi held engineering leadership roles at Covad Communications and program management roles at AT&T Bell Labs. Ms Joshi received her Bachelor of Technology in Electrical Engineering from the Indian Institute of Technology, a Master of Computer Engineering from the State University of New York, and a Master of Engineering Management from Stanford University. She was awarded the Distinguished Alumna Award from the Indian Institute of Technology.

### **Brian McAndrews**

*Non-Executive Director*

*Independent director since February 2022*

Mr Andrews is a professional director who has extensive experience as an executive and CEO, driving growth and innovation for leading technology, SaaS and cloud-based companies. His experience includes leading Pandora Media, a streaming music provider in the US, and aQuantive, a digital marketing services and technology company that was acquired by Microsoft.

Mr Andrews is currently lead director of Frontdoor, the largest provider of home service plans in the United States, and is presiding director on the board of The New York Times. He was previously a director of Chewy and Teladoc Health, and chairman of Grubhub.

Mr Andrews has been included in the National Association of Corporate Directors Directorship 100, which recognises the most influential board members. He holds a Bachelor of Arts with Honors in Economics from Harvard College and a Master of Business Administration from the Stanford Graduate School of Business.

### **Dale Murray CBE**

*Non-Executive Director*

*Independent Director since April 2018*

Ms Murray is an experienced non-executive director and former technology entrepreneur and CEO. Ms Murray is currently a non-executive director at the Cranemere Group, Jupiter Fund Management, LendInvest, and Lightspeed Commerce, and a board adviser to AccelerateHer. She was formerly a non-executive director and trustee for the Peter Jones Foundation, a non-executive director at Sussex Place Ventures and at the Department for Business, Innovation & Skills (UK).

Ms Murray co-founded and was CEO of mobile pioneer Omega Logic in 1999, which co-launched prepay top-ups in the UK, leading the growth of top-up transactions to £450 million within five years. She then turned to investing and advising startups and won the British Angel Investor of the Year award in 2011. She holds a Master of Business Administration from the London Business School and served on the Business Taskforce on EU Redtape for the British Prime Minister in 2013. Ms Murray was made Commander of the Most Excellent Order of the British Empire (“CBE”) by Her Majesty Queen Elizabeth II in 2013, for services to business.

### **Susan Peterson**

*Non-Executive Director*

*Independent Director since February 2017*

Ms Peterson is an experienced non-executive director and business leader with a particular interest in helping companies to drive growth through technology, innovation and organisational culture. Ms Peterson is currently the chair of Vista Group and an independent director of Arvida Group and Mercury.

Ms Peterson is also a board member of Craig’s Investment Partners and non-profit Global Women and was previously a member of the New Zealand Markets Disciplinary Tribunal. Ms Peterson is a past director of ASB Bank and Trustpower, and a past ministerial appointee to the National Advisory Council on the Employment of Women. Ms Peterson holds a Bachelor of Commerce and Bachelor of Laws from the University of Otago.

### **Company Secretary**

#### **Damien Coleman**

*Chief Legal Officer & Company Secretary*

*With Xero since September 2021*

Mr Coleman is a legal and governance professional and leader with more than 20 years’ experience advising senior management and boards. Prior to joining Xero, Mr Coleman was Company Secretary and Deputy Group General Counsel at Telstra. Mr Coleman holds a Bachelor of Laws with Honours and a Bachelor of Economics from the Australian National University. He is a fellow of the Governance Institute of Australia and a graduate of the Australian Institute of Company Directors.

### **Executive Leadership – Company**

#### **Sukhinder Singh Cassidy**

*Chief Executive Officer*

*With Xero since November 2022, CEO since February 2023*

As CEO Ms Singh Cassidy leads the growth and performance of Xero globally. With more than 25 years’ experience in Silicon Valley as a CEO, digital leader and board member, she has experience building and scaling global companies including Google, Amazon, Yodlee, Joyus and StubHub.

Ms Singh Cassidy currently serves on the board of publicly traded fintech, Upstart, with previous experience serving on the boards of Ericsson, Trip Advisor, Urban Outfitters, Stitchfix and J.Crew. She has a Bachelor’s degree in Arts (Honors), Business Administration & Management from Western University, Ontario, Canada.

**Kirsty Godfrey-Billy*****Chief Financial Officer******With Xero since April 2016***

Ms Godfrey-Billy leads Xero's global financial team, driving financial outcomes, actively managing the Group's financial performance, optimising the business's balance sheet and communicating the Group's strategic and financial priorities to key stakeholders, including investors. Ms Godfrey-Billy is an FCA and FCPA with more than 25 years' global experience in the finance and technology sectors across New Zealand and the UK at companies including PwC, BBC Technology, Jade and Siemens. Ms Godfrey-Billy holds a Bachelor of Commerce and Management from Lincoln University.

**Ashley Hansen Grech*****Chief Revenue Officer******With Xero since August 2023***

Ms Hansen Grech leads Xero's global go-to-market functions including sales operations, regional managing directors and leadership, customer experience, ecosystem and partnerships and revenue operations. She has more than 20 years' technology, fintech and payments experience. Before joining Xero in 2023, Ms Hansen Grech was Chief Operating Officer at Recharge Inc. Prior to that, she was Global Head of Sales at Square, Inc (now Block). Ms Hansen Grech is currently a director on the board of Spreedly, a payments orchestration platform. She holds both a Bachelor of Science in International Studies and an MBA from the University of Chicago.

**Diya Jolly*****Chief Product and Technology Officer******With Xero since April 2023***

Ms Jolly leads Xero's product and technology teams driving product management, product design, engineering, security and data to further improve Xero's global small business platform for partners and small businesses. Ms Jolly has market-leading global experience in designing, developing and launching consumer and business products in high growth mid sized companies, startups and Fortune 500 brands. Before joining Xero in 2023, Ms Jolly was Chief Product Officer at Okta where she led product innovation for both its workforce and customer identity business. Prior to that she was Vice President of Product Management at Google, where she was focused on driving adoption for some of the company's leading products. Ms Jolly has a Masters of Business Administration from Harvard Business School and a Bachelor of Electrical Engineering and Economics from the University of Michigan.

**Nicole Reid*****Chief People Officer******With Xero since April 2019***

Ms Reid leads Xero's people experience function globally. As an established human resources leader, she has more than 20 years' experience in human resources strategy development and execution, delivering value-adding organisational people solutions and transformational change programs. Ms Reid has worked across the financial services, technology and telecommunications industries for companies including AMP and Microsoft.

**Angad Soin**

*Chief Business Operations & Strategy Officer  
With Xero since March 2021*

Mr Soin is responsible for leading the development and execution of Xero's global strategy and driving operational excellence. He joined Xero in early 2021 and prior to that worked at Deloitte for 13 years in various roles, most recently as Partner, National Lead in the Strategy & Transformation Office. Mr Soin has a Bachelor in Information Technology from the University of Technology Sydney.

**Michael Strickman**

*Chief Marketing Officer  
With Xero since October 2023*

Mr Strickman is responsible for driving Xero's direct customer and partner marketing activities, and aligning our brand, marketing, digital and communications teams globally. He is tasked with growing Xero's reputation and deepening its connection and engagement with customers and our communities. Mr Strickman has more than 20 years' global marketing experience. Before Xero he worked at Uber as Vice President, Performance Marketing and Growth, and led global demand generation at Tripadvisor as Vice President, Traffic Acquisition and Measurement. Before Tripadvisor, Mr Strickman was Chief Technology Officer and Co-Founder of Choicestream, an online personalisation and programmatic advertising provider. Mr Strickman holds a Bachelor of Science, Applied Mathematics (Honors) from Brown University.

## PRINCIPAL SHAREHOLDERS

The Issuer is wholly-owned by the Company's issued share capital.

As at 31 May 2024, the following persons hold shareholdings greater than five per cent. of the Company's issued share capital:

<b>Substantial shareholder name</b>	<b>Number of ordinary shares</b>	<b>% of total issued capital</b>
HSBC Custody Nominees (Australia) Limited .....	52,470,698	34.38
J P Morgan Nominees Australia Pty Limited.....	32,392,938	21.23
Citicorp Nominees Pty Limited .....	23,123,680	15.15
Ms Anna Margaret Clare Drury and Rodney Kenneth Drury and Scott Moran .....	8,714,789	5.71

As at 31 May 2024, the Company's free float was 152,552,964 shares (i.e. 99.96 per cent.).

The free float number excludes shares held by, or on behalf of any Director of the Company and his or her associates, and also excludes 31,080 shares held in trust for employees in connection with the Group's long-term incentive arrangements.

## TERMS AND CONDITIONS OF THE NOTES

*The following, subject to completion and amendment, and save for the paragraphs in italics, is the text of the Terms and Conditions of the Notes.*

The issue of the U.S.\$925,000,000 1.625 per cent. Guaranteed Senior Unsecured Convertible Notes due 2031 (the “**Notes**”, which expression shall, unless otherwise indicated, include any further Notes issued pursuant to Condition 18 and consolidated and forming a single series with the Notes) was (save in respect of any such further Notes) authorised by a resolution of the board of Directors of Xero Investments Limited (the “**Issuer**”) passed on 31 May 2024 and the guarantee of the Notes (the “**Guarantee**”) was authorised by a resolution of the board of Directors of Xero Limited (the “**Guarantor**”) on 31 May 2024. The Notes are constituted by a trust deed to be dated on or about 12 June 2024 (as amended and/or supplemented from time to time, the “**Trust Deed**”) between the Issuer, the Guarantor and The Hongkong and Shanghai Banking Corporation Limited (the “**Trustee**”, which expression shall include all persons for the time being appointed as the trustee or trustees under the Trust Deed) as trustee for the holders (as defined below) of the Notes. The statements set out in these terms and conditions (these “**Conditions**”) are summaries of, and are subject to, the detailed provisions of the Trust Deed. The Noteholders (as defined below) are entitled to the benefit of, and are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and those provisions applicable to them which are contained in the paying, transfer and conversion agency agreement to be dated on or about 12 June 2024 (as amended and/or supplemented from time to time, the “**Agency Agreement**”) relating to the Notes between the Issuer, the Guarantor, the Trustee, The Hongkong and Shanghai Banking Corporation Limited in its capacity as principal paying agent and principal conversion agent (collectively in such capacities, the “**Principal Paying and Conversion Agent**”, which expression shall include any successor as principal paying agent and principal conversion agent under the Agency Agreement), in its capacity as registrar (the “**Registrar**”, which expression shall include any successor as registrar under the Agency Agreement) and in its capacity as principal transfer agent (the “**Principal Transfer Agent**”, which expression shall include any successor as principal transfer agent under the Agency Agreement) and any other paying agents, transfer agents and conversion agents for the time being appointed thereunder. References to the “**Paying Agents**” include the Principal Paying and Conversion Agent, references to the “**Conversion Agents**” include the Principal Paying and Conversion Agent, references to the “**Transfer Agents**” include the Principal Transfer Agent, and collectively, the Registrar, the Paying Agents, the Conversion Agents and the Transfer Agents are the “**Agents**”. Copies of the Trust Deed and the Agency Agreement are available (i) for inspection at all reasonable times during normal business hours (being between 9.00 a.m. and 3.00 p.m.) at the specified office of the Principal Paying and Conversion Agent (being, at the date of issue of the Notes, at Level 26, HSBC Main Building, 1 Queen’s Road Central, Hong Kong) following prior written request and proof of holding and identity satisfactory to the Principal Paying and Conversion Agent and (ii) electronically from the Principal Paying and Conversion Agent, following prior written request and proof of holding and identity to the satisfaction of the Principal Paying and Conversion Agent.

Capitalised terms used but not defined in these Conditions shall have the meanings attributed to them in the Trust Deed unless the context otherwise requires or unless otherwise stated.

### 1 FORM, DENOMINATION, TITLE, STATUS AND GUARANTEE

#### (a) *Form and Denomination*

The Notes are in registered form, serially numbered, in principal amounts of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof (an “**Authorised Denomination**”). A note certificate (each, a “**Certificate**”) will be issued to each Noteholder in respect of its registered holding of Notes.

*Upon issue, the Notes will be represented by a global certificate (the “**Global Certificate**”) deposited with a common depositary for, and representing Notes registered in the name of a nominee of, Euroclear Bank SA/NV and Clearstream Banking S.A.. The Conditions are modified by certain provisions contained in the Global Certificate. Except in the limited circumstances described in the Global Certificate, owners of interests in Notes represented by the Global Certificate will not be entitled to receive definitive Certificates in respect of their individual holdings of Notes. The Notes are not issuable in bearer form. See “Summary of Provisions Relating to the Notes in Global Form”.*

**(b) Title**

Title to the Notes will pass by transfer and registration in the Register as described in Condition 4. The holder (as defined in Condition 3) of any Note will (except as ordered by a court of competent jurisdiction or as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or its theft or loss (or that of the related certificate, as applicable) or anything written on it or on the certificate representing it (other than a duly executed transfer thereof)) and no person will be liable for so treating the holder.

**(c) Status**

The Notes constitute direct, unconditional, unsubordinated and (subject to Condition 2) unsecured obligations of the Issuer ranking *pari passu* and rateably, without any preference among themselves. The payment obligations of the Issuer under the Notes rank equally with all its other existing and future unsecured and unsubordinated obligations, save for such obligations that may be preferred by provisions of law that are mandatory and of general application.

**(d) Guarantee**

The Guarantor has unconditionally and irrevocably guaranteed in the Trust Deed, on the terms and conditions set out in the Trust Deed, the payment of all sums expressed to be payable by the Issuer under the Trust Deed and the Notes. The payment obligations of the Guarantor shall, save for such obligations that may be preferred by provisions of law that are mandatory and of general application, at all times rank at least equally with all its other present and future unsecured and unsubordinated obligations.

## **2 NEGATIVE PLEDGE**

So long as any of the Notes remain outstanding (as defined in the Trust Deed), neither the Issuer nor the Guarantor will create or permit to subsist, and the Guarantor will ensure that none of the Subsidiaries will create or permit to subsist, any mortgage, charge, lien, pledge or other form of encumbrance or security interest (each, a “**Security Interest**”), other than a Permitted Security Interest, upon the whole or any part of its present or future property or assets (including any uncalled capital) to secure any Relevant Indebtedness or to secure any guarantee of or indemnity in respect of any Relevant Indebtedness unless in any such case, before or at the same time as the creation of the Security Interest, any and all action necessary shall have been taken to ensure that:

- (a) all amounts payable by the Issuer or the Guarantor under the Notes and the Trust Deed are secured equally and rateably with the Relevant Indebtedness or guarantee or indemnity, as the case may be; or
- (b) such other Security Interest or guarantee or indemnity or other arrangement (whether or not including the giving of a Security Interest) is provided in respect of all amounts payable by the Issuer or the Guarantor under the Notes and the Trust Deed either:
  - (i) as the Trustee shall in its sole discretion deem not materially less beneficial to the interests of the Noteholders; or



- (ii) as shall be approved by an Extraordinary Resolution (as defined in the Trust Deed) of the Noteholders.

### 3 DEFINITIONS

In these Conditions, unless otherwise provided:

“**2024 Annual Report**” means the 2024 Annual Report of the Guarantor;

“**Additional Cash Settlement Amount**” has the meaning provided in Condition 6(f);

“**Additional Ordinary Shares**” has the meaning provided in Condition 6(f);

“**Alternative Stock Exchange**” means at any time, in the case of the Ordinary Shares, if they are not at that time listed and traded on the ASX, the principal stock exchange or securities market on which the Ordinary Shares are then listed or quoted or dealt in;

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

“**ASX**” means ASX Limited (ABN 98 008 624 691) or the market operated by it, as the context requires;

“**ASX Listing Rules**” means the listing rules of the ASX from time to time;

“**Auditors**” means the auditors for the time being of the Guarantor or, if they are unable or unwilling to carry out any action requested of them under the Trust Deed or the Notes, such other firm of accountants as may be nominated by the Guarantor and notified in writing to the Trustee for the purpose;

“**Australian Dollars**” and “**A\$**” means the lawful currency of the Commonwealth of Australia;

“**business day**” means, in relation to any place, a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for business in that place;

“**Cash Dividend**” means:

- (a) any Dividend which is to be paid or made in cash (in whatever currency), but other than falling within paragraph (b) of the definition of “Spin-Off”; and
- (b) any Dividend determined to be a Cash Dividend pursuant to paragraph (a) of the definition of “Dividend”,

and for the avoidance of doubt, a Dividend falling within paragraphs (c) or (d) of the definition of “Dividend” shall be treated as being a Non-Cash Dividend;

“**Cash Settlement Amount**” means, for the relevant Conversion Period, in respect of any Reference Shares or Additional Ordinary Shares, an amount calculated by the Issuer in accordance with the following formula and which shall be payable to a Noteholder as provided in these Conditions upon an exercise of a Conversion Right:

- (a) Initial Conversion Period:

$$CSA = \sum_{n=1}^N \frac{1}{N} \times S_n \times P_n$$

CSA = the Cash Settlement Amount;

S<sub>n</sub> = the number of Reference Shares or Additional Ordinary Shares (as applicable) on the nth Dealing Day;

$P_n$  = on the nth Dealing Day, the Volume Weighted Average Price of an Ordinary Share on such Dealing Day of the applicable Cash Settlement Calculation Period, translated into U.S. dollars at the Prevailing USD/AUD Rate on such Dealing Day; and

$N$  = 90, being the number of Dealing Days in the applicable Cash Settlement Calculation Period;

(b) Final Conversion Period:

$$CSA = \sum_{n=1}^N \frac{1}{N} \times S_n \times P_n$$

CSA = the Cash Settlement Amount;

$S_n$  = the number of Reference Shares or Additional Ordinary Shares (as applicable) on the nth Dealing Day;

$P_n$  = on the nth Dealing Day, the higher of (a) the applicable Conversion Price and (b) the Volume Weighted Average Price of an Ordinary Share on such Dealing Day of the applicable Cash Settlement Calculation Period, translated into U.S. dollars at the Prevailing USD/AUD Rate on such Dealing Day; and

$N$  = 90, being the number of Dealing Days in the applicable Cash Settlement Calculation Period;

**“Cash Settlement Calculation Period”** means:

- (a) during the Initial Conversion Period, 90 consecutive Dealing Days commencing on the first Dealing Day following the relevant Conversion Date; or
- (b) during the Final Conversion Period, 90 consecutive Dealing Days commencing on the 95<sup>th</sup> Sydney business day preceding the Final Maturity Date;

**“Change of Control”** means:

- (a) a takeover bid is made to acquire the issued ordinary share capital of the Guarantor other than any shares owned by the bidder and its associates which results in a person obtaining Control of the Guarantor;
- (b) a Scheme of Arrangement is proposed by the Guarantor (other than an Exempt Newco Scheme) and is approved by the New Zealand High Court and the requisite majority of shareholders of the Guarantor and implemented and which results in a person obtaining Control of the Guarantor; or
- (c) the Guarantor amalgamates or consolidates with or merges into or sells or transfers all or substantially all of the assets of the Guarantor to any other person or persons acting together (unless the amalgamation, consolidation, merger, sale or transfer will not result in the other person or persons acquiring Control over the Guarantor),

and that transaction having become unconditional in all respects;

**“Change of Control Period”** has the meaning provided in Condition 6(e)(x);

**“Closing Date”** means 12 June 2024;

**“Closing Price”** means, in respect of an Ordinary Share or any Security, Spin-Off Security, option, warrant or other rights or assets on any Dealing Day, the closing price on the Relevant Stock Exchange on such Dealing Day of an Ordinary Share or, as the case may be, such Security, Spin-Off Security, option, warrant or other right

or asset published by or derived from Bloomberg page HP (or any successor page) (setting Last Price, or any other successor setting and using values not adjusted for any event occurring after such Dealing Day; and for the avoidance of doubt, all values will be determined with all adjustment settings on the DPDF Page, or any successor or similar setting, switched off) in respect of such Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset (all as determined by an Independent Adviser) (and for the avoidance of doubt such Bloomberg page for the Ordinary Shares as at the Closing Date is XRO AU Equity HP), if available or, in any other case, such other source (if any) as shall be determined in good faith to be appropriate by an Independent Adviser on such Dealing Day and translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such Dealing Day, provided that if on any such Dealing Day (for the purpose of this definition, the “**Original Date**”) such price is not available or cannot otherwise be determined as provided above, the Closing Price of an Ordinary Share, Spin-Off Security, Security, option, warrant, or other right or asset, as the case may be, in respect of such Dealing Day shall be the Closing Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined, and further provided that if such immediately preceding Dealing Day falls prior to the fifth day before the Original Date, an Independent Adviser shall determine the Closing Price in respect of the Original Date in good faith, all as determined by an Independent Adviser;

“**Control**” of one person by another means that the other person (whether directly or indirectly and whether by the ownership (legally or beneficially) of capital, the possession of voting power, contract or otherwise):

- (a) has the power to appoint and/or remove the majority of the members of the governing body of that person who is or are in a position to cast, or control the casting of, more than half of the maximum number of votes that might be cast at a meeting of the governing body of that person;
- (b) otherwise controls or has a controlling influence on, or has power to control or exercise a controlling influence on, the management and policies of that person; or
- (c) is in a position to derive the whole or a majority of the benefit of the activities of that person;

“**Conversion Date**” has the meaning provided in Condition 6(k);

“**Conversion Notice**” has the meaning provided in Condition 6(k);

“**Conversion Period**” means either the Initial Conversion Period or the Final Conversion Period;

“**Conversion Price**” has the meaning provided in Condition 6(d);

“**Conversion Right**” means a Noteholder’s entitlement to convert such Note for:

- (a) an amount equal to the relevant Cash Settlement Amount; or
- (b) in the Issuer’s sole discretion, the relevant amount of Reference Shares;

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

“**Current Market Price**” means, in respect of an Ordinary Share at a particular date, the average of the daily Volume Weighted Average Price of an Ordinary Share on each of the five consecutive Dealing Days ending on the Dealing Day immediately preceding such date, provided that:

- (a) for the purposes of determining the Current Market Price pursuant to Conditions 6(e)(iv) or 6(e)(vi) in circumstances where the relevant event relates to an issue of Ordinary Shares, if at any time during the said five dealing-day period (which may be on each such five Dealing Days) the Volume Weighted Average Price shall have been based on a price ex-Dividend (or ex-any other entitlement) and/or during some other part of that period (which may be on each of such five Dealing Days) the Volume Weighted

Average Price shall have been based on a price cum-Dividend (or cum-any other entitlement), in any such case which has been declared or announced, then:

- (i) if the Ordinary Shares to be issued or transferred and delivered do not rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Ordinary Shares shall have been based on a price cum-Dividend (or cum-any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend or entitlement (or, where on each of the said five Dealing Days the Volume Weighted Average Price shall have been based on a price cum-Dividend (or cum-any other entitlement), as at the date of first public announcement of such Dividend or entitlement), in any such case, determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit; or
  - (ii) if the Ordinary Shares to be issued or transferred and delivered (if applicable) do rank for the Dividend or entitlement in question, the Volume Weighted Average Price on the dates on which the Ordinary Shares shall have been based on a price ex-Dividend (or ex-any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof increased by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend (or entitlement), in any such case, determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit;
- (b) for the purposes of any calculation or determination required to be made pursuant to paragraphs (a)(i) or (a)(ii) of the definition of “Dividend”, if on any of the said five Dealing Days the Volume Weighted Average Price shall have been based on a price cum the relevant Dividend or capitalisation giving rise to the requirement to make such calculation or determination, the Volume Weighted Average Price on any such Dealing Day shall for the purposes of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of the relevant Cash Dividend, determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit; and
- (c) for any other purpose, if any day during the said five-dealing-day period was the Effective Date in relation to any Dividend (or any other entitlement) the Volume Weighted Average Prices that shall have been based on a price cum-such Dividend (or cum-such entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend or entitlement;

“**Dealing Day**” means a day on which the Relevant Stock Exchange is open for business and on which Ordinary Shares, Securities, Spin-Off Securities options, warrants or other rights or assets (as the case may be) may be dealt in (other than a day on which a Market Disruption Event occurs) provided that for the purposes of any calculation where a Closing Price is required, if no Closing Price is reported for one or more consecutive Dealing Days, such day or days will be disregarded in any relevant calculation and shall be deemed not to have been Dealing Days when ascertaining any period of Dealing Days;

a “**Delisting**” occurs when the Ordinary Shares:

- (a) cease to be listed or admitted to trading on the ASX or any Alternative Stock Exchange, as the case may be; or
- (b) are suspended from trading for a period of 30 consecutive Dealing Days;

“**Directors**” means the directors of the Issuer or the Guarantor, as appropriate;

“**Dividend**” means any dividend or distribution to Shareholders (including a Spin-Off) whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other capital or revenue reserve or account, and including a distribution or payment to Shareholders upon or in connection with a reduction in capital (and for these purposes a distribution of assets includes, without limitation, an issue of Ordinary Shares, or other Securities credited as fully or partly paid up by way of capitalisation of profits or reserves) provided that:

(a) where:

(i) a Dividend in cash is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the issue or delivery of Ordinary Shares or other property or assets, or where an issue of Ordinary Shares to Shareholders by way of a capitalisation of profits or reserves (including any share premium account or capital redemption reserve) is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the payment of cash, then the Dividend or capitalisation in question shall be treated as a Cash Dividend of an amount equal to:

(A) (in the case of an issue of Ordinary Shares pursuant to a DRP where the discount per Ordinary Share (as determined and announced by the Issuer) at which Ordinary Shares may be issued pursuant to such DRP in respect of such Dividend (determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit) is equal to or less than 5 per cent. of such reference price as is determined and announced by the Issuer to be applicable for the purpose of determining such discount) the Fair Market Value of such cash amount as at the Ex-Date of the relevant Dividend;

(B) (in the case of an issue of Ordinary Shares pursuant to a DRP where the discount as referred to in (A) above exceeds 5 per cent.) the sum of (i) the Fair Market Value of such cash amount as at the Ex-Date of the relevant Dividend or capitalisation and (ii) the difference (if positive) (determined per each Ordinary Share entitled to participate in such DRP, taking into account the number of Ordinary Shares which may be issued pursuant to such DRP in respect of each such Ordinary Share so entitled to participate in such DRP) between the Current Market Price of an Ordinary Share as at the Ex-Date of the relevant Dividend (or, if later, the Dividend Determination Date) and the price per Ordinary Share at which any such Ordinary Share may be issued pursuant to such DRP (determined on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit); or

(C) (in any other case) the greater of:

a. the Fair Market Value of such cash amount as at the Ex-Date of the relevant Dividend or capitalisation; and

b. the Current Market Price of such Ordinary Shares or, as the case may be, the Fair Market Value of such other property or assets in any such case as at the Ex-Date in respect of the relevant Dividend or capitalisation (as the case may be) (or, if later, the Dividend Determination Date) save that where a Dividend in cash is announced which may at the election of a Shareholder or Shareholders be satisfied by the issue or delivery of Ordinary Shares or an issue of Ordinary Shares to Shareholders by way of capitalisation of profits or reserves is announced which

may at the election of a Shareholder or Shareholders be satisfied by the payment of cash where the number of Ordinary Shares which may be issued or delivered is to be determined at a date or during a period following such announcement and is to be determined by reference to a publicly available formula based on the Closing Price or volume weighted average price or any like or similar pricing benchmark of the Ordinary Shares, without factoring in any discount to such price or benchmark, then such Dividend shall be treated as a Cash Dividend in an amount equal to the Fair Market Value of such cash amount on such date as such cash amount is determined as aforesaid; or

- (ii) there shall be any issue of Ordinary Shares to Shareholders by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) where (other than in circumstances subject to proviso (i) above) such issue is or is expressed to be in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced) or a Dividend in cash that is to be satisfied (other than in circumstances subject to proviso (i) above) by the issue or delivery of Ordinary Shares or other property or assets, the capitalisation or Dividend in question shall be treated as a Cash Dividend of an amount equal to the Current Market Price of such Ordinary Shares or, as the case may be, the Fair Market Value of such other property or assets as at the first date on which the Ordinary Shares are traded ex-the relevant capitalisation or, as the case may be, ex-the relevant Dividend on the Relevant Stock Exchange (or, if later, the date on which the number of Ordinary Shares or amount of such other property or assets, as the case may be, is determined),

save that where a Dividend in cash is announced which is to be satisfied by the issue or delivery of Ordinary Shares where the number of Ordinary Shares to be issued or delivered is to be determined at a date or during a period following such announcement and is to be determined by reference to a publicly available formula based on the Closing Price or volume weighted average price or any like or similar pricing benchmark of the Ordinary Shares, without factoring in any discount to such price or benchmark, then such Dividend shall be treated as a Cash Dividend in an amount equal to the Fair Market Value of such cash amount on such date as such cash amount is determined as aforesaid;

- (b) any issue of Ordinary Shares falling within Conditions 6(e)(i) or 6(e)(ii) shall be disregarded;
- (c) a purchase or redemption or buy back of share capital of the Guarantor by the Guarantor or any Subsidiary shall not constitute a Dividend unless, in the case of a purchase or redemption or buy back of Ordinary Shares by or on behalf of the Guarantor or its Subsidiaries, the weighted average price per Ordinary Share (before expenses) on any one day (a “**Specified Share Day**”) in respect of such purchases or redemptions or buy backs (translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such day) exceeds by more than five per cent. the average of the daily Volume Weighted Average Price of:
  - (i) an Ordinary Share on the Relevant Stock Exchange (as published by or derived from the Relevant Stock Exchange) on the five Dealing Days on which sales in Ordinary Shares were recorded immediately preceding the Specified Share Day; or
  - (ii) where an announcement (excluding, for the avoidance of doubt for these purposes, any general authority for such purchases, redemptions or buy backs approved by a general meeting of Shareholders or any notice convening such a meeting of Shareholders) has been made of the intention to purchase, redeem or buy back Ordinary Shares at some future date at a specified price or where a tender offer is made, on the five Dealing Days on which sales in Ordinary Shares were recorded immediately preceding the date of such announcement or the date of first public

announcement of such tender offer (and regardless whether or not a price per Ordinary Share, a minimum price per Ordinary Share or a price range or a formula for the determination thereof is or is not announced at such time), as the case may be, in which case such purchase, redemption or buy back shall be deemed to constitute a Dividend in the Relevant Currency to the extent that the aggregate price paid (before expenses) in respect of such Ordinary Shares purchased, redeemed or bought back by the Guarantor or, as the case may be, any of its Subsidiaries (translated where appropriate into the Relevant Currency as provided above) exceeds the product of:

- (A) 105 per cent. of the average of the daily Volume Weighted Average Price of an Ordinary Share determined as aforesaid; and
  - (B) the number of Ordinary Shares so purchased, redeemed or bought back;
- (d) if the Guarantor or any of its Subsidiaries shall purchase, redeem or buy back any depositary or other receipts or certificates representing Ordinary Shares, the provisions of paragraph (c) above of this definition shall be applied in respect thereof in such manner and with such modifications (if any) as shall be determined in good faith by an Independent Adviser;
- (e) where a dividend or distribution is paid or made to Shareholders pursuant to any plan implemented by the Guarantor for the purpose of enabling Shareholders to elect, or which may require Shareholders, to receive dividends or distributions in respect of the Ordinary Shares held by them from a person other than, or in addition to the Guarantor, such dividend or distribution shall for the purposes of these Conditions be treated as a dividend or distribution made or paid to Shareholders by the Guarantor, and the foregoing provisions of this definition and the provisions of these Conditions shall be construed accordingly;
- (f) provided that where a Dividend in cash is declared which provides for payment by the Guarantor to Shareholders in the Relevant Currency or an amount in cash is or may be paid in the Relevant Currency, whether at the option of Shareholders or otherwise, it shall be treated as a Cash Dividend in the amount of such Relevant Currency or, as the case may be, an amount in such Relevant Currency, and in any other case it shall be treated as a Cash Dividend or, as the case may be, an amount in cash in the currency in which it is payable by the Guarantor; and
- (g) a dividend or distribution that is a Spin-Off shall be deemed to be a Dividend paid or made by the Guarantor,

and any such determination shall be made on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax and disregarding any associated tax credit;

**“Dividend Determination Date”** means, for the purposes of the definition of “Dividend”, the date on which the number of Ordinary Shares or, as the case may be, amount of other property or assets, which may be issued or delivered is, or is capable of being, determined, and where determined by reference to prices or values or the like on or during a particular day or during a particular period, the Dividend Determination Date shall be deemed to be such day or the last day of such period, as the case may be;

**“DRP”** means any dividend reinvestment plan implemented by the issuer from time to time.

**“Early Closure”** means the closure on any day of the Relevant Stock Exchange prior to the time the Closing Price would have otherwise been determined for such day;

**“equity share capital”** means, in relation to any entity, its issued share capital excluding any part of that capital which, neither as regards dividends nor as regards capital, carries any right to participate beyond a specified amount in a distribution;

**“Ex-Date”** means, in relation to any Dividend or capitalisation, the first Dealing Day for the Ordinary Shares on which the Ordinary Shares are traded ex- the relevant Dividend or capitalisation;

**“Exchange Disruption”** means any event (other than an Early Closure) that disrupts or impairs the ability of market participants in general:

- (a) to effect transactions in, or obtain market values for, the Ordinary Shares on the Relevant Stock Exchange; or
- (b) to effect transactions in, or obtain market values for, futures or options contracts relating to the Ordinary Shares on the Relevant Stock Exchange;

**“Exempt Newco Scheme”** means a Newco Scheme where immediately after completion of the relevant Scheme of Arrangement the ordinary shares or units or equivalent of Newco (or depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco) are:

- (a) admitted to trading on the Relevant Stock Exchange; or
- (b) admitted to listing on such other regulated, regularly operating, recognised stock exchange or securities market as the Guarantor or Newco may determine;

**“Fair Market Value”** means, with respect to any property on any date, the fair market value of that property as determined in good faith by an Independent Adviser, provided that:

- (a) the Fair Market Value of a Cash Dividend shall be the amount of such Cash Dividend;
- (b) the Fair Market Value of any other cash amount shall be the amount of such cash;
- (c) where Spin-Off Securities, Securities, options, warrants or other rights are publicly traded in a market of adequate liquidity (as determined by an Independent Adviser), the fair market value:
  - (i) of such Spin-Off Securities or Securities shall equal the arithmetic mean of the daily Volume Weighted Average Prices of such Spin-Off Securities or Securities; and
  - (ii) of such options, warrants or other rights shall equal the arithmetic mean of the daily Closing Prices of such options, warrants or other rights,

in the case of both (i) and (ii) during the period of five Dealing Days on the relevant market commencing on such date (or, if later, the first such Dealing Day such Spin-Off Securities, Securities, options, warrants or other rights are publicly traded);

- (d) where Spin-Off Securities, Securities, options, warrants or other rights are not publicly traded (as aforesaid), the Fair Market Value of such Spin-Off Securities, Securities, options, warrants or other rights shall be determined in good faith by an Independent Adviser, on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including the market price per Ordinary Share, the dividend yield of an Ordinary Share, the volatility of such market price, prevailing interest rates and the terms of such Spin-Off Securities, Securities, options, warrants or other rights, including as to the expiry date and exercise price (if any) thereof;
- (e) in the case of (a) above translated into the Relevant Currency (if declared or paid or payable in a currency other than the Relevant Currency) at the rate of exchange used to determine the amount payable to Shareholders who were paid or are to be paid or are entitled to be paid the Cash Dividend in the Relevant Currency; and in any other case, translated into the Relevant Currency (if expressed in a currency other than the Relevant Currency) at the Prevailing Rate on that date; and



(f) in the case of (a) and (b) above disregarding any withholding or deduction required to be made on account of tax and any associated tax credit;

“**Final Conversion Period**” has the meaning provided in Condition 6(c)(i);

“**Final Conversion Period Commencement Date**” has the meaning provided in Condition 6(c)(i);

“**Final Conversion Period Determination**” has the meaning provided in Condition 6(c)(ii);

“**Final Conversion Period Determination Notice**” has the meaning provided in Condition 6(c)(ii);

“**Final Conversion Period End Date**” has the meaning provided in Condition 6(c)(i);

“**Final Maturity Date**” means 12 June 2031;

“**indebtedness for borrowed money**” means any present or future indebtedness (whether being principal, interest or other amounts) for or in respect of:

- (a) money borrowed or raised;
- (b) liabilities under or in respect of any acceptance or acceptance credit; or
- (c) any notes, bonds, debentures, debenture stock, loan stock, certificates of deposit, commercial paper or other securities offered, issued or distributed whether by way of public offer, private placing, acquisition consideration or otherwise and whether issued for cash or in whole or in part for a consideration other than cash;

“**Independent Adviser**” means an independent adviser with appropriate expertise selected and appointed by the Guarantor at its own expense and notified in writing to the Trustee or, if the Guarantor fails to make such appointment and such failure continues for a period of 30 calendar days (as determined by the Trustee in its sole discretion) and the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against the costs, fees and expenses of and other amounts payable to such adviser and otherwise in connection with the making of such appointment, appointed by the Trustee (without any obligation whatsoever to do so and without liability for so doing or for not appointing such an adviser) following notification to the Guarantor, which appointment shall be deemed to be made by the Guarantor and not by the Trustee (and for the avoidance of doubt, no adviser appointed by the Trustee shall be or be deemed for any purpose to be an agent or delegate of the Trustee);

“**Initial Conversion Period**” has the meaning provided in Condition 6(a);

“**Initial Conversion Period Commencement Date**” has the meaning provided in Condition 6(a);

“**Initial Conversion Period End Date**” has the meaning provided in Condition 6(a);

“**Interest Payment Date**” has the meaning provided in Condition 5;

“**Interest Period**” has the meaning provided in Condition 5;

“**Interest Rate**” has the meaning provided in Condition 5;

“**Latest Date**” means the latest of:

- (a) the entry of such judgment;
- (b) if such judgment specifies a date by which it must be satisfied, the date so specified; and
- (c) the time allowed or specified under applicable law for such judgment to be bonded, discharged or stayed pending appeal;

**“Market Disruption Event”** means, the occurrence or existence of:

- (a) a Trading Disruption;
- (b) an Exchange Disruption at any time during the regular trading session on the Relevant Stock Exchange that, in aggregate (calculated individually for each exchange) last for more than one-half hour period, without regard to after hours or any other trading outside of the regular trading session hours; or
- (c) an Early Closure by more than one half-hour period;

**“Material Subsidiary”** means any Subsidiary of the Guarantor:

- (a) whose turnover (consolidated in the case of a Subsidiary which itself has Subsidiaries) attributable to the Guarantor, as shown by its latest audited profit and loss account is at least five per cent. of the consolidated turnover of the Guarantor and its consolidated subsidiaries as shown by the latest published audited consolidated profit and loss account of the Guarantor and its consolidated Subsidiaries; or
- (b) whose gross assets (consolidated in the case of a Subsidiary which itself has Subsidiaries) attributable to the Guarantor, as shown by its latest audited balance sheet, are at least five per cent. of the consolidated gross assets of the Guarantor and its Subsidiaries as shown by the latest published audited consolidated balance sheet of the Guarantor and its consolidated Subsidiaries, including the investment of the Guarantor and its consolidated Subsidiaries in each Subsidiary whose accounts are not consolidated with the consolidated audited accounts of the Guarantor and of associated companies and after adjustment for minority interests,

provided that, in relation to paragraphs (a) and (b) above of this definition:

- (i) in the case of a corporation or other business entity becoming a Subsidiary after the end of the financial period to which the latest consolidated audited accounts of the Guarantor relate, the reference to the then latest consolidated audited accounts of the Guarantor and its consolidated Subsidiaries for the purposes of the calculation above shall, until consolidated audited accounts of the Guarantor for the financial period in which the relevant corporation or other business entity becomes a Subsidiary are published, be deemed to be a reference to the then latest consolidated audited accounts of the Guarantor and its Subsidiaries adjusted to consolidate the latest audited accounts (consolidated in the case of a Subsidiary which itself has Subsidiaries) of such Subsidiary in such accounts;
- (ii) if at any relevant time in relation to the Guarantor or any Subsidiary which itself has Subsidiaries no consolidated accounts are prepared and audited, turnover or gross assets of the Guarantor and/or any such Subsidiary shall be determined on the basis of pro forma consolidated accounts prepared for this purpose by the Guarantor for the purposes of preparing a certificate thereon to the Trustee;
- (iii) if at any relevant time in relation to any Subsidiary, no accounts are audited, its turnover and gross assets (consolidated, if appropriate) shall be determined on the basis of pro forma accounts (consolidated, if appropriate) of the relevant Subsidiary prepared for such purpose by the Guarantor; and
- (iv) if the accounts of any Subsidiary (not being a Subsidiary referred to in proviso (i) above) of this definition are not consolidated with those of the Guarantor, then the determination of whether or not such Subsidiary is a Material Subsidiary shall be based on a pro forma consolidation of its accounts (consolidated, if appropriate) with the consolidated accounts (determined on the basis of the foregoing) of the Guarantor; or

- (c) to which is transferred all or substantially all of the business, undertaking and assets of another Subsidiary which immediately prior to such transfer is a Material Subsidiary, whereupon (A) the transferor Material Subsidiary shall immediately cease to be a Material Subsidiary and (B) the transferee Subsidiary shall immediately become a Material Subsidiary, provided that on or after the date on which the relevant financial statements for the financial period current at the date of such transfer are published, whether such transferor Subsidiary or such transferee Subsidiary is or is not a Material Subsidiary shall be determined pursuant to the provisions of paragraphs (a) or (b) above of this definition.

A certificate prepared by a Director of the Guarantor, stating that in his or her opinion, a Subsidiary is or is not, or was or was not, a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all parties;

**“Newco Scheme”** means a Scheme of Arrangement, which effects the interposition of a limited liability company or trust (**“Newco”**) between the Shareholders of the Guarantor immediately prior to the Scheme of Arrangement (the **“Existing Shareholders”**) and the Guarantor; provided that:

- (a) only ordinary shares or units or equivalent of Newco or depositary or other receipts or certificates representing ordinary shares or units or equivalent are issued to Existing Shareholders;
- (b) immediately after completion of the Scheme of Arrangement the only holders of ordinary shares, units or equivalent of Newco or, as the case may be, the only holders of depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco are Existing Shareholders holding in the same proportions as immediately prior to completion of the Scheme of Arrangement (ignoring the impact of any sale facility or capital raising that may be conducted contemporaneously with the Scheme of Arrangement);
- (c) immediately after completion of the Scheme of Arrangement, Newco is (or one or more wholly-owned Subsidiaries of Newco are) the only shareholder of the Guarantor;
- (d) all Subsidiaries of the Guarantor immediately prior to the Scheme of Arrangement (other than Newco, if Newco is then a Subsidiary) are Subsidiaries of the Guarantor (or of Newco) immediately after completion of the Scheme of Arrangement; and
- (e) immediately after completion of the Scheme of Arrangement the Guarantor (or Newco) holds, directly or indirectly, the same percentage of the ordinary share capital and equity share capital of those Subsidiaries as was held by the Guarantor immediately prior to the Scheme of Arrangement;

**“Non-Cash Dividend”** means any Dividend which is not a Cash Dividend, and shall include a Spin-Off;

**“Noteholder”** and **“holder”** mean the person in whose name a Note is registered in the Register (as defined in Condition 4(a));

**“Optional Redemption Date”** means the date for redemption of the Notes specified in an Optional Redemption Notice;

**“Optional Redemption Notice”** has the meaning provided in Condition 7(b);

**“Ordinary Shares”** means fully paid ordinary shares in the capital of the Guarantor (ISIN: NZXROE0001S2);

**“Permitted Security Interest”** means a Security Interest in respect of property or assets of the Guarantor or a Subsidiary to secure any Relevant Indebtedness, which:

- (a) existed at the Closing Date and was not created in contemplation of the issue of Notes; or

- (b) existed before the relevant entity was incorporated as a Subsidiary or otherwise became a Subsidiary and was not created in contemplation of such entity becoming a Subsidiary and provided that the principal amount of such Relevant Indebtedness is not increased; or
- (c) is in respect of property or assets that are acquired after the Closing Date and the Security Interest is created in connection with a Securitisation;

a “**person**” includes any individual, company, corporation, firm, partnership, joint venture, undertaking, association, organisation, trust, state or agency of a state (in each case whether or not being a separate legal entity);

“**Physical Settlement Election**” has the meaning provided in Condition 6(b)(i);

“**Physical Settlement Election Notice**” has the meaning provided in Condition 6(b)(i);

“**Prevailing Rate**” means, in respect of a pair of currencies on any day, the spot rate of exchange between the relevant currencies prevailing as at or about 12:00 noon (Sydney time) on that date as appearing on or derived from the Relevant Page or if such a rate cannot be determined at such time, the rate prevailing as at or about 12:00 noon (Sydney time) on the immediately preceding day on which such rate can be so determined or if such rate cannot be so determined by reference to the Relevant Page, the rate determined in such other manner as an Independent Adviser shall consider in good faith appropriate;

“**Prevailing USD/AUD Rate**” means, in respect of a particular date, the spot rate of exchange between U.S. dollars and Australian Dollars prevailing as at or about 12:00 noon (Sydney time) on that date as appearing on or derived from the Relevant Page or if such a rate cannot be determined at such time, the rate prevailing as at or about 12:00 noon (Sydney time) on the immediately preceding day on which such rate can be so determined or if such rate cannot be so determined, the rate determined in such other manner as an Independent Adviser shall consider in good faith appropriate;

“**Record Date**” has the meaning provided in Condition 8(c);

“**Reference Date**” has the meaning provided in Condition 6(b)(ii);

“**Reference Shares**” means, in respect of any date, the number of Ordinary Shares (rounded down, if necessary, to the nearest whole number) determined by dividing the aggregate principal amount of the Notes which are the subject of the relevant exercise of Conversion Rights by such Noteholder by the Conversion Price in effect on such date;

“**Relevant Currency**” means Australian Dollars or if, at the relevant time or for the purposes of the relevant calculation or determination, the ASX is not the Relevant Stock Exchange, the currency in which the Ordinary Shares are quoted or traded on the Relevant Stock Exchange;

“**Relevant Date**” means, in respect of any Note, whichever is the later of:

- (a) the date on which payment in respect of it first becomes due; and
- (b) if any amount of the money payable is improperly withheld or refused the date on which payment in full of the amount outstanding is made or (if earlier) the date on which notice is duly given by the Issuer to the Noteholders in accordance with Condition 17 that, upon further presentation of the Note, where required pursuant to these Conditions, being made, such payment will be made, provided that such payment is in fact made as provided in these Conditions;

a “**Relevant Event**” occurs when:

- (a) there is a Delisting; or

(b) there is a Change of Control;

“**Relevant Event Notice**” has the meaning provided in Condition 7(e);

“**Relevant Event Redemption Date**” has the meaning provided in Condition 7(e);

“**Relevant Indebtedness**” means any present or future indebtedness (whether being principal, premium, interest or other amounts) in the form of or evidenced by notes, bonds, debentures, debenture stock, loan stock or other securities, whether issued for cash or in whole or in part for a consideration other than cash, and which (in any case) are or are capable of being quoted, listed or ordinarily dealt in or traded on any recognised listing authority, stock exchange, securities quotation system or over-the-counter or other securities market. For the avoidance of doubt, syndicated or bilateral bank debt and any interest rate hedging entered into in connection with syndicated or bilateral bank debt is not “Relevant Indebtedness”;

“**Relevant Page**” means the relevant Bloomberg “*BFIX*” page (or its successor page) or if there is no such page, on the relevant Reuters page (or its successor page) or such other information service provider that displays the relevant information as shall be determined to be appropriate by an Independent Adviser;

“**Relevant Stock Exchange**” means:

- (a) in the case of Ordinary Shares, the ASX or, if at the relevant time the Ordinary Shares are not at that time listed and admitted to trading on the ASX, the Alternative Stock Exchange; and
- (b) in the case of Securities (other than Ordinary Shares), Spin-Off Securities, futures, options, warrants or other rights or assets, the principal stock exchange or securities market on which such Securities (other than Ordinary Shares), Spin-Off Securities, options, warrants or other rights or assets are then listed, admitted to trading or quoted or dealt in;

“**Relevant Transaction**” means the repurchase by the Issuer for cash and/or delivery of Ordinary Shares (or a combination of both) of the outstanding U.S.\$700,000,000 Zero Coupon Guaranteed Senior Unsecured Convertible Notes due 2025 of the Issuer and guaranteed by the Guarantor;

“**Retroactive Adjustment**” has the meaning provided in Condition 6(f);

“**Scheme of Arrangement**” means a scheme of arrangement sanctioned by the New Zealand High Court under Part 15 of the New Zealand Companies Act 1993, or analogous proceeding;

“**Securities**” means any securities including, without limitation, Ordinary Shares, or options, warrants or other rights to subscribe for or purchase or acquire Ordinary Shares;

“**Securitisation**” means any securitisation of assets and/or revenues, provided that:

- (a) any Security Interest given by the Issuer or the Guarantor in connection therewith is limited solely to the assets and/or revenues which are the subject of the securitisation;
- (b) each person participating in such securitisation expressly agrees to limit its recourse to the assets and/or revenues so securitised as the sole source of repayment for the money advanced or payment of any other liability; and
- (c) there is no other recourse to the Issuer or the Guarantor in respect of any default by any person under the securitisation;

“**Security Interest**” has the meaning provided in Condition 2;

“**Shareholders**” means the holders of Ordinary Shares;

“**Specified Date**” has the meaning provided in Conditions 6(e)(iv), 6(e)(vi), 6(e)(vii) and 6(e)(viii);

“**Spin-Off**” means:

- (a) a distribution of Spin-Off Securities by the Guarantor to Shareholders as a class; or
- (b) any issue, transfer or delivery of any property or assets (including cash or shares or securities of or in or issued or allotted by any entity) by any entity (other than the Guarantor) to Shareholders as a class or, in the case of or in connection with a Newco Scheme, Existing Shareholders as a class (but excluding the issue and allotment of ordinary shares by Newco to Existing Shareholders as a class), pursuant in each case to any arrangements with the Guarantor or any of its Subsidiaries;

“**Spin-Off Securities**” means equity share capital of an entity other than the Guarantor or options, warrants or other rights to subscribe for or purchase equity share capital of an entity other than the Guarantor;

“**Subsidiary**” means any entity which is a subsidiary of the Guarantor within the meaning of section 5 of the New Zealand Companies Act 1993 or is a subsidiary of or otherwise controlled by the Guarantor within the meaning of any approved accounting standard applicable to the Guarantor;

“**Tax Redemption Date**” has the meaning provided in Condition 7(c);

“**Tax Redemption Notice**” has the meaning provided in Condition 7(c);

“**Trading Disruption**” means any suspension of or limitation imposed on trading by the Relevant Stock Exchange or otherwise and whether by reason of movements in price exceeding limits permitted by the Relevant Stock Exchange or otherwise:

- (a) relating to the Ordinary Shares on the Relevant Stock Exchange, or
- (b) in futures or options contracts relating to the Ordinary Shares on the Relevant Stock Exchange;

“**Volume Weighted Average Price**” means, in respect of an Ordinary Share, Security or, as the case may be, a Spin-Off Security, option, warrant or other right or asset on any Dealing Day, the order book volume-weighted average price of an Ordinary Share, Security or, as the case may be, a Spin-Off Security published by or derived (in the case of an Ordinary Share) from Bloomberg (under the function “VAP”) for such Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset in respect of the Relevant Stock Exchange for such Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset (and, for the avoidance of doubt, such Bloomberg page for the Ordinary Shares where the Relevant Stock Exchange is the ASX shall be “*XRO AU <Equity>*”), if any or, in any such case, such other source as shall be determined in good faith to be appropriate by an Independent Adviser on such dealing day, provided that if on any such dealing day such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of an Ordinary Share, Security, Spin-Off Security, option, warrant or other right or asset in respect of such dealing day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined, all determined by an Independent Adviser in such manner as it might otherwise determine in good faith to be appropriate.

References to any act or statute or any provision of any act or statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment.

References to any issue or offer or grant to Shareholders or Existing Shareholders “**as a class**” or “**by way of rights**” shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders or Existing Shareholders, as the case may be, other than Shareholders or Existing Shareholders, as the case may be, to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant.

In making any calculation or determination of Closing Price, Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made as an Independent Adviser considers in good faith appropriate to reflect any consolidation or subdivision of the Ordinary Shares or any issue of Ordinary Shares by way of capitalisation of profits or reserves, or any like or similar event.

For the purposes of Conditions 6(a), 6(b), 6(c), 6(d), 6(e), 6(f), 6(k) and 6(l) and Condition 11 only:

- (a) references to the “issue” of Ordinary Shares or Ordinary Shares being “issued” shall include the transfer and/or delivery of Ordinary Shares, whether newly issued and allotted or previously existing or held by or on behalf of the Guarantor or any of its Subsidiaries, and
- (b) Ordinary Shares held by or on behalf of the Guarantor or any of its Subsidiaries (and which, in the case of Conditions 6(e)(iv) and 6(e)(vi), do not rank for the relevant right or other entitlement) shall not be considered as or treated as “in issue” or “issued” or entitled to receive the relevant Dividend, right or other entitlement.

#### 4 REGISTRATION AND TRANSFER OF NOTES

(a) **Registration**

The Issuer will cause a register (the “**Register**”) to be kept at the specified office of the Registrar outside the United Kingdom on which will be entered the names and addresses of the holders of the Notes and the particulars of the Notes held by them and of all transfers, redemptions and conversions of Notes.

(b) **Transfer**

Notes may, subject to the terms of the Agency Agreement and to Conditions 4(c) and 4(d), be transferred in whole or in part in an Authorised Denomination by lodging the relevant Certificate representing such Notes (with the form of application for transfer in respect thereof duly executed and duly stamped where applicable) at the specified office of the Registrar or any Transfer Agent.

No transfer of a Note will be valid unless and until entered on the Register. A Note may be registered only in the name of, and transferred only to, a named person (or persons, not exceeding four in number).

The Registrar will within seven business days, in the place of the specified office of the Registrar, of any duly made application for the transfer of a Note, register the relevant transfer and deliver a new Certificate to the transferee (and, in the case of a transfer of part only of a Note, deliver a Certificate for the untransferred balance to the transferor) at the specified office of the Registrar or (at the risk and, if mailed at the request of the transferee or, as the case may be, the transferor otherwise than by ordinary mail, at the expense of the transferee or, as the case may be, the transferor) mail the Certificate by uninsured mail to such address as the transferee or, as the case may be, the transferor may request in writing.

*Transfers of interests in the Notes represented by the Global Certificate will be effected in accordance with the rules of the relevant clearing systems.*

(c) **Formalities Free of Charge**

Such transfer will be effected without charge subject to:

- (i) the person making such application for transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith,
- (ii) the Registrar being satisfied with the documents of title and/or identity of the person making the application; and

- (iii) compliance with the regulations referred to it in Condition 4(e).

**(d) Closed Periods**

Neither the Issuer nor the Registrar will be required to register the transfer of any Note (or part thereof):

- (i) during the period of 15 days ending on and including the day immediately prior to the Final Maturity Date or any earlier date fixed for redemption of the Notes pursuant to Condition 7(b) or Condition 7(c);
- (ii) in respect of which a Conversion Notice has been delivered in accordance with Condition 6(k);
- (iii) in respect of which a holder shall have exercised its option to require the Issuer to redeem pursuant to Condition 7(e) or Condition 7(f); or
- (iv) during the period of 15 days ending on (and including) any Record Date (as defined in Condition 8(c) in respect of any payment of interest on the Notes.

**(e) Regulations**

All transfers of Notes and entries on the Register will be made subject to the detailed regulations concerning registration and transfer of Notes scheduled to the Agency Agreement. The regulations may be changed by the Issuer, with the prior written agreement of the Trustee and the Registrar, and by the Registrar, with the prior written agreement of the Trustee. A copy of the current regulations will be mailed (free of charge to the holder and at the Issuer's (failing whom the Guarantor's) expense) by the Registrar to any Noteholder following prior written request and proof of holding satisfactory to the Registrar.

**(f) Restrictions on transfer**

Notes may only be transferred if the offer or invitation giving rise to the transfer:

- (i) does not constitute an offer or invitation in Australia for which disclosure is required to be made to investors under Part 6D.2 of the Corporations Act;
- (ii) is not made to a person in Australia who is a "retail client" within the meaning of Section 761G of the Corporations Act;
- (iii) is not made to a person in New Zealand other than to a person who is a "wholesale investor" within the meaning of clause 3 of Schedule 1 of the New Zealand Financial Markets Conduct Act 2013; and
- (iv) complies with any applicable law or directive of the jurisdiction where transfer takes place.

## **5 INTEREST**

The Notes bear interest from and including the Closing Date at the rate of 1.625 per cent. per annum (the "**Interest Rate**"), payable semi-annually in arrear in equal instalments of U.S.\$8.125 per Calculation Amount (as defined below) on 12 June and 12 December in each year (each, an "**Interest Payment Date**"), commencing on the Interest Payment Date falling on 12 December 2024.

Interest in respect of any Note shall be calculated per U.S.\$1,000 in principal amount of the Notes (the "**Calculation Amount**"). If interest is required to be calculated for a period other than an Interest Period (as defined below), it will be calculated on the basis of a 360 day year consisting of 12 months of 30 days each, and in the case of an incomplete month, the number of days elapsed.



In these Conditions, “**Interest Period**” means the period beginning on (and including) the Closing Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date.

Each Note will cease to bear interest: (i) where the Conversion Right shall have been exercised by a Noteholder, from and including the Interest Payment Date immediately preceding the relevant Conversion Date or, if none, the Closing Date (subject in any such case as provided in Condition 6(m)); or (ii) where such Note is or is to be redeemed or repaid pursuant to Condition 7 or Condition 10, from and including the due date for redemption or repayment thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused, in which event interest will continue to accrue from the due date for redemption or repayment at the rate specified in Condition 8(f) (both before and after judgment) until (but excluding) whichever is the earlier of (a) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant holder, and (b) the day which is seven days after the Trustee or the Principal Paying and Conversion Agent has notified Noteholders of receipt of all sums due in respect of all the Notes up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

*For so long as the Notes are represented by the Global Certificate and the Global Certificate is held on behalf of Euroclear Bank SA/NV or Clearstream Banking S.A. or any Alternative Clearing System (as defined in the form of the Global Certificate), the interest payable in respect of the Notes shall be calculated based on the aggregate principal amount of the Notes represented by the Global Certificate.*

## 6 CONVERSION OF NOTES

### (a) *Initial Conversion Period*

During the Initial Conversion Period (as defined below), subject to and as provided in these Conditions, each Note shall entitle the holder to convert such Note for an amount equal to the relevant Cash Settlement Amount. Unless a Physical Settlement Election is made by the Issuer in respect of the relevant exercise of Conversion Rights, the Issuer shall pay the relevant Noteholder the relevant Cash Settlement Amount in accordance with this Condition 6.

A Noteholder may exercise the Conversion Right in respect of a Note by delivering the Certificate representing such Note together with a duly completed Conversion Notice to the specified office of any Conversion Agent in accordance with Condition 6(k) whereupon the Guarantor shall (subject as provided in these Conditions) procure the payment, to or as directed by the relevant Noteholder of the relevant Cash Settlement Amount as provided in this Condition 6. A Noteholder shall in the relevant Conversion Notice specify a bank account to which any cash amount payable on or in respect of the exercise of Conversion Rights by that Noteholder shall be credited.

The Issuer shall pay the relevant Cash Settlement Amount by not later than five New York City business days following the last day of the Cash Settlement Calculation Period by transfer to a U.S. dollar account with a bank in New York City in accordance with instructions contained in the relevant Conversion Notice.

Subject to, and as provided in these Conditions, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, and subject to any applicable fiscal or other laws or regulations and as hereinafter provided, at any time on or after 23 July 2024 (the “**Initial Conversion Period Commencement Date**”) to the date falling 101 Sydney business days prior to the Final Maturity Date (the “**Initial Conversion Period End Date**”) (both days inclusive) or, if such Note is to be redeemed pursuant to Condition 7(b) or Condition 7(c) prior to the Initial Conversion Period End Date,

not later than the 10th Sydney business day before the date fixed for redemption thereof pursuant to Condition 7(b) or Condition 7(c), unless there shall be default in making payment in respect of such Note on such date fixed for redemption, in which event the Conversion Right may be exercised up to the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given to Noteholders in accordance with Condition 17 or, if earlier, the date falling 101 Sydney business days prior to the Final Maturity Date (the “**Initial Conversion Period**”), provided that, in each case, if such final date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of Conversion Rights by Noteholders shall end on the immediately preceding business day at the place aforesaid.

**(b) Physical Settlement Election during the Initial Conversion Period**

- (i) Upon exercise of a Conversion Right during the Initial Conversion Period, the Issuer may, in its sole discretion, make an election to satisfy the exercise of such Conversion Right in respect of the relevant Notes by the delivery of Ordinary Shares equal to the relevant Reference Shares (a “**Physical Settlement Election**”) by giving written notice (a “**Physical Settlement Election Notice**”) to the relevant Noteholder by no later than the date falling two Sydney business days following the relevant Conversion Date to the address, fax number or email address provided in the relevant Conversion Notice. The Physical Settlement Election Notice shall specify the number of Reference Shares as at the relevant Conversion Date to be issued to, or transferred to, the Noteholder and delivered by the Guarantor in respect of the relevant exercise of Conversion Rights. Each Noteholder consents to become a member of the Issuer and to be bound by the constitution of the Issuer in respect of any Ordinary Shares issued on exercise of a Conversion Right.
- (ii) The Guarantor will procure that Ordinary Shares to be issued or transferred and delivered on conversion pursuant to this Condition 6(b) will be issued or transferred and delivered to the holder of the Notes completing the relevant Conversion Notice or its nominee (without any further action being required to be taken by, and without any cost or expense to, the relevant holder of the Note or the Trustee or any Agent). Such Ordinary Shares will be deemed to be issued or transferred and delivered as of the relevant Conversion Date. Any Additional Ordinary Shares to be issued or transferred and delivered pursuant to Condition 6(f) will be deemed to be issued or transferred and delivered as of the date the relevant Retroactive Adjustment takes effect or as at the date of issue or transfer and delivery of Ordinary Shares if the adjustment results from the issue or transfer and delivery of Ordinary Shares (each such date, the “**Reference Date**”).
- (iii) A Physical Settlement Election shall be irrevocable and shall specify the Conversion Price in effect on the relevant Conversion Date.
- (iv) Notwithstanding Condition 6(a), if a Change of Control occurs, the Conversion Right may, subject to these Conditions be exercised prior to the Initial Conversion Period Commencement Date, in which case Noteholders exercising the Conversion Right prior to the Initial Conversion Period Commencement Date shall, as a pre-condition to receiving Ordinary Shares, be required to certify in the Conversion Notice, among other things, that it or, if it is a broker-dealer acting on behalf of a customer, such customer:
  - (A) will, on conversion, become the beneficial owner of the Ordinary Shares; and
  - (B) is located outside the United States (within the meaning of Regulation S under the U.S. Securities Act of 1933, as amended).

(c) ***Final Conversion Period and Final Conversion Period Determination***

- (i) Subject to, and as provided in these Conditions, the Conversion Right in respect of a Note may be exercised, at the option of the holder thereof, and subject to any applicable fiscal or other laws or regulations and as hereinafter provided, at any time from the date falling 100 Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period Commencement Date**”) to the date falling three Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period End Date**”) (both days inclusive) or, if such Note is to be redeemed pursuant to Condition 7(b) or Condition 7(c) prior to the Final Conversion Period End Date, not later than the 10th Sydney business day before the date fixed for redemption thereof pursuant to Condition 7(b) or Condition 7(c), unless there shall be default in making payment in respect of such Note on such date fixed for redemption, in which event the Conversion Right may be exercised up to the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given to Noteholders in accordance with Condition 17 or, if earlier, the date falling three Sydney business days prior to the Final Maturity Date (the “**Final Conversion Period**”), provided that, in each case, if such final date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of Conversion Rights by Noteholders shall end on the immediately preceding business day at the place aforesaid.
- (ii) Prior to the Final Conversion Period Commencement Date and no earlier than the date falling 105 Sydney business days prior to the Final Maturity Date (both days inclusive), the Issuer will make a determination (a “**Final Conversion Period Determination**”) by giving notice to the Noteholders in accordance with Condition 17 and to the Trustee and each Conversion Agent in writing (a “**Final Conversion Period Determination Notice**”). The Final Conversion Period Determination Notice shall state that any Conversion Rights exercised by a Noteholder during the Final Conversion Period will be wholly satisfied and settled either by an amount equal to the relevant Cash Settlement Amount or by the delivery of Ordinary Shares equal to the relevant Reference Shares and to which Noteholder the Issuer shall pay the relevant Cash Settlement Amount by transfer to a U.S. dollar account with a bank in New York City or, as the case may be, issue or transfer the relevant Reference Shares to the Noteholder, in accordance with the instructions contained in the relevant Conversion Notice.

The Final Conversion Period Determination shall be at the sole discretion of the Issuer and the Final Conversion Period Determination Notice shall be irrevocable.

- (iii) Where the Issuer has determined that any Conversion Rights exercised by a Noteholder during the Final Conversion Period will be wholly satisfied and settled by payment of the relevant Cash Settlement Amount, a Noteholder may exercise such Conversion Right by delivering the Certificate representing such Note together with a duly completed Conversion Notice to the specified office of any Conversion Agent in accordance with Condition 6(k) whereupon the Guarantor shall (subject as provided in these Conditions) procure the payment by the Issuer, to or as directed by the relevant Noteholder of the relevant Cash Settlement Amount as provided in this Condition 6. A Noteholder shall in the relevant Conversion Notice specify a bank account to which any cash amount payable on or in respect of the exercise of Conversion Rights by that Noteholder shall be credited.

The Issuer shall pay the relevant Cash Settlement Amount by not later than five New York City business days following the last day of the Cash Settlement Calculation Period by transfer to a U.S. dollar account with a bank in New York City in accordance with instructions contained in the relevant Conversion Notice.

- (iv) Where the Issuer has determined that any Conversion Rights exercised by a Noteholder during the Final Conversion Period will be wholly satisfied and settled by delivery of Ordinary Shares, the Guarantor will procure that Ordinary Shares to be issued or transferred and delivered on conversion pursuant to this Condition 6(c) will be issued or transferred and delivered to the holder of the Notes completing the relevant Conversion Notice or its nominee (without any further action being required to be taken by, and without any cost or expense to, the relevant holder of the Note or the Trustee or any Agent). Such Ordinary Shares will be deemed to be issued or transferred and delivered as of the relevant Conversion Date. Any Additional Ordinary Shares to be issued or transferred and delivered pursuant to Condition 6(f) will be deemed to be issued or transferred and delivered as of the date the relevant Retroactive Adjustment takes effect or as at the date of issue or transfer and delivery of Ordinary Shares if the adjustment results from the issue or transfer and delivery of Ordinary Shares (each such date, the “**Reference Date**”).

**(d) Conversion Price and Conversion Rights**

The initial Conversion Price is U.S.\$109.6453 per Ordinary Share (based on a fixed exchange rate of A\$1.00 = U.S.\$0.6649) but will be subject to adjustment in the manner provided in Condition 6(e) (the “**Conversion Price**”).

Conversion Rights in respect of a Note may not be exercised following:

- (i) the giving of a notice by the holder thereof pursuant to Condition 7(e) or Condition 7(f); or
- (ii) the giving of notice by the Trustee pursuant to Condition 10.

Save where a notice of redemption is given by the Issuer in the circumstances provided for in Condition 6(m), Conversion Rights may not be exercised by a Noteholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Record Date in respect of any payment of interest on the Notes and ending on the relevant Interest Payment Date (both days inclusive).

Fractions of Ordinary Shares will not be issued or transferred and delivered on conversion and no cash payment or other adjustment will be made in lieu thereof. However, if the Conversion Right in respect of more than one Note is exercised at any one time such that Ordinary Shares to be delivered on conversion are to be registered in the same name, the number of such Ordinary Shares to be issued or transferred and delivered in respect thereof shall be calculated on the basis of the aggregate principal amount of such Notes being so converted and rounded down to the nearest whole number of Ordinary Shares.

**(e) Adjustment of Conversion Price**

Upon the happening of any of the events described below, the Conversion Price shall be adjusted as follows:

- (i) *consolidation, reclassification, redesignation or subdivision*: If and whenever there shall be a consolidation, reclassification, redesignation or subdivision in relation to the Ordinary Shares which alters the number of Ordinary Shares in issue, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such consolidation, reclassification, redesignation or subdivision by the following fraction:

$$\frac{A}{B}$$

where:

- A is the aggregate number of Ordinary Shares in issue immediately before such consolidation, reclassification, redesignation or subdivision, as the case may be; and
- B is the aggregate number of Ordinary Shares in issue immediately after, and as a result of, such consolidation, reclassification, redesignation or subdivision, as the case may be.

Such adjustment shall become effective on the date the consolidation, reclassification, redesignation or subdivision, as the case may be, takes effect.

- (ii) *capitalisation of profits or reserves*: If and whenever the Guarantor shall issue any Ordinary Shares to Shareholders credited as fully paid by way of capitalisation of profits or reserves (including any amount of share premium account or capital redemption reserve) other than to the extent it is determined to constitute a Cash Dividend, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue by the following fraction:

$$\frac{A}{B}$$

where:

- A is the aggregate number of Ordinary Shares in issue immediately before such issue; and
- B is the aggregate number of Ordinary Shares in issue immediately after such issue.

Such adjustment shall become effective on the date of issue of such Ordinary Shares.

- (iii) *dividend*: If and whenever the Guarantor shall declare, announce, pay or make any Dividend to the Shareholders, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date; and
- B is the portion of the Fair Market Value of the aggregate Dividend attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Dividend by the number of Ordinary Shares entitled to receive the relevant Dividend (or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares by or on behalf of the Guarantor or any Subsidiary, by the number of Ordinary Shares in issue immediately following such purchase, redemption or buy back, and treating as not being in issue any Ordinary Shares, or any Ordinary Shares represented by depositary or other receipts or certificates, purchased, redeemed or bought back).

Such adjustment shall become effective on the Effective Date or, if later, the first date upon which the Fair Market Value of the relevant Dividend is capable of being determined as provided herein.

“**Effective Date**” means, in respect of this Condition 6(e)(iii), the first date on which the Ordinary Shares are traded ex-the relevant Dividend on the Relevant Stock Exchange or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares, the date on which such purchase, redemption or buy back is made or in the case of a Spin-Off, the first date on which the Ordinary Shares are traded ex-the relevant Spin-Off on the Relevant Stock Exchange.

- (iv) *rights issues or options over Ordinary Shares*: If and whenever the Guarantor or any Subsidiary or (at the direction or request or pursuant to any arrangements with the Guarantor or any Subsidiary) any other company, person or entity shall issue to Shareholders as a class by way of rights, or issue or grant to Shareholders as a class by way of rights, any options, warrants or other rights to subscribe for or purchase or otherwise acquire Ordinary Shares or any Securities which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or the right to otherwise acquire any Ordinary Shares (or shall grant any such rights in respect of existing Securities so issued), in each case at a price per Ordinary Share which is less than 95 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of the issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue on the Effective Date;
- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares issued by way of rights or for the Securities issued by way of rights and upon exercise of rights of conversion into, or exchange or subscription for, or the right to otherwise acquire, Ordinary Shares, or for the options or warrants or other rights issued by way of rights and for the total number of Ordinary Shares deliverable on the exercise thereof, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights or upon conversion or exchange or exercise of rights of subscription or purchase (or other rights of acquisition) in respect thereof at the initial conversion, exchange, subscription, purchase or acquisition price or rate,

provided that if at the first date on which the Ordinary Shares are traded ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange (as used in this Condition 6(e)(iv), the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time, then for the purposes of this Condition 6(e)(iv), “C” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date (or, if later, the Dealing Day following the record date or other due date for establishment of the entitlement of Shareholders to participate in the relevant issue or grant).

“**Effective Date**” means, in respect of this Condition 6(e)(iv), the first date on which the Ordinary Shares are traded ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange.

- (v) *rights issues of other Securities*: If and whenever the Guarantor or any Subsidiary or (at the direction or request or pursuant to any arrangements with the Guarantor or any Subsidiary) any other company, person or entity shall issue any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for, purchase or otherwise acquire any Ordinary Shares or Securities which by their terms carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or rights to otherwise acquire, Ordinary Shares) to Shareholders as a class by way of rights or grant to Shareholders as a class by way of rights, any options, warrants or other rights to subscribe for, purchase or otherwise acquire any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for, purchase or otherwise acquire Ordinary Shares or Securities which by their terms carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or rights to otherwise acquire, Ordinary Shares), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date; and  
B is the Fair Market Value on the Effective Date of the portion of the rights attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date (or, if later, the Dealing Day following the record date or other due date for establishment of the entitlement of Shareholders to participate in the relevant issue or grant).

“**Effective Date**” means, in respect of this Condition 6(e)(v), the first date on which the Ordinary Shares are traded ex-the relevant Securities or ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange.

- (vi) *issues at less than the Current Market Price*: If and whenever the Guarantor shall issue wholly for cash or for no consideration (otherwise than as mentioned in Condition 6(e)(iv) above and save in relation to an issue of Ordinary Shares pursuant to a DRP where the Conversion Price has been adjusted for pursuant to Condition 6(e)(iii)) any Ordinary Shares (other than Ordinary Shares issued on conversion of the Notes (which term shall for this purpose include any further Notes issued pursuant to Condition 18) or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of or rights to otherwise acquire, Ordinary Shares) and other than where it is determined to constitute a Cash Dividend pursuant to paragraph (a) of the definition of “**Dividend**” or if and whenever the Guarantor or any Subsidiary or (at the direction or request or pursuant to any arrangements with the Guarantor or any Subsidiary) any other company, person or entity shall issue or grant (otherwise than as mentioned in Condition 6(e)(iv)) wholly for cash or for no consideration any options, warrants or other rights to subscribe for or purchase or otherwise acquire any Ordinary Shares (other than the Notes, which term shall for

this purpose include any further Notes issued pursuant to Condition 18), in each case at a price per Ordinary Share which is less than 95 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of such issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before the issue of such Ordinary Shares or the grant of such options, warrants or rights;
- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the issue of such Ordinary Shares or, as the case may be, for the Ordinary Shares to be issued or otherwise made available upon the exercise of any such options, warrants or rights, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued pursuant to such issue of such Ordinary Shares or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights,

provided that if at the time of issue or grant of such options, warrants or rights (as used in this Condition 6(e)(vi), the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time, then for the purposes of this Condition 6(e)(vi), “C” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

“**Effective Date**” means, in respect of this Condition 6(e)(iv), the date of issue of such Ordinary Shares or, as the case may be, the issue or grant of such options, warrants or rights.

- (vii) *other issues at less than the Current Market Price*: If and whenever the Guarantor or any Subsidiary or (at the direction or request of or pursuant to any arrangements with the Guarantor or any Subsidiary) any other company, person or entity (otherwise than as mentioned in Conditions 6(e)(iv), 6(e)(v) or 6(e)(vi) above and save in relation to an issue of Ordinary Shares pursuant to the DRP where the Conversion Price has been adjusted for pursuant to Condition 6(e)(iii)) shall issue wholly for cash or for no consideration any Securities (other than the Notes which term shall for this purpose exclude any further Notes issued pursuant to Condition 18, and other than where it is determined to constitute a Cash Dividend pursuant to paragraph (a) of the definition of “Dividend”) which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, purchase of or rights to otherwise acquire Ordinary Shares (or shall grant any such rights in respect of existing Securities so issued) or Securities which by their terms might be reclassified or redesignated as Ordinary Shares and the consideration per Ordinary Share receivable upon conversion, exchange, subscription, purchase, acquisition, reclassification or redesignation is less than 95 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of issue of such



Securities (or the terms of such grant), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue on the date immediately before such issue or grant (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued, purchased or acquired by the Guarantor or any Subsidiary (or at the direction or request or pursuant to any arrangements with the Guarantor or any Subsidiary) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired);
- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription, purchase or acquisition attached to such Securities or, as the case may be, for the Ordinary Shares to be issued or to arise from any such reclassification or redesignation would purchase at such Current Market Price per Ordinary Share; and
- C is the maximum number of Ordinary Shares to be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such right of subscription, purchase or acquisition attached thereto at the initial conversion, exchange, subscription, purchase or acquisition price or rate or, as the case may be, the maximum number of Ordinary Shares which may be issued or arise from any such reclassification or redesignation,

provided that if at the time of issue of the relevant Securities or date of grant of such rights (as used in this Condition 6(e)(vii), the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription, purchase or acquisition are exercised or, as the case may be, such Securities are reclassified or redesignated or at such other time as may be provided) then for the purposes of this Condition 6(e)(vii), “C” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition, reclassification or, as the case may be, redesignation had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

“**Effective Date**” means, in respect of this Condition 6(e)(vii), the date of issue of such Securities or, as the case may be, the grant of such rights.

- (viii) *modification of rights of Conversion*: If and whenever there shall be any modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to any Securities (other than the Notes which shall for this purpose include any further Notes issued pursuant to Condition 18) which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or the right or otherwise acquire, any Ordinary Shares (other than in accordance with the terms (including terms as to adjustment) applicable to such Securities

upon issue) so that following such modification the consideration per Ordinary Share receivable has been reduced and is less than 95 per cent. of the Current Market Price per Ordinary Share on the date of the first public announcement of the proposals for such modification, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before such modification (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for, or purchase or acquisition of, Ordinary Shares which have been issued, purchased or acquired by the Guarantor or any Subsidiary (or at the direction or request or pursuant to any arrangements with the Guarantor or any Subsidiary) for the purposes of or in connection with such Securities, less the number of such Ordinary Shares so issued, purchased or acquired);
- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription, purchase or acquisition attached to the Securities so modified would purchase at such Current Market Price per Ordinary Share on the date of such first public announcement or, if lower, the existing conversion, exchange, subscription, purchase or acquisition price of such Securities; and
- C is the maximum number of Ordinary Shares which may be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such rights of subscription, purchase or acquisition attached thereto at the modified conversion, exchange, subscription, purchase or acquisition price or rate but giving credit in such manner as an Independent Adviser shall consider appropriate for any previous adjustment under this Condition 6(e)(viii) or under Condition 6(e)(vii) above,

provided that if at the time of such modification (as used in this Condition 6(e)(viii), the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription, purchase or acquisition are exercised or at such other time as may be provided) then for the purposes of this Condition 6(e)(viii), “**C**” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

“**Effective Date**” means, in respect of this Condition 6(e)(viii), the date of modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to such Securities.

- (ix) *other offers to Shareholders*: Subject to Condition 6(h), if and whenever the Guarantor or any Subsidiary or (at the direction or request of or pursuant to any arrangements with the Guarantor or any Subsidiary) any other company, person or entity shall offer any Ordinary Shares or Securities of the Guarantor of the Subsidiary in connection with which Shareholders as a class

are entitled to participate in arrangements whereby such Ordinary Shares or Securities may be acquired by them (except where the Conversion Price falls to be adjusted under Conditions 6(e)(ii), 6(e)(iii), 6(e)(iv), 6(e)(v), 6(e)(vi), 6(e)(vii) or 6(e)(x) (or, where applicable, would fall to be so adjusted if the relevant issue or grant was at less than 95 per cent. of the Current Market Price per Ordinary Share on the relevant day)) the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date; and
- B is the Fair Market Value on the Effective Date of the portion of the relevant offer attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date.

“**Effective Date**” means, in respect of this Condition 6(e)(ix), the first date on which the Ordinary Shares are traded ex-rights on the Relevant Stock Exchange.

- (x) *Change of Control*: If a Change of Control shall occur, the Issuer and/or the Guarantor shall deliver a Relevant Event Notice in accordance with Condition 6(j). Following the giving of a Relevant Event Notice, upon any exercise of Conversion Rights where the Conversion Date falls during the period (the “**Change of Control Period**”) commencing on the occurrence of the Change of Control and ending 30 calendar days following the Change of Control or, if later, 30 calendar days following the date on which a Relevant Event Notice as required by Condition 6(j) is given, the Conversion Price (the “**Change of Control Conversion Price**”) shall be as determined pursuant to the following formula:

$$\text{COCCP} = \text{OCP} / (1 + (\text{CP} \times c/t))$$

where:

- COCCP = means the Change of Control Conversion Price;
- OCP = means the Conversion Price in effect on the relevant Conversion Date, disregarding the application of this Condition 6(e)(x);
- CP = means 30 per cent. (expressed as a fraction);
- c = means the number of days from and including the date the Change of Control occurs to but excluding the Final Maturity Date; and
- t = means the number of days from and including the Closing Date to but excluding the Final Maturity Date.

- (xi) *other events*: If the Issuer or the Guarantor determines that an adjustment should be made to the Conversion Price as a result of one or more circumstances not referred to above in this Condition 6(e), the Issuer or the Guarantor shall, at its own expense and acting reasonably, request an Independent Adviser to determine as soon as practicable what adjustment (if any) to the Conversion Price is fair and reasonable to take account thereof and the date on which such adjustment should take effect and upon such determination such adjustment (if any) shall be made

and shall take effect in accordance with such determination, provided that an adjustment shall only be made pursuant to this Condition 6(e)(xi) if such Independent Adviser is so requested to make such a determination not more than 21 days after the date on which the relevant circumstance arises and if the adjustment would result in a reduction to the Conversion Price.

Notwithstanding the foregoing provisions, where:

- (A) the events or circumstances giving rise to any adjustment pursuant to this Condition 6(e) have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Price or where more than one event which gives rise to an adjustment to the Conversion Price occurs within such a short period of time that, in the opinion of the Issuer or the Guarantor, a modification to the operation of the adjustment provisions is required to give the intended result, such modification shall be made to the operation of the adjustment provisions as may be advised by an Independent Adviser to be in its opinion appropriate to give the intended result; and
- (B) such modification shall be made to the operation of these Conditions as may be advised by an Independent Adviser to be in its opinion appropriate: (i) to ensure that an adjustment to the Conversion Price or the economic effect thereof shall not be taken into account more than once; and (ii) to ensure that the economic effect of a Dividend is not taken into account more than once.

Each of the Issuer and the Guarantor has undertaken that it will not take any corporate or other action which is equivalent to Conditions 6(e)(i) to 6(e)(x) (both inclusive) that would cause the Conversion Price of the Notes to be adjusted in a manner that contravenes the Corporations Act or the New Zealand Companies Act 1993 or the ASX Listing Rules or the listing rules of any Alternative Stock Exchange.

For the purpose of any calculation of the consideration receivable or price pursuant to Conditions 6(e)(iv), 6(e)(vi), 6(e)(vii) and 6(e)(viii), the following provisions shall apply:

- (I) the aggregate consideration receivable or price for Ordinary Shares issued for cash shall be the amount of such cash;
- (II)
  - (x) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the conversion or exchange of any Securities shall be deemed to be the consideration or price received or receivable for any such Securities; and
  - (y) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the exercise of rights of subscription attached to any Securities or upon the exercise of any options, warrants or rights shall be deemed to be that part (which may be the whole) of the consideration or price received or receivable for such Securities or, as the case may be, for such options, warrants or rights which are attributed by the Guarantor to such rights of subscription or, as the case may be, such options, warrants or rights or, if no part of such consideration or price is so attributed, the Fair Market Value of such rights of subscription or, as the case may be, such options, warrants or rights as at the relevant Effective Date referred to in Condition 6(e)(iv) or the relevant date of the first public announcement as referred to in Conditions 6(e)(vi), 6(e)(vii) or 6(e)(viii), as the case may be, plus in the case of each of (x) and (y) above, the additional minimum consideration receivable or price (if any) upon the conversion or exchange of such Securities, or upon the exercise of such rights of subscription attached thereto or, as the case may be, upon exercise of such options, warrants or rights; and

- (z) the consideration receivable or price per Ordinary Share upon the conversion or exchange of, or upon the exercise of such rights of subscription attached to, such Securities or, as the case may be, upon the exercise of such options, warrants or rights shall be the aggregate consideration or price referred to in (x) or (y) above (as the case may be) divided by the number of Ordinary Shares to be issued upon such conversion or exchange or exercise at the initial conversion, exchange or subscription price or rate;
- (III) if the consideration or price determined pursuant to (I) or (II) above (or any component thereof) shall be expressed in a currency other than the Relevant Currency it shall be converted into the Relevant Currency at the Prevailing Rate on the relevant Effective Date (in the case of paragraph (a) above or for the purposes of Condition 6(e)(iv)) or the relevant date of first public announcement (for the purposes of Condition 6(e)(vi), 6(e)(vii) or 6(e)(viii));
- (IV) in determining consideration or price pursuant to the above, no deduction shall be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Ordinary Shares or Securities or options, warrants or rights, or otherwise in connection therewith; and
- (V) the consideration or price shall be determined as provided above on the basis of the consideration or price received, receivable, paid or payable, regardless of whether all or part thereof is received, receivable, paid or payable by or to the Guarantor or another entity.

*(f) Retroactive Adjustments*

If there is a Retroactive Adjustment (as defined below) to the Conversion Price following the exercise of Conversion Rights by a Noteholder, the Issuer shall (conditional upon the relevant adjustment becoming effective) pay to the relevant Noteholder an additional amount (the “**Additional Cash Settlement Amount**”) equal to the relevant Cash Settlement Amount of such Additional Ordinary Shares (as defined below). The Issuer will pay the Additional Cash Settlement Amount at the same time as the payment of the Cash Settlement Amount in accordance with this Condition 6.

If the Conversion Date in relation to the conversion of any Note shall be after the record date in respect of any consolidation, reclassification, redesignation or subdivision as is mentioned in Condition 6(e)(i), or after the record date or other due date for the establishment of entitlement for any such issue, distribution, grant or offer (as the case may be) as is mentioned in Conditions 6(e)(ii), 6(e)(iii), 6(e)(iv), 6(e)(v) or 6(e)(ix), or after the date of the first public announcement of the terms of any such issue or grant as is mentioned in Conditions 6(e)(vi) and 6(e)(vii) or of the terms of any such modification as is mentioned in Condition 6(e)(viii), but before the relevant adjustment to the Conversion Price becomes effective under Condition 6(e) (such adjustment, a “**Retroactive Adjustment**”) in circumstances where a Physical Settlement Election was made in respect of the Reference Shares as at the relevant Conversion Date or, as the case may be, the Final Conversion Period Determination Notice stated that Conversion Rights exercised during the Final Conversion Period would be satisfied and settled by the delivery of Ordinary Shares equal to the relevant Reference Shares, then the Guarantor shall (conditional upon the relevant adjustment becoming effective) procure that there shall be issued or transferred and delivered to the converting Noteholder, in accordance with the instructions contained in the Conversion Notice, such additional number of Ordinary Shares (if any) (the “**Additional Ordinary Shares**”) as, together with the Ordinary Shares issued or to be transferred and delivered on conversion of the relevant Note (together with any fraction of an Ordinary Share not so issued), is equal to the number of Ordinary Shares which would have been required to be issued or delivered on conversion of such Note as if the relevant adjustment to the Conversion Price had in fact been made and become effective immediately prior to the relevant Conversion Date.

(g) ***Decision of an Independent Adviser***

If any doubt shall arise as to whether an adjustment falls to be made to the Conversion Price or as to the appropriate adjustment to the Conversion Price or as to the occurrence of a Change of Control or as to any determinations or calculations of the relevant Cash Settlement Amounts, the Guarantor shall consult an Independent Adviser and the written opinion of such Independent Adviser acting in good faith in respect of such adjustment to the Conversion Price or as to any such determinations or calculations of any Cash Settlement Amounts shall be conclusive and binding on all parties, save in the case of manifest error.

(h) ***Employees Incentive Schemes***

No adjustment will be made to the Conversion Price where Ordinary Shares or other Securities (including rights, warrants and options) are issued, transferred, offered or granted pursuant to any Employee Share Scheme.

“**Employee Share Scheme**” means any scheme established by the Guarantor from time to time pursuant to which Ordinary Shares or other securities (including rights or options) are or may be issued, transferred, offered, exercised, allotted, purchased, appropriated, modified or granted to, or for the benefit of, directors, employees or former employees (including directors holding or formerly holding executive office or the personal service company of any such person) of the Guarantor, its Subsidiaries and/or affiliated companies, or spouses or persons related to such employees or former employees or eligible participants of such scheme or to a trustee or trustees to be held for the benefit of any such person or any amendment or successor plan thereto (and including any such scheme disclosed or referred to in the 2024 Annual Report).

(i) ***Rounding Down and Notice of Adjustment to the Conversion Price***

On any adjustment to the Conversion Price, the resultant Conversion Price, if not an integral multiple of U.S.\$0.01, shall be rounded down to the nearest whole multiple of U.S.\$0.01. No adjustment shall be made to the Conversion Price where such adjustment (rounded down if applicable) would be less than one per cent. of the Conversion Price then in effect. Any adjustment not required to be made, and/or any amount by which the Conversion Price has been rounded down, shall be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the adjustment not required to be made had been made at the relevant time and/or, as the case may be, that the relevant rounding down had not been made.

Notice of any adjustments to the Conversion Price shall be given by the Issuer and/or the Guarantor to Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing promptly after the determination thereof.

The Conversion Price shall not in any event be reduced so that on conversion of the Notes, Ordinary Shares would fall to be issued in circumstances not permitted by applicable laws or regulations.

The Guarantor undertakes that it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below such nominal value or any minimum level permitted by applicable laws or regulations or that would otherwise result in the inability to issue Ordinary Shares on conversion as fully paid or result in Ordinary Shares being required to be issued or transferred and delivered in circumstances not permitted by applicable laws or regulations.

No adjustment involving an increase in the Conversion Price will be made, except in the case of a consolidation of the Ordinary Shares as referred to in Condition 6(e)(i). The Issuer and the Guarantor may at any time and for a specified period only, following notice being given to the Trustee and the

Principal Paying and Conversion Agent in writing and to Noteholders in accordance with Condition 17, reduce the Conversion Price.

**(j) *Change of Control***

By not later than five Sydney business days following the first day on which the Issuer and/or the Guarantor becomes aware of the occurrence of a Change of Control, the Issuer and/or the Guarantor shall provide the Relevant Event Notice (as defined in Condition 7(e)) to the Trustee and the Principal Paying and Conversion Agent in writing and to the Noteholders in accordance with Condition 17. Such Relevant Event Notice shall contain a statement informing Noteholders of their entitlement to exercise their Conversion Rights as provided in these Conditions and their entitlement to require the Issuer to redeem their Notes as provided in Condition 7(e).

The Relevant Event Notice shall also specify:

- (i) all information material to Noteholders concerning the Change of Control;
- (ii) the Conversion Price immediately prior to the occurrence of the Change of Control and the Change of Control Conversion Price applicable pursuant to Condition 6(e)(x) during the Change of Control Period (on the basis of the Conversion Price in effect immediately prior to the occurrence of the Change of Control);
- (iii) the Closing Price of the Ordinary Shares as derived from the Relevant Stock Exchange as at the latest practicable date prior to the publication of such notice;
- (iv) the Relevant Event Redemption Date and the last day of the Change of Control Period;
- (v) details of the right of the Issuer to redeem any Notes which shall not previously have been converted or redeemed pursuant to Condition 7(e); and
- (vi) such other information relating to the Change of Control as the Trustee may in its absolute discretion require.

Neither the Trustee nor any Agent shall be required to take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and none of them will be responsible or liable to Noteholders or any other person for any loss arising from any failure by it to do so.

**(k) *Procedure for exercise of Conversion Rights***

Conversion Rights may be exercised by a Noteholder during the relevant Conversion Period by delivering the relevant Note to the specified office of any Conversion Agent, during its usual business hours, accompanied by a duly completed and signed notice of conversion (a “**Conversion Notice**”) in the form (for the time being current) obtainable from any Conversion Agent. Conversion Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the specified office of the Principal Paying and Conversion Agent or such other Conversion Agent to whom the relevant Conversion Notice is delivered is located. If such delivery is made after 3.00 p.m. (local time) or on a day which is not a business day in the place of the specified office of the relevant Conversion Agent, such delivery shall be deemed for all purposes of these Conditions to have been made on the next following such business day.

Any determination as to whether any Conversion Notice has been duly completed and properly delivered shall be made by the relevant Conversion Agent and shall, save in the case of manifest error, be

conclusive and binding on the Issuer, the Guarantor, the Trustee, the other Conversion Agents and the relevant Noteholder.

Conversion Rights may only be exercised in respect of an Authorised Denomination. Where Conversion Rights are exercised in respect of part only of a Note, the old Certificate representing such Note shall be cancelled and a new Certificate representing such Note and appropriate entries made in the Register for the balance thereof shall be issued in lieu thereof without charge but upon payment by the holder of any taxes, duties and other governmental charges payable in connection therewith and the Registrar will within seven business days, in the place of the specified office of the Registrar, following the relevant Conversion Date, deliver the new Certificate representing such Note to the Noteholder at the specified office of the Registrar or (at the risk and, if mailed at the request of the Noteholder otherwise than by ordinary mail, at the expense of the Noteholder) mail the Certificate representing such new Note by uninsured mail to such address as the Noteholder may request.

A Conversion Notice, once delivered, shall be irrevocable.

The conversion date in respect of a Note (the “**Conversion Date**”) shall be the 2<sup>nd</sup> Sydney and Hong Kong business day following the date of the delivery of the Notes and the Conversion Notice by the Noteholder to the Conversion Agent as provided in this Condition 6(k).

A Noteholder exercising a Conversion Right:

- (i) shall, subject to Condition 6(k)(ii) below, be responsible for paying directly to the relevant authorities any taxes and capital, stamp, issue and registration and transfer taxes and duties arising on conversion and such Noteholder shall be responsible for paying all, if any, taxes arising by reference to any disposal or deemed disposal of a Note or interest therein in connection with such conversion; but
- (ii) shall not be responsible for any taxes or capital, stamp, issue and registration and transfer taxes and duties payable in New Zealand or Australia (or any province, state or territory thereof or any other jurisdiction in which the Issuer and/or the Guarantor may be domiciled or resident or to whose taxing jurisdiction such Noteholder may be generally subject in respect of the issue or transfer and delivery of any Ordinary Shares in respect of such exercise) in respect of the allotment and issue of any Ordinary Shares on such conversion or in respect of the delivery of any Ordinary Shares on such conversion (including any Additional Ordinary Shares), which shall be paid by the Issuer (or the Guarantor, as the case may be). If the Issuer (or the Guarantor, as the case may be) shall fail to pay any taxes and capital, stamp, issue and registration and transfer taxes and duties payable for which it is responsible as provided above, the relevant holder shall be entitled to tender and pay the same and the Issuer (or the Guarantor, as the case may be) as a separate and independent stipulation, covenants to reimburse and indemnify each Noteholder in respect of any payment thereof and any penalties payable in respect thereof.

For the avoidance of doubt, none of the Agents or the Trustee shall be responsible for determining whether such taxes or capital, stamp, issue and registration and transfer taxes and duties are payable in any jurisdiction or the amount thereof and none of them shall be responsible or liable to pay any such taxes or capital, stamp, issue and registration and transfer taxes and duties in any jurisdiction or for any failure by the Issuer (or the Guarantor, as the case may be) or any Noteholder to pay such taxes or capital, stamp, issue and registration and transfer taxes and duties in any jurisdiction.

Ordinary Shares to be issued on exercise of Conversion Rights (if any) will be issued, at the option of the Issuer pursuant to its exercise of the Physical Settlement Election or, as the case may be, the Final Conversion Period Determination, either:



- (A) in uncertificated form through the securities trading system known as the Clearing House Electronic Sub-register System operated by ASX Settlement Pty Ltd (“CHESS”) (or any successor licensed clearance and settlement facility applicable to the Ordinary Shares); or
- (B) in uncertificated form through the Guarantor’s Issuer-sponsored Sub-register maintained by its share registry provider,

and in the case of (A) the Ordinary Shares will be credited to the CHESS account specified in the Conversion Notice, or in the case of (B) the Ordinary Shares will be credited to an account with the share registry provider in the name of the Noteholder (or such other person specified in the Conversion Notice), in each case by a date which is generally expected to be not later than five Sydney business days (in the case of Ordinary Shares to be issued through CHESS) after the relevant Conversion Date.

Statements of holdings for Ordinary Shares issued on exercise of Conversion Rights through CHESS will be dispatched by the Guarantor by mail free of charge as soon as practicable but in any event within 10 Sydney business days after the relevant Conversion Date.

On the Conversion Date and following the Issuer’s exercise of its Physical Settlement Election or, as the case may be, the Final Conversion Period Determination, the Issuer must cause the Guarantor to, and the Guarantor must issue, or otherwise deliver (or procure the issue or delivery as the case may be), to each Noteholder (or to such other person as the Noteholder may direct the Issuer and/or the Guarantor in the relevant Conversion Notice provided that such person is a person to whom a transfer of the Notes could be made in compliance with Condition 4) the number of Ordinary Shares for its Notes calculated in accordance with these Conditions. Provided the Guarantor is admitted to the official list of the ASX, on the date of issue of Ordinary Shares issued on conversion of a Note, the Issuer will cause the Guarantor to, and the Guarantor will, apply for quotation of such Ordinary Shares on the ASX. In the event that the Ordinary Shares of the Guarantor are admitted to listing on an Alternative Stock Exchange, the Issuer will cause the Guarantor to, and the Guarantor will, apply for quotation of such Ordinary Shares on the Alternative Stock Exchange.

The lodgement of an application for quotation of the Ordinary Shares with the ASX or the Alternative Stock Exchange, as the case may be, by the Guarantor will constitute a representation and warranty by the Guarantor to the person to whom the Ordinary Shares in question are issued on conversion that:

- (I) the Ordinary Shares issued on conversion are issued solely for the purpose of satisfying the Issuer’s contractual obligations under the terms of the Notes and not for the purpose of the person to whom those Ordinary Shares are issued, selling or transferring the Ordinary Shares or granting, issuing or transferring an interest in, or options over, them;
- (II) subject to the ASX or the Alternative Stock Exchange, as the case may be, granting quotation of the Ordinary Shares issued on conversion of Notes, they will be freely tradable in the ordinary course on the ASX or the Alternative Stock Exchange (as applicable); and
- (III) an offer of the Ordinary Shares issued on conversion for sale within 12 months after their issue will not require disclosure under section 707(3) of the Corporations Act.

Without limiting its obligations under this Condition 6(k), the Guarantor must use its best endeavours, and furnish all such quotation applications, documents, information and undertakings as may be reasonably necessary in order, to procure the ASX or the Alternative Stock Exchange, as the case may be, quotation referred to in this Condition 6 on the Conversion Date.

(l) **Ordinary Shares**

- (i) Ordinary Shares (including any Additional Ordinary Shares) issued or transferred and delivered (if any) upon conversion of the Notes following the Issuer's exercise of its Physical Settlement Election or, as the case may be, the Final Conversion Period Determination will be fully paid and will in all respects rank *pari passu* with the fully paid Ordinary Shares on issue on the relevant Conversion Date or, in the case of Additional Ordinary Shares, on the relevant Reference Date, and the relevant holder shall be entitled to all rights, distribution or payments the record date or other due date for the establishment of entitlement for which falls on or after the relevant Conversion Date, or as the case may be, the relevant Reference Date, except in any such case for any right excluded by mandatory provisions of applicable law or as otherwise may be provided in these Conditions. Such Ordinary Shares or, as the case may be, Additional Ordinary Shares will not rank for (or, as the case may be, the relevant holder shall not be entitled to receive) any rights, distributions or payments the record date or other due date for the establishment of entitlement for which falls prior to the relevant Conversion Date or, as the case may be, the relevant Reference Date.
- (ii) Ordinary Shares (including any Additional Ordinary Shares) issued and delivered upon conversion of the Notes (if any) following the Issuer's exercise of its Physical Settlement Election or, as the case may be, the Final Conversion Period Determination will be freely transferable on and from the relevant Conversion Date and, in connection therewith, the Guarantor irrevocably undertakes either:
  - (A) to issue a cleansing statement in accordance with section 708A(5)(e) of the Corporations Act that complies with section 708A(6) of the Corporations Act (a "**Cleansing Statement**") and lodge the Cleansing Statement on the ASX on the relevant Conversion Date immediately after each issue of Ordinary Shares following a Conversion; or
  - (B) to:
    - (I) issue a prospectus (which complies with the requirements of Chapter 6D of the Corporations Act) in accordance with section 708A(11)(b)(i) of the Corporations Act ("**Cleansing Prospectus**") and lodge the Cleansing Prospectus with ASIC and the ASX on the relevant Conversion Date immediately after each issue of Ordinary Shares following a Conversion; or
    - (II) if prior to the relevant Conversion Date the Guarantor has issued and lodged with ASIC and the ASX a prospectus which complies with the requirements of Chapter 6D of the Corporations Act, ensure that offers of Ordinary Shares that have been made under that prospectus are still open for acceptance on the day on which the Ordinary Shares are issued on the relevant Conversion Date following a Conversion (in accordance with section 708A(11)(b)(ii) of the Corporations Act); or
    - (III) otherwise take such steps as may be required by the listing rules or other applicable laws or regulations of the Alternative Stock Exchange.

(m) **Interest on Conversion**

Save as provided below, no payment or adjustment shall be made on exercise of Conversion Rights for any interest which otherwise would have accrued on the relevant Notes since the last Interest Payment

Date preceding the Conversion Date relating to such Notes (or, if such Conversion Date falls before the first Interest Payment Date, since the Closing Date).

If any notice requiring the redemption of any Notes is given pursuant to Condition 7(b) or Condition 7(c) on or after the fifteenth calendar day prior to a record date or other due date for establishment of entitlement which has occurred since the last Interest Payment Date (or, in the case of the first Interest Period, since the Closing Date) and where such notice specifies a date for redemption falling on or prior to the date which is 14 days after the Interest Payment Date next following such record date or other due date for establishment of entitlement, interest shall accrue at the applicable Interest Rate on those Notes in respect of which Conversion Rights shall have been exercised and in respect of which the Conversion Date falls after such record date and on or prior to the Interest Payment Date next following such record date or other due date for establishment of entitlement and on or prior to the Interest Payment Date next following such record date in respect of such Dividend or distribution, in each case from and including the preceding Interest Payment Date (or, if such Conversion Date falls before the first Interest Payment Date, from the Closing Date) to but excluding such Conversion Date. The Issuer (or the Guarantor, as the case may be) shall pay any such interest by not later than 14 days after the relevant Conversion Date by transfer to a U.S. dollar account with a bank in New York City in accordance with instructions given by the relevant Noteholder in the relevant Conversion Notice.

**(n) *Purchase or Redemption of Ordinary Shares***

The Guarantor or any Subsidiary may exercise such rights as it may from time to time enjoy as permitted under applicable law to purchase or redeem or buy back its own shares (including Ordinary Shares) or any depositary or other receipts or certificates representing the same without the consent of the Noteholders.

**(o) *No duty to Monitor***

Neither the Trustee nor the Agents shall be under any duty or obligation to monitor whether any event or circumstance has happened or exists which requires or may require an adjustment to be made to the Conversion Price and none of them will be responsible or liable to the Noteholders or any other person for any loss arising from any failure by it to do so.

Neither the Trustee nor the Agents shall be under any duty or obligation to determine, make, provide, calculate or verify the Conversion Price and/or any adjustments to it and/or any determinations, advice or opinions made or given in connection with the Conversion Price and/or any adjustments to it, and none of them will be responsible or liable to the Noteholders or any other person for any loss arising from any failure by it to do so.

Neither the Trustee nor the Agents shall be under any duty or obligation to determine, calculate or verify:

- (i) any Cash Settlement Amount or Additional Cash Settlement Amount upon exercise of any Conversion Right; or
- (ii) any entitlement of Noteholders to Ordinary Shares in the event that the Issuer makes a Physical Settlement Election or, as the case may be, a Final Conversion Period Determination in respect of any exercise of Conversion Rights and delivers a Final Conversion Period Determination Notice stating that Conversion Rights exercised during the Final Conversion Period will be satisfied and settled by the delivery of Ordinary Shares equal to the relevant Reference Shares,

and none of them will be responsible or liable to the Noteholders or any other person for any loss arising from any failure by it to do so.

## 7 REDEMPTION AND PURCHASE

### (a) *Final Redemption*

Unless previously purchased and cancelled, redeemed or converted as herein provided, the Notes will be redeemed at their principal amount plus any interest accrued but unpaid to (but excluding) the Final Maturity Date on the Final Maturity Date. The Notes may only be redeemed at the option of the Issuer prior to the Final Maturity Date in accordance with Conditions 7(b) or 7(c).

### (b) *Redemption at the Option of the Issuer*

On giving not less than 30 nor more than 60 days' notice (an "**Optional Redemption Notice**") to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), the Issuer may redeem all but not some only of the Notes on the date (an "**Optional Redemption Date**") specified in the Optional Redemption Notice at their principal amount, together with accrued but unpaid interest to but excluding such Optional Redemption Date if, at any time prior to the date the relevant Optional Redemption Notice is given:

- (i) at any time on or after 12 June 2029, the Closing Price of the Ordinary Shares (as published by or derived from the Relevant Stock Exchange) (translated into U.S. dollars at the Prevailing Rate) for each of any 20 Dealing Days within a period of 30 consecutive Dealing Days, the last of which shall not fall earlier than five calendar days prior to the date upon which notice of such redemption is published, was at least 130 per cent. of the applicable Conversion Price; or
- (ii) Conversion Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions effected in respect of 85 per cent. or more in principal amount of the Notes originally issued (which shall for this purpose include any further Notes issued pursuant to Condition 18 and consolidated and forming a single series with the Notes).

### (c) *Redemption for Taxation Reasons*

At any time the Issuer may, having given not less than 30 nor more than 60 days' notice (a "**Tax Redemption Notice**") to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing (which notice shall be irrevocable), redeem (subject to the last paragraph of this Condition 7(c)) all but not some only of the Notes on the date (the "**Tax Redemption Date**") specified in the Tax Redemption Notice at their principal amount, together with accrued but unpaid interest to but excluding such Tax Redemption Date, if the Issuer and/or the Guarantor satisfies the Trustee immediately prior to the giving of such notice that:

- (i) the Issuer (or if the Guarantee were called, the Guarantor) has or will become obliged to pay additional amounts in respect of payments on the Notes (or under the Guarantee, as the case may be) as a result of any change in, or amendment to, the laws or regulations of New Zealand or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after 4 June 2024; and
- (ii) such obligation cannot be avoided by the Issuer (or the Guarantor, as the case may be) after taking reasonable measures available to it,

provided that no such Tax Redemption Notice shall be given earlier than 90 days prior to the earliest date on which the Issuer (or the Guarantor, as the case may be) would be obliged to pay such additional amounts were a payment in respect of the Notes then due.

Prior to the publication of any Tax Redemption Notice pursuant to this Condition 7(c), the Issuer (or the Guarantor, as the case may be) shall deliver to the Trustee:

- (A) a certificate signed by two Authorised Signatories of the Issuer (or by two Authorised Signatories of the Guarantor, as the case may be) stating that the obligation referred to in (i) above of this Condition 7(c) cannot be avoided by the Issuer (or the Guarantor, as the case may be) taking reasonable measures available to it; and
- (B) an opinion of independent legal or tax advisers of recognised international standing to the effect that such change or amendment has occurred and that the Issuer (or the Guarantor, as the case may be) has or will become obliged to pay such additional amounts as a result thereof (irrespective of whether such amendment or change is then effective),

and the Trustee shall be entitled to accept without any liability for so doing such certificate and opinion as sufficient evidence of the matters set out in (i) and (ii) above of this Condition 7(c), in which case the same shall be conclusive and binding on the Noteholders.

On the Tax Redemption Date, the Issuer shall (subject to the next following paragraph) of this Condition 7(c) redeem the Notes at their principal amount, together with accrued but unpaid interest to but excluding such Tax Redemption Date.

If the Issuer gives a Tax Redemption Notice, each Noteholder will have the right to elect that such Noteholder's Note(s) shall not be redeemed and that the provisions of Condition 9(a) shall not apply in respect of any payment of interest to be made on such Note(s) which falls due after the relevant Tax Redemption Date, whereupon no additional amounts shall be payable in respect thereof pursuant to Condition 9(a) and payment of all amounts of interest on the Notes shall be made subject to the deduction or withholding of the taxation required to be withheld or deducted by New Zealand or any political subdivision or any authority thereof or therein having power to tax. To exercise such right, the holder of the relevant Note must complete, sign and deposit at the specified office of the Principal Paying and Conversion Agent or any other Paying Agent a duly completed and signed notice of election, in the form for the time being current, obtainable from the specified office of the Principal Paying and Conversion Agent or any other Paying Agent together with the relevant Certificate representing such Notes on or before the day falling 10 days prior to the Tax Redemption Date.

**(d) *Optional Redemption Notices and Tax Redemption Notices***

The Issuer shall not give an Optional Redemption Notice or a Tax Redemption Notice at any time:

- (i) during a Change of Control Period; or
- (ii) which specifies a date for redemption falling in a Change of Control Period or the period of 21 days following the end of a Change of Control Period (whether or not the relevant notice was given prior to or during such Change of Control Period),

and any such Optional Redemption Notice or Tax Redemption Notice shall be invalid and of no effect (whether or not given prior to the relevant Change of Control Period) and the relevant redemption shall not be made.

Any Optional Redemption Notice or Tax Redemption Notice shall be irrevocable. Any such notice shall specify:

- (A) the Optional Redemption Date or, as the case may be, the Tax Redemption Date which shall be a Sydney business day,

- (B) the Conversion Price, the aggregate principal amount of the Notes outstanding and the Closing Price of the Ordinary Shares, in each case as at the latest practicable date prior to the publication of the Optional Redemption Notice or, as the case may be, the Tax Redemption Notice; and
- (C) the last day on which Conversion Rights may be exercised by Noteholders.

(e) ***Redemption for a Relevant Event***

Following the occurrence of a Relevant Event, the holder of each Note will have the right at such holder's option, to require the Issuer to redeem all or some only of that holder's Notes on the Relevant Event Redemption Date (as defined below) at their principal amount, together with accrued but unpaid interest to but excluding the Relevant Event Redemption Date. To exercise such right, the holder of the relevant Note must complete, sign and deposit at the specified office of any Paying Agent a duly completed and signed notice of redemption, in the form for the time being current, obtainable from the specified office of any Paying Agent (the "**Relevant Event Redemption Notice**") together with the Certificate representing the Notes to be redeemed by not later than 60 days following a Relevant Event, or, if later, 60 days following the date upon which notice thereof is given to Noteholders by the Issuer in accordance with Condition 17. The "**Relevant Event Redemption Date**" shall be the 14<sup>th</sup> day after the expiry of such period of 60 days as referred to above in this Condition 7(e).

A Relevant Event Redemption Notice, once delivered, shall be irrevocable and the Issuer shall redeem the Notes the subject of Relevant Event Redemption Notices delivered as aforesaid on the Relevant Event Redemption Date.

The Issuer and/or the Guarantor shall give notice to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing (in the case of a Delisting) by not later than two Sydney business days and (in the case of a Change of Control) by not later than five Sydney business days, in each case, following the first day on which the Issuer and/or the Guarantor becomes aware of the occurrence of such Relevant Event (the "**Relevant Event Notice**"), which notice shall specify the procedure for exercise by Noteholders of their rights to require redemption of the Notes pursuant to this Condition 7 and shall give brief details of the Relevant Event and, in the case of a Change of Control, provide the additional details set out in Condition 6(j).

Neither the Trustee nor any Agent shall be required to take any steps to ascertain whether a Relevant Event or any event which could lead to the occurrence of a Relevant Event has occurred or may occur and none of them shall be liable to Noteholders or any other person for any loss arising from any failure to do so.

(f) ***Redemption at the option of Noteholders on the Put Option Date***

The Issuer will, at the option of the holder of any Note, redeem all or some only of such holder's Notes on 12 June 2029 (the "**Put Option Date**") at their principal amount together with accrued but unpaid interest to but excluding the Put Option Date. To exercise such option, the holder must deposit at the specified office of any Paying Agent a duly completed and signed put notice in the form for the time being current, obtainable from the specified office of any Paying Agent (the "**Optional Put Exercise Notice**"), together with the Certificate representing the Notes to be redeemed not more than 60 calendar days and not less than 30 calendar days prior to the Put Option Date. An Optional Put Exercise Notice, once delivered, shall be irrevocable and may not be withdrawn without the Issuer's consent and the Issuer shall redeem the Notes the subject of an Optional Put Exercise Notice on the Put Option Date.

(g) **Purchase**

Subject to the requirements (if any) of any stock exchange on which the Notes may be admitted to listing and trading at the relevant time and subject to compliance with applicable laws and regulations, the Issuer, the Guarantor or any Subsidiary may at any time purchase some or all of the Notes in the open market, by private contract or otherwise at any price. The Notes so purchased, while held by or on behalf of the Issuer, the Guarantor or any such Subsidiary, shall not entitle the holder to vote at any meetings of the Noteholders and shall not be deemed to be outstanding for certain purposes, including, without limitation, for the purpose of calculating quorums at meetings of the Noteholders or for the purposes of Condition 10, Condition 14(a) and Condition 15.

(h) **Cancellation**

All Notes which are redeemed or in respect of which Conversion Rights are exercised will be cancelled and may not be reissued or resold. Notes purchased by the Issuer, the Guarantor or any Subsidiary shall be surrendered to the Registrar for cancellation and may not be reissued or re-sold.

(i) **Multiple Notices**

If more than one notice of redemption is given pursuant to this Condition 7, the first of such notices to be given shall prevail.

## 8 PAYMENTS

(a) **Principal**

Payment of principal in respect of the Notes and accrued interest payable on a redemption of the Notes other than on an Interest Payment Date will be made to the persons shown in the Register at the close of business on the Record Date.

(b) **Interest and other Amounts**

- (i) Payments of interest due on an Interest Payment Date, which shall be for value on such Interest Payment Date (or, if such Interest Payment Date is not a business day (as defined in Condition 8(g)), for value on the first following day which is a business day) will be made to the persons shown in the Register at the close of business on the Record Date.
- (ii) Payments of all amounts other than as provided in Conditions 8(a) and 8(b)(i) will be made as provided in these Conditions.

(c) **Record Date**

“**Record Date**” means the 7<sup>th</sup> business day, in the place of the specified office of the Registrar, before the due date for the relevant payment.

(d) **Payments**

Each payment in respect of the Notes pursuant to Conditions 8(a) and 8(b) will be made by transfer to the registered account of the Noteholder. For the purposes of this Condition 8, a Noteholder’s “**registered account**” means the U.S. dollar account maintained by or on behalf of it with a bank that processes payments in U.S. dollars, details of which appear on the Register at the close of business on the relevant Record Date.

The Issuer will not be required to make any such payment in respect of the Notes until six business days after the Noteholder has provided the necessary account details for payment in accordance with this Condition 8(d).

(e) ***Payments subject to fiscal laws***

All payments in respect of the Notes are subject in all cases to any applicable fiscal or other laws and regulations and completion of all regulatory and other procedures but without prejudice to Condition 9. No commissions or expenses shall be charged to the Noteholders in respect of such payments.

(f) ***Default Interest and Delay in Payment***

If the Issuer (or the Guarantor, as the case may be) fails to pay any sum in respect of the Notes when the same becomes due and payable under these Conditions (including as provided in Condition 5), interest shall accrue on the overdue sum at the rate of 3.625 per cent. per annum from the due date until whichever is the earlier of:

- (i) the day on which all sums due in respect of the Notes up to that day are received by or on behalf of the relevant holders; and
- (ii) the day falling seven days after the Trustee or the Principal Paying and Conversion Agent has notified the Noteholders of receipt of all sums due in respect of all the Notes up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

Such default interest shall accrue on the basis of the actual number of days elapsed and a 360-day year.

Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due (i) as a result of the due date not being a business day, (ii) if the Noteholder is late in surrendering the relevant Certificate representing the Note or (iii) if the Noteholder does not provide the necessary account details for payment in accordance with these Conditions.

(g) ***Business Days***

In this Condition 8, “**business day**” means a day (other than a Saturday or Sunday) on which banks and foreign exchange markets are open for business, in New York City and (where such surrender is required by these Conditions) in the place of the specified office of the Registrar or relevant Paying Agent, as the case may be, to whom the relevant Certificate representing such Note is presented or surrendered.

(h) ***Paying Agents, Transfer Agents and Conversion Agents, etc.***

The initial Principal Paying and Conversion Agent, the initial Principal Transfer Agent and the initial Registrar and their initial specified offices are listed below. The Issuer and the Guarantor reserve the right under the Agency Agreement at any time, with the prior written approval of the Trustee, to vary or terminate the appointment of the Registrar or any other Agent and to appoint another Registrar or any additional or other Agents or another Registrar, provided that it will maintain:

- (i) a Principal Paying and Conversion Agent and a Principal Transfer Agent,
- (ii) so long as the Notes are listed on the Singapore Exchange Securities Trading Limited and the rules of that exchange so require, a Paying Agent having a specified office in Singapore (the “**Singapore Agent**”); and
- (iii) a Registrar with a specified office outside the United Kingdom.



Notice of any change in the Registrar or any other Agents or their specified offices will promptly be given by the Issuer to the Noteholders in accordance with Condition 17 and to the Trustee and the other Agents in writing.

*In addition, in the event that the Global Certificate is exchanged for definitive Certificates, announcement of such exchange shall be made by the Issuer through the Singapore Exchange Securities Trading Limited and such announcement will include all material information with respect to the delivery of the definitive Certificates, including details of the Singapore Agent.*

**(i) Fractions**

When making payments to Noteholders, if the relevant payment is not of an amount which is a whole multiple of the smallest unit of the relevant currency in which such payment is to be made, such payment will be rounded down to the nearest unit.

*So long as the Notes are represented by the Global Certificate and the Global Certificate is held on behalf of Euroclear Bank SA/NV or Clearstream Banking S.A. (each, the "relevant clearing system"), each payment in respect of the Global Certificate will be made to the person shown as the holder in the Register at the close of business (in the relevant clearing system) on the Clearing System Business Day before the due date for such payment, where "Clearing System Business Day" means a weekday (Monday to Friday, inclusive) except December 25 and January 1.*

## **9 TAXATION**

**(a) Gross up**

All payments made by or on behalf of the Issuer or the Guarantor in respect of the Notes or under the Guarantee (as the case may be) will be made free from any restriction or condition and be made without deduction or withholding for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of New Zealand or any political subdivision or any authority thereof or therein having power to tax, unless deduction or withholding of such taxes, duties, assessments or governmental charges is required to be made by law.

In the event that any such withholding or deduction is required to be made, the Issuer or, as the case may be, the Guarantor will pay such additional amounts as will result in the receipt by the Noteholders of the amounts which would otherwise have been receivable had no such withholding or deduction been required, except that no such additional amount shall be payable in respect of any Note:

- (i) by or on behalf of a holder which is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of any holder, or any beneficial owner of any interest in, or rights in respect of, such Note having some connection (whether present or past) with New Zealand (including by reason of being a beneficial owner of, or having an interest in, a Note jointly with another person who is resident in New Zealand for income tax purposes) other than (except as just provided) the mere holding of such Note; or
- (ii) where the holder thereof is able to avoid or reduce such withholding or deduction by making a declaration of non-residence or other similar claim for exemption or election to the relevant tax authority and/or the Issuer but the holder chooses not to avoid or reduce such withholding or deduction; or
- (iii) where such Note is presented for payment in New Zealand if such withholding or deduction would not have been required if the Note was presented for payment outside New Zealand; or

- (iv) where such withholding or deduction is for or on account of New Zealand resident withholding tax; or
- (v) where such Note is held by or on behalf of a holder which is associated with the Issuer or the Guarantor for the purposes of the Approved Issuer Levy or non-resident withholding tax rules in the Income Tax Act 2007 of New Zealand or which holds the Note or derives interest jointly with a New Zealand resident; or
- (vi) in respect of which the Certificate representing such Note is presented or surrendered more than 30 days after the relevant date except to the extent that the holder would have been entitled to such additional amount on presenting or surrendering the relevant Certificate for payment on the last day of such period of 30 days; or
- (vii) in New Zealand.

This Condition 9(a) shall not apply in respect of payments on any Notes which are the subject of an election by the relevant Noteholder pursuant to the last paragraph of Condition 7(c).

**(b) *New Zealand Withholding Tax***

The Issuer or the Guarantor, as the case may be, is required by law to deduct New Zealand resident withholding tax from a payment of interest to the holder of any Note if:

- (i) the Noteholder is a person to whom resident withholding tax (“**RWT**”) applies in relation to the holding of the Notes, in accordance with New Zealand tax legislation (or to whom resident withholding tax would apply if that person was not exempted from resident withholding tax on payments of interest) (a “**New Zealand Person**”); and
- (ii) at the time of such payment the New Zealand Person does not have RWT-exempt status or is not otherwise exempt from resident withholding tax (including under a relevant double tax agreement).

Prior to any Interest Payment Date or the Final Maturity Date, any Noteholder that is a New Zealand Person:

- (A) must notify the Issuer and/or the Guarantor or any Paying Agent:
  - (x) that the Noteholder is a New Zealand Person; and
  - (y) whether it derives interest under a Note jointly with any other person who is not a New Zealand Person; and
- (B) must notify the Issuer and/or the Guarantor or any Paying Agent of any circumstances (including whether it has RWT-exempt status), and provide the Issuer and/or the Guarantor or the relevant Paying Agent with any information (including its New Zealand tax file number), that may enable the Issuer or the Guarantor, as the case may be, to make the payment of interest to the Noteholder without deduction on account of New Zealand resident withholding tax.

A Noteholder that is a New Zealand Person must notify the Issuer and the Guarantor prior to any Interest Payment Date or the Final Maturity Date of any change in the Noteholder’s circumstances from those previously notified that could affect the Issuer’s or the Guarantor’s payment or withholding obligations in respect of the Notes held by that Noteholder. By accepting payment of the full face amount of a Note (including a Note held jointly with a person who is not a New Zealand Person (a “**New Zealand Non-Resident Person**”)) or any interest thereon on any Interest Payment Date or the Final Maturity Date, the New Zealand Holder will be deemed to have indemnified the Issuer and the Guarantor for all purposes

in respect of any liability which the Issuer or the Guarantor may incur for not deducting any amount from such payment on account of New Zealand resident withholding tax and (in the case of a Note held jointly with one or more New Zealand Non-Resident Person) New Zealand non-resident withholding tax applicable to such New Zealand Non-Resident Person.

Only a Noteholder that is a New Zealand Person will be obliged to make the notification referred to above and no other holder will be required to make any certification that it is not a New Zealand Person.

Prior to any Interest Payment Date or the Final Maturity Date, any Noteholder that is a New Zealand Non-Resident Person and that derives interest jointly with any New Zealand Person (whether or not that New Zealand Person is named as a Noteholder):

- (C) must notify the Issuer and/or the Guarantor or any Paying Agent that it derives interest under the Note jointly with a New Zealand Person; and
- (D) must notify the Issuer and/or the Guarantor or any Paying Agent of any circumstances (including the extent of the New Zealand Person's beneficial entitlement to the interest, and whether the New Zealand Person has RWT-exempt status), and provide the Issuer and/or the Guarantor or the relevant Paying Agent with any information (including the New Zealand tax file number of the New Zealand Person), that may enable the Issuer or the Guarantor, as the case may be, to make the payment of interest to the Noteholder for the benefit of the New Zealand Person without deduction on account of New Zealand resident withholding tax.

Where used in this Condition 9, "**interest**" means interest (as defined under New Zealand tax legislation) for withholding tax purposes, which under current legislation includes the excess of the redemption amount over the issue price of any Note as well as interest paid on such Note.

**(c) *Change in Taxing Jurisdiction***

If the Issuer and/or the Guarantor becomes subject to, or accepts deposits or makes payments in respect of the Notes at any time in, any taxing jurisdiction of a territory or a taxing authority of or in that territory with power to tax other than or in addition to New Zealand or any political subdivision or any authority thereof or therein having power to tax:

- (i) references in these Conditions and the Trust Deed to:
  - (A) New Zealand shall be construed as references to New Zealand and/or such other jurisdictions and the Notes and the Trust Deed will be read accordingly; and
  - (B) principal and interest shall be deemed also to refer to any additional amounts which may be payable under this Condition 9 or any undertaking or covenant given in addition thereto or in substitution therefor pursuant to the Trust Deed; and
- (ii) the Issuer and/or the Guarantor, as the case may be, will notify the Trustee in writing as soon as practicable after it becomes aware of such change and give the Trustee a representation and undertaking that:
  - (A) it shall comply with Condition 9(a) with the substitution for, or (as the case may require) the addition to, the references in that Condition 9(a) to New Zealand of references to that other or additional territory or authority to whose taxing jurisdiction the Issuer or the Guarantor has become so subject;
  - (B) the Notes will continue to be unconditionally and irrevocably guaranteed by the Guarantor; and

(C) the interests of the Noteholders will not be materially prejudiced by the change, and the Trustee shall be entitled to accept without any liability for so doing such notice and undertaking as sufficient evidence of the matters set out above of this Condition 9(c), in which case the same shall be conclusive and binding on the Noteholders and shall be notified by the Issuer promptly to the Noteholders in accordance with Condition 17.

## 10 EVENTS OF DEFAULT

The Trustee at its discretion may, and if so requested in writing by the holders of at least 25 per cent. in aggregate principal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the Noteholders shall (subject in each case to first being indemnified and/or pre-funded and/or secured to its satisfaction), give notice to the Issuer and the Guarantor that the Notes are, and they shall accordingly thereby immediately become, due and repayable at their principal amount together with accrued but unpaid interest if any of the following events (each, an “**Event of Default**”) shall have occurred:

- (a) default is made in:
  - (i) the payment on the due date of (A) any principal payable in respect of the Notes and such failure continues for a period of five Sydney business days; or (B) any interest payable in respect of the Notes and such failure continues for a period of 10 Sydney business days; or
  - (ii) the payment of any Cash Settlement Amount or Additional Cash Settlement Amount or the delivery of Ordinary Shares, as the case may be, to satisfy a Conversion Right pursuant to Condition 6 and such failure continues for a period of seven Sydney business days;
- (b) the Issuer or the Guarantor does not perform or comply with any one or more of its respective other obligations under the Notes or the Trust Deed and (unless the default is in the opinion of the Trustee incapable of remedy) is not remedied within 30 days after the Issuer or, as the case may be, the Guarantor shall have received from the Trustee written notice of such default requiring it to be remedied;
- (c)
  - (i) any other present or future indebtedness for borrowed money of the Issuer or the Guarantor or any Subsidiary becomes (or becomes capable of being declared) due and payable prior to its stated maturity by reason of an event of default (however described);
  - (ii) any such indebtedness is not paid when due or, as the case may be, within any applicable grace period;
  - (iii) the Issuer or the Guarantor or any Subsidiary fails to pay when due or, as the case may be, within any applicable grace period any amount payable by it under any present or future guarantee for, or indemnity in respect of, any indebtedness for borrowed money; or
  - (iv) any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Issuer or the Guarantor or any Subsidiary for any indebtedness for borrowed money (or any guarantee of, or indemnity in respect of, indebtedness for borrowed money) that has become payable becomes enforceable and steps are taken to enforce it (including the taking of possession or the appointment of a receiver, administrative receiver, administrator manager, judicial manager, controller or other similar person),

and the aggregate amount of the indebtedness, guarantees and indemnities in respect of which one or more of the events mentioned above in this Condition 10(c) have occurred equals or exceeds U.S.\$35,000,000 (or its equivalent in other currencies);

- (d) a distress, attachment, execution, seizure before judgment or other legal process is levied or enforced on or against all or any material part of the property, assets or revenues of the Issuer or the Guarantor or any Material Subsidiary having an aggregate value of at least U.S.\$35,000,000 which is not discharged, removed, stayed or paid within 30 days;
- (e) the Issuer or the Guarantor or any Material Subsidiary:
  - (i) is (or is deemed by law or a court to be) or states that it is insolvent or unable to pay its debts when they fall due;
  - (ii) stops, suspends or threatens to stop or suspend payment of its debts generally;
  - (iii) makes or enters into a general assignment or an arrangement or composition or compromise with or for the benefit of its creditors (other than in connection with a reconstruction, amalgamation, reorganisation, merger or consolidation permitted under Condition 10(f));
- (f) the Issuer or the Guarantor or any Material Subsidiary is declared at risk pursuant to the New Zealand Corporations (Investigation and Management) Act 1989, a statutory manager is appointed to the Issuer or the Guarantor or any Material Subsidiary, or any step is taken with a view to such an appointment in respect of the Issuer or the Guarantor or any Material Subsidiary under that Act;
- (g) an administrator (under Part 15A of the New Zealand Companies Act 1993) or liquidator or a like or similar officer is appointed in respect of the Issuer or the Guarantor or any Material Subsidiary or a court order is made or a resolution passed for the winding-up or dissolution of the Issuer or the Guarantor or any Material Subsidiary (which is not stayed, withdrawn or dismissed within 30 days), or the Issuer or the Guarantor or any Material Subsidiary ceases or threatens to cease to carry on business, except in any such case for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation:
  - (i) on terms approved by an Extraordinary Resolution of the Noteholders; or
  - (ii) in the case of a Material Subsidiary (excluding the Issuer), where such Material Subsidiary is solvent and its undertaking and assets are transferred to or otherwise vested in the Guarantor or another Subsidiary;
- (h) a final judgment or judgments of a court or courts of competent jurisdiction for the payment of money aggregating in excess of U.S.\$35,000,000 (or its equivalent in the relevant currency of payment) are rendered against the Issuer or the Guarantor or any Material Subsidiary and which judgments are not bonded, discharged, satisfied or stayed pending appeal within 30 days after the Latest Date, or are not discharged within 30 days after the later of the expiration of such stay and the Latest Date;
- (i) any action, condition or thing (including the obtaining or effecting of any necessary consent, approval, authorisation, exemption, filing, licence, order, recording or registration) at any time required to be taken, fulfilled or done in order:
  - (i) to enable the Issuer and the Guarantor lawfully to enter into, exercise its rights and perform and comply with its obligations under the Notes and the Trust Deed;
  - (ii) to ensure that those obligations are (subject to equitable principles and laws affecting creditors' rights generally) legally binding and enforceable; and
  - (iii) to make the Notes and the Trust Deed admissible in evidence in the courts of Australia, New Zealand or England is not taken, fulfilled or done and not remedied within 30 days after the date on which the action, condition or thing is required to be taken, fulfilled or done;

- (j) it is or will become unlawful for the Issuer or the Guarantor to perform or comply with any one or more of its respective obligations under any of the Notes or the Trust Deed; or
- (k) any event occurs which under the laws of any relevant jurisdiction has an analogous or substantially similar effect to any of the events referred to in Condition 10(d) to Condition 10(g) (both inclusive).

## 11 UNDERTAKINGS

Whilst any Conversion Right remains exercisable, the Guarantor will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in the opinion of the Trustee, it is not materially prejudicial to the interests of the Noteholders to give such approval:

- (a) other than in connection with a Newco Scheme, not issue or pay up any Securities, in either case by way of capitalisation of profits or reserves, other than:
  - (i) by the issue of fully paid Ordinary Shares or other securities to Shareholders and other holders of shares in the capital of the Guarantor which by their terms entitle the holders thereof to receive Ordinary Shares or other shares of Securities on a capitalisation of profits or reserves;
  - (ii) by the issue of Ordinary Shares paid up in full (in accordance with applicable law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a cash dividend;
  - (iii) by the issue of fully paid equity share capital (other than Ordinary Shares) to the holders of equity share capital of the same class and other holders of shares in the capital of the Guarantor which by their terms entitle the holders thereof to receive equity share capital (other than Ordinary Shares);
  - (iv) by the issue of Securities or any equity share capital pursuant to any Employee Share Scheme; or
  - (v) by the issue of fully paid Ordinary Shares in connection with and pursuant to the Relevant Transaction,

unless, in any such case, the same constitutes a Dividend or otherwise gives rise (or would, but for the provisions of any exclusion from Conditions 6(e)(i) to 6(e)(x) (both inclusive) or Condition 6(i) relating to the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;

- (b) not modify the rights attaching to the Ordinary Shares with respect to voting, dividends or liquidation nor issue any other class of equity share capital carrying any rights which are more favourable than the rights attaching to the Ordinary Shares but so that nothing in this Condition 11(b) shall prevent:
  - (i) any consolidation, reclassification or subdivision of the Ordinary Shares;
  - (ii) any modification of such rights which is not, in the opinion of an Independent Adviser, materially prejudicial to the interests of the holders of the Notes;
  - (iii) any issue of equity share capital where the issue of such equity share capital results, or would, but for the provisions of Condition 6(i) relating to roundings or the carry forward of adjustments or, where comprising Ordinary Shares (or equity share capital which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, or the right to otherwise acquire any Ordinary Shares), the fact that the consideration per Ordinary Share receivable therefor is at least 95 per cent. of the Current Market Price per Ordinary Share at the relevant time for determination thereof pursuant to the relevant provisions of Condition 6(e), otherwise result, in an adjustment to the Conversion Price; or

- (iv) any issue of equity share capital or modification of rights attaching to the Ordinary Shares, where prior thereto the Guarantor shall have instructed an Independent Adviser to determine what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Adviser shall have determined either that no adjustment is required or that an adjustment resulting in a decrease in the Conversion Price is required and, if so, the new Conversion Price as a result thereof and the basis upon which such adjustment is to be made and, in any such case, the date on which the adjustment shall take effect (and so that the adjustment shall be made and shall take effect accordingly);
- (c) procure that no Securities (whether issued by the Guarantor or any Subsidiary or procured by the Guarantor or any Subsidiary to be issued or issued by any other person pursuant to any arrangement with the Guarantor or any Subsidiary) issued without rights to convert into, or exchange or subscribe for, Ordinary Shares shall subsequently be granted such rights exercisable at a consideration per Ordinary Share which is less than 95 per cent. of the Current Market Price per Ordinary Share at the close of business on the last Dealing Day preceding the date of the first public announcement of the proposed inclusion of such rights unless the same gives rise (or would, but for the provisions of Condition 6(i) relating to roundings and minimum adjustments or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price and that at no time shall there be in issue Ordinary Shares of differing nominal values, save where such Ordinary Shares have the same economic rights;
- (d) not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on the exercise of Conversion Rights, Ordinary Shares could not, under any applicable law then in effect, be legally issued as fully paid;
- (e) not reduce its issued share capital or any uncalled liability in respect thereof, or any non-distributable reserves, except:
  - (i) pursuant to the terms of issue of the relevant share capital;
  - (ii) by means of a purchase, redemption or buyback of share capital of the Guarantor to the extent permitted by applicable law;
  - (iii) pursuant to a Newco Scheme;
  - (iv) by way of transfer to reserves as permitted under applicable law;
  - (v) where the reduction is permitted by applicable law and the Trustee is advised by an Independent Adviser, acting as an expert, that the interests of the Noteholders will not be materially prejudiced by such reduction; or
  - (vi) where the reduction is permitted by applicable law and results in (or would, but for the provisions of Condition 6(i) relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is otherwise taken into account for the purposes of determining whether such an adjustment should be made,provided that, without prejudice to the other provisions of these Conditions, the Guarantor may exercise such rights as it may from time to time be entitled pursuant to applicable law to purchase its Ordinary Shares and any depositary or other receipts or certificates representing Ordinary Shares without the consent of Noteholders;
- (f) if any offer is made to all (or as nearly as may be practicable all) Shareholders or all (or as nearly as may be practicable all) Shareholders other than the offeror and/or any associate (as defined in rule 4 of the New Zealand Takeovers Code recorded in the Takeovers Code Approval Order 2000 (SR2000/210)) to acquire the whole or any part of the issued Ordinary Shares, or if any person proposes a scheme with

regard to such acquisition (other than a Newco Scheme), give notice of such offer or scheme to the Noteholders, the Trustee and the Principal Paying and Conversion Agent at the same time as any notice thereof is sent to the Shareholders (or as soon as practicable thereafter) that details concerning such offer or scheme may be obtained from the specified offices of the Principal Paying and Conversion Agent and, where such an offer or scheme has been recommended by the board of Directors of the Guarantor, use all reasonable endeavours to procure that the offer or scheme is extended to the holders of any Ordinary Shares issued prior to the close of the offer or the record date of the scheme as a result of the exercise of the Conversion Rights by the Noteholders;

- (g) in the event of a Newco Scheme, take (or shall procure that there is taken) all necessary action to ensure that immediately after completion of the Scheme of Arrangement:
  - (i) Newco is substituted under the Notes and the Trust Deed as principal obligor in place of the Guarantor (with the Guarantor providing a guarantee) subject to and as provided in the Trust Deed;
  - (ii) such amendments are made to these Conditions and the Trust Deed as are necessary to ensure that the Notes may be converted into or exchanged for ordinary shares or units or the equivalent in Newco *mutatis mutandis* in accordance with and subject to these Conditions and the Trust Deed and the Trust Deed and the Conditions provide at least the same powers, protections, rights and benefits to the Trustee and the Noteholders following the implementation of such Newco Scheme as they provided to the Trustee and the Noteholders prior to the implementation of the Newco Scheme, *mutatis mutandis*; and
  - (iii) the ordinary shares or units or the equivalent of Newco are:
    - (A) admitted to listing on the Relevant Stock Exchange; or
    - (B) admitted to listing on another regulated, regularly operating, recognised stock exchange or securities market;
- (h) use its best endeavours to ensure that the Ordinary Shares issued upon exercise of Conversion Rights (if any) will, as soon as is practicable, be admitted to listing and to trading on the ASX or the Alternative Stock Exchange, as the case may be, and will be listed, quoted or dealt in, as soon as is practicable, on any other stock exchange or securities market on which the Ordinary Shares may then be listed or quoted or dealt in;
- (i) subject to Condition 9(c), not change the jurisdiction in which it is domiciled or resident or to whose taxing authority it is subject generally unless it would not thereafter be required pursuant to then current laws and regulations to withhold or deduct for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of such jurisdiction or any political subdivision thereof or therein having power to tax in respect of any payment on or in respect of the Notes;
- (j) for so long as any Note remains outstanding and subject to the occurrence of a Change of Control, use its reasonable endeavours to ensure that its issued and outstanding Ordinary Shares shall be admitted to listing and to trading on the ASX or the Alternative Stock Exchange, as the case may be;
- (k) in the event the Ordinary Shares are listed on an Alternative Stock Exchange:
  - (i) confirm and agree that from the completion of the Alternative Stock Exchange listing these Conditions will be deemed to apply *mutatis mutandis* as if the Conversion Right in relation to the Notes applied to the newly listed Ordinary Shares.



- (ii) take (or shall procure that there is taken) all necessary action to ensure that promptly after completion of the Alternative Stock Exchange listing, such amendments are made to these Conditions and the Trust Deed as are necessary to ensure that these Conditions and the Trust Deed provide at least the same powers, protections, rights and benefits to the Trustee and the Noteholders following the implementation of such Alternative Stock Exchange listing as they provided to the Trustee and the Noteholders prior to the implementation of the Alternative Stock Exchange listing;
- (iii) notify the Trustee in writing as soon as practicable after completion of the Alternative Stock Exchange listing and give the Trustee a representation and undertaking that:
  - (A) the Notes will continue to be unconditionally and irrevocably guaranteed by the Guarantor;
- (l) the interests of the Noteholders will not be materially prejudiced by the Alternative Stock Exchange listing, and the Trustee shall be entitled to accept without any liability for so doing such notice and undertaking as sufficient evidence of the matters set out above of this Condition 11(k), in which case the same shall be conclusive and binding on the Noteholders and shall be notified by the Issuer promptly to the Noteholders in accordance with Condition 17;
- (m) Each of the Issuer and the Guarantor has undertaken in the Trust Deed to deliver to the Trustee annually (at the same time that the annual audited consolidated financial statements of the Guarantor are delivered to the Trustee), and also within 14 days of any request therefor from the Trustee, a certificate of the Issuer or, as the case may be, the Guarantor (substantially in the form scheduled to the Trust Deed and signed by any two Directors of the Issuer who are also Authorised Signatories of the Issuer or, as the case may be, by any two Directors of the Guarantor who are also Authorised Signatories of the Guarantor), as to:
  - (i) there not having occurred an Event of Default or Potential Event of Default since the date of the last such certificate or if such event has occurred as to the details of such event;
  - (ii) each of the Issuer and the Guarantor having complied with all its obligations under the Trust Deed; and
  - (iii) there not having been any change in the laws or regulations of Australia that prohibits the conversion of the Notes (or the Conversion Rights being exercisable) in accordance with the terms of the Trust Deed and these Conditions or if there has been a change in law or regulation, giving the details thereof. The Trustee will be entitled to rely conclusively on each such certificate and shall not be obliged to independently monitor compliance by the Issuer or the Guarantor with the undertakings set forth in (as applicable) this Condition 11, the other Conditions and/or the Trust Deed, and shall not be liable to Noteholders or any other person for not so doing.

## 12 PRESCRIPTION

Claims against the Issuer (or the Guarantor, as the case may be) for payment in respect of the Notes shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect of such payment.

Claims in respect of any other amounts payable in respect of the Notes shall be prescribed and become void unless made within 10 years following the due date for payment thereof.

### 13 REPLACEMENT OF NOTES

If any Certificate representing a Note is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Registrar or any Transfer Agent subject to all applicable laws and stock exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence and indemnity and/or security as the Issuer and/or such Agent may require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

### 14 MEETINGS OF NOTEHOLDERS, MODIFICATION AND WAIVER, SUBSTITUTION

#### (a) *Meetings of Noteholders*

The Trust Deed contains provisions for convening meetings of Noteholders to consider matters affecting their interests, including, without limitation, the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Trust Deed. Such a meeting may be convened by the Issuer and/or the Guarantor or the Trustee and shall be convened by the Trustee if requested in writing by Noteholders holding not less than 10 per cent. in aggregate principal amount of the Notes for the time being outstanding and subject to the Trustee being indemnified and/or pre-funded and/or secured to its satisfaction against all costs and expenses. The quorum for any meeting convened to consider an Extraordinary Resolution will be two or more persons holding or representing more than 50 per cent. in aggregate principal amount of the Notes for the time being outstanding, or at any adjourned meeting two or more persons being or representing Noteholders whatever the principal amount of the Notes so held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*;

- (i) to modify the maturity of the Notes or the dates on which interest is payable in respect of the Notes;
- (ii) to reduce or cancel the principal amount of, or interest on, the Notes or to reduce the amount payable on redemption of the Notes or modify or cancel the Conversion Rights;
- (iii) to increase the Conversion Price other than in accordance with these Conditions;
- (iv) to change the currency of any payment in respect of the Notes;
- (v) to change the governing law of the Notes, the Trust Deed or the Agency Agreement (other than in the case of a substitution of the Issuer (or any previous substitute or substitutes) under Condition 14(c));
- (vi) to modify or cancel the Guarantee; or
- (vii) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass an Extraordinary Resolution,

in which case the necessary quorum will be one or more persons holding or representing not less than 75 per cent., or at any adjourned meeting not less than 50 per cent., in aggregate principal amount of the Notes for the time being outstanding.

Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed). An Extraordinary Resolution is a resolution in respect of which not less than 75 per cent. of the votes cast shall have been in favour at a meeting of Noteholders duly convened and held in accordance with the Trust Deed.

The Trust Deed provides that:

- (i) a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. of the aggregate principal amount of the Notes outstanding (a “**Written Resolution**”); or
- (ii) where the Certificates are held by or on behalf of a clearing system or clearing systems, approval of a resolution proposed by the Issuer, the Guarantor or the Trustee (as the case may be) given by way of electronic consents communicated through the electronic communications systems of the relevant clearing system(s) in accordance with their operating rules and procedures by or on behalf of the holders of not less than 75 per cent. of the aggregate principal amount of the Notes outstanding (an “**Electronic Consent**”), shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Noteholders duly convened and held.

Such a Written Resolution may be contained in one document or several documents in like form, each signed by or on behalf of one or more Noteholders. Such a Written Resolution and/or Electronic Consent will be binding on all Noteholders whether or not they participated in such Written Resolution or Electronic Consent and whether or not they voted in favour of the relevant resolution.

No consent or approval of Noteholders shall be required in connection with any Newco Scheme modification.

**(b) *Modification and Waiver***

The Trustee may (but shall not be obliged to) agree, without the consent of the Noteholders, to:

- (i) any modification of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Notes or these Conditions which in the Trustee’s opinion is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law; and
- (ii) any other modification to the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Notes or these Conditions (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Notes or these Conditions which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Noteholders.

The Trustee may (but shall not be obliged to), without the consent of the Noteholders, determine any Event of Default or Potential Event of Default should not be treated as such, provided that in the opinion of the Trustee, the interests of Noteholders will not be materially prejudiced thereby.

Any such modification, authorisation, waiver or determination shall be binding on the Noteholders and, unless the Trustee otherwise agrees, shall be notified by the Issuer to the Noteholders promptly in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing.

The Trustee’s agreement may be subject to any condition that the Trustee requires, including, but not limited to, obtaining, at the expense of the Issuer, failing whom the Guarantor, an opinion of any investment bank or legal or other expert and being indemnified and/or secured and/or pre-funded to its satisfaction.

(c) ***Substitution***

The Trustee may (but shall not be obliged to), without the consent of the Noteholders, agree with the Issuer to the substitution in place of the Issuer (or any previous substitute or substitutes under this Condition 14(c)) as the principal debtor under the Notes and the Trust Deed of any Subsidiary of the Issuer subject to:

- (i) the Notes being unconditionally and irrevocably guaranteed by the Guarantor; and
- (ii) the Notes continuing to be convertible or exchangeable into Ordinary Shares as provided in these Conditions *mutatis mutandis* as provided in these Conditions, with such amendments as the Trustee shall consider appropriate, provided that in any such case:
  - (x) the Trustee is satisfied that the interests of the Noteholders will not be materially prejudiced by the substitution; and
  - (y) certain other conditions set out in the Trust Deed are complied with.

In the case of such a substitution, the Trustee may (but shall not be obliged to) agree, without the consent of the Noteholders, to a change of the law governing the Notes and/or the Trust Deed, provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders. Any such substitution shall be binding on the Noteholders and shall be notified by the Issuer promptly to the Noteholders in accordance with Condition 17 and to the Trustee and the Principal Paying and Conversion Agent in writing.

(d) ***Entitlement of the Trustee***

In connection with the exercise of its functions, rights, powers and discretions (including but not limited to those referred to in this Condition 14) the Trustee shall have regard to the interests of the Noteholders as a class and, in particular but without limitation, shall not have regard to the consequences of the exercise of its functions, rights, powers or discretions for individual Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory, and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer, the Guarantor, the Trustee or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

## **15 ENFORCEMENT**

The Trustee may at any time, at its discretion and without notice, take such steps and/or actions and/or institute such proceedings against the Issuer and/or the Guarantor as it may think fit to enforce the provisions of the Trust Deed and the Notes, but it shall not be bound to take any such steps, actions or proceedings or any other action in relation to the Trust Deed or the Notes unless (a) it shall have been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least 25 per cent. in aggregate principal amount of the Notes then outstanding, and (b) it shall have been indemnified and/or pre-funded and/or secured to its satisfaction. No Noteholder shall be entitled to proceed directly against the Issuer and/or the Guarantor unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

## **16 INDEMNIFICATION**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including, without limitation, provisions relieving it from taking any steps, action or proceedings unless indemnified and/or pre-funded and/or secured to its satisfaction. The Trustee is entitled to enter into business

transactions with the Issuer and the Guarantor and any entity related directly or indirectly to the Issuer or the Guarantor without accounting for any profit and shall not in any way be liable to account to the Issuer, the Guarantor, the Noteholders or any other person for any profit made or share of brokerage or commission or remuneration or other amount or benefit received thereby or in connection therewith.

The Trustee may rely without liability to Noteholders, the Issuer, the Guarantor or any other person on any report, information, confirmation or certificate from or any opinion or any advice of any accountants (including the Auditors), lawyers, financial advisers, investment bank or other expert, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or any other person or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee may accept and shall be entitled to rely on any such report, information, confirmation, certificate, opinion or advice, in which case such report, information, confirmation, certificate, opinion or advice shall be binding on the Issuer, the Guarantor and the Noteholders in the absence of manifest error.

None of the Trustee or any of the Agents shall be responsible for the performance by the Issuer, the Guarantor and/or any other person appointed by the Issuer and/or the Guarantor in relation to the Notes of the duties and obligations on their part expressed in respect of the same and, unless it has express written notice from the Issuer and/or the Guarantor to the contrary, the Trustee and each Agent shall be entitled to assume that the same are being duly performed. Neither the Trustee nor any of the Agents shall be under any obligation to monitor compliance with the provisions of the Trust Deed, the Agency Agreement or these Conditions or to monitor or ascertain whether any Event of Default, Potential Event of Default or Relevant Event has occurred or may occur and none of them shall be liable to any Noteholder, the Issuer, the Guarantor or any other person for not doing so.

Each Noteholder shall be solely responsible for making and continuing to make its own independent appraisal and investigation into the financial condition, creditworthiness, condition, affairs, status and nature of the Issuer or the Guarantor, and the Trustee shall not at any time have any responsibility for the same and each Noteholder shall not rely on the Trustee in respect thereof.

Whenever the Trustee is required or entitled by the terms of the Trust Deed, the Agency Agreement or these Conditions to exercise any discretion or power, take any action, make any decision or give any direction, the Trustee is entitled, prior to exercising any such discretion or power, taking any such action, making any such decision or giving any such direction, to seek directions from the Noteholders by way of Extraordinary Resolution, and the Trustee shall not be responsible for any loss or liability incurred by the Issuer, the Guarantor, the Noteholders or any other person as a result of any delay in it exercising such discretion or power, taking such action, making such decision or giving such direction as a result of seeking such direction from the Noteholders or in the event that no direction is given to the Trustee by the Noteholders.

## **17 NOTICES**

All notices required to be given regarding the Notes pursuant to the Conditions will be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday, a Sunday or a public holiday) after the date of mailing. The Issuer shall also ensure that all such notices are duly published (if such publication is required) in a manner which complies with the rules and regulations of any stock exchange or other relevant authority on which the Notes are for the time being listed and/or admitted to trading.

*So long as the Notes are represented by the Global Certificate and the Global Certificate is held on behalf of Euroclear Bank SA./NV or Clearstream Banking S.A. or the Alternative Clearing System (as defined in the form of the Global Certificate), notices to the Noteholders shall be validly given by the delivery of the relevant notice*

*to Euroclear Bank SA/NV or Clearstream Banking S.A. or the Alternative Clearing System, for communication by it to entitled account holders in substitution for notification as required by the Conditions.*

## **18 FURTHER ISSUES**

The Issuer may from time to time without the consent of the Noteholders create and issue further notes, bonds or debentures either (i) having the same terms and conditions in all respects as the outstanding Notes or in all respects except for the issue date, the first payment of interest on them and the first date on which Conversion Rights may be exercised and so that such further issue shall be consolidated and form a single series with the outstanding Notes or (ii) upon such terms as to interest, conversion, premium, redemption and otherwise as the Issuer may determine at the time of their issue. Any further notes consolidated and forming a single series with the outstanding Notes constituted by the Trust Deed or any deed supplemental to it shall be constituted by a deed supplemental to the Trust Deed.

## **19 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999 (United Kingdom).

## **20 GOVERNING LAW AND JURISDICTION**

### **(a) *Governing Law***

The Trust Deed, the Agency Agreement and the Notes and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law.

### **(b) *Jurisdiction***

The courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed, the Agency Agreement or the Notes and accordingly any legal action or proceedings arising out of or in connection with the Trust Deed, the Agency Agreement or the Notes (“**Proceedings**”) may be brought in such courts. Each of the Issuer and the Guarantor has in the Trust Deed irrevocably submitted to the jurisdiction of such courts and has waived any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of the Trustee and each of the Noteholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

### **(c) *Agent for Service of Process***

Each of the Issuer and the Guarantor has irrevocably appointed Xero (UK) Limited at its registered office for the time being, currently at Bank House, 171 Midsummer Boulevard, Milton Keynes, MK9 1EB, United Kingdom as its agent in England to receive service of process in any Proceedings in England. Such service shall be deemed completed on delivery to such process agent (whether or not it is forwarded to and received by the Issuer or, as the case may be, the Guarantor). If for any reason such agent shall cease to be such agent for the service of process, each of the Issuer and the Guarantor shall forthwith appoint a new agent for service of process in England and deliver to the Trustee a copy of the new agent’s acceptance of that appointment within 30 days of such cessation. Nothing herein or in the Trust Deed shall affect the right to serve process in any other manner permitted by law.



## SUMMARY OF PROVISIONS RELATING TO THE NOTES IN GLOBAL FORM

The Global Certificate will contain provisions which apply to the Notes while they are in global form, some of which will modify the effect of the Terms and Conditions of the Notes set out in this Offering Circular. The following is a summary of certain of those provisions.

### **Relationship of account holders with Clearing Systems**

Each of the persons shown in the records of Euroclear and Clearstream or any other clearing system (an “**Alternative Clearing System**”) as the holder of a Note represented by the Global Certificate must look solely to Euroclear or Clearstream or such Alternative Clearing System (as the case may be) for such person’s share of each payment made by the Issuer or the Guarantor to the holder of the underlying Note and in relation to all other rights arising under the Global Certificate, subject to and in accordance with the respective rules and procedures of Euroclear and Clearstream or such other Alternative Clearing System. Such persons shall have no claim directly against the Issuer or the Guarantor in respect of payments due on the Notes for so long as the Notes are represented by the Global Certificate and such obligations of the Issuer and the Guarantor will be discharged by payment to the holder of the underlying Note, as the case may be, in respect of each amount so paid.

### **Exchange**

The Global Certificate will be exchangeable (free of charge to the holder of the Global Certificate and the Noteholders) for the definitive Notes described below if, but only if, the Global Certificate is held on behalf of Clearstream and/or Euroclear or such Alternative Clearing System and either such clearing system is closed for business for a continuous period of 14 days or more (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so. Thereupon the holder may give notice to the Registrar of its intention to exchange the Global Certificate for definitive certificates in respect of the Notes on or after the Exchange Date (as defined below) specified in the notice.

On or after the Exchange Date, the Issuer will deliver, or procure the delivery of, an equal aggregate principal amount of duly executed and authenticated definitive Notes in registered form, printed in accordance with any applicable legal and stock exchange requirements and in, or substantially in, the form set out in the Trust Deed. Such definitive Notes will be registered in the name of the account holders at Clearstream and Euroclear or such Alternative Clearing System which previously had Notes credited to the accounts.

“**Exchange Date**” means a day falling not less than 60 days after that on which the notice requiring exchange is given and on which the banks are open for business in the city in which the specified office of the Registrar is located.

### **Conversion**

Subject to the requirements of Euroclear and Clearstream or any Alternative Clearing System, the Conversion Right attaching to Notes represented by the Global Certificate may be exercised by the presentation of one or more Conversion Notices duly completed by or on behalf of a holder of a book-entry interest in such Note. Deposit of the Global Certificate with the Principal Paying and Conversion Agent together with the relevant Conversion Notice shall not be required. In such a case, the delivery of the Conversion Notice will constitute and be deemed to constitute confirmation by the beneficial owner of the Notes to be converted that the information and representations in the Conversion Notice are true and accurate on the date of delivery. The exercise of the Conversion Rights shall be notified by the Principal Paying and Conversion Agent to the Issuer.

### **Redemption at the option of the Issuer**

The option of the Issuer provided for in Condition 7(b) of the Terms and Conditions of the Notes shall be exercised by the Issuer giving notice to the Noteholders, the Trustee and the Principal Paying and Conversion



Agent within the time limits set out in, and containing the information required by Condition 7(b) of the Terms and Conditions of the Notes.

### **Redemption for taxation reasons**

The option of the Issuer provided for in Condition 7(c) of the Terms and Conditions of the Notes may be exercised by the Issuer by giving notice to the Noteholders, the Trustee and the Principal Paying and Conversion Agent within the time limits set out in Condition 7(c) of the Terms and Conditions of the Notes.

### **Tax election option of the Noteholders**

The option of the Noteholders provided for in Condition 7(c) of the Terms and Conditions of the Notes may be exercised by the holder of the Global Certificate by giving notice to the Principal Paying and Conversion Agent within the time limits relating to the redemption of Notes in Condition 7(c) of the Terms and Conditions of the Notes and substantially in the form of the Noteholders Tax Election Notice (as defined in the Agency Agreement) as set out in the Agency Agreement.

### **Redemption for a Relevant Event**

The Noteholders' put option following the occurrence of a Relevant Event provided for in Condition 7(e) of the Terms and Conditions of the Notes may be exercised by the holder of the Global Certificate giving notice to the Principal Paying and Conversion Agent or any other Paying Agent of the principal amount, together with accrued but unpaid interest to but excluding the Relevant Event Redemption Date, of Notes in respect of which the option is exercised within the time limits specified in the Conditions.

### **Early redemption at the option of the Noteholders**

The Noteholders' put option provided for in Condition 7(f) of the Terms and Conditions may be exercised by each Noteholder giving a written notice of exercise in relation to its Notes to any Paying Agent within the time limits set out in that Condition.

### **Trustee's powers**

In considering the interests of Noteholders, the Trustee may, to the extent it considers it appropriate to do so in the circumstances:

- have regard to such information as may have been made available to it by or on behalf of the relevant clearing system or its operator as to the identity of its account holders (either individually or by way of category) with entitlements in respect of Notes; and
- consider such interests on the basis that such account holders were the holders of the Notes represented by the Global Certificate.

### **Enforcement**

For the purposes of enforcement of the provisions of the Trust Deed against the Trustee, the persons named in a certificate of the holder of the Notes represented by the Global Certificate shall be recognised as the beneficiaries of the trusts set out in the Trust Deed to the extent of the principal amount of their interest in the Notes set out in the certificate of the holder as if they were themselves the holders of Notes in such principal amounts.

### **Payments**

For value received, the Issuer and the Guarantor (as defined below) will promise to pay the person who appears at the relevant time on the register of Noteholders as holder of the Notes in respect of which the Global Certificate is issued, such amount or amounts, including interest (if any), as shall become due and payable from time to time in respect of such Notes at the rates, on the dates for payment and in accordance with the method

of calculation provided for in the Terms and Conditions of the Notes, save that the calculation of interest (if any) is made in respect of the total aggregate amount of the Notes represented by the Global Certificate, together with such other sums and additional amounts (if any) as may be payable under the Terms and Conditions of the Notes, in accordance with the Terms and Conditions of the Notes and otherwise to comply with the Terms and Conditions of the Notes.

Payments of principal in respect of Notes represented by the Global Certificate will be made against presentation and, if no further payment falls to be made in respect of the Notes, surrender of the Global Certificate to or to the order of the Principal Paying and Conversion Agent or such other Paying Agent as shall have been notified to the holder of the Global Certificate for such purpose.

Each payment will be made to, or to the order of, the person whose name is entered in the Register at the close of business on the Clearing System Business Day immediately prior to the date for payment, where “**Clearing System Business Day**” means a weekday (Monday to Friday inclusive) except 25 December and 1 January.

### **Notices**

So long as Notes are represented by the Global Certificate and the Global Certificate is held on behalf of Euroclear or Clearstream or any Alternative Clearing System, notices to the holders of such Notes may be given by delivery of the relevant notice to the relevant clearing system for communication by it to entitled account holders in substitution for notification, as required by the of the Terms and Conditions of the Notes, except that the Issuer (failing whom the Company) shall also ensure that all notices are duly published in a manner which complies with the rules and regulations of any stock exchange or other relevant authority on which the Notes are for the time being listed and/or admitted to trading.

### **Prescription**

Claims against the Issuer or the Company (as the case may be) in respect of principal and interest on the Notes while the Notes are represented by the Global Certificate will become prescribed after a period of 10 years (in the case of principal) and five years (in the case of interest) from the appropriate Relevant Date (as defined in the Conditions).

Claims in respect of any other amounts payable in respect of the Notes shall be prescribed and become void unless made within 10 years following the due date for payment thereof.

### **Cancellation**

Cancellation of any Note to be cancelled following its redemption, conversion or purchase will be effected by endorsement by or on behalf of the Principal Paying and Conversion Agent of the reduction in the principal amount of the Global Certificate and by an appropriate entry made in the Register maintained in respect of the Notes.

### **Meetings**

The holder of the Global Certificate shall be treated as having one vote in respect of each U.S.\$1,000 principal amount of Notes represented by the Global Certificate. The Trustee may allow to attend and speak (but not to vote) at any meeting of Noteholders any account holder (or the representative of any such person) of a clearing system with an interest in the Notes represented by the Global Certificate on confirmation of entitlement and proof of such account holder’s identity.

## RIGHTS AND LIABILITIES OF ORDINARY SHARES

*The following is a summary (though not necessarily an exhaustive or definitive statement) of the rights attaching to fully paid Ordinary Shares as set out in the Company's constitution (the "Constitution"). The rights attaching to Ordinary Shares are in certain circumstances regulated by the Companies Act, the ASX Listing Rules, the ASX Settlement Operating Rules and general law.*

Full details of the rights attaching to the Ordinary Shares are set out in the Constitution, a copy of which can be inspected at the Company's registered office at 19-23 Taranaki Street, Te Aro, Wellington 6011 New Zealand during normal business hours.

### **Voting**

Subject to the Constitution and to any rights/restrictions attached to any shares, at meetings of the Company's shareholders, each shareholder is entitled to receive notice of, and, if they are entitled to vote at the meeting, attend and vote at, general meetings of the Company.

### **General meetings and notices**

Written notice of the time, date and place of a meeting of shareholders must be sent to every shareholder entitled to receive notice of the meeting and to every Director and the auditor of the Company not less than 10 working days before the meeting.

### **Dividends**

The Company's directors may pay interim and final dividends in accordance with the Companies Act and ASX Listing Rules.

The payment of a dividend does not require confirmation by a general meeting of the Company.

Subject to the rights of holders of any shares or other equity securities which confer special rights as to dividends, each ordinary share in the Company confers on the holder the right to an equal share in dividends authorised by the Board.

### **Issue of further shares**

Subject to the Constitution, the ASX Listing Rules and the Companies Act, the Company's directors have the right to issue shares (including preference shares) or to grant options to any person and in any number they think fit.

### **Transfer of the Company's Ordinary Shares**

Subject to the Constitution, the Companies Act, the ASX Listing Rules or the ASX Settlement Operating Rules, the Company's Ordinary Shares are freely transferable. Subject to the Constitution, the Companies Act, the ASX Listing Rules or the ASX Settlement Operating Rules, the Company's directors may decline to register a transfer of the Company's Ordinary Shares if:

- the Company has a lien on any of the shares;
- the transfer is not accompanied by the certificate (if any) for the shares to which it relates or other evidence as the Board or the Company's share

registrar may reasonably require to show the right of the transferor to make the transfer;

- the Company is served with a court order that restricts the holder's capacity to transfer the shares;
- registration of the transfer may break an Australian law;
- if the transfer is paper-based, a law relating to stamp duty prohibits the Company from registering it;
- the transfer does not comply with the terms of an employee equity incentive scheme or plan of the Company;
- the holder has agreed in writing to the application of a holding lock; or
- the transfer is in breach of the ASX Listing Rules.

### **Winding up**

Subject to the rights of holders of any shares or other equity securities which confer special rights as to surplus assets, each Ordinary Share in the Company confers on the holder the right to an equal share in the distribution of surplus assets of the Company.

Upon the liquidation of the Company the surplus assets of the Company (if any) must be distributed among the shareholders in proportion to their shareholding.

With the approval of the shareholders of the Company, the liquidator may divide among the Company's shareholders the whole or any part of the surplus assets of the Company and may attribute values to assets as the liquidator considers appropriate and determine how the division is to be carried out as between the shareholders or difference classes of shareholders.

### **Alteration of capital**

The Company may buy back its shares in any manner authorised or permitted by the Constitution, the Companies Act and the ASX Listing Rules.

## TAXATION

*The following summary of certain New Zealand tax consequences of the purchase, ownership and disposition of Notes and Ordinary Shares is based upon applicable laws, regulations, rulings and decisions in effect as at the date of this Offering Circular, all of which are subject to change (possibly with retroactive effect). This discussion does not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to purchase, own or dispose of the Notes or Ordinary Shares and does not purport to deal with consequences applicable to all categories of investors, some of which may be subject to special rules. Persons considering the purchase of Notes should consult their own tax advisers concerning the tax consequences of the purchase, ownership and disposition of Notes and Ordinary Shares. Prospective investors should consult their professional advisers on the possible tax consequences of buying, holding or selling any Notes under the laws of their country of citizenship, residence or domicile.*

### **New Zealand Taxation**

#### **Introduction**

##### ***Scope***

A general summary of the New Zealand income tax consequences arising in accordance with the New Zealand Income Tax Act 2007 (“**the Tax Act**”), and any relevant regulations, determinations, rulings, or judicial or administrative interpretations as at the date of this Offering Circular in relation to an investment in the Notes by a Noteholder is provided below. This summary also includes general commentary on the application of New Zealand Goods and Services Tax (“**GST**”) on the issue, redemption, transfer or conversion of the Notes.

The Company has not sought, and does not intend to seek, a ruling from the New Zealand Inland Revenue Department (“**Inland Revenue**”) or any other revenue authority in relation to this Offering Circular.

#### **New Zealand Resident Investors**

##### ***Scope***

The following paragraphs summarise the tax consequences for a Noteholder who is and remains a tax resident of New Zealand for income tax purposes and purchased the Notes in accordance with the offer detailed in this Offering Circular.

New Zealand resident Noteholders will be subject to tax under the financial arrangements regime.

Under the financial arrangements regime, the Notes are treated as having a debt and an equity component (the equity component being the option to receive repayment in the form of conversion into shares).

The debt component will be taxed under the financial arrangements rules.

##### ***Interest***

Payments of interest will be subject to resident withholding tax (“**RWT**”). The Issuer will deduct RWT from the interest payments at a rate, subject to the applicable rules, specified by the Noteholder or, where applicable, the Inland Revenue. The Issuer will not gross up the amount of the interest payment on account of RWT.

If the Noteholder has, and notifies the Issuer that the Noteholder that it has, RWT-exempt status (as defined for the purposes of the Tax Act), the Issuer will be relieved from the requirement to withhold RWT from the interest payments and no RWT will be deducted from payments of interest.

##### ***Financial arrangements rules***

The quantum and timing of any assessable income arising for a Noteholder (whether on exchange, repayment or sale) which is attributable to the debt component of a Note will be determined under the financial

arrangements rules, and may vary depending on the individual circumstances of the holder. In broad terms, the financial arrangements rules require income that is attributable to the debt component of the Note to be spread across the term of the Note, using a prescribed spreading method.

A base price adjustment (“**BPA**”) must be performed on the redemption or sale of the Notes. A BPA is a wash up calculation that brings to account, for tax purposes, all consideration paid or payable to the Noteholder in connection with the debt component of the Note that has not been taxed in prior income years. If the sale or redemption proceeds attributable to the debt component exceed the debt cost (measured in New Zealand Dollars) this will result in a positive BPA amount which will be taxable. A BPA if negative is deemed to be expenditure incurred and may be deductible to the Noteholder subject to meeting certain requirements.

### ***Conversion of Notes into Ordinary Shares***

A Noteholder will be entitled to exercise Conversion Rights and, at the election of the Issuer, receive Ordinary Shares of the Company upon surrendering the relevant Note to the Issuer.

If the Notes are converted to ordinary shares this will trigger a BPA as summarised above. Other than detailed as above, no New Zealand tax should be payable on the conversion of the Note into Ordinary Shares.

Any future disposal of the Ordinary Shares should not be taxable provided that the Ordinary Shares were not:

- acquired with the purpose of sale or disposal;
- acquired as part of a profit-making scheme or undertaking; or
- acquired as part of a business carried on by the Noteholder including a business of dealing in shares.

### ***Dividends paid on Ordinary Shares***

New Zealand tax law provides for an imputation system, whereby tax paid at the company level is able to be imputed to a company’s shareholders. Income tax that is paid by a company generates imputation credits, which can be attached to dividends paid by that company and set off against the income tax liability of the shareholder arising from the receipt of the dividend.

Dividends paid by the Company in respect of Ordinary Shares will be subject to RWT (unless the Noteholder has RWT-exempt status). The amount of RWT that is required to be withheld is reduced by the value of any imputation credits attached to the dividend. Where fully imputed dividends are paid to a Noteholder that is a New Zealand resident company, the Company may choose to exclude such dividends from the RWT rules altogether.

Dividends that are paid by the Company will be assessable income of the Noteholder for the income year in which the dividend is paid.

The Noteholder will generally receive a credit against their tax liability for the value of any imputation credits attached to the dividend and for any RWT deducted.

## **Non-Resident Investors**

### ***Scope***

The following paragraphs deal with the New Zealand tax consequences to a Noteholder who is not a resident of New Zealand for tax purposes and purchased the Notes in accordance with the offer detailed in this Offering Circular.

### ***Interest***

Payments of interest will be subject to RWT, if:

- the Noteholder purchases the Notes for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand; or
- the Noteholder is a registered bank engaged in business in New Zealand through a fixed establishment in New Zealand,

and will otherwise be subject to non-resident withholding tax (“NRWT”).

Our comments above in relation to RWT for New Zealand resident Noteholders apply equally in respect of non-resident Noteholders that are subject to RWT.

For non-resident Noteholders that are subject to NRWT, the Issuer is required to deduct NRWT from the interest payments. NRWT is payable at the rate of 15 per cent. of the gross interest payment, although this rate may be reduced if the Noteholder is tax resident in a country with which New Zealand has a double tax agreement.

Where interest is paid to Noteholders who are not “associated” with the Company for New Zealand tax purposes, the Company will elect to pay approved issuer levy (“AIL”) in lieu of NRWT, subject to meeting certain other requirements. AIL is payable by the Issuer at the rate of two per cent of the gross interest payment, and is not deducted from the interest payment.

Pursuant to Condition 9 of the Terms and Conditions of the Notes, the Issuer will gross-up any interest payment on the Notes on account of NRWT. The gross-up obligation is subject to exceptions, including where:

- the Noteholder is “associated” with the Issuer or the Guarantor for New Zealand tax purposes; and
- the Noteholder derives the interest jointly with a person that is tax resident in New Zealand (in which case the Issuer will be required to deduct NRWT at RWT rates).

#### ***Financial arrangements rules***

The financial arrangements rules generally do not apply to non-residents. The financial arrangements rules may apply to non-residents:

- to the extent the non-resident is a holder of the Notes for the purpose of a business that they carry on through a fixed establishment in New Zealand; or
- if the non-resident is a trustee for a settlor who is resident in New Zealand and the settlor is not a transitional resident and meets neither of the relevant exceptions to this rule.

Such persons are required to apply the financial arrangements rules in the same manner as New Zealand residents as detailed above.

#### ***Conversion of Notes into Ordinary Shares***

A non-resident Noteholder will be entitled to exercise Conversion Rights and, at the election of the Issuer, receive Ordinary Shares of the Company upon surrendering the relevant Note to the Issuer.

No New Zealand tax is payable on the conversion of the Notes into Ordinary Shares. Any future disposal of the shares should not be taxable in New Zealand provided that the shares were not:

- acquired with the purpose of sale or disposal;
- acquired as part of a profit-making scheme or undertaking; or
- acquired as part of a business carried on by the Noteholder including a business of dealing in shares.

### ***Dividends paid on Ordinary Shares***

Dividends paid by the Company in respect of Ordinary Shares will be subject to NRWT and the Company will deduct NRWT from the dividend payments at the rate applicable to the Noteholder (if and when the Noteholder has been delivered Ordinary Shares on conversion).

NRWT is payable at the rate of 30% of the gross dividend (or such lower rate as may apply under a relevant double tax agreement), subject to a number of exceptions. In particular, NRWT can be effectively eliminated where:

- a fully imputed dividend is paid to a non-resident Noteholder that holds voting interests of 10% or more in the Company;
- a fully imputed dividend is paid to a non-resident Noteholder that holds voting interests of less than 10%, but is eligible to benefit from a reduced rate of withholding (being less than 15%) under a relevant double tax agreement; or
- the Company pays a “supplementary dividend” to the non-resident Noteholder (in addition to a fully imputed main dividend).

AIL is not applicable to dividend payments.

### **Goods And Services Tax**

GST should not be payable by the Noteholders in respect of the issue or redemption of Notes by the Issuer, the transfer of the Notes or the conversion of Notes into Ordinary Shares. This will be the case irrespective of whether investors are resident or non-resident.

### **Stamp Duties**

New Zealand has no applicable stamp duty, transfer taxes or other similar taxes or duties (other than AIL) that may apply to the Notes or any Ordinary Shares received on surrendering a Note.



## SUBSCRIPTION AND SALE

### Subscription Agreement

The Joint Lead Managers have entered into a subscription agreement dated 5 June 2024 with the Issuer and the Company (the “**Subscription Agreement**”). Upon the terms and subject to the conditions contained therein, the Joint Lead Managers have agreed to subscribe or procure subscribers for the aggregate principal amount of the Notes at the Issue Price.

The Issuer has agreed to pay certain commissions to the Joint Lead Managers and to reimburse and indemnify the Joint Lead Managers for certain of their expenses incurred in connection with the management of the issue of the Notes. The Joint Lead Managers are entitled in certain circumstances to be released and discharged from their obligations under the Subscription Agreement prior to the closing of the issue of the Notes.

Pursuant to the Subscription Agreement, each of the Issuer and the Guarantor have undertaken that none of the Issuer, the Guarantor nor any person acting on their behalf will:

- issue, offer, sell, pledge, contract to sell or otherwise dispose of or grant options, issue warrants or offer rights entitling persons to subscribe or purchase any interest in any shares or securities of the same class as the Notes or the Ordinary Shares or any securities convertible into, exchangeable for or which carry rights to subscribe or purchase the Notes, the Ordinary Shares or securities of the same class as the Notes, the Ordinary Shares or other instruments representing interests in the Notes, the Ordinary Shares or other securities of the same class as them;
- enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of the ownership of the Ordinary Shares;
- enter into any transaction with the same economic effect as, or which is designed to, or which may reasonably be expected to result in, or agree to do, any of the foregoing, whether any such transaction of the kind described above is to be settled by delivery of Ordinary Shares or other securities, in cash or otherwise; or
- announce or otherwise make public an intention to do any of the foregoing,

in any such case without providing prior written consent of the Joint Lead Managers (not to be unreasonably withheld or delayed) between the date of the Subscription Agreement and the date which is 90 calendar days after the Closing Date except for:

- (i) the Notes and the Ordinary Shares issued on conversion of the Notes;
- (ii) the Ordinary Shares issued on exercise of the upper strike call option transaction(s) entered into by the Issuer and the Guarantor with each Joint Lead Manager (and certain other counterparties) in relation to the Notes;
- (iii) securities (or instruments convertible into securities) issued in respect of the acquisition of any business or company (whether occurring before or after the date of the Subscription Agreement); and
- (iv) any securities (or instruments convertible into securities) issued in connection with an Employee Share Scheme (as that term is defined in the Terms and Conditions of the Notes).

The Notes are a new issue of securities for which there is currently no market. The Joint Lead Managers have advised the Issuer that they intend to make a market in the Notes as permitted by applicable law. They are not obligated, however, to make a market in the Notes and any market-making may be discontinued at any time at

their sole discretion. Accordingly, no assurance can be given as to the development of liquidity of any market for the Notes.

The Joint Lead Managers or their respective affiliates (and certain other counterparties) have entered into the 2031 Call Spread Transactions. See the “*Description of the Call Spread Transactions*” section of this Offering Circular. The Joint Lead Managers or their respective affiliates have also assisted with the Delta Hedging in relation to the transactions and the Concurrent Repurchase of the 2025 Convertible Notes. The Joint Lead Managers will receive commissions or fees in relation to the 2031 Call Spread Transactions (if applicable) and the Concurrent Repurchase.

The transactions associated with the Delta Hedging and 2031 Call Spread Transactions may, together with any Notes and other shares in the Company acquired by a Joint Lead Manager or its respective affiliates in connection with its ordinary course sales and trading, principal investing and other activities, result in that Joint Lead Manager or its respective affiliates having a substantial exposure to the Company.

The Joint Lead Managers or their affiliates may purchase the Notes for its or their own account and enter into transactions, including:

- credit derivatives, such as asset swaps, repackaging and credit default swaps relating to the Notes, the 2025 Convertible Notes and/or other securities; or
- equity derivatives and stock loan transactions relating to the Ordinary Shares at the same time as the offer and sale of the Notes and/or the Concurrent Repurchase or in secondary market transactions.

Such transactions would be carried out as bilateral trades with selected counterparties and separately from any existing sale or resale of the Notes to which this Offering Circular relates (notwithstanding that such selected counterparties may also be purchasers of the Notes). A portion of the Notes may be allocated to the Joint Lead Managers or their respective affiliates for the purpose of facilitating market making activities.

In addition:

- in connection with the Concurrent Repurchase, the Joint Lead Managers and any of their respective subsidiaries and affiliates, acting as an investor for its own account or on behalf of other parties, may retain or sell the 2025 Convertible Notes or any other securities of the Issuer or the Company or related investments, and may offer or sell such securities or other investments otherwise than in connection with the Concurrent Repurchase; and
- in connection with the Offering, in addition to acquiring Notes under the Offering and/or Ordinary Shares under the Delta Hedging, the Joint Lead Managers and/or any of their respective affiliates may, for their own account, enter into convertible asset swaps, credit derivatives or other derivative transactions relating to the Notes and/or the underlying Ordinary Shares at the same time as the offer and sales of the Notes, Ordinary Shares and/or other secondary market transactions. As a result of such transactions, each Joint Lead Manager and/or its respective affiliates may hold long or short positions in such Notes and/or derivatives or physical holdings in the underlying Ordinary Shares. Disclosure may not be made of any such positions. The Joint Lead Managers and/or their respective affiliates may purchase Notes for principal investment purposes and not with a view to distribution. The amount of any such purchases will be determined at the time of pricing of the Notes and will be subject to total demand received and final allocations. Any of these transactions contemplated could impact the market price of the Notes or the Ordinary Shares.

Each Joint Lead Manager, together with its affiliates, is a full service securities firm and is engaged in various activities, including securities trading, research, investment management, principal investment, financing and brokerage activities and financial planning and benefits counselling for both companies and individuals. In the

ordinary course of these activities, each Joint Lead Manager and its affiliates may at any time for their own account and for the account of their customers make or hold long or short positions and investments as well as actively trade or otherwise effect transactions in debt, equity and other securities (or related derivative securities) and financial products (including bank loans, credit default swaps and other obligations) of the Issuer, the Company and their affiliates and stakeholders as well as of other entities and persons and their affiliates which may or may not be involved in or affected by the transactions arising from or relating to the Notes or otherwise have relationships with the Issuer, the Company and their respective affiliates and stakeholders and may owe duties to other persons which may conflict with the interests of the Issuer or the Company. Each Joint Lead Manager and its affiliates may receive and retain fees, profits and other financial benefits in connection with those activities. Each of the Issuer and the Company agrees that these entities may trade such securities and hold such positions and effect such transactions without regard to the Issuer's or the Company's interests.

The Joint Lead Managers do not intend to disclose the extent of any such investment or transactions otherwise than in accordance with any legal or regulatory obligation to do so.

Xero is a New Zealand incorporated and domiciled company listed on the ASX. From a regulatory perspective, this means that while the ASX Listing Rules apply to Xero, certain provisions of the Corporations Act do not. Xero is not subject to chapters 6, 6A, 6B and 6C of the Corporations Act dealing with the acquisition of its Ordinary Shares (including substantial holdings and takeovers). The Companies Act and certain provisions of the FMC Act applies to Xero (including in relation to financial reporting, but not including the provisions relating to substantial shareholdings). There is no requirement on Xero's substantial shareholders to provide substantial holding notices to Xero.

#### **Important Notice to CMIs (including private banks)**

This notice to CMIs (including private banks) is a summary of certain obligations the SFC Code imposes on CMIs, which require the attention and cooperation of other CMIs (including private banks). Certain CMIs may also be acting as OCs for this Offering and are subject to additional requirements under the SFC Code.

Prospective investors who are the directors, employees or major shareholders of the Issuer, the Guarantor, a CMI or its group companies would be considered under the SFC Code as having an Association with the Issuer, the Guarantor, the CMI or the relevant group company. CMIs should specifically disclose whether their investor clients have any Association when submitting orders for the relevant Notes. In addition, private banks should take all reasonable steps to identify whether their investor clients may have any Associations with the Issuer, the Guarantor or any CMI (including its group companies) and inform the relevant Joint Lead Manager accordingly.

CMIs are informed that, the marketing and investor targeting strategy for this Offering includes institutional investors, sovereign wealth funds, pension funds, hedge funds, family offices and high net worth individuals, in each case, subject to the selling restrictions and any MiFID II product governance language or any UK MiFIR product governance language set out elsewhere in this Offering Circular.

CMIs should ensure that orders placed are bona fide, are not inflated and do not constitute duplicated orders (i.e. two or more corresponding or identical orders placed via two or more CMIs). CMIs should enquire with their investor clients regarding any orders which appear unusual or irregular. CMIs should disclose the identities of all investors when submitting orders for the relevant Notes (except for omnibus orders where underlying investor information may need to be provided to any OCs when submitting orders). Failure to provide underlying investor information for omnibus orders, where required to do so, may result in that order being rejected. CMIs should not place "X-orders" into the order book.

CMIs should segregate and clearly identify their own proprietary orders (and those of their group companies, including private banks as the case may be) in the order book and book messages.

CMI (including private banks) should not offer any rebates to prospective investors or pass on any rebates provided by the Issuer or Guarantor. In addition, CMI (including private banks) should not enter into arrangements which may result in prospective investors paying different prices for the relevant Notes.

The SFC Code requires that a CMI disclose complete and accurate information in a timely manner on the status of the order book and other relevant information it receives to targeted investors for them to make an informed decision. In order to do this, those Joint Lead Managers in control of the order book should consider disclosing order book updates to all CMIs.

When placing an order for the relevant Notes, private banks should disclose, at the same time, if such order is placed other than on a “principal” basis (whereby it is deploying its own balance sheet for onward selling to investors). Private banks who do not provide such disclosure are hereby deemed to be placing their order on such a “principal” basis. Otherwise, such order may be considered to be an omnibus order pursuant to the SFC Code. Private banks should be aware that placing an order on a “principal” basis may require the relevant affiliated Joint Lead Manager(s) (if any) to categorise it as a proprietary order and apply the “proprietary orders” requirements of the SFC Code to such order.

In relation to omnibus orders, when submitting such orders, CMIs (including private banks) that are subject to the SFC Code should disclose underlying investor information in respect of each order constituting the relevant omnibus order (failure to provide such information may result in that order being rejected). Underlying investor information in relation to omnibus orders should consist of:

- the name of each underlying investor;
- a unique identification number for each investor;
- whether an underlying investor has any “Associations” (as used in the SFC Code);
- whether any underlying investor order is a “Proprietary Order” (as used in the SFC Code);
- whether any underlying investor order is a duplicate order.

Underlying investor information in relation to omnibus order should be sent to: [SyndicateExecutionHK@ny.email.gs.com](mailto:SyndicateExecutionHK@ny.email.gs.com) and [omnibus\\_equity@morganstanley.com](mailto:omnibus_equity@morganstanley.com).

To the extent information being disclosed by CMIs and investors is personal and/or confidential in nature, CMIs (including private banks) agree and warrant: (A) to take appropriate steps to safeguard the transmission of such information to any OCs; and (B) that they have obtained the necessary consents from the underlying investors to disclose such information to any OCs. By submitting an order and providing such information to any OCs, each CMI (including private banks) further warrants that they and the underlying investors have understood and consented to the collection, disclosure, use and transfer of such information by any OCs and/or any other third parties as may be required by the SFC Code, including to the Issuer, the Guarantor, relevant regulators and/or any other third parties as may be required by the SFC Code, for the purpose of complying with the SFC Code, during the bookbuilding process for this Offering. CMIs that receive such underlying investor information are reminded that such information should be used only for submitting orders in this Offering. The relevant Joint Lead Manager may be asked to demonstrate compliance with their obligations under the SFC Code, and may request other CMIs (including private banks) to provide evidence showing compliance with the obligations above (in particular, that the necessary consents have been obtained). In such event, other CMIs (including private banks) are required to provide the relevant Joint Lead Manager with such evidence within the timeline requested.

## **Selling Restrictions**

### **General**

Under the terms of the Subscription Agreement, none of the Issuer, the Company nor any Joint Lead Manager makes any representation that any action will be taken in any jurisdiction by any Joint Lead Manager, the Issuer or the Company that would permit a public offering of the Notes, or possession or distribution of this Offering Circular or any other offering or publicity material relating to the Notes (including roadshow materials and investor presentations), in any country or jurisdiction where action for that purpose is required. Each Joint Lead Manager has agreed in the Subscription Agreement that it will comply (to the best of its knowledge and belief) in all material respects with all applicable laws and regulations relating to the subscription, offer, sale and delivery of the Notes in each jurisdiction in which it acquires, offers, sells or delivers Notes or has in its possession or distributes this Offering Circular or any other such material, in all cases at its own expense.

### **United States**

The Notes, the Guarantee and the Ordinary Shares to be issued upon conversion of the Notes have not been, and will not be, registered under the Securities Act or the securities laws of any state of the United States and they may not be offered or sold within the United States. The Notes are being offered and sold solely outside the United States in “offshore transactions” as defined in, and in reliance on, to Regulation S under the Securities Act. Each Joint Lead Manager has represented and warranted that it has not offered or sold, and agrees that it will not offer or sell, any Notes constituting part of its allotment except in an offshore transaction in accordance with Rule 903 and Rule 904 of Regulation S. Accordingly, neither it, nor its affiliates nor any persons acting on its or their behalf have engaged, or will engage in, any “directed selling efforts” as defined in Rule 902(c) of the Securities Act with respect to the Notes or the Ordinary Shares to be issued upon conversion of the Notes.

Each Joint Lead Manager has further represented and warranted that it has not entered and agree that it will not enter into any contractual arrangement with any distributor (as that term is defined in Regulation S under the Securities Act) with respect to the distribution or delivery of the Notes, except with its affiliates or with the prior written consent of the Issuer and the Company.

### **Australia**

Each Joint Lead Manager has represented, warranted and agreed that it has not and will not offer or invite applications for the issue of any Notes or offer any Notes for issue or sale in Australia (including an offer or invitation which is received by that person in Australia) or distribute or publish and will not distribute or publish this Offering Circular or any other advertisement in relation to any Notes in Australia, unless:

- (a) the offer or invitation is made to sophisticated or professional investors as respectively defined within sections 708(8) or 708(11) of the Corporations Act;
- (b) the offer or invitation is not made to a person who is a “retail client” within the meaning of section 761G of the Corporations Act; and
- (c) such action complies with applicable laws and regulations in Australia.

### **New Zealand**

Each Joint Lead Manager acknowledges that this Offering Circular and the information contained in or accompanying this Offering Circular:

- (a) are not, and are under no circumstances to be construed as, an offer to any person who requires disclosure under Part 3 of the FMC Act; and
- (b) are not a product disclosure statement under the FMC Act and do not contain all the information that a product disclosure statement is required to contain under New Zealand law.

Each Joint Lead Manager acknowledges that this Offering Circular has not been registered, filed with or approved by any New Zealand regulatory authority under the FMC Act. Each Joint Lead Manager has represented, warranted and agreed that the Notes are not being offered or sold in New Zealand (or allotted with a view to being offered for sale in New Zealand) other than to a person who is a “wholesale investor” within the meaning of clause 3 of Schedule 1 of the FMC Act.

### **Hong Kong**

Each Joint Lead Manager has represented and agreed that:

- (a) it has not offered or sold and will not offer or sell in Hong Kong, by means of any document, any Notes other than
  - (i) to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong (the “SFO”) and any rules made under the SFO; or
  - (ii) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong (the “C(WUMPO)”) or which do not constitute an offer to the public within the meaning of the C(WUMPO); and
- (b) it has not issued or had in its possession for the purposes of issue, and will not issue or have in its possession for the purposes of issue, whether in Hong Kong or elsewhere, any advertisement, invitation or document relating to the Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to so do under the securities laws of Hong Kong) other than with respect to Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the SFO and any rules made under the SFO.

### **Singapore**

Each Joint Lead Manager has acknowledged that this Offering Circular has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each Joint Lead Manager has represented, warranted and agreed that it has not offered or sold any Notes or caused such Notes to be made the subject of an invitation for subscription or purchase and will not offer or sell such Notes or cause such Notes to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this Offering Circular or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of such Notes, whether directly or indirectly, to any person in Singapore other than:

- (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act 2001 of Singapore, as modified or amended from time to time (the “SFA”)) pursuant to Section 274 of the SFA; or
- (ii) to an accredited investor (as defined in Section 4A of the SFA) pursuant to and in accordance with the conditions specified in Section 275 of the SFA.

*Singapore SFA Product Classification: In connection with Section 309B of the SFA and the Securities and Futures (Capital Markets Products) Regulations 2018 of Singapore (the “CMP Regulations 2018”), the Issuer has determined, and hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA), that the Notes are ‘prescribed capital markets products’ (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).*

### **European Economic Area**

Each Joint Lead Manager has represented and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of this Offering contemplated by this Offering Circular in relation thereto to any retail investor in the European Economic Area. For the purposes of this provision, the expression “retail investor” means a person who is one (or more) of the following:

- (a) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, “**MiFID II**”); or
- (b) a customer within the meaning of Directive (EU) 2016/97 (as amended, the “**Insurance Distribution Directive**”), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II.

### **United Kingdom**

Each Joint Lead Manager has represented and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of this Offering contemplated by this Offering Circular in relation thereto to any retail investor in the United Kingdom. For the purposes of this provision, the expression “retail investor” means a person who is one (or more) of the following:

- (a) a retail client as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); or
- (b) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA.

### ***Selling restrictions addressing additional UK securities laws***

Each Joint Lead Manager has represented, warranted and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the “**FSMA**”) received by it in connection with the issue or sale of the Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer or the Company; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

### **Switzerland**

This Offering Circular does not and is not intended to constitute an offer to the public or a solicitation to purchase or invest in any Notes. The Notes may not be publicly offered, directly or indirectly, in Switzerland within the meaning of the Swiss Financial Services Act (“**FinSA**”). The Notes have not been and will not be listed or admitted to trading on a trading venue (exchange or multilateral trading facility) in Switzerland. Neither this Offering Circular nor any other offering or marketing material relating to the Notes constitutes a prospectus as such term is understood pursuant to the FinSA, and neither this Offering Circular nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

## **Japan**

The Notes have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended, the “**Financial Instruments and Exchange Act**”). Accordingly, each Joint Lead Manager has represented, warranted and agreed that it has not, directly or indirectly, offered or sold and will not, directly or indirectly, offer or sell any Notes in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organised under the laws of Japan) or to others for re-offering or re-sale, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and other relevant laws, regulations and ministerial guidelines of Japan.



## ADDITIONAL INFORMATION

### Ownership Restrictions

#### New Zealand Overseas Investment Act 2005

The New Zealand Overseas Investment Act 2005 (the “**OIA**”) requires that “overseas persons” obtain consent from the Overseas Investment Office (the “**OIO**”) before undertaking certain investments in New Zealand assets.

Any person who is, whether alone or with its associates, an “overseas person” for the purposes of the OIA and the Overseas Investment Regulations 2005 (the “**OI Regulations**”) and who intends to acquire or increase a 25 per cent. ownership or control interest in the Issuer or the Company, including by way of acquiring securities, where the value of the securities or consideration provided, or the value of the assets of the relevant company and its subsidiaries, exceeds NZ\$100 million will need to obtain OIO consent. Acquisition of an interest in securities can include an acquisition of convertible securities. OIO consent will also be required for investments into strategically important businesses (as that term is defined in the OIA) that would not otherwise require OIO consent as a result of the value of the securities or consideration provided, or the value of the assets of the relevant company and its subsidiaries, not exceeding NZ\$100 million.

In order to obtain consent, the overseas person will need to pass relevant tests including an investor test that considers character, business experience and acumen and level of financial commitment to the proposed investment. It is the responsibility of any overseas person who wishes to acquire any Notes or Ordinary Shares to satisfy themselves that they have complied with the OIA and OI Regulations. The failure by any overseas person to obtain OIO consent does not directly impact on the Group as the fines and penalties under the OIA and OI Regulations will be imposed on the overseas person. If an overseas person acquires Notes or Ordinary Shares in breach of the OIA and OI Regulations, the OIO also has broad powers to make orders, or to seek court orders, including requiring the overseas person to dispose of the property or seeking a court order to cancel the transaction.

#### Takeover restrictions

The acquisition of interests in the Company is regulated by the New Zealand Takeovers Code recorded in the Takeovers Code Approval Order 2000 (SR2000/210) (the “**NZ Takeovers Code**”).

The fundamental rule in the NZ Takeovers Code is that a party cannot obtain more than 20 per cent. of the voting rights in a code company, or increase an existing holding of 20 per cent. or more of the voting rights in a code company, other than in compliance with the NZ Takeovers Code. The percentage of voting rights held by the acquirer’s associates and persons acting in concert with the acquirer are included in calculating the 20 per cent. threshold. The NZ Takeovers Code creates a number of exceptions to the fundamental rule allowing voting securities in a code company to be acquired above the 20 per cent. threshold, including for acquisitions pursuant to an offer made in accordance with the NZ Takeovers Code.

Investors requiring further information relating to takeover restrictions should consult their professional advisers as these matters may be applicable to the conversion of the Notes.

### ASX

#### ASX Listing Rules

The ASX Listing Rules prohibit the issue of equity securities (including convertible securities) if the number of those securities, when aggregated with the number of any other equity securities issued during the previous 12 months, exceeds 15 per cent. of the number of equity securities on issue at the commencement of that period of 12 months, except with prior shareholder approval, or subject to certain exceptions, including exceptions for

offers to ordinary shareholders *pro rata*, or pursuant to a takeover or scheme of arrangement, or to finance a takeover or scheme of arrangement, or an exercise by the directors of a declared right to dispose of the shortfall remaining after a pro rata equity offering.

Investors requiring further information relating to restrictions under the ASX Listing Rules should consult their professional advisers as these matters may be applicable to the conversion of the Notes.

### **ASX confirmations**

The Company has received confirmations from the ASX of the following:

- the terms of the Notes are appropriate and equitable for the purposes of ASX Listing Rule 6.1;
- the conversion or redemption of the Notes in accordance with the proposed terms is appropriate and equitable for the purposes of ASX Listing Rule 6.12.3;
- the Notes will not be treated as options for the purposes of ASX Listing Rules 6.15 to 6.23A; and
- the manner in which ASX Listing Rule 7.1 applies to the issue of the Notes.

### **Interests of Directors**

Other than as set out below or elsewhere in this Offering Circular, no director has, or has had within the two years prior to the release of this Offering Circular, any interest in:

- the promotion or formation of the Issuer or the Company;
- property acquired or proposed to be acquired by the Issuer or the Company in connection with its formation or promotion of the offer under this Offering Circular; or
- the offer under this Offering Circular,

and no amounts have been paid or agreed to be paid and no benefits have been given or agreed to be given to any Director:

- to induce him or her to become, or to qualify him or her as, a director; or
- for services rendered by him or her in connection with the formation or promotion of the Issuer or the offer under this Offering Circular.

Details of the interests in the securities of the directors of the Company are disclosed in the Company's most recent annual report for the year ended 31 March 2024, as updated in the Company's Appendix 3Y and 3X (as applicable) filings lodged with the ASX since that date (as applicable).

Details of the remuneration of the directors of the Company are also contained in the most recently lodged annual report for the Company for the year ended 31 March 2024.

The information described above can be obtained from the Company, the Company's online public records at the New Zealand Companies Office or the ASX respectively, as set out in the "*Important Notice*".

No remuneration has been paid to the Directors of the Issuer in their capacity as Directors of that entity in addition to their remuneration as an executive of the Company.

## GENERAL INFORMATION

1. The Company's corporate head office and principal place of business is located at 19-23 Taranaki Street, Te Aro, Wellington 6011, New Zealand.
2. The Issuer's corporate head office and principal place of business is located at 19-23 Taranaki Street, Te Aro, Wellington 6011, New Zealand.
3. The independent auditors to the Company in New Zealand are Ernst & Young.
4. The Principal Paying and Conversion Agent, the Registrar and the Principal Transfer Agent for the Notes is The Hongkong and Shanghai Banking Corporation Limited at its specified office located at Level 26, HSBC Main Building, 1 Queen's Road Central, Hong Kong.
5. The issue of the Notes and the Ordinary Shares to be issued on conversion of the Notes and the terms of the Offering and the issue of the Notes were approved by resolutions of the Board of Directors of the Issuer passed on 31 May 2024 and the Board of Directors of the Company passed on 31 May 2024.
6. So long as any of the Notes is outstanding, copies of the Trust Deed and the Agency Agreement (upon execution) will be available (i) for inspection at all reasonable times during normal business hours (being between 9.00 a.m. and 3.00 p.m.) at the specified office of the Principal Paying and Conversion Agent following prior written request and proof of holding and identity satisfactory to the Principal Paying and Conversion Agent and (ii) electronically from the Principal Paying and Conversion Agent, following prior written request and proof of holding and identity to the satisfaction of the Principal Paying and Conversion Agent
7. The Notes have been accepted for clearance through Euroclear and Clearstream. The International Securities Identification Number for the Notes is XS2834365350. The Common Code for the Notes is 283436535.
8. The Legal Entity Identifier ("LEI") of the Issuer is 25490002CIY32NFE4689.
9. The Issuer and the Company have obtained or will at the Closing Date have obtained all consents, approvals and authorisations in Australia, New Zealand and Singapore required to be obtained by it in connection with the issue and performance of the Notes.
10. There has been no significant change in the financial or trading position of the Company or the Group since 31 March 2024 and no material adverse change in the financial position or prospects of the Company or the Group since 31 March 2024.
11. Neither the Company nor any of its Subsidiaries (as defined in the Terms and Conditions of the Notes) is involved in any litigation or arbitration proceedings or any regulatory investigations relating to claims or amounts which are material in the context of the issue of the Notes nor, so far as the Company is aware, is any such litigation or arbitration pending or threatened.
12. The 2024 Audited Consolidated Financial Statements, the 2023 Audited Consolidated Financial Statements and the 2022 Audited Consolidated Financial Statements, which are deemed to be incorporated by reference in this Offering Circular, have been audited by Ernst & Young, independent auditors to the Company, as stated in their respective reports appearing therein.
13. Approval in-principle has been received from the SGX-ST for the listing of and quotation for the Notes on the Official List of the SGX-ST. The Notes will be traded on the SGX-ST in a minimum board lot size of S\$200,000 (or its equivalent in other currencies) for so long as the Notes are listed on the SGX-ST and the rules of the SGX-ST so require. So long as the Notes are listed on the SGX-ST and the rules

of the SGX-ST so require, the Issuer or the Company shall appoint and maintain a paying agent in Singapore, where the Notes may be presented or surrendered for payment or redemption, in the event that the Global Certificate is exchanged for individual definitive Notes. In addition, in the event that the Global Certificate is exchanged for individual definitive Notes, an announcement of such exchange will be made by the Issuer through the SGX-ST and such announcement will include all material information with respect to the delivery of the individual definitive Notes, including details of the paying agent in Singapore.

**ISSUER**

**Xero Investments Limited**  
 (NZBN 9429047029439)  
 (ARBN 629 017 018)  
 19-23 Taranaki Street, Te Aro  
 Wellington 6011  
 New Zealand

**COMPANY**

**Xero Limited**  
 (NZBN 9429034042984)  
 (ARBN 160 661 183)  
 19-23 Taranaki Street, Te Aro  
 Wellington 6011  
 New Zealand

**JOINT LEAD MANAGERS****Goldman Sachs International**

Plumtree Court  
 25 Shoe Lane  
 London EC4A 4AU  
 United Kingdom

**Morgan Stanley & Co. International plc**

25 Cabot Square  
 Canary Wharf  
 London E14 4QA  
 United Kingdom

**TRUSTEE****The Hongkong and Shanghai Banking Corporation Limited**

Level 26, HSBC Main Building  
 1 Queen's Road Central  
 Hong Kong

**PRINCIPAL PAYING AND CONVERSION AGENT****The Hongkong and Shanghai Banking Corporation Limited**

Level 26, HSBC Main Building  
 1 Queen's Road Central  
 Hong Kong

**REGISTRAR AND PRINCIPAL TRANSFER AGENT****The Hongkong and Shanghai Banking Corporation Limited**

Level 26, HSBC Main Building  
 1 Queen's Road Central  
 Hong Kong

**LEGAL ADVISERS***To the Issuer and the Company as to Australian law*

**Gilbert + Tobin**  
 Level 25, 101 Collins Street  
 Melbourne VIC 3000  
 Australia

*To the Issuer and the Company as to New Zealand law*

**Bell Gully**  
 Level 4, Bell Gully Building  
 40 Lady Elizabeth Lane  
 Wellington 6011  
 New Zealand

*To the Issuer and the Company as to English law***Hogan Lovells Lee & Lee**

50 Collyer Quay  
 #10-01 OUE Bayfront  
 Singapore 049321

*To the Joint Lead Managers as to Australian law**To the Joint Lead Managers as to English law*

**Allens**  
Level 28, Deutsche Bank Place  
126 Phillip Street  
Sydney NSW 2000  
Australia

**Linklaters Singapore Pte. Ltd.**  
One George Street #17-01  
Singapore 049145

*To the Trustee as to English law*

**Linklaters**  
11th Floor, Alexandra House  
Chater Road, Central  
Hong Kong

**INDEPENDENT AUDITORS TO THE COMPANY**

**Ernst & Young**  
Level 2  
40 Bowen Street, Pipitea  
Wellington, 6011  
New Zealand