

## Colorpak to be acquired by Graphic Packaging International

- **Colorpak has entered into a Scheme Implementation Deed with Graphic Packaging International under which Graphic Packaging International proposes to acquire 100% of Colorpak shares**
- **Colorpak shareholders to receive cash payments of \$0.68 per share inclusive of a fully franked dividend of up to \$0.11 per share**
- **Shareholders able to fully utilize franking credits receive value of up to \$0.727 per share**
- **Cash payments of \$0.68 per share represents a premium of:**
  - **25.9% to Colorpak’s closing share price yesterday;**
  - **26.9% to the 30 day volume weighted average price (VWAP); and**
  - **31.5% to the 90 day VWAP**
- **Colorpak directors unanimously recommend shareholders vote in favour of the Scheme subject to no superior proposal emerging and the Independent Expert concluding that the Scheme is in the best interests of Colorpak’s shareholders**
- **Colorpak’s founding Commins family, which together hold 32% of total issued shares, have indicated they will vote in favour of the Scheme subject to no superior proposal being recommended by Colorpak’s Board**
- **BDO has been appointed to act as the Independent Expert**
- **Expected transaction completion mid-April 2016**

Colorpak Limited (“Colorpak”) announces today that it has entered into a Scheme Implementation Deed (the “SID”) with Graphic Packaging International, Inc. (“Graphic Packaging International”), a wholly owned subsidiary of Graphic Packaging Holding Company, under which Graphic Packaging International proposes to acquire all the issued shares of Colorpak via a Scheme of Arrangement (the “Scheme”).

If the Scheme proceeds, Colorpak shareholders will receive \$0.68 cash per Colorpak share including any dividends declared by Colorpak after today’s announcement.

Colorpak’s Board intends to declare total dividends of up to \$0.11 per share including a fully franked dividend in respect of the half year ending 31 December 2015 and, subject to the Scheme being approved and finalisation of funding, a fully franked special dividend. For shareholders able to capture the full benefit of franking credits, this is expected to add up to an additional \$0.047 per share in value they receive.

**Braeside**  
 PO Box 648  
 63-73 Woodlands Dr  
 Braeside VIC 3195  
 Australia  
 P +61 3 9586 4700  
 F +61 3 9587 8162

**Regents Park**  
 PO Box 700  
 2-6 George Young St  
 Regents Park NSW 2143  
 Australia  
 P +61 2 9722 3000  
 F +61 2 9738 8667

**Penrose**  
 862 Great South Rd  
 Penrose Auckland 1061  
 New Zealand  
 P +64 9 579 2839  
 F +64 9 579 8024

Colorpak Limited | ACN 107 485 898 | ABN 56 107 485 898 | [colorpak.com.au](http://colorpak.com.au)



The cash payments of \$0.68 per share represent a premium of:

- 25.9% to Colorpak's \$0.54 closing price on 11 January 2016, the last trading day before this announcement
- 26.9% to the 30 day VWAP of \$0.536
- 31.5% to the 90 day VWAP of \$0.517

The \$0.68 offer values Colorpak at \$60.0m and compares favourably to recent precedent transactions. It represents a valuation multiple of 7.1x Colorpak's \$12.8m Underlying Earnings Before Interest Tax Depreciation and Amortisation for the year ended 30 June 2015 and 15.8x the \$0.0431 earnings per share reported for that year.

The Colorpak Directors unanimously recommend that Colorpak shareholders vote in favour of the Scheme in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of Colorpak shareholders. Subject to these conditions, each Colorpak Director intends to vote the shareholdings they control in favour of the Scheme.

Colorpak's founding Commins family, which together hold 32% of total issued shares, have indicated they will vote in favour of the Scheme subject to no superior proposal being recommended by Colorpak's Board.

Colorpak has appointed BDO Corporate Finance (East Coast) Pty Ltd ("BDO") as the Independent Expert. BDO's report will be provided to Colorpak shareholders as part of the Scheme Booklet.

Colorpak Chairman, Geoff Willis said, "Colorpak's Board considers the proposal highlights the strategic value of our business and provides an opportunity for our shareholders to realise the value of their holdings at an attractive price. We have been advised that Mr Alex Commins, the current Managing Director of Colorpak and Mr Sid Troiani the current Chief Financial Officer, will remain in their roles and assume responsibility for Graphic Packaging International's growth ambitions in Australia and New Zealand".

David Scheible, Graphic Packaging Chairman said, "Colorpak and Graphic Packaging International have partnered to provide unique packaging solutions in Australia and New Zealand for close to a decade. This acquisition combines Colorpak's leading folding carton capabilities with Graphic Packaging International's global expertise and will enhance our ability to serve all customers in this market".

### **Scheme Implementation Deed**

The SID entered into by Colorpak and Graphic Packaging International sets out the terms on which the Scheme will be implemented.

The Scheme is subject to certain customary conditions precedent set out in the SID including:

- Colorpak shareholder approval;
- An independent expert opining that the Scheme is in the best interests of shareholders; and
- Court approval by the Supreme Court of Victoria

The SID also sets out other terms and conditions including break fees and exclusivity provisions. A copy of the executed SID is attached to this announcement.

**Indicative timetable**

A Scheme Booklet containing information relating to the proposed transaction, reasons for the Directors' unanimous recommendation, details of the Scheme meeting and the Independent Expert's report is expected to be sent to shareholders in late February 2016.

Subject to the conditions of the Scheme being satisfied or waived, the Scheme is expected to be implemented in mid-April, 2016.

**Colorpak will keep shareholders informed of any material developments and notes that shareholders do not need to do anything at this stage**

For further information, please contact:

|  | <b>Investors and Analysts</b>  | <b>Media</b>  |
|--|--|---|
| <b>Colorpak</b>                        | Michael Brown<br>Pegasus Corporate Advisory<br>+61 400 248 080       | Geoff Willis<br>Chairman Colorpak<br>+61 3 9586 4757                |
| <b>Graphic Packaging International</b> | Brad Ankerholz<br>Graphic Packaging International<br>+1 770-240-7971 | Sue Appleyard<br>Graphic Packaging International<br>+1 773-332-3130 |

**About Colorpak Limited**

Colorpak is an ASX listed company (ASX:CKL) and one of the largest folding carton producers in Australia and New Zealand. The Colorpak business dates back to the 1920s and has grown to become a prominent participant in the \$620m folding carton segment of the paper and board packaging industry in Australia. It has grown from 36 people and \$1.5m turnover in 1985 to 580 people and the market leader with a 26 per cent share of the Australian and NZ market. Over the past decade, Colorpak has been consistently rated a leading folding carton supplier for reliable delivery and service with the highest quality standards by BIS Shrapnel Global business research and forecasting. It has operations in Victoria, NSW and Auckland, NZ. Further information may be found at <http://www.colorpak.com.au>.

**About Graphic Packaging Holding Company**

Graphic Packaging Holding Company (NYSE: GPK), headquartered in Atlanta, Georgia is a leading provider of packaging solutions for a wide variety of products to food, beverage and other consumer products companies. The Company is one of the largest producers of folding cartons and holds a leading market position in coated-unbleached kraft and coated-recycled board. The Company's customers include some of the most widely recognized companies in the world. Additional information about Graphic Packaging, its business and its products, is available on the Company's website at <http://www.graphicpkg.com>.



EXECUTION VERSION

DATED *11 January* 2016

COLORPAK LIMITED ("CKL")

- and -

GRAPHIC PACKAGING INTERNATIONAL, INC. ("GPI")

**SCHEME IMPLEMENTATION  
DEED**

---

DLA Piper Australia  
Level 22  
No.1 Martin Place  
Sydney NSW 2000  
GPO Box 4082  
Sydney NSW 2001  
Australia  
Tel: +61 2 9286 8000  
Fax: +61 2 9286 8007

JZP/AZT/AUM/1211968387.3

## CONTENTS

|    |  |    |
|----|--|----|
| 1. | DEFINED TERMS AND INTERPRETATION.....                        | 1  |
|    | Defined terms.....   | 1  |
|    | Interpretation.....  | 10 |
|    | Business day, references to and calculations of time.....    | 11 |
|    | Knowledge.....   | 11 |
| 2. | AGREEMENT TO PROPOSE SCHEME.....                             | 12 |
| 3. | CONDITIONS PRECEDENT AND PRE-IMPLEMENTATION STEPS.....       | 12 |
|    | Conditions to scheme.....                                    | 12 |
|    | Benefit and waiver of conditions precedent.....              | 13 |
|    | Reasonable endeavours.....                                   | 14 |
|    | Notifications.....   | 15 |
|    | Certificate.....   | 15 |
|    | Scheme voted down.....                                       | 16 |
|    | Conditions not capable of being fulfilled.....               | 16 |
|    | Interpretation.....  | 17 |
| 4. | SCHEME STRUCTURE.....  | 18 |
|    | Scheme.....  | 18 |
|    | Scheme Amount per Share.....                                 | 18 |
| 5. | SCHEME – PARTIES' RESPECTIVE IMPLEMENTATION OBLIGATIONS..... | 18 |
|    | CKL's obligations.....                                       | 18 |
|    | GPI's obligations.....                                       | 21 |
|    | Scheme Booklet – preparation principles.....                 | 22 |
|    | Responsibility statement.....                                | 24 |
|    | CKL Board recommendation.....                                | 24 |
| 6. | CONDUCT OF BUSINESS BEFORE THE IMPLEMENTATION DATE.....      | 25 |
| 7. | BOARD AND DIRECTOR MATTERS.....                              | 29 |
| 8. | REPRESENTATIONS AND WARRANTIES.....                          | 29 |
|    | GPI representations.....                                     | 29 |
|    | GPI indemnity.....   | 30 |
|    | CKL representations.....                                     | 30 |
|    | CKL's indemnity.....   | 33 |
|    | Notifications.....   | 33 |
|    | Survival of representations.....                             | 33 |
|    | Survival of indemnities.....                                 | 34 |
|    | Liability of directors and Authorised Persons.....           | 34 |

---

|     |   |    |
|-----|---|----|
| 9.  | CONFIDENTIALITY AND PUBLIC ANNOUNCEMENT .....                         | 34 |
|     | Public announcements on execution .....                               | 34 |
|     | Further public announcements .....                                    | 34 |
| 10. | TERMINATION .....   | 34 |
|     | Termination by notice .....   | 34 |
|     | Effect of termination .....   | 36 |
|     | Survival of obligations .....   | 36 |
|     | Disclosure on termination of deed .....                               | 36 |
| 11. | CKL BREAK FEE .....   | 36 |
|     | Background .....  | 36 |
|     | Costs incurred by GPI .....   | 37 |
|     | Payment by CKL to GPI .....   | 37 |
|     | Break Fee not payable .....   | 39 |
|     | CKL's limitation of liability .....                                   | 39 |
|     | Compliance with law .....   | 39 |
| 12. | GPI BREAK FEE .....   | 40 |
|     | Background .....  | 40 |
|     | Costs incurred by CKL .....   | 40 |
|     | GPI Break Fee .....   | 41 |
|     | GPI Break Fee not payable .....                                       | 41 |
|     | GPI limitation of liability .....                                     | 41 |
|     | Compliance with law .....   | 41 |
| 13. | EXCLUSIVITY – CKL .....   | 42 |
|     | No existing discussions .....   | 42 |
|     | No shop .....   | 42 |
|     | No Talk .....   | 42 |
|     | No due diligence .....  | 43 |
|     | Notification of approaches .....                                      | 43 |
|     | CKL's response to CKL Rival Acquirer and GPI's right to respond ..... | 44 |
|     | Fiduciary out .....   | 45 |
|     | Legal advice .....  | 45 |
| 14. | NOTICES .....   | 46 |
| 15. | GENERAL .....   | 47 |
|     | Further acts .....  | 47 |
|     | Timetable .....   | 47 |
|     | Payments .....  | 48 |

---

|  |    |
|--|----|
| Interest.....                          | 48 |
| Consents or approvals .....            | 48 |
| GST .....                              | 48 |
| Stamp duty .....                       | 49 |
| Expenses .....                         | 49 |
| Amendments .....                       | 49 |
| Assignment .....                       | 49 |
| Business Day.....                      | 49 |
| Waiver.....                            | 50 |
| Release of officers and directors..... | 50 |
| Counterparts.....                      | 50 |
| No adverse construction.....           | 50 |
| Entire agreement .....                 | 50 |
| Severability .....                     | 50 |
| No representation or reliance .....    | 51 |
| No merger .....                        | 51 |
| Governing law.....                     | 51 |
| SCHEDULE 1: INDICATIVE TIMETABLE.....  | 53 |
| SCHEDULE 2: DEED POLL .....            | 54 |
| SCHEDULE 3: SCHEME .....               | 64 |

---

THIS DEED is made on

11 January

2016

**BETWEEN:**

- (1) **COLORPAK LIMITED** ABN 56 107 485 898 of 63-73 Woodlands Dr, Braeside, Victoria, 3195, Australia ("**CKL**")
- (2) **GRAPHIC PACKAGING INTERNATIONAL, INC.** of 1500 Riveredge Parkway NW, Atlanta, GA. 30328, United States of America ("**GPI**")

**BACKGROUND:**

- A CKL and GPI have agreed to implement the Proposed Transaction on and subject to the terms and conditions of this deed.
- B CKL and GPI have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.

**IT IS AGREED:**

**1. DEFINED TERMS AND INTERPRETATION**

**Defined terms**

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

"**Accounting Standards**" means the accounting standards made or in force under the Corporations Act, and if any matter is not covered by those accounting standards, generally accepted Australian accounting principles;

"**Adviser**" means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to CKL or GPI or any of their respective Related Bodies Corporate;

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

"**Associate**" has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and, when the term "Associate" is used in the definition of "CKL Competing Proposal", CKL is the designated body;

"**ASX**" means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it;

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

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

**"Business Day"** means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Australia;

**"CKL Board"** means the board of directors of CKL as constituted from time to time (or any committee of the board of directors of CKL constituted from time to time to consider the Proposed Transaction on behalf of CKL);

**"CKL Competing Proposal"** means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement other than the Proposed Transaction) under which, if ultimately completed substantially in accordance with its terms, a person or two or more persons who are Associates would directly or indirectly:

- (a) acquire a relevant interest or voting power in or become the holder of more than 20% of the CKL Shares;
- (b) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of CKL or any member of the CKL Group;
- (c) acquire Control of CKL;
- (d) otherwise acquire or merge with CKL or amalgamate with, or acquire a significant shareholding or economic interest in CKL or any member of the CKL Group or 20% or more by value of the total assets or business of any member of the CKL Group, whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for CKL or the CKL Group or other synthetic merger or any other transaction or arrangement; or
- (e) CKL will cease to be admitted to the official list of ASX or CKL Shares will cease to be officially quoted on the market operated by ASX,

or which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Proposed Transaction;

**"CKL Disclosure Letter"** means the letter so entitled from CKL provided to GPI prior to the date of execution of this deed and countersigned by GPI;

**"CKL Due Diligence Material"** means the information disclosed by or on behalf of the CKL Group (including management presentations and in response to requests for information) to GPI or any of its Authorised Persons prior to the date of this deed as evidenced conclusively by:

- (a) the Project Grey virtual data room hosted at <https://dataroom.ansarada.com/Project.Grey.Dataroom%7C17997/928577/DataRoom.asp> as at the time of the CKL Disclosure Letter, as extracted in a folder named 'Project Grey' to a USB and attached to the CKL Disclosure Letter; and
- (b) the CKL Disclosure Letter;

**"CKL Group"** means CKL and its Subsidiaries;

**"CKL Information"** means information to be included by CKL in the Scheme Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by CKL Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of CKL's directors and has not previously been disclosed to CKL Shareholders, other than the GPI Information and the Independent Expert's Report;

**"CKL Register"** means the register of members of CKL maintained by or on behalf of CKL in accordance with section 168(1) of the Corporations Act;

**"CKL Relevant Notice"** is defined in clause 13.9.4.2;

**"CKL Rival Acquirer"** is defined in clause 13.8.1;

**"CKL Senior Manager"** means the chief executive officer and any employee of any member of the CKL Group who:

- (a) reports directly to the chief executive officer; or
- (b) reports directly to any employee described in paragraph (a);

**"CKL Share"** means an issued fully paid ordinary share in the capital of CKL;

**"CKL Shareholder"** means each person who is registered in the CKL Register as a holder of CKL Shares;

**"CKL Superior Proposal"** means a bona fide CKL Competing Proposal which in the determination of the CKL Board acting in good faith in order to satisfy what the CKL Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and, if appropriate, financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the CKL Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to CKL Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the CKL Competing Proposal;

**"CKL Warranties"** means the representations and warranties of CKL set out in clauses 8.4 and 8.5;

**"Conditions"** means the conditions set out in clause 3.1 and Condition means any one of them;

**"Confidentiality Agreement"** means the confidentiality agreement between CKL and GPI dated 14 April 2014;

**"Control"** has the meaning given under section 50AA of the Corporations Act.  
**"Controlled"** has the equivalent meaning;

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

**"Court"** means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing;

**"Deed Poll"** means the deed poll to be executed by GPI (and the GPI Nominee if applicable) prior to the First Court Date, in the form set out in schedule 2 or in such other form as is acceptable to CKL acting reasonably;

**"Effective"** means, when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the Scheme;

**"Effective Date"** means the date on which the Scheme becomes Effective;

**"End Date"** means:

- (a) 15 June 2016; or
- (b) such other date and time agreed in writing between GPI and CKL;

**"Exclusivity Period"** means the period commencing on the date of this deed and ending on the earliest of:

- (a) the End Date;
- (b) the Implementation Date; and
- (c) the date this deed is terminated in accordance with its terms;

**"Exclusivity Agreement"** means the exclusivity agreement between CKL and GPI dated on or about 4 December 2015;

**"First Court Date"** means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act;

**"GPI Counterproposal"** is defined in clause 13.11;

**"GPI Group"** means GPI and its Subsidiaries;

**"GPI Information"** means such information regarding the GPI Group, the merged CKL-GPI entity following implementation of the Scheme, the Scheme Amount per Share and GPI's intentions in relation to CKL Group's business, assets and employees that is provided by or on behalf of GPI to CKL or the Independent Expert:

- (a) to enable the Scheme Booklet to be prepared and completed in compliance with all applicable laws;
- (b) to enable applications for Regulatory Approvals to be made; and
- (c) otherwise in compliance with GPI's obligations under clause 5.2.1 and 5.2.3;

**"GPI Nominee"** has the meaning given in clause 2.3 of this deed;

**"GPI Warranties"** means the representations and warranties of GPI set out in clauses 8.1 to 8.2;

**"Headcount Test"** means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of CKL Shareholders present and voting, either in person or by proxy;

**"Implementation Date"** means, with respect to the Scheme, the third Business Day, or such other Business Day as the parties agree or as may be required by ASX, following the Record Date for the Scheme;

**"Independent Expert"** means an expert, independent of the parties, engaged by CKL in good faith to opine on whether the Scheme is in the best interests of CKL Shareholders;

**"Independent Expert's Report"** means the report prepared by the Independent Expert and stating whether the Scheme is in the best interests of CKL Shareholders, and any update to such report that the Independent Expert issues prior to the Scheme Meeting;

**"Insolvency Event"** means in relation to a person:

- (a) (*insolvency official*) the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) (*arrangements*) the entry by the person into a compromise or arrangement with its creditors generally;
- (c) (*winding up*) the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) (*suspends payments*) the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) (*ceasing business*) the person ceases or threatens to cease to carry on business;
- (f) (*insolvency*) the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) (*deregistration*) the person being deregistered as a company or otherwise dissolved;
- (h) (*deed of company arrangement*) the person executing a deed of company arrangement;
- (i) (*person as trustee or partner*) the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be

fully indemnified against the liability out of trust or partnership assets because of one or more of the following:

- (i) a breach of trust or obligation as partner by the person;
  - (ii) the person acting outside the scope of its powers as trustee or partner;
  - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability; or
  - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) (*analogous events*) anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction;

"**Listing Rules**" means the official listing rules of ASX as amended from time to time;

"**Material Adverse Change**" means an event, matter or circumstance (including a change in law) that occurs, is announced or becomes known (in each case whether or not it becomes public) after the date of this deed which:

- (a) has or could reasonably be expected to have individually or when aggregated with all such events, matters or circumstances the effect of diminishing the net assets of the CKL Group by 10% or more (as compared to CKL's most recent audited financial statements as at the date of this deed);
- (b) has or could reasonably be expected to have individually or when aggregated with all such events, matters or circumstances the effect of reducing the EBITDA of the CKL Group by 10% or more on an annualised basis (as compared to CKL's most recent audited financial statements as at the date of this deed), but excluding any one-off or non-recurring event specifically disclosed in the CKL Disclosure Letter;
- (c) has the result (or is reasonably likely to have the result) that the business of the CKL Group is unable to be carried on in substantially the same manner as carried on at the date of this deed; or
- (d) has the result (or is reasonably likely to have the result) that present monetary obligations of a member of the CKL Group to a third party in respect of financial indebtedness totalling at least \$500,000 (or, without limitation, its equivalent in any other currency or currencies) is capable of being required to be repaid before their stated maturity (other than as a result of the Proposed Transaction or a roll-over of bank bills issued pursuant to a facility consistent with CKL's past practice),

but does not include any event, matter or circumstance:

- (e) required to be done or procured by CKL or a member of the CKL Group pursuant to this deed or the Scheme;
- (f) done with the express prior written consent of GPI;

- (g) to the extent that it was Fairly Disclosed in documents that were publicly available prior to the date which is two Business Days prior to the date of this deed from public filings of CKL with ASX;
- (h) relating to costs and expenses incurred by CKL associated with the Scheme process, including all fees payable to external advisers of CKL, to the extent such amounts are Fairly Disclosed in the CKL Disclosure Letter or the CKL Due Diligence Material;
- (i) to the extent that event, matter or circumstance was actually known to GPI prior to the date of this deed (which does not include knowledge of the risk of an event, matter or circumstance occurring);
- (j) resulting from changes in general economic or political conditions, the securities market in general or law;
- (k) resulting from changes in generally accepted accounting principles or the interpretation of them; or
- (l) resulting from an act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, adverse weather conditions, commencement or escalation of any war, armed hostilities or acts of terrorism occurring on or after the date of this deed;

**"New Regent's Park EBA"** means the proposed enterprise bargaining agreement currently being negotiated relating to the Regent's Park site, the current draft of which is document 5.12 of the CKL Due Diligence Materials;

**"Prescribed Occurrence"** means the occurrence of any of the following on or after the date of this deed:

- (a) CKL converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the CKL Group reduces or resolves to reduce its share capital in any way;
- (c) any member of the CKL Group:
  - (i) enters into a buy-back deed; or
  - (ii) resolves to approve the terms of a buy-back deed under subsections 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the CKL Group issues securities, or grants a performance right or an option over its securities or to subscribe for its securities, or agrees to make such an issue or grant such a right or an option, other than:
  - (i) CKL Shares pursuant to the New Regent's Park EBA; or
  - (ii) as a result of an issue under a dividend reinvestment plan;
- (e) any member of the CKL Group issues, or agrees to issue, convertible notes or any other security or instrument convertible into shares;

- (f) any member of the CKL Group disposes, or agrees to dispose, of any assets, properties or businesses where the amount or value involved in such transactions exceeds \$1 million in aggregate (except as disclosed in document 3.4 and 3.4a of the CKL Due Diligence Materials);
- (g) any member of the CKL Group acquires, or agrees to acquire, any assets, properties or businesses where the amount or value involved in such transactions exceeds \$1 million in aggregate (except as disclosed in document 10.01.03 of the CKL Due Diligence Materials);
- (h) any member of the CKL Group enters into a commitment or a series of commitments for capital expenditure where the amounts or value involved in such commitments or commitments exceeds \$500,000 in aggregate; (except as disclosed in document 1.11 of the CKL Due Diligence Materials);
- (i) any member of the CKL Group creates or agrees to create, any Security Interest over the whole, or a substantial part, of its business or property;
- (j) an Insolvency Event occurs in relation to any member of the CKL Group;
- (k) CKL pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution, except for any dividend of up to \$0.11 per CKL Share with a record date before the Record Date;
- (l) any member of the CKL Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the CKL Group;
- (m) any member of the CKL Group ceases, or threatens to cease to, carry on the business conducted as at the date of this deed;
- (n) any member of the CKL Group (other than a dormant, non-operating member of the CKL Group) being deregistered as a company or being otherwise dissolved;
- (o) any disposal of shares or securities by a member of the CKL Group in any member of the CKL Group other than to a member of the CKL Group; or
- (p) any member of the CKL Group authorising, committing or agreeing to take or announcing any of the actions referred to in clause 6.2 insofar as it applies to the member of the CKL Group the subject of such authorisation, commitment, agreement or announcement,

provided that a Prescribed Occurrence will not include:

- (q) the paying of a dividend in an amount per CKL Share where the Scheme Amount per Share is reduced by that amount per CKL Share;
- (r) any matter required to be done or procured by CKL or a member of the CKL Group pursuant to this deed or the Scheme;
- (s) any matter to the extent it is Fairly Disclosed in the CKL Due Diligence Material or the CKL Disclosure Letter;

- (t) any matter Fairly Disclosed in filings of CKL with the ASX not less than two Business Days prior to the date of this deed; or
- (u) any matter the undertaking of which GPI has approved in writing;

**"Proposed Transaction"** means the proposed acquisition by GPI, in accordance with the terms and conditions of this deed, of all of the CKL Shares through the implementation of the Scheme;

**"Record Date"** means, in respect of the Scheme, 7.00pm on the fifth Business Day (or such other Business Day as the parties agree in writing or as may be required by ASX) following the Effective Date;

**"Regulatory Approvals"** means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with a Regulatory Authority; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action,

and includes the approvals set out in clause 3.1.1;

**"Regulatory Authority"** means:

- (a) any government or local authority, any department, minister or agency of any government and any other governmental, administrative, fiscal, monetary or judicial body; and
- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange;

**"Related Body Corporate"** means, in relation to a person, a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted;

**"RG 60"** means Regulatory Guide 60 issued by ASIC on 22 September 2011;

**"Scheme"** means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between CKL and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in schedule 3 or in such other form as the parties agree in writing, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by each party;

**"Scheme Amount per Share"** means the consideration to be provided by GPI in consideration for the transfer of the CKL Shares held by a Scheme Shareholder to GPI, being, in respect of each Scheme Share, \$0.68 cash (subject to adjustment under clause 4.4 for the payment of dividends of up to \$0.11 per CKL Share);

"**Scheme Booklet**" means the scheme booklet to be prepared in respect of the Scheme in accordance with the terms of this deed and to be despatched by CKL to CKL Shareholders;

"**Scheme Meeting**" means the meeting of CKL Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting;

"**Scheme Share**" means a CKL Share on issue;

"**Scheme Shareholder**" means each person who is registered on the CKL Register as a holder of Scheme Shares at the Record Date;

"**Second Court Date**" means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the first day on which the adjourned application is heard or scheduled to be heard;

"**Security Interest**" has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth);

"**Sensitive Confidential Information**" is defined in clause 3.8;

"**Share Splitting**" means the splitting by a holder of CKL Shares into two or more parcels of CKL Shares whether or not it results in any change in beneficial ownership of the CKL Shares;

"**Subsidiary**" has the meaning given to that term in section 46 of the Corporations Act;

"**Timetable**" means the indicative timetable in relation to the Proposed Transaction set out in schedule 1 with such modifications as may be agreed in writing by the parties; and

"**Transaction Documents**" means this deed, the Deed Poll and the Scheme.

### **Interpretation**

- 1.2 In the interpretation of this deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 a reference to "dollars" or "\$" means Australian dollars and all amounts payable under this deed are payable in Australian dollars;
  - 1.2.2 an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
  - 1.2.3 where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
  - 1.2.4 a word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to any gender also indicates any other gender;

- 1.2.5 a reference to the word "include" or "including" is to be interpreted without limitation;
- 1.2.6 a reference to the word "owing" means actually or contingently owing, and "owe" and "owed" have an equivalent meaning;
- 1.2.7 a reference to a party, clause, part, schedule, annexure or attachment is a reference to a party, clause, part, schedule, annexure or attachment of or to this deed;
- 1.2.8 a reference to Fairly Disclosed to a party means disclosed to any of that party or any of its Authorised Persons in good faith and in sufficient detail so as to enable a reasonable and sophisticated buyer (or one of its Authorised Persons) experienced in transactions similar to the Proposed Transaction and experienced in a business similar to any business conducted by the CKL Group (if disclosed to GPI), to identify the nature and scope of the relevant matter, event or circumstance;
- 1.2.9 a reference to any document or agreement is to that document or agreement as amended, novated, supplemented or replaced;
- 1.2.10 the schedules, annexures and attachments form part of this deed;
- 1.2.11 headings are inserted for convenience only and do not affect the interpretation of this deed; and
- 1.2.12 a reference to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this deed.

**Business day, references to and calculations of time**

- 1.3 In this deed, unless the context otherwise requires:
  - 1.3.1 a reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in the place the laws of which govern the construction of this deed;
  - 1.3.2 a reference to a time of day means that time of day in the place whose laws govern the construction of this deed;
  - 1.3.3 where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day; and
  - 1.3.4 a term of this deed which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

**Knowledge**

- 1.4 Where this deed makes reference to the knowledge or awareness of a party, or any similar reference, such knowledge or awareness will be taken to mean the actual knowledge and awareness of the party, but will not include any deemed or imputed knowledge of the party.

- 1.5 Notwithstanding anything contained in clause 1.4, where any of the CKL Warranties is qualified by the expression "so far as CKL is aware" or "to the best of the CKL's knowledge, information and belief" or any similar expression, that statement is taken to include an additional statement that it has been made after reasonable enquiries by each of CKL's officers of Alex Commins (CEO) and Sid Troiani (CFO).

**2. AGREEMENT TO PROPOSE SCHEME**

- 2.1 CKL agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise substantially in accordance with the Timetable.
- 2.2 Subject to clauses 2.3 and 2.4, GPI agrees to assist CKL in proposing and implementing the Scheme on and subject to the terms and conditions of this deed, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise substantially in accordance with the Timetable.
- 2.3 GPI expects that the entity that acquires the Scheme Shares under the Scheme will be a wholly-owned Subsidiary of GPI incorporated in Australia, but may nominate any wholly-owned Subsidiary of GPI ("**GPI Nominee**") to acquire the Scheme Shares under the Scheme by giving written notice to CKL on or before the date that is five Business Days before the First Court Date.
- 2.4 If GPI nominates the GPI Nominee to acquire the Scheme Shares under the Scheme, then:
- 2.4.1 references in this deed to GPI acquiring the Scheme Shares under the Scheme, or taking any other action under or in respect of the Scheme, are to be read as references to the GPI Nominee doing so;
- 2.4.2 GPI must procure that the GPI Nominee complies with its obligations under the Scheme;
- 2.4.3 GPI must procure that the GPI Nominee enters into the Deed Poll; and
- 2.4.4 any such nomination will not relieve GPI of its obligations under this deed, including the obligation to pay (or procure the payment by the GPI Nominee of) the aggregate Scheme Amount per Share in accordance with the terms of the Scheme.

**3. CONDITIONS PRECEDENT AND PRE-IMPLEMENTATION STEPS**

**Conditions to scheme**

- 3.1 Subject to this clause 3, the Scheme will not become Effective, and the obligations of CKL under clause 5.1.13 and GPI's obligations to provide, or procure the provision of, the Scheme Amount per Share in accordance with the Deed Poll and clauses 4.3 to 4.6 will not be binding, until and unless each of the following conditions precedent is satisfied or waived in accordance with this clause 3:

- 3.1.1 (*ASIC and ASX*) before 8.00am on the Second Court Date CKL receives from ASIC and ASX all consents, approvals, authorisations or other acts as are necessary or which CKL and GPI agree are desirable to implement the Scheme and none of those consents, approvals, authorisations or other acts have been withdrawn, cancelled or revoked ;
- 3.1.2 (*No Material Adverse Change*) no Material Adverse Change occurs or is announced or disclosed between the date of this deed and 8.00am on the Second Court Date;
- 3.1.3 (*No Prescribed Occurrence*) no Prescribed Occurrence occurs between the date of this deed and 8.00am on the Second Court Date;
- 3.1.4 (*CKL Warranties*) the CKL Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date;
- 3.1.5 (*Shareholder approval*) CKL Shareholders approve the Scheme at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- 3.1.6 (*Court approval*) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;
- 3.1.7 (*Independent Expert*) the Independent Expert:
- 3.1.7.1 concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interests of CKL Shareholders on or before the date on which the Scheme Booklet is registered by ASIC under the Corporations Act; and
- 3.1.7.2 not having notified CKL in writing that it has withdrawn or qualified this conclusion as at 8.00am on the Second Court Date;
- 3.1.8 (*CKL material breach*) before 8.00am on the Second Court Date, CKL has not breached any provision of this deed to a material extent in the context of the Scheme taken as a whole; and
- 3.1.9 (*Restraining orders*) no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Regulatory Authority of competent jurisdiction remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme or any Transaction Document.

#### **Benefit and waiver of conditions precedent**

- 3.2 The Conditions in clauses 3.1.1, 3.1.5, 3.1.6 and 3.1.9 cannot be waived.
- 3.3 The Conditions in clauses 3.1.2, 3.1.3, 3.1.4, 3.1.7 and 3.1.8 are for the sole benefit of GPI and any breach or non-fulfilment of them may only be waived by GPI giving its written consent (which may be given or withheld at its absolute discretion). Any waiver under this clause 3.3 must take place on or prior to 8.00am on the Second Court Date.

- 3.4 If, pursuant to clause 3.3 GPI waives the breach or non-fulfilment of any of the Conditions, that waiver will not prevent it from suing CKL for any breach of this deed including, without limitation, for a breach that resulted in the breach or non-fulfilment of the Condition that was waived.
- 3.5 Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
- 3.5.1 a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
- 3.5.2 a waiver of breach or non-fulfilment of that Condition resulting from any other event.

#### **Reasonable endeavours**

- 3.6 CKL and GPI will use their respective reasonable endeavours to procure that each of the Conditions is satisfied as soon as reasonably practicable after the date of this deed and (if applicable) continues to be satisfied at all times until the last time they are to be satisfied.
- 3.7 Without limiting clauses 3.9 and 3.10, each of CKL and GPI must:
- 3.7.1 promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals;
- 3.7.2 take all the steps for which it is responsible as part of the Regulatory Approvals process;
- 3.7.3 respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time;
- 3.7.4 except to the extent prohibited by the relevant Regulatory Authority, provide the other with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals;
- 3.7.5 to the extent that it is within either party's respective control, use its reasonable endeavours to procure that there is no occurrence that would prevent the Condition being satisfied and no other party shall take any action that will or is likely to hinder or prevent the satisfaction of the Condition except to the extent that such action is required by law; and
- 3.7.6 except to the extent prohibited by the relevant Regulatory Authority, allow the other party and its Authorised Persons the opportunity to be present and make submissions at any meetings with the relevant Regulatory Authority in relation to the Regulatory Approvals in respect of the Scheme.
- 3.8 Before providing any document or other information to the other party (in this clause 3.8, the "**Recipient**") pursuant to clause 3.7.4, a party (in this clause 3.8, the "**Discloser**") may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information ("**Sensitive Confidential Information**") if the Discloser reasonably believes that:
- 3.8.1 the Sensitive Confidential Information is of a commercially sensitive nature; or

3.8.2 the disclosure of the Sensitive Confidential Information to the Recipient would be damaging to the commercial or legal interest of the Discloser or any of its Related Bodies Corporate,

and may provide the document or disclose the information to the Recipient with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, the Discloser must provide:

3.8.3 the Recipient with as much details about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information; and

3.8.4 a complete version of the document or other information, without any redaction or exclusion of information, to the Recipient's external lawyers on the basis that the Recipient's external lawyers will not disclose the Sensitive Confidential Information to the Recipient or any other third party without the Discloser's prior written consent and will only use the information for the purpose of satisfying the Condition in clause 3.1.1.

### Notifications

3.9 Each of GPI and CKL must:

3.9.1 keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;

3.9.2 promptly notify the other in writing if a Condition has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party; and

3.9.3 promptly notify the other in writing if it becomes aware:

3.9.3.1 that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clauses 3.6 to 3.8); or

3.9.3.2 of any fact, matter or circumstance that has resulted, will result, or is reasonably likely to result in a Condition becoming incapable of being satisfied or a material breach of this deed by that party, and

where a party is entitled to waive that Condition upon receipt or delivery of such a notice (as applicable) that party must notify the other party in accordance with clauses 3.2 to 3.5 as soon as possible (in any event before 5.00pm on the Business Day before the Second Court Date) as to whether the party waives the non-fulfilment of the Condition.

### Certificate

3.10 On the Second Court Date:

3.10.1 GPI and CKL will provide a joint certificate to the Court confirming whether or not the Condition set out in clauses 3.1.1, 3.1.5 and 3.1.9 have been satisfied or waived in accordance with the terms of this deed;

- 3.10.2 CKL will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1.2, 3.1.3, 3.1.4, 3.1.7 and 3.1.8 have been satisfied or waived in accordance with the terms of this deed;
- 3.10.3 CKL will provide a certificate to GPI confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation, warranty or covenant), and if it has, giving details of such breach; and
- 3.10.4 GPI will provide a certificate to CKL confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation, warranty or covenant), and if it has, giving details of such breach.

**Scheme voted down**

- 3.11 If the Scheme is not approved by CKL Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and each of CKL and GPI considers acting reasonably that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then CKL must:
  - 3.11.1 apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
  - 3.11.2 make such submissions to the Court and file such evidence as counsel engaged by CKL to represent it in Court proceedings related to the Scheme, in consultation with GPI, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

**Conditions not capable of being fulfilled**

- 3.12 If:
  - 3.12.1 any Condition is not satisfied or (where capable of waiver) waived by the date specified in this deed for its satisfaction (or an event occurs which would or is likely to prevent a Condition being satisfied by the date specified in this deed);
  - 3.12.2 an event or circumstance occurs with the result that a Condition is not capable of being fulfilled and (where capable of waiver), the relevant party does not waive the Condition within five Business Days after the occurrence of the event or circumstance; or
  - 3.12.3 the Scheme does not become Effective by the End Date,and neither of the following has occurred:
  - 3.12.4 the Independent Expert opines to the effect that the Scheme is not in the best interests of CKL Shareholders; or
  - 3.12.5 a CKL Superior Proposal has been publicly announced,then CKL and GPI must consult in good faith with a view to determining whether:

- 3.12.6 the Scheme may proceed by way of alternative means or methods;
  - 3.12.7 to extend the relevant time or date for satisfaction of the Condition;
  - 3.12.8 to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties; or
  - 3.12.9 to extend the End Date.
- 3.13 Subject to clause 3.14, if a Condition becomes incapable of being satisfied before the End Date and CKL and GPI are unable to reach agreement under clause 3.12 within five Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by 8.00am on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
- 3.13.1 in relation to the Conditions in clause 3.1.1, 3.1.5, 3.1.6 and 3.1.9, either GPI or CKL may terminate this deed by giving the other notice; and
  - 3.13.2 in relation to the Conditions in clause 3.1.2, 3.1.3, 3.1.4, 3.1.7 and 3.1.8 GPI may terminate this deed by giving written notice to CKL,
- within 10 Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by 8.00am on the Second Court Date), without any liability to any other party by reason of that termination alone except as otherwise contemplated in this deed.
- 3.14 A party will not be entitled to terminate this deed pursuant to clause 3.13 if the relevant Condition has not been satisfied as a result of:
- 3.14.1 a breach of this deed by that party; or
  - 3.14.2 a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

#### **Interpretation**

- 3.15 For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:
- 3.15.1 in the case of a Condition relating a Regulatory Approval, the relevant Regulatory Authority makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval or such Regulatory Approval will be subject to conditions that are unacceptable to CKL or GPI (acting reasonably); and
  - 3.15.2 in all other cases, there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

#### 4. SCHEME STRUCTURE

##### **Scheme**

- 4.1 CKL must, as soon as reasonably practicable after the date of this deed and otherwise substantially in compliance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares will be transferred to GPI on the Implementation Date and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Amount per Share, in each case in accordance with the terms of the Scheme.
- 4.2 CKL must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of GPI.

##### **Scheme Amount per Share**

- 4.3 GPI covenants in favour of CKL, in consideration for the transfer to GPI of the Scheme Shares held by each Scheme Shareholder under the terms of the Scheme, to provide or procure provision of the Scheme Amount per Share to each Scheme Shareholder on the Implementation Date and otherwise in accordance with the Scheme.
- 4.4 The Scheme Amount per Share will be reduced by the amount per CKL Share of any dividend of up to \$0.11 per CKL Share with a record date before the Record Date.
- 4.5 Subject to the Scheme becoming Effective, at 10.00am on the Implementation Date, the transactions which form part of the Scheme will be implemented as follows:
- 4.5.1 all existing Scheme Shares at the Record Date will be transferred to GPI or a wholly-owned Subsidiary of GPI; and
- 4.5.2 in exchange, each Scheme Shareholder will receive the Scheme Amount per Share for each Scheme Share held by that Scheme Shareholder at the Record Date.
- 4.6 In order to facilitate the provision of the Scheme Amount per Share, CKL must provide, or procure the provision of, to GPI a complete copy of the CKL Register as at the Record Date (which must include the name, registered address and registered holding of each Scheme Shareholder as at the Record Date), within one Business Day after the Record Date. The details and information to be provided under this clause 4.6 must be provided in such form as GPI or GPI's share registry may reasonably require, as notified to CKL by GPI prior to the Record Date.

#### 5. SCHEME – PARTIES' RESPECTIVE IMPLEMENTATION OBLIGATIONS

##### **CKL's obligations**

- 5.1 CKL must take all steps reasonably necessary to implement the Scheme on and subject to the terms of this deed as soon as reasonably practicable after the date of this deed and otherwise substantially in accordance with the Timetable, including without limitation taking each of the following steps:
- 5.1.1 (*Scheme Booklet*) prepare the Scheme Booklet in accordance with clauses 5.3 to 5.14;

- 5.1.2 (*Independent Expert*) promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any update to any such report) for inclusion in the Scheme Booklet;
- 5.1.3 (*Approval of draft for ASIC*) as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the CKL Board, or of a committee of the CKL Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
- 5.1.4 (*Liaison with ASIC*) as soon as reasonably practicable after the date of this deed:
- 5.1.4.1 provide an advanced draft of the Scheme Booklet, in a form approved in accordance with clause 5.2.6, to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the same to GPI immediately thereafter; and
- 5.1.4.2 liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet and keep GPI reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet and use reasonable endeavours, in consultation with GPI, to resolve any such matters;
- 5.1.5 (*Approval of Scheme Booklet*) as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the CKL Board, or of a committee of the CKL Board appointed for the purpose, is held to consider approving the Scheme Booklet for despatch to the CKL Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- 5.1.6 (*Section 411(17)(b) statements*) apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- 5.1.7 (*First Court hearing*) lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 5.1.6 and 5.2.7 have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing CKL to convene the Scheme Meeting;
- 5.1.8 (*Registration of Scheme Booklet*) if the Court directs CKL to convene the Scheme Meeting, arrange for registration of the Scheme Booklet with ASIC in accordance with section 412(6) of the Corporations Act;
- 5.1.9 (*Convening Scheme Meeting*) as soon as reasonably practicable following registration of the Scheme Booklet with ASIC, take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Scheme Booklet to the CKL Shareholders and convening and holding the Scheme Meeting;
- 5.1.10 (*Updating Scheme Booklet*) until the date of the Scheme Meeting, promptly update the Scheme Booklet should it become aware that any information included

in the Scheme Booklet has been despatched that is necessary to ensure that the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise);

- 5.1.11 *(Court approval application if parties agree that conditions are capable of being satisfied)* if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.11 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the proposed Second Court Date, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- 5.1.12 *(Appeal process)* if the Court refuses to make any orders directing CKL to convene the Scheme Meeting or approving the Scheme, CKL and GPI must:
- 5.1.12.1 consult with each other in good faith as to whether to appeal the Court's decision; and
- 5.1.12.2 appeal the Court decision unless the parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success;
- 5.1.13 *(Implementation of Scheme)* if the Scheme is approved by the Court:
- 5.1.13.1 for the purposes of section 411(1) of the Corporations Act, promptly lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme;
- 5.1.13.2 determine entitlements to the Scheme Amount per Share as at the Record Date in accordance with the Scheme;
- 5.1.13.3 execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to GPI on the Implementation Date; and
- 5.1.13.4 do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- 5.1.14 *(Regulatory notifications)* in relation to the Regulatory Approvals required to be applied for by CKL, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by CKL in relation to the Proposed Transaction;
- 5.1.15 *(GPI Information)* during the period until that GPI Information becomes publicly available, not use that GPI Information for any purposes other than those expressly contemplated by this deed or the Scheme without the prior written consent of GPI;
- 5.1.16 *(Documents)* consult with GPI in relation to the content of the court documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders);

- 5.1.17 (*Shareholder support*) promote to its shareholders the merits of the Scheme, in the absence of a CKL Superior Proposal; and
- 5.1.18 (*Compliance with laws*) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws, regulations and policy.

#### **GPI's obligations**

- 5.2 GPI must take all steps reasonably necessary to assist CKL to implement the Scheme on and subject to the terms of this deed as soon as reasonably practicable and otherwise substantially in accordance with the Timetable including, without limitation, taking each of the following steps:
- 5.2.1 (*GPI Information*) prepare and provide to CKL, in a form appropriate for inclusion in the Scheme Booklet, the GPI Information that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Scheme Booklet and as may be necessary to ensure that GPI Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (whether by omission or otherwise);
- 5.2.2 (*Regulatory notifications*) in relation to the Regulatory Approvals required to be applied for by GPI, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by GPI in relation to the Proposed Transaction;
- 5.2.3 (*Independent Expert*) subject to the Independent Expert agreeing to reasonable confidentiality restrictions, promptly provide all assistance and information reasonably requested by the Independent Expert or CKL to enable the Independent Expert to prepare the Independent Expert's Report for inclusion in the Scheme Booklet;
- 5.2.4 (*Liaison with ASIC*) promptly provide assistance reasonably requested by CKL to assist CKL in resolving any matter raised by ASIC regarding the Scheme Booklet or the Scheme during its review of the Scheme Booklet;
- 5.2.5 (*Review of Scheme Booklet*) as soon as reasonably practicable after delivery, review the drafts of the Scheme Booklet prepared by CKL and provide comments on those drafts in good faith;
- 5.2.6 (*Approval of draft for ASIC*) as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, approve the GPI Information contained in that draft as being in a form appropriate for provision to ASIC for review;
- 5.2.7 (*Approval of Scheme Booklet*) as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, approve those sections of the Scheme Booklet that comprise the GPI Information as being in a form appropriate for despatch to the CKL Shareholders, subject to approval of the Court;

- 5.2.8 (*Representation*) procure that, if requested by CKL, GPI is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- 5.2.9 (*Deed Poll*) prior to the First Court Date, execute the Deed Poll;
- 5.2.10 (*CKL Information*) during the period until that CKL Information becomes publicly available, not use that CKL Information for any purposes other than those expressly contemplated by this deed or the Scheme without the prior written consent of CKL; and
- 5.2.11 (*Financing*) to do everything necessary to ensure that all finance agreements and arrangements to which GPI is party relating to the availability of funds for the purposes of paying the Scheme Amount per Share to each Scheme Shareholder remain on foot, that all conditions precedent to draw down of funds have been satisfied or waived under those agreements or arrangements and to hold the proceeds of the financing to the extent required to pay the Scheme Amount per Share to the Scheme Shareholders on the Implementation Date. For the avoidance of doubt, nothing in this paragraph requires GPI to provide credit or credit support to CKL for the purpose of enabling CKL to pay a dividend or otherwise.

**Scheme Booklet – preparation principles**

- 5.3 As soon as reasonably practicable after the date of this deed and otherwise substantially in accordance with the Timetable, CKL must prepare the Scheme Booklet in compliance with:
  - 5.3.1 all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
  - 5.3.2 clauses 5.3 to 5.14,
 except that the obligations to do so in respect of the GPI Information is subject to GPI complying with its obligations under clause 5.2.1 and clauses 5.3 to 5.14.
- 5.4 The Scheme Booklet will include or be accompanied by:
  - 5.4.1 the terms of the Scheme;
  - 5.4.2 the notice convening the Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting;
  - 5.4.3 the CKL Information;
  - 5.4.4 the GPI Information;
  - 5.4.5 a copy of this deed (without the schedules or annexures) or a summary of the terms of this deed;
  - 5.4.6 a copy of the executed Deed Poll; and
  - 5.4.7 a copy of the Independent Expert's Report.

- 5.5 CKL must make available to GPI drafts of the Scheme Booklet (excluding any draft of the Independent Expert's Report), consult with GPI in relation to the content of those drafts (other than the GPI Information), and consider in good faith, for the purpose of amending those drafts, comments from GPI on those drafts. GPI acknowledges and agrees that CKL has ultimate discretion with respect to the preparation, form and content of the Scheme Booklet, other than as expressly provided in this deed with respect to the GPI Information.
- 5.6 CKL must seek approval from GPI for the form and context in which the GPI Information appears in the Scheme Booklet, which approval GPI must not unreasonably withhold or delay, and CKL must not lodge the Scheme Booklet with ASIC until such approval is obtained from GPI.
- 5.7 GPI must provide written consent to CKL in relation to the form and context in which the GPI Information (and any information solely derived from, or prepared solely in reliance on, the GPI Information) is used in the Scheme Booklet, such consent not to be unreasonably withheld or delayed by GPI.
- 5.8 CKL must take all reasonable steps to ensure that the Scheme Booklet (other than the GPI Information and the Independent Expert's Report) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to CKL Shareholders.
- 5.9 GPI must take all reasonable steps to ensure that the GPI Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Scheme Booklet is despatched to CKL Shareholders.
- 5.10 CKL must provide to GPI all such further or new information of which CKL becomes aware (or ought reasonably to have become aware after making all reasonable and diligent enquiries) that arises after the Scheme Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Scheme Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules or that the CKL Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (whether by omission or otherwise).
- 5.11 GPI must provide to CKL all such further or new information of which GPI becomes aware (or ought reasonably to have become aware after making all reasonable and diligent enquiries) that arises after the Scheme Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the GPI Information continues to comply with the Corporations Act, RG 60 and the Listing Rules or that the GPI Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (whether by omission or otherwise).
- 5.12 CKL and GPI each agree that the efficient preparation of the Scheme Booklet and the implementation of the Scheme are in the interests of CKL Shareholders and GPI and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under clauses 5.3 to 5.14 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.
- 5.13 GPI and CKL are entitled to separate representation at all Court proceedings affecting the Proposed Transaction. Nothing in this document provides one party with any right or power

to give undertakings to the Court on behalf of the other party without that party's written consent.

- 5.14 CKL must undertake appropriate verification processes in relation to the CKL Information contained in the Scheme Booklet, and GPI must undertake appropriate verification processes in relation to the GPI Information contained in the Scheme Booklet.

**Responsibility statement**

- 5.15 The Scheme Booklet must contain a responsibility statement to the effect that:
- 5.15.1 GPI is responsible for the GPI Information contained in the Scheme Booklet, other than any information provided by CKL to GPI regarding the CKL Group contained in, or used in the preparation of, the information regarding the merged GPI-CKL entity following implementation of the Scheme;
- 5.15.2 CKL is responsible for the CKL Information contained in the Scheme Booklet, and is also responsible for the information contained in the Scheme Booklet provided by CKL to GPI or obtained from CKL public filings on the ASX regarding the CKL Group contained in, or used in the preparation of, the information regarding the merged GPI-CKL entity following implementation of the Scheme; and
- 5.15.3 the Independent Expert is responsible for the Independent Expert's Report.

**CKL Board recommendation**

- 5.16 Subject to clause 5.17, CKL must use its best endeavours to procure that the Scheme Booklet and all public announcements or statements by CKL in relation to the Proposed Transaction must include statements that:
- 5.16.1 the CKL Board unanimously recommends that CKL Shareholders vote in favour of the Scheme; and
- 5.16.2 each director of CKL intends to vote all CKL Shares held or controlled by him or her in favour of the Scheme,
- qualified only by the words to the effect of:
- 5.16.3 "in the absence of a superior proposal"; and
- 5.16.4 other than in respect of the Scheme Booklet or any document issued after the issue of the Scheme Booklet, "subject to the Independent Expert opining that the Scheme is in the best interests of CKL Shareholders".
- 5.17 CKL must use its best endeavours to ensure that the directors of CKL only make a statement or take any action that qualifies their support of the Scheme or contradicts, or subsequently change, withdraw or modify the recommendation referred to in clause 5.16, in either of the following circumstances:
- 5.17.1 the Independent Expert opines either prior to the despatch of the Scheme Booklet or prior to the Scheme Meeting to the effect that the Scheme is not in the best interests of CKL Shareholders (except where the Independent Expert opines that

the Scheme is not in the best interest of CKL Shareholders as a result of a CKL Competing Proposal); or

5.17.2 a majority of the directors of CKL determine, after GPI's rights under clauses 13.8 to 13.12 have been exhausted, that a CKL Competing Proposal constitutes a CKL Superior Proposal, and the CKL Board has determined in good faith and acting reasonably, after having consulted with its financial and legal advisers, that failure to take this action would or would be likely to constitute a breach of the directors of CKL's fiduciary or statutory obligations.

5.18 Subject to clause 5.17, CKL represents and warrants to GPI that it has been advised by each director of CKL in office at the date of this deed that he or she will act in accordance with clauses 5.16 to 5.18

## **6. CONDUCT OF BUSINESS BEFORE THE IMPLEMENTATION DATE**

6.1 Subject to clauses 6.2 to 6.4, from the date of this deed up to and including the Implementation Date, CKL must conduct its business, and must cause each of its Subsidiaries to conduct their businesses, in the ordinary and usual course of business and:

6.1.1 operate those businesses consistent with past practice, in substantially the same manner as previously conducted;

6.1.2 use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;

6.1.3 use reasonable endeavours to ensure that all assets are maintained in the normal course of business consistent with past practice;

6.1.4 use reasonable endeavours to comply in all material respects with all material contracts to which a member of the CKL Group is a party;

6.1.5 in accordance with all applicable laws, authorisations and licenses; and

6.1.6 not take or fail to take any action that constitutes a Prescribed Occurrence or that could reasonably be expected to result in a Prescribed Occurrence.

6.2 Without limiting clause 6.1 but subject to clause 6.3, CKL must not, and must procure that its Subsidiaries do not, from the date of this deed up to and including the Implementation Date, do any of the following (or agree or offer to do any of the following):

6.2.1 incur any additional financial indebtedness (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the CKL Group, other than in the usual and ordinary course of business and consistent with past practice;

6.2.2 declare a dividend with a record date on or after the Record Date;

6.2.3 (except as required by law or as provided in an existing contract in place as at the date of this deed) make any material change to the terms of employment of (including increasing the remuneration or compensation of), or grant or pay any

- bonus, retention, severance or termination payment to, any director, executive or a CKL Senior Manager;
- 6.2.4 (except as pursuant to contractual arrangements in effect on the date of this deed) enter into any enterprise bargaining agreement or similar collective employment agreement;
- 6.2.5 in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking, the value of which exceeds \$1 million, individually or when aggregated with all such businesses, real property, entities or undertakings the subject of the transaction or series of related or similar transactions;
- 6.2.6 incur or enter into commitments involving capital expenditure of more than \$500,000 whether in one transaction or a series of related transactions;
- 6.2.7 enter into, vary or terminate any contract, joint venture, partnership or commitment for a duration of over two years involving total expenditure greater than \$500,000 per annum, individually or when aggregated with all such contracts, joint ventures, partnerships or commitments;
- 6.2.8 enter into, vary or terminate any contract, joint venture, partnership or commitment (or any series of related contracts, joint ventures, partnerships or commitments):
- 6.2.8.1 involving total expenditure greater than \$5 million, individually or when aggregated with all such related contracts, joint ventures, partnerships or commitments;
- 6.2.8.2 waiving any third party default which has a financial impact upon the CKL Group, or accepting as a compromise anything less than the full compensation due to the CKL Group, in each case where the applicable expenditure or impact is or will be in excess of \$500,000 in any financial year;
- 6.2.8.3 restraining any material member of the CKL Group from competing with any person or conducting activities in any market; or
- 6.2.8.4 with any related entity of any member of the CKL Group (other than a member of the CKL Group);
- 6.2.9 enter into any new financing arrangement, agreement or otherwise provide financial accommodation other than with members of the CKL Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;
- 6.2.10 enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) or electricity or gas supply related hedges made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this deed;

- 6.2.11 give or agree to give any financial benefit to one of its related parties;
  - 6.2.12 pay any fee to any adviser where such fee is contingent on the Proposed Transaction (other than as Fairly Disclosed in writing to the other party before the date of this deed);
  - 6.2.13 issue, or agree to issue, or grant an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been Fairly Disclosed in the CKL Disclosure Letter;
  - 6.2.14 alter in any material respect any accounting policy of any member of the CKL Group other than any change required by the Accounting Standards; or
  - 6.2.15 amend in a material respect or terminate any existing shareholders' agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.
- 6.3 The obligations of CKL under clauses 6.1 to 6.2 do not apply in respect of any matter:
- 6.3.1 undertaken by a member of the CKL Group in conducting its businesses in the usual and ordinary course and consistent with past practice;
  - 6.3.2 required to be done or procured by a party pursuant to, or which is otherwise contemplated by, this deed or the Scheme;
  - 6.3.3 subject to clause 6.4, Fairly Disclosed in the CKL Disclosure Letter or CKL Due Diligence Material as being actions that the CKL Group may carry out between the date of this deed and the Implementation Date, but in the case of any board minutes contained in the CKL Due Diligence Material only actions which CKL is in the process of implementing as at the date of this deed, subject only to final board approval; or
  - 6.3.4 the undertaking of which GPI has approved in writing (which approval must not be unreasonably withheld or delayed).
- 6.4 CKL must, in respect of any matter referred to in clause 6.3.3 that it proposes to undertake:
- 6.4.1 if the CKL Disclosure Letter permits the carrying out of the action only in accordance with certain conditions, ensure those conditions are met;
  - 6.4.2 not undertake that matter (or commit to undertake that matter) without first consulting with the other party; and
  - 6.4.3 promptly provide the other party with any information regarding the matter reasonably requested by the other party.

For the avoidance of doubt, clause 6.4 does not operate to provide the other party with a veto right in respect of any matter referred to in clause 6.3.3.

- 6.5 Subject to clause 6.7, prior to the Effective Date:
- 6.5.1 CKL must keep GPI reasonably informed of all material developments relating to the CKL Group and provide to the other party monthly management, financial and operational reports provided to its board; and
- 6.5.2 CKL and GPI must share such information as is reasonably required to implement the Proposed Transaction.
- 6.6 Subject to clause 6.7, on and from the Effective Date:
- 6.6.1 CKL must provide GPI (and its Authorised Persons) with reasonable access to its records and reasonable co-operation for the purpose of:
- 6.6.1.1 implementation of the Scheme;
- 6.6.1.2 GPI obtaining an understanding, or furthering its understanding, of the operations of CKL's business or assets in order to allow and facilitate the smooth implementation of the plans for those businesses following implementation of the Scheme; and
- 6.6.1.3 any other purpose which is agreed between the parties; and
- 6.6.2 CKL must provide GPI (and must cause each of its Subsidiaries to) promptly provide GPI with any information reasonably requested by GPI (including, without limitation, information from its share registry),
- subject to the proper performance by CKL's directors and officers, and the directors and officers of its Subsidiaries, of their fiduciary duties.
- 6.7 Nothing in clauses 6.5 to 6.7 obliges CKL to provide to GPI or its Authorised Persons:
- 6.7.1 any information:
- 6.7.1.1 concerning its directors' consideration of the Scheme;
- 6.7.1.2 which would breach an obligation of confidentiality to any person or any applicable privacy laws;
- 6.7.1.3 on the basis that it is or contains Sensitive Confidential Information, in which case it will provide the document or disclose the information to the recipient with any Sensitive Confidential Information redacted or excluded; or
- 6.7.2 any information that is different or in addition to the information it provides to its board or senior managers in the usual and ordinary course of business consistent with past practice.

**7. BOARD AND DIRECTOR MATTERS**

- 7.1 CKL represents and warrants to GPI that it has been advised by each CKL director that he or she will, and CKL must procure that the CKL Board will, on the Implementation Date immediately after the aggregate Scheme Amount per Share has been despatched to Scheme Shareholders, take all actions necessary to ensure that:
- 7.1.1 four nominees of GPI are lawfully appointed as directors of CKL, subject to those persons having provided a consent to act as directors of CKL; and
  - 7.1.2 four existing non-executive directors of CKL, nominated by GPI, resign from their office as a CKL director by providing to the CKL Board their resignation in writing (such resignation to include a statement to the effect that the outgoing director has no claim outstanding against any member of the CKL Group).

**8. REPRESENTATIONS AND WARRANTIES**

**GPI representations**

- 8.1 GPI represents and warrants to CKL (on its own behalf and separately as trustee for each of its Related Bodies Corporate and Authorised Persons) each of the matters set out in clause 8.2 as at the date of this deed and at 8.00am on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- 8.2 GPI represents and warrants that:
- 8.2.1 GPI is a validly existing corporation registered under the laws of its place of incorporation;
  - 8.2.2 the execution and delivery of this deed by GPI has been properly authorised by all necessary corporate action and GPI has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
  - 8.2.3 this deed constitutes legal, valid and binding obligations on GPI and the execution of this deed of itself does not result in a breach of or default under any agreement, deed or any writ, order or injunction, rule or regulation to which GPI or any of its Subsidiaries is a party or to which they are bound, where such breach or default would have a material adverse effect on the GPI Group;
  - 8.2.4 the GPI Information provided to CKL in accordance with clause 5.2.1 for inclusion in the Scheme Booklet will:
    - 8.2.4.1 be prepared and provided in good faith;
    - 8.2.4.2 comply in all material respects with the requirements of the Corporations Act, RG 60 and the Listing Rules; and
    - 8.2.4.3 be provided on the understanding that CKL and its Related Bodies Corporate and Authorised Persons will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;

- 8.2.5 as at the date the Scheme Booklet is despatched to CKL Shareholders, the GPI Information, in the form and context in which that information appears in the version of the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- 8.2.6 other than expressly contemplated in this deed, as far as GPI is aware, no Regulatory Approvals are required to be obtained by GPI in order for it to execute and perform the Transaction Documents to which it is a party;
- 8.2.7 all information provided by or on behalf of GPI to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- 8.2.8 GPI will, as a continuing obligation, provide to CKL all such further or new information which may arise after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the GPI Information, in the form and context in which that information appears in the version of the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise); and
- 8.2.9 by 8.00am on the Second Court Date, GPI will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of GPI) sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy GPI's obligations to pay the aggregate Scheme Amount per Share to all Scheme Shareholders in accordance with its obligations under this deed, the Scheme and the Deed Poll. For the avoidance of doubt, nothing in this paragraph requires GPI to provide credit or credit support to CKL for the purpose of enabling CKL to pay a dividend or otherwise.

**GPI indemnity**

- 8.3 GPI agrees with CKL to indemnify CKL from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which CKL may suffer or incur by reason of any breach of any of the representations and warranties in clauses 8.1 or 8.2.

**CKL representations**

- 8.4 CKL represents and warrants to GPI (on its own behalf and separately as trustee for each of its Related Bodies Corporate and Authorised Persons) each of the matters set out in clause 8.5 as at the date of this deed and at 8.00am on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).

- 8.5 Other than as Fairly Disclosed in filings of CKL with the ASX, in the CKL Due Diligence Material or the CKL Disclosure Letter, CKL represents and warrants that:
- 8.5.1 CKL is a validly existing corporation registered under the laws of its place of incorporation;
  - 8.5.2 the execution and delivery of this deed by CKL has been properly authorised by all necessary corporate action and CKL has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
  - 8.5.3 this deed constitutes legal, valid and binding obligations on CKL and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which CKL or any of its Subsidiaries is a party or to which they are bound, where such breach or default would have a material adverse effect on the CKL Group;
  - 8.5.4 the CKL Information contained in the Scheme Booklet:
    - 8.5.4.1 will be prepared and included in the Scheme Booklet in good faith; and
    - 8.5.4.2 will comply in all material respects with the requirements of the Corporations Act, RG 60 and the Listing Rules;
  - 8.5.5 as at the date the Scheme Booklet is despatched to CKL Shareholders, the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the GPI Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
  - 8.5.6 as at the date of this deed, CKL is not in breach of its continuous disclosure obligations under Listing Rule 3.1 and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to GPI on or before the date of this deed);
  - 8.5.7 as at the date of this deed, the total issued capital of CKL is 88,202,525 CKL Shares and there are no other CKL options, instruments, performance rights, shares, convertible notes or other securities and CKL has not offered, entered into any agreements to, and is not subject to any obligations to issue any of the foregoing;
  - 8.5.8 CKL's financial statements as disclosed to ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice and, so far as CKL is aware, there has not been any event, change, effect or development which would require CKL to restate its financial statements as disclosed to ASX;

- 8.5.9 the CKL Due Diligence Material and each disclosure in the CKL Disclosure Letter have been collated and disclosed in good faith and, so far as the CKL Board and the senior management of CKL are aware after due and diligent enquiry, CKL has not:
- 8.5.9.1 omitted anything from such information makes any part of that information materially false or misleading; or
  - 8.5.9.2 included anything materially false or misleading in such information;
- 8.5.10 as at the date of this deed, and so far as the CKL Board and the senior management of any member of the CKL Group are aware after due and diligent inquiry, there are no material agreements to which any member of the CKL Group is a party which contain any provision that may be triggered by the implementation of the Proposed Transaction and which would have a material adverse effect on the Proposed Transaction or might otherwise materially adversely affect the business of the CKL Group;
- 8.5.11 other than expressly contemplated in this deed, no Regulatory Approvals are required to be obtained by CKL in order for it to execute and perform the Transaction Documents to which it is a party;
- 8.5.12 no shareholder approval of CKL is required to complete the Proposed Transaction other than the approval referred to in clause 3.1.5;
- 8.5.13 all information provided by or on behalf of CKL to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- 8.5.14 as at the date of this deed, there is no judgment, injunction, order or decree binding on any member of the CKL Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of CKL Group as presently being conducted;
- 8.5.15 as at the date of this deed, no member of the CKL Group, nor the assets, properties or business of any member of the CKL Group, is subject to any judgment, order, writ, injunction or decree of any court, Regulatory Authority or arbitration tribunal and so far as CKL is aware after due and diligent inquiry:
- 8.5.15.1 there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the CKL Group; and
  - 8.5.15.2 no member of the CKL Group is the subject of any pending investigation;
- 8.5.16 so far as the CKL Board and the senior management of any member of the CKL Group are aware after due and diligent inquiry, there is no material breach, and execution and performance of this deed will not result in any material breach, by CKL or any of its Authorised Persons of any Australian or foreign law, treaty or regulation applicable to them, nor of any order of any Australian or foreign

Regulatory Authority having jurisdiction over them, which breach, alone or together with any other breaches of law or regulation, has or could reasonably be expected to have the effect of causing:

- 8.5.16.1 any material contract to be terminable or terminated;
  - 8.5.16.2 CKL or any of its Authorised Persons to be restricted in doing business in any jurisdiction or with any customer or supplier, or being subject to criminal liability; or
  - 8.5.16.3 any other material adverse effect on the CKL Group (including in relation to the conduct of the business of the CKL Group, the value of the CKL Group, the reputation of the CKL Group, or which has resulted in or is reasonably likely to result in any criminal liability of any member of the CKL Group involving proof of intention or any criminal penalty exceeding \$5 million);
- 8.5.17 each member of the CKL Group has all material licenses and permits necessary for it to conduct its business;
- 8.5.18 as at the date of this deed, neither ASIC nor ASX (as applicable) has made a determination against any member of the CKL Group for any contravention of the requirements of the Corporations Act or the Listing Rules or any rules, regulations or policy statements under the Corporations Act or the Listing Rules; and
- 8.5.19 there is no material Security Interest over all or any of CKL's or CKL's Subsidiaries' present or future assets or the revenues of CKL's business or CKL's Subsidiaries' businesses.

**CKL's indemnity**

- 8.6 CKL agrees with GPI to indemnify GPI from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which GPI may suffer or incur by reason of any breach of any of the representations and warranties in clauses 8.4 or 8.5.

**Notifications**

- 8.7 Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 8.

**Survival of representations**

- 8.8 Each representation and warranty in clauses 8.1 to 8.2 and 8.4 to 8.5:
- 8.8.1 is severable;
  - 8.8.2 will survive the termination of this deed; and
  - 8.8.3 is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

**Survival of indemnities**

- 8.9 Each indemnity in this deed (including those in clauses 8.3 and 8.6) will:
- 8.9.1 be severable;
  - 8.9.2 be a continuing obligation;
  - 8.9.3 constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
  - 8.9.4 survive the termination of this deed.

**Liability of directors and Authorised Persons**

- 8.10 To the fullest extent permitted by law, each party releases its rights against, will not make any claim against, and covenants not to sue, any past or present director or Authorised Person of any other party in relation to information provided to it or in relation to its execution or delivery of this deed to the extent that the past or present director or Authorised Person has acted in good faith.
- 8.11 Each party holds the releases in clause 8.10 in respect of its directors and Authorised Persons as trustee for its directors and Authorised Persons.

**9. CONFIDENTIALITY AND PUBLIC ANNOUNCEMENT**

- 9.1 Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Agreement, save that the terms of this deed will prevail to the extent of any inconsistency with the Confidentiality Agreement.

**Public announcements on execution**

- 9.2 Immediately after the execution of this deed, the parties must issue public announcements in a form previously agreed to in writing between them.

**Further public announcements**

- 9.3 Except if a CKL Competing Proposal exists, any further public announcements by CKL or GPI in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably), subject to where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme.

**10. TERMINATION**

**Termination by notice**

- 10.1 GPI or CKL may, by notice in writing to the other, terminate this deed at any time prior to 8.00am on the Second Court Date:
- 10.1.1 if the other party is in material breach of any of its material obligations under this deed and:

- 10.1.1.1 the other party has failed to remedy that breach within five Business Days (or, if earlier, 8.00am on the Second Court Date) of receipt by it of a notice in writing from the terminating party setting out details of the relevant breach and requesting the other party to remedy the breach; or
    - 10.1.1.2 the breach cannot be remedied by the other party before 8.00am on the Second Court Date; or
  - 10.1.2 in accordance with clauses 3.12 to 3.14.
- 10.2 CKL may, by notice in writing to GPI, terminate this deed at any time prior to 8.00am on the Second Court Date if, at any time before then:
  - 10.2.1 a majority of the directors of CKL withdraw or adversely modify their recommendation of the Proposed Transaction or publicly recommend a CKL Competing Proposal in accordance with clause 5.17;
  - 10.2.2 GPI breaches a GPI Warranty, and:
    - 10.2.2.1 GPI fails to remedy that breach within five Business Days of receipt by it of a notice in writing from CKL setting out details of the relevant breach and requesting GPI to remedy the breach; or
    - 10.2.2.2 the breach cannot be remedied to the reasonable satisfaction of CKL by GPI before 8.00am on the Second Court Date; and
    - 10.2.2.3 the breach was of a kind that, had it been disclosed to CKL prior to its entry into this deed, could reasonably be expected to have resulted in CKL either not entering into this deed or entering into it on materially different terms.
- 10.3 GPI may, by notice in writing to CKL, terminate this deed at any time prior to 8.00am on the Second Court Date if, at any time before then:
  - 10.3.1 a majority of the directors of CKL:
    - 10.3.1.1 fail to recommend the Scheme in accordance with clause 5.16; or
    - 10.3.1.2 withdraw or adversely modify their recommendation of the Scheme or make any public statement that is inconsistent with a recommendation of the Scheme in accordance with clause 5.16;
  - 10.3.2 there is a CKL Competing Proposal pursuant to which a third party actually acquires a relevant interest (under a transaction that is or has become unconditional) in more than 15% of the issued shares of CKL; or
  - 10.3.3 CKL breaches a CKL Warranty, and:
    - 10.3.3.1 CKL fails to remedy that breach within five Business Days of receipt by it of a notice in writing from GPI setting out details of the relevant breach and requesting CKL to remedy the breach; or

- 10.3.3.2 the breach cannot be remedied to the reasonable satisfaction of GPI by CKL before 8.00am on the Second Court Date; and
- 10.3.3.3 the breach was of a kind that, had it been disclosed to GPI prior to its entry into this deed, could reasonably be expected to have resulted in GPI either not entering into this deed or entering into it on materially different terms.

**Effect of termination**

- 10.4 In the event of termination of this deed under clauses 3.12 to 3.14 or 10.1 to 10.3, this deed will become void and have no effect, except that the provisions of this clause 10 and clauses 1, 8.8, 8.9, 8.10, 8.11, 11, 12, 14 and 15.4 to 15.6 (inclusive) survive termination.
- 10.5 Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

**Survival of obligations**

- 10.6 The rights and obligations of the parties under the Confidentiality Agreement survive termination of this deed.

**Disclosure on termination of deed**

- 10.7 The parties agree that, if this deed is terminated under this clause 10, any party may disclose:
  - 10.7.1 the fact that this deed has been terminated, where such disclosure is required by the relevant Listing Rules or is in the reasonable opinion of that party required to ensure that the market in its securities is properly informed;
  - 10.7.2 the fact that this deed has been terminated to ASIC and the Court; and
  - 10.7.3 information that is required to be disclosed as a matter of law or in any proceedings.

**11. CKL BREAK FEE**

**Background**

- 11.1 CKL acknowledges that, if the parties enter into this deed and the Scheme is subsequently not implemented, GPI will incur significant costs, including those described in clauses 11.4 to 11.5.
- 11.2 In the circumstances referred to in clause 11.1, GPI has requested that provision be made for the payments outlined in clause 11.6, without which GPI would not have entered into this deed.
- 11.3 The CKL Board believes that the Scheme will provide benefit to CKL and CKL Shareholders and that it is appropriate for CKL to agree to the payments referred to in this clause 11 in order to secure GPI's participation in the Proposed Transaction.

**Costs incurred by GPI**

- 11.4 The fee payable under clause 11.6 has been calculated to reimburse GPI for the following:
- 11.4.1 fees for legal and financial advice in planning and implementing the Proposed Transaction;
  - 11.4.2 reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
  - 11.4.3 costs of management and directors' time in planning and implementing the Proposed Transaction;
  - 11.4.4 out of pocket expenses incurred in planning and implementing the Proposed Transaction;
  - 11.4.5 costs associated with the financing arrangements in respect of the Proposed Transaction; and
  - 11.4.6 any damage to the GPI's reputation associated with a failed transaction and the implications of those damages if GPI seeks to execute alternative acquisitions in the future,

in each case, incurred by GPI directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.

- 11.5 The parties acknowledge and agree that:
- 11.5.1 the amount of fees, costs and losses referred to in clause 11.4 are of such a nature that they cannot be precisely quantified and that, even after termination of this deed, the costs will not be able to be accurately ascertained; but that
  - 11.5.2 the amount of the costs payable under clause 11.6 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged and agreed by the parties that the costs would most likely be in excess of this amount).

**Payment by CKL to GPI**

- 11.6 Subject to clauses 11.7 to 11.8 and 11.10, CKL agrees to pay to GPI \$600,000 (exclusive of GST) ("**CKL Break Fee**") if:
- 11.6.1 (*CKL Superior Proposal*) a CKL Superior Proposal is publicly announced prior to the End Date and within nine months from the date of the public announcement of such CKL Superior Proposal the proponent of that CKL Superior Proposal:
    - 11.6.1.1 completes, implements or consummates that CKL Superior Proposal;
    - 11.6.1.2 without limiting clause 11.6.1.1, acquires a relevant interest in at least 50% of the CKL Shares under a transaction that is or has become unconditional; or
    - 11.6.1.3 otherwise acquires Control of CKL or the CKL Group;

- 11.6.2 (*CKL Competing Proposal*) a CKL Competing Proposal is publicly announced prior to the End Date and within nine months from the date of the public announcement of such CKL Competing Proposal the proponent of that CKL Competing Proposal:
- 11.6.2.1 completes, implements or consummates that CKL Competing Proposal;
  - 11.6.2.2 without limiting clause 11.6.2.1, acquires a relevant interest in at least 50% of the CKL Shares under a transaction that is or has become unconditional; or
  - 11.6.2.3 otherwise acquires Control of CKL of the CKL Group;
- 11.6.3 (*Change of recommendation*) at any time prior to the Second Court Date, a majority of the directors of CKL at that point in time:
- 11.6.3.1 withdraws or adversely modifies or qualifies their recommendation of the Proposed Transaction or recommends or supports a CKL Competing Proposal;
  - 11.6.3.2 does not recommend in the Scheme Booklet that CKL Shareholders approve the Scheme; or
  - 11.6.3.3 makes any public statement to the effect that the Scheme is not, or is no longer, recommended,
- other than as a result of:
- 11.6.3.4 the Independent Expert opining (including in the Independent Expert's Report or any update, revision or amendment thereto) to the effect that the Scheme is not in the best interests of CKL Shareholders (other than where the reason for that opinion is a CKL Competing Proposal or CKL Superior Proposal);
  - 11.6.3.5 any matter or thing giving CKL the right to terminate this deed under clause 10.1.1 or 10.2.2; or
  - 11.6.3.6 failure of a condition precedent in clause 3.1.1, other than as a result of a breach by CKL of clauses 3.6 or 3.7;
- 11.6.4 (*Material Breach*) GPI terminates this deed in accordance with clause 10.1.1; or
- 11.6.5 (*Prescribed Occurrence*) the Condition in clause 3.1.3 is breached or not satisfied prior to 8.00am on the Second Court Date and GPI terminates this deed in accordance with clause 10.1.2,

in which case, CKL agrees to pay GPI the CKL Break Fee within five Business Days of receipt by CKL of a demand for payment of the CKL Break Fee from GPI (which demand may be made after the occurrence of an event referred to in this clause 11.6).

**Break Fee not payable**

- 11.7 Despite any other terms of this deed:
- 11.7.1 the CKL Break Fee will not be payable to GPI if the Scheme becomes Effective; and
  - 11.7.2 the CKL Break Fee is only payable once.
- 11.8 For the avoidance of doubt, the CKL Break Fee will not be payable merely by reason that the Scheme is not approved by the CKL Shareholders.

**CKL's limitation of liability**

- 11.9 Notwithstanding any other provisions of this deed but subject to clause 11.10:
- 11.9.1 the maximum liability of CKL to GPI under or in connection with this deed, including in respect of any breach of the deed, will be the CKL Break Fee referred to in clause 11.6; and
  - 11.9.2 a payment by CKL in accordance with this clause 11 represents the sole and absolute liability of CKL under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by CKL in connection with this deed.

**Compliance with law**

- 11.10 If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the CKL Break Fee ("**CKL Impugned Amount**"):
- 11.10.1 would, if paid, be unlawful for any reason;
  - 11.10.2 involves a breach of the fiduciary or statutory duties of the CKL Board; or
  - 11.10.3 constitutes unacceptable circumstances (within the meaning of the Corporations Act) or breaches an order of the Takeovers Panel,
- then:
- 11.10.4 the requirement to pay the CKL Break Fee does not apply to the extent of the CKL Impugned Amount; and
  - 11.10.5 if GPI has received the CKL Impugned Amount, it must refund it within five Business Days of the final determination being made.
- 11.11 CKL must not seek any such determination and must use all reasonable endeavours to ensure that no such determination is made.

**12. GPI BREAK FEE****Background**

- 12.1 GPI acknowledges that, if the parties enter into this deed and the Scheme is subsequently not implemented, CKL will incur significant costs including those described in clauses 12.4 to 12.5.
- 12.2 In the circumstances referred to in clause 12.1, CKL has requested that provision be made for the payments outlined in clause 12.6, without which CKL would not have entered into this deed.
- 12.3 GPI believes that the Scheme will provide benefit to GPI and that it is appropriate for GPI to agree to the payments referred to in this clause 12 in order to secure CKL's participation in the Proposed Transaction.

**Costs incurred by CKL**

- 12.4 The fee payable under clause 12.6 has been calculated to reimburse CKL for the following:
- 12.4.1 fees for legal and financial advice in planning and implementing the Proposed Transaction;
  - 12.4.2 reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
  - 12.4.3 costs of management and directors' time in planning and implementing the Proposed Transaction;
  - 12.4.4 out of pocket expenses incurred in planning and implementing the Proposed Transaction;
  - 12.4.5 costs associated with the financing arrangements in respect of the Proposed Transaction; and
  - 12.4.6 any damage to CKL's reputation associated with a failed transaction and the implications of those damages if CKL seeks to execute alternative acquisitions in the future,

in each case, incurred by CKL directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.

- 12.5 The parties acknowledge and agree that:
- 12.5.1 the amount of fees, costs and losses referred to in clauses 12.4 to 12.5 are of such a nature that they cannot be precisely quantified and that, even after termination of this deed, the costs will not be able to be accurately ascertained; but that
  - 12.5.2 the amount of the costs payable under clause 12.6 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged and agreed by the parties that the costs would most likely be in excess of this amount).

**GPI Break Fee**

12.6 Subject to clauses 12.7 and 12.8 GPI agrees to pay to CKL \$600,000 (exclusive of GST) ("**GPI Break Fee**") if:

12.6.1 (*Material Breach*) CKL terminates this deed in accordance with clause 10.1.1; and

12.6.2 (*Scheme Amount per Share*) GPI does not pay the Scheme Amount per Share in accordance with the terms and conditions of this deed and the Deed Poll,

in which case, GPI agrees to pay CKL the GPI Break Fee within five Business Days of receipt by GPI of a demand for payment of the GPI Break Fee from CKL (which demand may only be made after the occurrence of an event referred to in this clause 12.6).

**GPI Break Fee not payable**

12.7 Despite any other terms of this deed:

12.7.1 the GPI Break Fee will not be payable to CKL if the Scheme becomes Effective; and

12.7.2 the GPI Break Fee is only payable once.

**GPI limitation of liability**

12.8 Notwithstanding any other provisions of this deed but subject to clause 12.9:

12.8.1 the maximum liability of GPI to CKL under or in connection with this deed including in respect of any breach of the deed will be the GPI Break Fee referred to in clause 12.6; and

12.8.2 a payment by GPI in accordance with this clause 12 represents the sole and absolute liability of GPI under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by GPI in connection with this deed.

**Compliance with law**

12.9 If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the GPI Break Fee ("**GPI Impugned Amount**"):

12.9.1 would, if paid, be unlawful for any reason;

12.9.2 involves a breach of the fiduciary or statutory duties of the GPI Board; or

12.9.3 constitutes unacceptable circumstances (within the meaning of the Corporations Act) or breaches an order of the Takeovers Panel,

then:

12.9.4 the requirement to pay the GPI Break Fee does not apply to the extent of the GPI Impugned Amount; and

12.9.5 if CKL has received the GPI Impugned Amount, it must refund it within five Business Days of the final determination being made.

12.10 GPI must not seek any such determination and must use all reasonable endeavours to ensure that no such determination is made.

### 13. EXCLUSIVITY – CKL

#### No existing discussions

13.1 Other than in relation to the discussions with GPI in connection with the Proposed Transaction and this deed, CKL represents and warrants to GPI that, as at the date of this deed:

13.1.1 neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is a party to any agreement with a third party entered into for the purpose of facilitating a CKL Competing Proposal; and

13.1.2 neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is participating in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a CKL Competing Proposal or to CKL abandoning or not proceeding with the Proposed Transaction.

#### No shop

13.2 During the Exclusivity Period, CKL must not, and must procure that its Related Bodies Corporate and their respective Authorised Persons do not, solicit, invite, initiate or encourage any CKL Competing Proposal or any enquiries, proposals, discussions or negotiations with any third party in relation to (or that could reasonably be expected to lead to) a CKL Competing Proposal or to CKL abandoning or not proceeding with the Proposed Transaction.

#### No Talk

13.3 Subject to clause 13.13, during the Exclusivity Period, CKL must not, and must procure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

13.3.1 negotiate, enter into, participate in, or resume negotiations or discussions with any person; or

13.3.2 communicate any intention to do any of these things,

in relation to (or which may reasonably be expected to lead to) a CKL Competing Proposal, even if:

13.3.3 that CKL Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by CKL or any of its Related Bodies Corporate or their respective Authorised Persons; or

13.3.4 that other person has publicly announced the CKL Competing Proposal.

**No due diligence**

- 13.4 During the Exclusivity Period, except with the prior written consent of GPI, CKL must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:
- 13.4.1 solicit, invite, initiate, or encourage, or (subject to clause 13.13) facilitate or permit, any person (other than GPI) to undertake due diligence investigations in respect of CKL, its Related Bodies Corporate, or any of their businesses, assets and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a CKL Competing Proposal; or
- 13.4.2 subject to clause 13.13, make available to any person (other than GPI) or permit any such person to receive any non-public information relating to CKL, its Related Bodies Corporate, or any of their businesses, assets and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a CKL Competing Proposal.

**Notification of approaches**

- 13.5 During the Exclusivity Period, CKL must promptly notify GPI in writing of:
- 13.5.1 any approach, inquiry or proposal made by any person to CKL, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a CKL Competing Proposal; and
- 13.5.2 any request made by any person to CKL, any of its Related Bodies Corporate, or any of their respective Authorised Persons, for any information relating to CKL, its Related Bodies Corporate, or any of their businesses, assets and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a CKL Competing Proposal.
- 13.6 Subject to clause 13.13, a notice given under clause 13.5 must be accompanied by all material details of the relevant event, including (as the case may be):
- 13.6.1 the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 13.7.1, or who made the relevant request for information referred to in clause 13.7.2; and
- 13.6.2 the material terms and conditions (including price, conditions precedent, timetable and break fee (if any)) of any CKL Competing Proposal or any proposed CKL Competing Proposal (to the extent known).
- 13.7 During the Exclusivity Period, CKL must promptly provide GPI with:
- 13.7.1 in the case of written materials, a copy of; or
- 13.7.2 in any other case, a written statement of,
- any non-public information relating to CKL, its Related Bodies Corporate, or any of their businesses, assets and operations made available or received by any person in connection with such person formulating, developing or finalising, or assisting in the formulation,

development or finalisation of, a CKL Competing Proposal and which has not previously been provided to GPI.

**CKL's response to CKL Rival Acquirer and GPI's right to respond**

13.8 If CKL is permitted by virtue of clause 13.13 to engage in activity that would otherwise breach any of clauses 13.3, 13.4.1, 13.4.2 and 13.6:

13.8.1 CKL must enter into a confidentiality agreement with the person who has made the applicable CKL Competing Proposal ("**CKL Rival Acquirer**") on customary terms and must not enter into any other agreement, understanding or commitment in respect of a CKL Competing Proposal or a potential CKL Competing Proposal except as permitted by clause 13.9; and

13.8.2 GPI and CKL acknowledge and agree that the Confidentiality Agreement will be read down such that the obligations of GPI under the Confidentiality Agreement are no more onerous in any material respect than the obligations of the proposed acquirer under any confidentiality agreement referred to in clause 13.8.1.

13.9 If CKL receives a CKL Competing Proposal and as a result, any CKL director proposes to either:

13.9.1 change, withdraw or modify his or her recommendation of the Scheme; or

13.9.2 approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the CKL Competing Proposal (other than a confidentiality agreement contemplated by clause 13.8),

CKL must ensure that no CKL director does so:

13.9.3 unless the CKL Competing Proposal is bona fide; and

13.9.4 until each of the following has occurred:

13.9.4.1 the CKL directors have made the determination contemplated by clause 13.13.2 in respect of that CKL Competing Proposal;

13.9.4.2 CKL has given GPI written notice ("**CKL Relevant Notice**") of the CKL director's proposal to take the action referred to in clauses 13.9.1 or 13.9.2 (subject to GPI's rights under clause 13.11), including details of the grounds on which the CKL directors propose to take such action;

13.9.4.3 subject to clause 13.10, CKL has given GPI all information that would be required by clause 13.6 as if it was not subject in any way to clause 13.13;

13.9.4.4 GPI's rights under clause 13.11 have been exhausted; and

13.9.4.5 the CKL directors have made the determination contemplated by clause 13.13.1 in respect of that CKL Competing Proposal after GPI's rights under clause 13.11 have been exhausted and after evaluation of any GPI Counterproposal (as defined in clause 13.11).

- 13.10 Prior to giving GPI the information under clause 13.9.4.3, CKL must advise the CKL Rival Acquirer that the CKL Rival Acquirer's name and other details which may identify the CKL Rival Acquirer will be provided by CKL to GPI on a confidential basis.
- 13.11 If CKL gives a CKL Relevant Notice to GPI under clause 13.9.4.2, GPI will have the right, but not the obligation, at any time during the period of three Business Days following the receipt of the CKL Relevant Notice, to amend the terms of the Proposed Transaction including altering the amount of consideration offered under the Proposed Transaction or proposing any other form of transaction (each a "**GPI Counterproposal**"), and if it does so then the CKL directors must review the GPI Counterproposal in good faith. If the CKL directors determine that the GPI Counterproposal would be more favourable, or at least no less favourable, to CKL and the CKL Shareholders than the CKL Competing Proposal (having regard to the matters noted in clause 13.13.2), then CKL and GPI must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the GPI Counterproposal and to enter into an amended deed to give effect to those amendments and to implement the GPI Counterproposal, and CKL must use its best endeavours to procure that the CKL directors recommend the GPI Counterproposal to the Shareholders and not recommend the applicable CKL Competing Proposal.
- 13.12 For the purposes of clauses 13.8 to 13.12, each successive material modification of any third party expression of interest, offer or proposal in relation to a CKL Competing Proposal will constitute a new CKL Competing Proposal.

#### **Fiduciary out**

- 13.13 The restrictions in clauses 13.3, 13.4.1 and 13.4.2 and the obligations in clause 13.6 do not apply to the extent they restrict CKL or any CKL director from taking or refusing to take any action with respect to a CKL Competing Proposal (in relation to which there has been no contravention of this clause 13) provided that:
- 13.13.1 the CKL Competing Proposal is bona fide, in writing, made without any breach by CKL of its obligations under this clause 13, and made by or on behalf of a person that the CKL Board considers is of reputable commercial standing; and
- 13.13.2 the CKL Board has determined in good faith, after consultation with CKL's financial and legal advisers, that:
- 13.13.2.1 the CKL Competing Proposal is, or may reasonably be expected to lead to, a CKL Superior Proposal; and
- 13.13.2.2 failing to take the action or refusing to take the action (as the case may be) with respect to the CKL Competing Proposal would constitute a breach of their fiduciary or statutory obligations.

#### **Legal advice**

- 13.14 CKL represents and warrants to GPI that:
- 13.14.1 prior to entering into this deed it has received legal advice on this deed and the operation of this clause 13; and
- 13.14.2 it and the CKL Board consider this clause 13 to be fair and reasonable and that it is appropriate to agree to the terms in this clause 13 in order to secure the

significant benefits to it, and the CKL Shareholders resulting from the transactions contemplated hereby.

**14. NOTICES**

14.1 Any communication under or in connection with this deed:

14.1.1 must be in writing;

14.1.2 must be addressed as shown below:

**CKL**

Address: 63-73 Woodland Drive Braeside Vic 3195

E-mail: [stroiani@colorpak.com.au](mailto:stroiani@colorpak.com.au)

For the attention of: Sid Troiani

With a copy to: Alex Commins

Email: [acommins@colorpak.com.au](mailto:acommins@colorpak.com.au)

And with a copy to: Richard Loveridge

Email: [Richard.loveridge@hsf.com](mailto:Richard.loveridge@hsf.com)

**GPI**

Address: 1500 Riveredge Parkway NW

Atlanta, Georgia 30328

E-mail: [Stephen.scherger@graphicpkg.com](mailto:Stephen.scherger@graphicpkg.com)

For the attention of: Stephen Scherger

With a copy to: Lauren Tashma

Email: [Lauren.tashma@graphicpkg.com](mailto:Lauren.tashma@graphicpkg.com)

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

14.1.3 must be signed by the party making the communication or by a person duly authorised by that party or, in the case of email, set out the full name and position or title of the duly authorised sender;

14.1.4 must be delivered or posted by prepaid post to the address, sent by fax to the number, or emailed to the email address, of the addressee, in accordance with clause 14.1.2; and

- 14.1.5 will be deemed to be received by the addressee:
- 14.1.5.1 *(in the case of prepaid post)* on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
- 14.1.5.2 *(in the case of email)* the earlier of:
- (a) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
  - (b) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
  - (c) two hours after the email is sent (as recorded in the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered,
- but if the result is that a notice would be taken to be deemed to have been received at a time that is later than 5.00pm or on a day that is not a Business Day, then it will be deemed to have been received at 9.00am on the next Business Day;
- 14.1.5.3 *(in the case of fax)* at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and
- 14.1.5.4 *(in the case of delivery by hand)* on delivery at the address of the addressee as provided in clause 14.1.2, unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

## 15. GENERAL

### Further acts

- 15.1 Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this deed.

### Timetable

- 15.2 The parties agree that the Timetable is indicative only and is not binding on the parties.

- 15.3 Each party must use its reasonable endeavours to ensure that each step in the Timetable is met by the relevant date and must consult with the other party on a regular basis regarding its progress in implementing the Scheme in regards to the Timetable.

**Payments**

- 15.4 Unless otherwise expressly provided in this deed, where an amount is required to be paid to a party ("**Receiving Party**") by another party under this deed, that amount shall be paid:
- 15.4.1 in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- 15.4.2 without deduction, withholding or set-off.

**Interest**

- 15.5 If a party fails to pay any amount payable under this deed on the due date for payment, that party must pay interest on the amount unpaid at the higher of the daily buying rate displayed at or about 10.30am on the Reuters screen BBSW page for Australian bank bills of a three month duration plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.
- 15.6 The interest payable under clause 15.5:
- 15.6.1 accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
- 15.6.2 may be capitalised by the person to whom it is payable at monthly intervals.

**Consents or approvals**

- 15.7 A party may:
- 15.7.1 give conditionally or unconditionally; or
- 15.7.2 withhold,
- its approval or consent in its absolute discretion unless this deed expressly provides otherwise.

**GST**

- 15.8 Any reference in clauses 15.8 to 15.12 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- 15.9 Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.

- 15.10 To the extent that any supply made by a party ("**Supplier**") to another party ("**Recipient**") under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 15.10 for that supply ("**GST Exclusive Consideration**"), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. This clause 15.10 does not apply to any taxable supply under or in connection with this deed that is expressly stated to include GST.
- 15.11 The amount on account of GST payable in accordance with clause 15.8 to 15.12 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- 15.12 Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person ("**Relevant Expense**") is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

**Stamp duty**

- 15.13 GPI must pay all duties (including stamp duty), if any, and any fines, penalties and interest with respect to duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including without limitation the acquisition or transfer of Scheme Shares pursuant to the Scheme).

**Expenses**

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

**Amendments**

- 15.15 No variation of this deed will be of any force or effect unless it is in writing and signed by each party to this deed.

**Assignment**

- 15.16 A party must not assign, novate or transfer any of its rights or obligations under this deed or attempt to do so without the prior written consent of each other party.

**Business Day**

- 15.17 Except where otherwise expressly provided, where under this deed the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

**Waiver**

- 15.18 A waiver of any right, power or remedy under this deed must be in writing signed by the party granting it. A waiver only affects the particular obligation or breach for which it is given. It is not an implied waiver of any other obligation or breach or an implied waiver of that obligation or breach on any other occasion. The fact that a party fails to do, or delays in doing, something the party is entitled to do under this deed does not amount to a waiver.

**Release of officers and directors**

- 15.19 Subject to the Corporations Act, none of the past, present or future officers and directors of the parties will be liable for anything done or purported to be done in connection with the Scheme or any transaction contemplated by this deed in good faith, but nothing in this clause excludes any liability that may arise from wilful misconduct or bad faith on the part of such a person. Each party receives and holds the benefit of this release, as agent for its directors and officers.

**Counterparts**

- 15.20 This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same deed.
- 15.21 This deed is binding on the parties on the exchange of duly executed counterparts.
- 15.22 The parties agree that a copy of an original executed counterpart sent by electronic mail or facsimile machine to the e-mail address or facsimile number of the other party specified in clause 14, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

**No adverse construction**

- 15.23 No term or condition of this deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or that provision.

**Entire agreement**

- 15.24 This deed contains everything the parties have agreed on in relation to the subject matter it deals with. No party can rely on an earlier written document or anything said or done by or on behalf of another party before this deed was executed.
- 15.25 Despite clause 15.24, the Confidentiality Agreement continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

**Severability**

- 15.26 Each provision of this deed is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this deed in the relevant jurisdiction, but the rest of this deed will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.

**No representation or reliance**

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

**No merger**

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

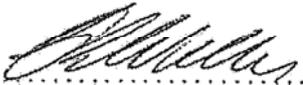
**Governing law**

- 15.30 This deed is governed by the law of Victoria. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

EXECUTED AS A DEED:

DATE: 11 January 2016

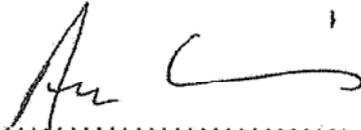
Executed by **COLORPAK LIMITED**  
ABN 56 107 485 898 acting by the following  
persons or, if the seal is affixed, witnessed by the  
following persons in accordance with s127 of the  
Corporations Act 2001:



Signature of director

GEOFFREY L. WILLIS

Name of director (print)



Signature of director/company secretary

ALEX COMMIS

Name of director/company secretary (print)

Executed by **GRAPHIC PACKAGING  
INTERNATIONAL, INC.**

by its duly authorised representative

.....

**EXECUTED AS A DEED:**

**DATE:** 11 January 2016

Executed by **COLORPAK LIMITED**  
**ABN 56 107 485 898** acting by the following  
persons or, if the seal is affixed, witnessed by the  
following persons in accordance with s127 of the  
Corporations Act 2001:

.....  
Signature of director

.....  
Signature of director/company secretary

.....  
Name of director (print)

.....  
Name of director/company secretary (print)

Executed by **GRAPHIC PACKAGING  
INTERNATIONAL, INC.**

by its duly authorised representative

  
.....  
DAVID W. SCHEIBTE  
Chairman of the Board

## SCHEDULE 1: INDICATIVE TIMETABLE

| Event  | Date                     |
|--|--------------------------|
| Lodge Scheme Booklet with ASIC for review and comment                            | Monday, 15 February 2016 |
| First Court Date   | Friday, 4 March 2016     |
| Scheme Booklet registered with ASIC  | Monday, 7 March 2016     |
| Despatch Scheme Booklet to CKL Shareholders                                      | Wednesday, 9 March 2016  |
| Scheme Meeting   | Thursday, 7 April 2016   |
| Second Court Date  | Tuesday, 12 April 2016   |
| Effective Date – lodge office copy of Court order approving the Scheme with ASIC | Wednesday, 13 April 2016 |
| Record Date  | Friday, 22 April 2016    |
| Implementation Date:   | Friday, 29 April 2016    |

**SCHEDULE 2: DEED POLL**

**DATED**

**2016**

**GRAPHIC PACKAGING INTERNATIONAL, INC. ("GPI")**

**DEED POLL**  
in favour of  
Scheme Shareholders

---

## CONTENTS

|    |  |    |
|----|--|----|
| 1. | DEFINED TERMS & INTERPRETATION .....     | 57 |
|    | Defined terms .....                      | 57 |
|    | Interpretation .....                     | 57 |
|    | Time for performance .....               | 58 |
| 2. | NATURE OF DEED POLL.....                 | 58 |
| 3. | CONDITION .....                          | 58 |
|    | Condition.....                           | 58 |
|    | Termination.....                         | 58 |
|    | Consequences of termination .....        | 59 |
| 4. | PERFORMANCE OF SCHEME OBLIGATIONS .....  | 59 |
|    | Generally.....                           | 59 |
|    | Payment of Scheme Amount per Share ..... | 59 |
| 5. | WARRANTIES .....                         | 59 |
| 6. | CONTINUING OBLIGATIONS.....              | 60 |
| 7. | GENERAL.....                             | 60 |
|    | Stamp duty .....                         | 60 |
|    | Further assurances.....                  | 60 |
|    | Assignment .....                         | 60 |
|    | Variation .....                          | 61 |
|    | Waiver.....                              | 61 |
|    | Notices .....                            | 61 |
|    | Cumulative rights.....                   | 63 |
|    | Governing law.....                       | 63 |

THIS DEED POLL is made on

2016

**BY:**

**GRAPHIC PACKAGING INTERNATIONAL, INC.** of 1500 Riveredge Parkway NW, Atlanta, GA. 30328, United States of America ("**GPI**")

**BACKGROUND:**

- A Graphic Packaging International, Inc. ("**GPI**") and Colorpak Limited ABN 56 107 485 898 ("**CKL**") have entered into a Scheme Implementation Deed dated January 2016 ("**Scheme Implementation Deed**").
- B Under the Scheme Implementation Deed, CKL has agreed that it will propose and implement the Scheme in accordance with the Scheme Implementation Deed.
- C Under the Scheme Implementation Deed, GPI has agreed to take all steps reasonably necessary to assist CKL in proposing and implementing the Scheme in accordance with the Scheme Implementation Deed.
- D GPI is entering into this Deed Poll for the purpose of:
- (i) covenanting in favour of Scheme Shareholders to perform certain of its obligations under the Scheme Implementation Deed;
  - (ii) covenanting in favour of the Scheme Shareholders to perform the steps attributed to it under the Scheme; and
  - (iii) ensuring that the Scheme Amount per Share is paid to the Scheme Shareholders.
- E The effect of the Scheme will be that the Scheme Shares, together with all rights and entitlements attaching to them, will be transferred to GPI in exchange for the Scheme Amount per Share.

**IT IS AGREED:**

## **1. DEFINED TERMS & INTERPRETATION**

### **Defined terms**

- 1.1 Words and phrases defined in the Scheme Implementation Deed have the same meanings in this Deed Poll unless the context requires otherwise.

### **Interpretation**

- 1.2 In this Deed Poll, unless the context otherwise requires:
- 1.2.1 the singular includes the plural and vice versa;
  - 1.2.2 reference to a person includes references to corporations, partnerships, joint ventures, associations, bodies corporate and any Regulatory Authority;
  - 1.2.3 references to agreements or deeds are to agreements or deeds as amended from time to time;

- 1.2.4 reference to a party includes their executors, administrators and permitted assigns or, being a company, its successors and permitted assigns;
- 1.2.5 an agreement, representation or warranty in favour of two or more persons is for the benefit of each and all of them;
- 1.2.6 a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed Poll and a reference to this Deed Poll includes any annexure, exhibit and schedule; and
- 1.2.7 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements to it.

1.3 Clause headings in this Deed Poll do not affect the interpretation of this Deed Poll.

1.4 Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

#### **Time for performance**

1.5 If the day on or by which a payment or an act is to be done under this Deed Poll is not a Business Day, that act must be done on the next Business Day.

1.6 In this Deed Poll, if a period occurs from, after or before a day or the day of an act or event, it excludes that day.

1.7 In this Deed Poll, a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.

1.8 In this Deed Poll a reference to time is a reference to Melbourne, Australia time.

## **2. NATURE OF DEED POLL**

2.1 GPI acknowledges that this Deed Poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it.

2.2 GPI acknowledges that under the Scheme, each Scheme Shareholder irrevocably appoints CKL and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this Deed Poll against GPI.

## **3. CONDITION**

### **Condition**

3.1 The obligations of GPI under this Deed Poll are subject to the Scheme becoming Effective.

### **Termination**

3.2 Subject to clause 6, unless GPI and CKL agree otherwise, the obligations of GPI under this Deed Poll to Scheme Shareholders will automatically terminate and the terms of this Deed Poll will be of no further force or effect if and only if the Scheme Implementation Deed is

terminated in accordance with its terms or the Scheme does not become Effective on or before the End Date.

#### **Consequences of termination**

3.3 If this Deed Poll is terminated under clause 3.2, then in addition and without prejudice to any other rights, powers or remedies available to it:

3.3.1 GPI is released from its obligations to further perform this Deed Poll except for any obligations which by their nature survive termination; and

3.3.2 each Scheme Shareholder retains the rights, powers and remedies they have against GPI in respect of any breach of this Deed Poll which occurs before it is terminated.

### **4. PERFORMANCE OF SCHEME OBLIGATIONS**

#### **Generally**

4.1 Subject to clause 3:

4.1.1 GPI covenants in favour of each Scheme Shareholder to deposit, or procure the deposit of, in cleared funds, by no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Scheme Amount per Share payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account operated by CKL as trustee for the Scheme Shareholders and notified to GPI at least three Business Days prior to Implementation Date, except that any interest on the amounts deposited (less bank fees and other charges) will be credited to GPI's account.

4.1.2 GPI covenants in favour of each Scheme Shareholder to perform the steps attributed to GPI under, and otherwise comply with, the Scheme as if GPI were a party to the Scheme.

4.1.3 GPI covenants in favour of each Scheme Shareholder to comply with its obligations under the Scheme Implementation Deed, in so far as that deed relates to the Scheme, and, in respect of GPI, do all things necessary or expedient on its part to implement the Scheme.

#### **Payment of Scheme Amount per Share**

4.2 Subject to clause 3, in consideration for the transfer to GPI of all of the Scheme Shares and all rights and entitlement attaching to them by each Scheme Shareholder, GPI undertakes in favour of each Scheme Shareholder to pay, or procure the payment of, the Scheme Amount per Share to each Scheme Shareholder, in accordance with the terms of the Scheme.

### **5. WARRANTIES**

5.1 GPI represents and warrants to each Scheme Shareholder that:

5.1.1 it is a corporation validly existing under the laws of its place of incorporation;

5.1.2 it has the corporate power to enter into and perform its obligations under this Deed Poll and to carry out the transactions contemplated by this Deed Poll;

- 5.1.3 it has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- 5.1.4 this Deed Poll has been duly and validly executed and delivered by it and is valid and binding upon it; and
- 5.1.5 the execution and performance by it of this Deed Poll and each transaction contemplated by this Deed Poll did not and will not violate in any respect a provision of:
  - 5.1.5.1 a law, judgment, ruling, order or decree binding on it; or
  - 5.1.5.2 its constitution or other constituent documents.

## **6. CONTINUING OBLIGATIONS**

- 6.1 This Deed Poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:
  - 6.1.1 GPI having fully performed its obligations under this Deed Poll; and
  - 6.1.2 termination of this Deed Poll under clause 3.2.

## **7. GENERAL**

### **Stamp duty**

- 7.1 GPI:
  - 7.1.1 must pay all duty (including stamp duty) and any related fines, penalties and interest in respect of the Scheme and this Deed Poll (including without limitation the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this Deed Poll and each transaction effected by or made under or pursuant to the Scheme and this Deed Poll; and
  - 7.1.2 indemnifies each Scheme Shareholder against any liability arising from failure to comply with clause 7.1.1.

### **Further assurances**

- 7.2 GPI will, at its own expense, do all things reasonably required of it by law to give full effect to this Deed Poll and the transactions contemplated by it.

### **Assignment**

- 7.3 The rights and obligations of GPI and each Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, charged or otherwise dealt with without the prior consent of GPI and CKL.
- 7.4 Any purported dealing in contravention of clause 7.3 is invalid.

### **Variation**

- 7.5 A provision of this Deed Poll may not be varied, altered or otherwise amended unless:
- 7.5.1 before the Second Court Date, the variation, alteration or amendment is agreed to in writing by CKL (which such agreement may be given or withheld without reference to or approval by any CKL Shareholder); or
  - 7.5.2 on or after the Second Court Date, the variation, alteration or amendment is agreed to in writing by CKL and is approved by the Court (which such agreement may be given or withheld without reference to or approval by any CKL Shareholder),

in which event GPI will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the variation, alteration or amendment.

### **Waiver**

- 7.6 A provision of or right under this Deed Poll may not be waived except in writing signed by the person granting the waiver.
- 7.7 A failure or delay in exercise, or partial exercise, of:
- 7.7.1 a right arising from a breach of this Deed Poll; or
  - 7.7.2 a right, power, authority, discretion or remedy created or arising upon default under this Deed Poll,
- does not result in a waiver of that right, power, authority, discretion or remedy.
- 7.8 GPI is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this Deed Poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- 7.9 GPI may not rely on any conduct of another person as a defence to the exercise of a right, power, authority, discretion or remedy by that other person.

### **Notices**

- 7.10 Any communication to GPI under or in connection with this Deed Poll must be in writing and:
- 7.10.1 sent to GPI at:  
  
Address: 1500 Riveredge Parkway NW  
  
Atlanta, Georgia 30328  
  
E-mail: [Stephen.scherger@graphicpkg.com](mailto:Stephen.scherger@graphicpkg.com)  
  
For the attention of: Stephen Scherger  
  
With a copy to: Lauren Tashma

Email: [Lauren.tashma@graphicpkg.com](mailto:Lauren.tashma@graphicpkg.com)

(or as otherwise notified by GPI to CKL from time to time);

7.10.2 must be signed by the party making the communication or by a person duly authorised by that party or, in the case of email, set out the full name and position or title of the duly authorised sender;

7.10.3 must be delivered or posted by prepaid post to the address, sent by fax to the number or emailed to the email address, of the addressee, in accordance with clause 7.10.1; and

7.10.4 will be deemed to be received by the addressee:

7.10.4.1 *(in the case of prepaid post)* on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;

7.10.4.2 *(in the case of email)* the earlier of:

(a) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;

(b) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and

(c) two hours after the email is sent (as recorded in the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered,

but if the result is that a notice would be taken to be deemed to have been received at a time that is later than 5.00pm or on a day that is not a Business Day, then it will be deemed to have been received at 9.00am on the next Business Day;

7.10.4.3 *(in the case of fax)* at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and

7.10.4.4 *(in the case of delivery by hand)* on delivery at the address of the addressee as provided in clause 7.10.1, unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

**Cumulative rights**

7.11 The rights, powers and remedies of GPI and the Scheme Shareholders under this Deed Poll are cumulative with the rights, powers or remedies provided by law independently of this Deed Poll.

**Governing law**

7.12 This Deed Poll is governed by and will be construed according to the laws of Victoria.

7.13 GPI irrevocably:

7.13.1 submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Deed Poll; and

7.13.2 waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if the venue of those proceedings fall within clause 7.13.1.

**EXECUTED AS A DEED POLL:**

**DATE:**

Executed by **GRAPHIC PACKAGING INTERNATIONAL, INC.**

by its duly authorised representative

.....

### SCHEDULE 3: SCHEME

This scheme of arrangement is made under section 411 of the *Corporations Act 2001 (Cth)* between:

**COLORPAK LIMITED** ABN 56 107 485 898 of 63–73 Woodlands Dr, Braeside, Victoria, 3195, Australia ("**CKL**")

And

**Scheme Shareholders** each person who holds one or more Scheme Shares.

#### 1. DEFINITIONS AND INTERPRETATION

##### Definitions

1.1 In this Scheme, unless the context requires otherwise:

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

"**ASX**" means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it;

"**ASX Settlement**" means ASX Settlement Pty Ltd (ABN 49 008 504 532);

"**ASX Settlement Rules**" means the ASX Settlement Operating Rules;

"**Business Day**" means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Australia;

"**CHESS**" means the Clearing House Electronic Sub-register System for the electronic transfer of securities operated by ASX Settlement;

"**CKL**" means Colorpak Limited ABN 56 107 485 898;

"**CKL Register**" means the register of members of CKL maintained under and in accordance with section 168 of the Corporations Act;

"**CKL Registrar**" means Link Market Services Limited ACN 083 214 537;

"**CKL Share**" means an issued fully paid ordinary share in the capital of CKL;

"**CKL Shareholder**" means a person who is registered in the CKL Register as a holder of CKL Shares;

"**Close of Trading**" means the close of normal trading on ASX on the Effective Date;

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

"**Court**" means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing;

**"Deed Poll"** means the deed poll dated [ ] 2016 executed by GPI, pursuant to which GPI covenants in favour of the Scheme Shareholders to:

- (a) perform the steps attributed to GPI under, and otherwise comply with, this Scheme as if GPI were a party to this Scheme; and
- (b) comply with its obligations under the Scheme Implementation Deed, in so far as that deed relates to this Scheme, and do all things necessary or expedient on its part to implement this Scheme;

**"Effective"** means, when used in relation to this Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the Scheme Order in relation to this Scheme;

**"Effective Date"** means, with respect to this Scheme, the date on which this Scheme becomes Effective;

**"End Date"** means:

- (a) 15 June 2016; or
- (b) such other date and time agreed in writing between GPI and CKL;

**"Scheme Booklet"** means the Scheme Booklet prepared in respect of the Scheme in accordance with the terms of the Scheme Implementation Deed and despatched by CKL to CKL Shareholders;

**"Implementation Date"** means, with respect to this Scheme, the third Business Day, or such other Business Day as may be agreed in writing by CKL and GPI, following the Record Date for this Scheme;

**"Listing Rules"** means the official listing rules of ASX as amended from time to time;

**"GPI"** means Graphic Packaging International, Inc.;

**"Record Date"** means, in respect of this Scheme, 7.00pm on the fifth Business Day (or such other Business Day as may be agreed in writing by CKL and GPI) following the Effective Date;

**"Registered Address"** means, in relation to a CKL Shareholder, the address of that CKL Shareholder as recorded on the CKL Register;

**"Related Body Corporate"** of a person means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted;

**"Scheme"** means this scheme of arrangement pursuant to Part 5.1 of the Corporations Act between CKL and Scheme Shareholders in respect of all Scheme Shares, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by CKL and GPI;

**"Scheme Amount per Share"** means the consideration to be provided to Scheme Shareholders under the terms of this Scheme for the transfer to GPI of their Scheme Shares, as ascertained in accordance with clause 4.3;

**"Scheme Implementation Deed"** means the deed entered into between CKL and GPI dated January 2016, under which each of CKL and GPI undertakes specific obligations to give effect to this Scheme;

**"Scheme Order"** means the orders of the Court approving this Scheme pursuant to section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act;

**"Scheme Meeting"** means the meeting of CKL Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on this Scheme, and includes any adjournment of that meeting;

**"Scheme Share"** means a CKL Share on issue as at the Record Date;

**"Scheme Share Transfer"** means for each Scheme Shareholder, one or more proper instruments of transfer in respect of their Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of all of the Scheme Shares;

**"Scheme Shareholder"** means each person who is registered on the CKL Register as a holder of Scheme Shares as at the Record Date;

**"Second Court Date"** means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the first day on which the adjourned application is heard or scheduled to be heard;

**"Second Court Hearing"** means the hearing of the application to the Court for the Scheme Order approving this Scheme

**"Security Interest"** has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth); and

**"Share Splitting"** means the splitting by a holder of CKL Shares into two or more parcels of CKL Shares whether or not it results in any change in beneficial ownership of the CKL Shares.

## **Interpretation**

- 1.2 In this Scheme, except where the context otherwise requires:
- 1.2.1 the singular includes the plural and vice versa, and a gender includes other genders;
  - 1.2.2 another grammatical form of a defined word or expression has a corresponding meaning;
  - 1.2.3 a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Scheme, and a reference to this Scheme includes any schedule or annexure;
  - 1.2.4 a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
  - 1.2.5 a reference to A\$, \$A, dollar or \$ is to Australian currency;

- 1.2.6 a reference to time is to Melbourne, Australia time;
- 1.2.7 a reference to a party is to a party to this Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- 1.2.8 a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- 1.2.9 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- 1.2.10 a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- 1.2.11 the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- 1.2.12 a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Scheme or any part of it; and
- 1.2.13 if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

## **2. PRELIMINARY**

### **CKL**

- 2.1 CKL is a public company incorporated in Australia and registered in Victoria and is a company limited by shares. CKL is admitted to the official list of ASX and its shares are officially quoted on the stock market conducted by ASX. Its registered office is at 63–73 Woodlands Dr, Braeside, Victoria.

### **CKL securities**

- 2.2 As at the date of the Scheme Booklet, CKL had on issue 88,202,525 CKL Shares.

### **GPI**

- 2.3 GPI is a company incorporated in Delaware, United States of America. Its headquarters are at 1500 Riveredge Parkway NW, Atlanta, Georgia 30328.

### **Agreement to implement this Scheme**

- 2.4 Each of CKL and GPI have agreed, by executing the Scheme Implementation Deed, to implement the terms of this Scheme and the steps contemplated to follow the implementation of this Scheme, to the extent those steps are required to be done by each of them.

### **Deed Poll**

- 2.5 GPI has executed the Deed Poll in favour of, among others, the Scheme Shareholders.

### **Summary of Scheme**

- 2.6 If this Scheme becomes Effective:
- 2.6.1 all of the Scheme Shares (together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date) will be transferred to GPI and CKL will become a subsidiary of GPI;
  - 2.6.2 in consideration of the transfer of the Scheme Shares, GPI will provide or procure the provision of the Scheme Amount per Share to Scheme Shareholders in accordance with the terms of this Scheme;
  - 2.6.3 CKL will enter the name of GPI in the CKL Register as the holder of all the Scheme Shares;
  - 2.6.4 it will bind CKL and all Scheme Shareholders, including those who do not attend the Scheme Meeting, those who do not vote at that meeting and those who vote against this Scheme at that meeting; and
  - 2.6.5 it will override the constitution of CKL, to the extent of any inconsistency.

### **3. CONDITIONS PRECEDENT**

#### **Conditions precedent**

- 3.1 This Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions:
- 3.1.1 each of the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the condition precedent in clause 3.1.6) having been satisfied or waived in accordance with the Scheme Implementation Deed as at 8.00am on the Second Court Date or such other time specified in that condition precedent;
  - 3.1.2 neither the Scheme Implementation Deed nor the Deed Poll being terminated, as at 8.00am on the Second Court Date;
  - 3.1.3 this Scheme being approved for the purposes of section 411(4)(b) of the Corporations Act at the Second Court Hearing, subject to the matters noted in clause 8.11; and
  - 3.1.4 the Scheme Order comes into effect, pursuant to section 411(10) of the Corporations Act.

#### **Effect of conditions precedent**

- 3.2 The satisfaction or waiver of each condition precedent in clause 3.1 is a condition precedent to the operation of clause 4 and the binding effect of this Scheme.

#### **Certificate**

- 3.3 At or before the Second Court Hearing, CKL and GPI will each provide to the Court certificates, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not the conditions precedent to this Scheme (other than the conditions precedent in clauses 3.1.3 and 3.1.4 and the condition precedent in clause 3.1.6

of the Scheme Implementation Deed) have been satisfied or waived as at 8.00am on the Second Court Date. The certificates given by CKL and GPI constitute conclusive evidence that the relevant conditions have been satisfied or waived.

#### **End Date**

- 3.4 This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date.

#### **Termination**

- 3.5 Without limiting any rights under the Scheme Implementation Deed, if the Scheme Implementation Deed is terminated in accordance with its terms before this Scheme becomes Effective, each of GPI and CKL are released from:

3.5.1 any further obligation to take steps to implement this Scheme; and

3.5.2 any liability with respect to this Scheme.

### **4. THE SCHEME**

#### **Lodgement of Scheme Order with ASIC**

- 4.1 CKL will lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Scheme Order as soon as practicable, and in any event by no later than 5.00pm on the first Business Day after the date on which the Court makes that Scheme Order (or on such other Business Day as CKL and GPI agree).

#### **Transfer of Scheme Shares**

- 4.2 Subject to this Scheme becoming Effective:

4.2.1 subject to the provision of the Scheme Amount per Share to the Scheme Shareholders in the manner contemplated by clause 4, on or before 10.00am on the Implementation Date, and subject to GPI fulfilling its obligations under clause 4.3, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, must be transferred to GPI without the need for any further act by any Scheme Shareholder, by CKL effecting a valid transfer or transfers of the Scheme Shares to GPI under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:

4.2.1.1 CKL delivering to GPI a duly completed Scheme Share Transfer executed by CKL (as transferor) acting as the attorney and agent of each Scheme Shareholder under clause 8.1; and

4.2.1.2 GPI duly executing the Scheme Share Transfer (as transferee), attending to the stamping of the Scheme Share Transfer (if required) and delivering it to CKL for registration; and

4.2.2 on the Implementation Date, immediately after receipt of the Scheme Share Transfer from GPI under clause 4.2.1.2 or the transfer being effected under section 1074D of the Corporations Act (as the case may be), CKL must enter, or

procure the entry of, the name of GPI in the CKL Register in respect of all of the Scheme Shares.

#### **Provision of Scheme Amount per Share**

- 4.3 GPI must, and CKL must use its best endeavours to procure that GPI does, by no later than 5.00pm on the Business Day before the Implementation Date, deposit in cleared funds an amount equal to the aggregate amount of the aggregate Scheme Amount per Share payable to Scheme Shareholders, in an Australian dollar denominated trust account operated by CKL as trustee for the Scheme Shareholders, and notified to GPI at least three Business Days prior to Implementation Date (provided that any interest on the amounts deposited (less bank fees and other third party charges directly in connection with the account) will be credited to GPI's account).
- 4.4 Subject to this Scheme becoming Effective, in consideration for the transfer to GPI of the Scheme Shares held by each Scheme Shareholder under the terms of this Scheme, GPI will provide, or procure provision, to each Scheme Shareholder the Scheme Amount per Share to which that Scheme Shareholder is entitled on the Implementation Date and otherwise in accordance with this Scheme.

#### **5. SCHEME AMOUNT PER SHARE**

The Scheme Amount per Share to be provided to each Scheme Shareholder will be the payment by GPI to that Scheme Shareholder of \$[ ] for each Scheme Share held by that Scheme Shareholder.

#### **6. ENTITLEMENT TO PARTICIPATE AND DEALINGS IN CKL SHARES**

##### **Entitlement to participate**

- 6.1 Each Scheme Shareholder will be entitled to participate in this Scheme.

##### **Recognised dealings**

- 6.2 For the purposes of determining who is a Scheme Shareholder, dealings in CKL Shares will be recognised if:
- 6.2.1 in the case of dealings of the type effected by CHESS, the transferee is registered in the CKL Register as the holder of the relevant CKL Shares by the Record Date;
- 6.2.2 in all other cases, share transfer forms in registrable form or transmission applications in respect of those dealings are received at the place where the CKL Register is kept by 5.00pm on the Record Date.

##### **CKL's obligation to register**

- 6.3 CKL must register any registrable transfers or transmission applications received in accordance with clause 6.2.2 by 7.00pm on the Record Date.

##### **Transfer requests received after Record Date**

- 6.4 CKL will not accept for registration or recognise for any purpose any transfer, transmission or application in respect of CKL Shares received after the times specified in clause 6.2, or

received prior to such times but not in registrable form, other than a transfer to GPI in accordance with this Scheme.

#### **No disposals after Record Date**

- 6.5 If this Scheme becomes effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Record Date.

#### **Maintaining the CKL Register**

- 6.6 For the purpose of determining entitlements to Scheme Amount per Share, CKL must, until the Scheme Amount per Share has been provided, maintain, or cause the CKL Registrar to maintain, the CKL Register in accordance with the provisions of this clause 6 and entitlements to the Scheme Amount per Share will be determined solely on the basis of the CKL Register.

#### **Statements of holding cease to have any effect**

- 6.7 After 7.00pm on the Record Date, any share certificate or holding statement for CKL Shares (other than statements of holding in favour of GPI and its successors in title) will cease to have any effect as a document of title in respect of those shares and each current entry on the CKL Register as at 7.00pm on the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Amount per Share (other than the entries in respect of GPI).

#### **Provision of Scheme Shareholder's details**

- 6.8 As soon as practicable after the Record Date, and in any event within one Business Day after the Record Date, CKL must ensure that a complete copy of the CKL Register as at 7.00pm on the Record Date, including details of the names, registered addresses and holdings of CKL Shares for each Scheme Shareholder, is available to GPI in the form GPI reasonably requires.

### **7. QUOTATION OF CKL SHARES**

#### **Suspension of trading in ASX**

- 7.1 CKL will apply to the ASX to suspend trading in CKL Shares on ASX from the Close of Trading.

#### **Termination from official quotation**

- 7.2 Provided that this Scheme has been fully implemented in accordance with its terms, CKL will apply for termination of the official quotation of CKL Shares on ASX, and removal from the official list of ASX, on a date after the Implementation Date as determined by GPI.

## **8. GENERAL PROVISIONS**

### **Authority given to CKL**

8.1 On this Scheme becoming Effective, each Scheme Shareholder, without the need for any further act, is deemed to have irrevocably appointed CKL and all of its directors and officers (jointly and severally) as its attorney and agent for the purposes of:

8.1.1 enforcing the Deed Poll against GPI; and

8.1.2 doing all things and executing any agreements, instruments, transfers or other documents as may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Share Transfers) as contemplated by clause 4.2,

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

### **Status of Scheme Shares**

8.2 To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.

8.3 Each Scheme Shareholder is deemed to have warranted to CKL, and appointed and authorised CKL as its attorney and agent to warrant to GPI, that all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) transferred to GPI under this Scheme will, at the date of transfer, be fully paid and free from mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and that they have full power and capacity to sell and transfer their CKL Shares (including any rights and entitlements attaching to those shares) to GPI under this Scheme.

### **Further assurances**

8.4 Each Scheme Shareholder and CKL will execute documents and do all things and acts necessary or expedient in order to implement this Scheme.

### **Authority of CKL**

8.5 Each of the Scheme Shareholders consents to CKL doing all things necessary for or incidental to the implementation of this Scheme.

### **Scheme binding**

8.6 This Scheme binds CKL and all Scheme Shareholders from time to time (including those who do not attend the Scheme Meeting, those who do not vote at that meeting or vote against this Scheme) and, to the extent of any inconsistency, overrides the constitution of CKL.

### **Variation, cancellation or modification of rights**

- 8.7 The Scheme Shareholders agree to the transfer of their CKL Shares in accordance with this Scheme and agree to the variation, cancellation or modification of the rights attached to their CKL Shares constituted or resulting from this Scheme (if any).

### **Beneficial entitlement to Scheme Shares**

- 8.8 Immediately upon the provision of the Scheme Amount per Share to each Scheme Shareholder in the manner contemplated by clause 4, pending registration by CKL of GPI in the CKL Register as the holder of the Scheme Shares:

8.8.1 GPI will be beneficially entitled to the Scheme Shares transferred to it under this Scheme; and

8.8.2 each Scheme Shareholder:

8.8.2.1 irrevocably appoints GPI as attorney and agent (and directs GPI in each capacity) to appoint any director, officer, secretary or agent nominated by GPI as its sole proxy and, where applicable, its corporate representative to attend shareholder meetings of CKL, exercise the votes attached to the Scheme Shares registered in the name of the Scheme Shareholder and sign any shareholders resolution of CKL;

8.8.2.2 undertakes not to otherwise attend or vote at any such meetings or sign any such resolutions, whether in person, by proxy or by corporate representative other than pursuant to clause 8.8.2.1;

8.8.2.3 must take all other actions in the capacity of a registered holder of Scheme Shares as GPI reasonably directs; and

8.8.2.4 acknowledges and agrees that in exercising the powers referred to in this clause 8.8.2, any director, officer, secretary or agent nominated by GPI may act in the best interests of GPI as the intended registered holder of the Scheme Shares.

### **Notices**

- 8.9 Where a notice, transfer, transmission application or other communication referred to in this Scheme is sent by post to CKL, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at CKL's registered office or at the office of the CKL Registrar.
- 8.10 The accidental omission to give notice of the Scheme Meeting to any CKL Shareholders, or the non-receipt of such a notice by any CKL Shareholders, will not, unless ordered by the Court, invalidate this Scheme or the proceedings at the Scheme Meeting.

### **Alterations and conditions**

- 8.11 If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act, CKL may, by its counsel on behalf of all persons concerned consent to only such of those conditions or alterations to this Scheme to which GPI has consented, such consent not to be unreasonably withheld or delayed.

**Enforcement of Deed Poll**

- 8.12 CKL undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against GPI on behalf of and as agent and attorney for the Scheme Shareholders.

**Duty**

- 8.13 All duty (including stamp duty), and any related fines, penalties and interest, payable in connection with this Scheme and each transaction effected by or made under this Scheme will be payable by GPI.

**Limitation of liability**

- 8.14 None of CKL, GPI, nor any director, officer or secretary of any of them is liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

**Governing Law**

- 8.15 This Scheme is governed by and will be construed according to the laws of Victoria.
- 8.16 Each party irrevocably:
- 8.16.1 submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
  - 8.16.2 waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if the venue of those proceedings fall within clause 8.16.1.