



International Distributor of
Medicinal Cannabis

ASX ANNOUNCEMENT

ASX CODE: HHI

19 April 2022

Zelira and Health House execute scheme implementation deed

Highlights

- Following the execution of a binding terms sheet in February 2022, Health House has entered into a scheme implementation deed with Zelira Therapeutics Limited for Zelira to acquire 100% of the interests in Health House.
- Creates a company with strong product and distribution capabilities.
- Zelira's research team and Health House's European based Kalapa Clinic will provide an opportunity to materially improve the speed at which the combined company's proprietary cannabinoid-based formulations and products can obtain clinical validation, while improving the cost of such clinical trials.

Health House International Limited's (ASX:HHI) (**Health House** or the **Company**, and together with the entities it controls, the **Group**) is pleased to announce that, further to its announcement on 24 February 2022 that it had entered into a binding terms sheet with Zelira Therapeutics Limited (ASX: ZLD) (**Zelira**), the parties have now executed a scheme implementation deed pursuant to which Zelira proposes to acquire 100% of Health House via a scheme of arrangement (**Transaction** and **Scheme**).

Health House believes that by joining the Zelira group, the combined business will create an organisation with strong medicinal cannabis product and distribution capabilities.

The Transaction will result in Zelira paying Health House shareholders Scheme Consideration of 2,311,045 Zelira shares, representing 19.45% of Zelira, and will result in a total value to Health House shareholders that is a 20% premium to the market capitalization of Health House as of 18 April 2022.

As set out in the announcement on 24 February 2022, Zelira has already provided Health House with a \$1.5 million working capital facility to assist it with its working capital needs.

The Scheme is subject to Health House shareholder approval to be sought at a general meeting which is expected to be convened in June 2022.

Following Zelira shareholders approving the consolidation of Zelira's capital at a general meeting on 12 April 2022, all consideration shares issued to Health House shareholders will be on a post-consolidation basis.

About Zelira

Zelira Therapeutics Ltd is a leading global biopharmaceutical research, development and commercialization company marketing cannabinoid-based medicines. Zelira owns a portfolio of proprietary revenue generating products and a pipeline of candidates undergoing clinical development that are positioned to access the world's largest and fastest growing markets. Zelira is focused on developing and clinically validating branded cannabinoid-based medicines for the treatment of a variety of medical conditions in its Rx business, including insomnia, autism and chronic non-cancer pain as well as offering over-the-counter (**OTC**) products.

Zelira has two proprietary formulations under the HOPE™ brand that are generating revenues in Australia, Louisiana and Washington D.C. with other states in the US expected to follow.

Zelira is also generating revenue in Australia and Germany from its proprietary and patented Zenivol® - a leading cannabinoid-based medicine for treatment of chronic insomnia. Zenivol® has successfully completed the world's first cannabinoid-based efficacy trial for chronic insomnia where it was found to be a safe and effective treatment. This clinical trial was published in the prestigious peer-reviewed journal SLEEP®.

In 2020, Zelira partnered with SprinJene® Natural to develop and commercialise natural and organic oral care products under the SprinJeneCBD brand, as part of Zelira's OTC business. The SprinJeneCBD toothpaste product is the first of several scientifically

formulated, hemp-derived, oral care products containing cannabinoids and based on the proprietary and patented technology of Blackseed oil and Zinc.

Zelira has worked in partnership with world-leading researchers and organisations, which since inception include Curtin University, the Telethon Kids Institute, the University of Western Australia, St. Vincent's Hospital, and the Children's Hospital of Philadelphia in the United States

Health House Chairman, Mr David Wheeler, said "Health House welcomes the opportunity to merge with Zelira, establishing a truly global medicinal cannabis business with licensing, manufacturing, distribution and research and development reach into some of the world's largest markets. We are confident that the benefits of the merger will result in increased value to all shareholders, and we look forward to working with the Zelira team to achieve the merger and to building a bigger and better business for all."

Health House Chief Executive Officer, David Attwood said: "Medicinal cannabis is playing catch up with the mainstream pharmaceutical sector that has intellectual property at its core. The Health House team is excited to join forces with Zelira as the merger provides a short- and long-term opportunity to leverage Zelira's leading research and development capabilities by offering unique products into the major markets."

Customary terms

The Scheme is not subject to finance and is subject only to conditions and provisions customary for transactions of this type, including exclusivity arrangements (with relevant fiduciary carve outs) and provisions for payment of a break fee to Zelira of \$100,000 in certain circumstances, no material adverse change, court approval, FIRB approval (if required) and the requisite shareholder approvals. A copy of the scheme implementation deed (excluding certain schedules) is attached.

This announcement has been approved and authorised for release by the board of Health House International Limited.

David Wheeler

Chairman

About Health House (www.healthhouse.com.au)

Health House International and the entities it controls (**the Group**) is an international pharmaceutical distributor specialising in, but not limited to, the distribution of medicinal cannabis products across Australasia, United Kingdom and Europe.

The Group is a fully licenced and regulated specialised importer, exporter and distributor currently distributing medicinal cannabis products from 14 producers to pharmacies, prescribers, specialist medicinal cannabis clinics and researchers across Australasia. In the UK and Germany, the Group holds all relevant licences (including GMP manufacturing), Wholesale Dealers and Controlled Drugs licences the Company supplies pharmacies, hospitals, government departments and other wholesalers with medicinal cannabis and general pharmaceutical products in the UK and Europe. The Group also integrates education of patients and healthcare professionals in the use of medicinal cannabis as a core part of its activities and is developing digital tools to enable a holistic understanding of usage.

For more information, please visit www.healthhouse.com.au

Address

Level 3
101 St Georges Tce
Perth WA 6000
AUSTRALIA
Tel: +61 8 6558 0886
Fax: +61 8 6316 3337
E: admin@healthhouse.com.au
W: www.healthhouse.com.au

ACN 149 197 651

For further information please contact**Company****David Wheeler**

Chairman
david@pathwayscorporate.com.au

Tim Slate

Company Secretary
tim.slate@healthhouse.com.au

Investors**Jason Peterson**

Corporate Advisor
jason.peterson@cpscapital.com.au

ANNEXURE 1 – SCHEME IMPLEMENTATION DEED

HEALTH HOUSE INTERNATIONAL LIMITED
ACN 149 197 651
(Health House)

and

ZELIRA THERAPEUTICS LIMITED
ACN 103 782 378
(Zelira)

SCHEME IMPLEMENTATION DEED



TABLE OF CONTENTS

1.	DEFINED TERMS & INTERPRETATION.....	5
1.1	Defined terms	5
1.2	Interpretation	18
1.3	Headings.....	19
1.4	Business Day	19
1.5	Consents or approvals	19
1.6	Listing requirements included as law.....	19
1.7	Reasonable endeavours.....	19
1.8	Consolidation	20
2.	AGREEMENT TO PROPOSE SCHEME	20
3.	CONDITIONS PRECEDENT AND PRE-IMPLEMENTATION STEPS.....	20
3.1	Conditions to Scheme	20
3.2	Benefit and waiver of conditions precedent.....	22
3.3	Reasonable endeavours.....	22
3.4	Notifications	23
3.5	Certificate.....	23
3.6	Scheme voted down	24
3.7	Conditions not capable of being fulfilled	24
3.8	Interpretation	26
4.	SCHEME STRUCTURE.....	26
4.1	Scheme.....	26
4.2	Scheme Consideration	26
4.3	Allotment and issue of Zelira Consideration Shares.....	26
4.4	Deed Poll	27
5.	TREATMENT OF CONVERTIBLE SECURITIES.....	27
6.	RECOMMENDATION, INTENTIONS AND ANNOUNCEMENTS	28
6.1	Health House Board Recommendation and Voting Intention	28
6.2	Exclusion from Recommendation.....	28
6.3	Confirmation.....	29
6.4	Promotion of Scheme	29
7.	PROPOSED TRANSACTION – PARTIES' RESPECTIVE IMPLEMENTATION OBLIGATIONS	29
7.1	Health House's obligations	29
7.2	Zelira's obligations.....	33
7.3	Scheme Booklet – preparation principles	34
8.	CONDUCT OF BUSINESS BEFORE THE IMPLEMENTATION DATE.....	36
8.1	Conduct of Health House business.....	36
8.2	Permitted activities.....	39
8.3	Access	40
8.4	Change of control rights	41
8.5	Provision of information by Health House prior to the Effective Date	42
9.	ACTIONS ON AND FOLLOWING IMPLEMENTATION DATE	43
9.1	Reconstitution of the board of each member of the Health House Group...	43
9.2	Sequence of actions on the Implementation Date	43
10.	REPRESENTATIONS AND WARRANTIES.....	43
10.1	Zelira representations.....	43
10.2	Zelira's indemnity	47

10.3	Qualifications on Zelira's representations, warranties and indemnities	48
10.4	Health House representations	48
10.5	Health House's indemnity	53
10.6	Qualifications on Health House's representations, warranties and indemnities	53
10.7	Notifications	54
10.8	Survival of representations	54
10.9	Survival of indemnities	54
11.	RELEASES.....	54
11.1	Health House Parties	54
11.2	Zelira Parties.....	55
11.3	Deeds of indemnity.....	55
11.4	Obligations in relation to directors' and officers' insurance	56
12.	CONFIDENTIALITY AND ANNOUNCEMENTS	56
12.1	Confidentiality	56
12.2	Announcements.....	56
12.3	Statements on termination	56
13.	TERMINATION.....	57
13.1	Termination by notice	57
13.2	Termination for breach of representations and warranties.....	57
13.3	Effect of termination	58
14.	HEALTH HOUSE BREAK FEE.....	58
14.1	Background	58
14.2	Costs incurred by Zelira	58
14.3	Payment by Health House to Zelira	59
15.	EXCLUSIVITY	61
15.1	No existing discussions	61
15.2	No shop restriction.....	61
15.3	No talk restriction	62
15.4	No due diligence	62
15.5	Exceptions	63
15.6	Health House warranty and undertakings.....	63
15.7	Notice of Competing Proposal	64
15.8	Health House's response to Competing Proposal and Zelira's right to respond	65
15.9	Normal provision of information.....	66
16.	MODIFICATION OF HEALTH HOUSE BREAK FEE, ZELIRA BREAK FEE OR EXCLUSIVITY ARRANGEMENTS	66
16.1	Modifications following regulatory intervention	66
16.2	No requirement to act unless decision final	67
16.3	Appeals and review of regulatory decisions	67
16.4	Determination by Governmental Agency	67
17.	NOTICES.....	67
18.	GENERAL.....	68
18.1	Further acts.....	68
18.2	Timetable.....	68
18.3	Payments.....	68
18.4	Interest	69
18.5	GST	69
18.6	Stamp duty.....	70

18.7	Expenses	70
18.8	Amendments.....	70
18.9	Assignment.....	70
18.10	Business Day	70
18.11	Waiver	70
18.12	Counterparts and electronic execution	71
18.13	Entire agreement	71
18.14	No representation or reliance	71
18.15	No merger	71
18.16	Governing law.....	72

THIS AGREEMENT is made the 18th day of April 2022.

BETWEEN

HEALTH HOUSE INTERNATIONAL LIMITED (ACN 149 197 651) of Level 3, 101 St Georges Terrace, Perth, Western Australia (**Heath House**);

AND

ZELIRA THERAPEUTICS LIMITED (ACN 103 782 378) of care of Level 3, 101 St Georges Terrace, Perth, Western Australia (**Zelira**).

RECITALS

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

IT IS AGREED as follows:

1. DEFINED TERMS & INTERPRETATION

1.1 Defined terms

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

Acceptable Confidentiality Deed means a confidentiality deed which contains obligations on the recipient of confidential information which are no less onerous in any material respect than the obligations of Zelira under the Confidentiality Deed.

Accounting Standards means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a);

Adviser means in relation to an entity:

- (a) a financier to the entity in connection with the Proposed Transaction; or
- (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transaction by the entity.

Announcement means the announcement to ASX in relation to the Proposed Transaction in the form agreed by Health House and Zelira (both acting reasonably), prior to signing of this deed.

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 Health House was the designated body.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market known as the Australian Securities Exchange operated by it.

Authorised Person means, in respect of a person:

- (a) a director, officer or employee of the person;
- (c) an Adviser of the person; and
- (d) 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 Perth, Western Australia.

Claim means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

Competing Proposal means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement) 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 in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 20% or more of the Health House Shares or of the share capital of any material Health House Group Member;
- (e) acquire control of Health House, within the meaning of section 50AA of the Corporations Act;
- (f) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of Health House or any member of the Health House Group (based on the value of the Health House Group's total consolidated assets as at 30 June 2021);
- (g) acquire or merge with Health House or amalgamate with any member of the Health House Group;
- (h) result in Health House ceasing to be admitted to the official list of ASX or Health House Shares ceasing to be officially quoted on the market operated by ASX (except in circumstances where such cessation is as a result of the implementation of the Scheme); or
- (i) require Health House to abandon, or otherwise fail to proceed with, the Proposed Transaction,

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 Health House or other

synthetic merger or any other transaction or arrangement. Each successive material modification or variation of a Competing Proposal will constitute a new Competing Proposal.

Conditions means the conditions set out in clauses 3.1 and **Condition** means any one of them.

Confidentiality Deed means the Confidentiality Deed between Health House and Zelira dated 7 February 2022.

Consolidation means a consolidation of the Zelira Shares on issue as at the date of this deed on a one for 175 basis.

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

Court means the Supreme Court of Western Australia or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Data Room means the Health House data room maintained on Dropbox and to which representatives of Health House have provided access to Zelira.

Deed Poll means the deed poll to be executed by Zelira prior to the First Court Date in relation to the Scheme, in the form set out in Schedule 2 or in such other form as is acceptable to Health House acting reasonably, provided that where Zelira nominates a Zelira Nominee in accordance with clause 2(c), the Deed Poll must provide for the Zelira Nominee to have the primary obligations under the Deed Poll (subject to clause 2(d)(iii)).

Delivery Time means in relation to the Second Court Date, 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

Disclosure Letter means the letter so entitled from Health House provided to Zelira on or prior to the execution of this deed.

Due Diligence Material means the written information disclosed by or on behalf of Health House and its Subsidiaries (including any management presentations and all written responses provided in response to written questions or requests for information) to Zelira, or any of its Authorised Persons prior to the date of this deed in:

- (a) the Data Room, as evidenced by the documents in the Data Room as at 11.59pm, on the day immediately preceding the date of this deed. Health House undertakes to provide a USB evidencing the contents of the Data Room to Zelira as soon reasonably practicable following the execution of this deed; and
- (b) the Disclosure Letter.

Duty means any transfer, transaction or registration duty or similar charge imposed by any Government Authority and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them.

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) of the Corporations Act in relation to the Scheme.

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

End Date means 31 July 2022 or such other date and time agreed in writing between Zelira and Health House.

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

- (a) the End Date;
- (j) the Effective Date of the Scheme; and
- (k) the date this deed is terminated in accordance with its terms.

FATA means the Foreign Acquisitions and Takeovers Act 1975 (Cth);

Financial Indebtedness means any debt or other monetary liability (whether actual or contingent) in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:

- (a) borrowing from any bank or other financial institution;
- (b) bill, bond, debenture, note or similar instrument;
- (c) acceptance, endorsement or discounting arrangement;
- (d) guarantee;
- (e) finance or capital lease;
- (f) swap, hedge arrangement, option, futures contract, derivative or analogous transaction;
- (g) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or business;
- (h) agreement for the deferral of a purchase price or other payment in relation to the provision of services other than in the ordinary course of business of the Health House Group; or
- (i) obligation to deliver goods or provide services paid for in advance by any financier.

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 or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

Foreign Scheme Shareholder means a Scheme Shareholder whose address as shown in the Health House Register (as at the Record Date) is located outside of:

- (a) Australia and its external territories;
- (b) New Zealand;

- (c) The United Kingdom;
- (d) Germany;
- (e) Spain; and
- (f) any other jurisdictions as may be agreed in writing by Health House and Zelira,

unless Zelira determines (in its absolute discretion), that Zelira is permitted to allot and issue Zelira Consideration Shares to that Scheme Shareholder by the laws of that place either unconditionally or after compliance with conditions that Zelira considers are not unduly onerous or impracticable.

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX and any regulatory organisation established under statute or any stock exchange.

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 Health House Shareholders present and voting, either in person or by proxy.

Health House Board means the board of directors of Health House (or any committee of the board of directors of Health House constituted to consider the Proposed Transaction on behalf of Health House).

Health House Break Fee has the meaning given to that term in clause 14.3.

Health House Director means a director of Health House.

Health House Group means Health House and its Subsidiaries.

Health House Information means information to be included by Health House 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 Health House Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of the Health House Board and has not previously been disclosed to Health House Shareholders, other than the Zelira Information, the Independent Expert's Report and the Investigating Accountant's Report.

Health House Convertible Security means a Health House Option or Health House Performance Share.

Health House Incentive Plan means the Health House Long Term Incentive Plan in the form as Fairly Disclosed in the Due Diligence Material.

Health House Indemnified Parties means Health House, its Related Entities and each of their respective shareholders, directors, company secretaries and employees.

Health House Option means an option granted by Health House to acquire by way of issue one or more Health House Shares.

Health House Optionholder means the person who is recorded in the register maintained by Health House under section 168(1) of the Corporations Act as the holder of at least one Health House Option.

Health House Parties means each member of the Health House Group and their respective Authorised Persons.

Health House Performance Share means a performance share on the terms set out in the Due Diligence Material.

Health House Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed:

- (a) Health House converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) any member of the Health House Group resolves to reduce its share capital in any way;
- (c) any member of the Health House Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the Health House Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a right or an option other than under the valid exercise of an option or performance right on issue immediately before the date of this deed that has been Fairly Disclosed in the Due Diligence Material;
- (e) any member of the Health House Group issues, or agrees to issue, convertible notes;
- (f) any member of the Health House Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) any member of the Health House Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (h) an Insolvency Event occurs in relation to any member of the Health House Group;
- (i) Health House 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;
- (j) any member of the Health House Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the Health House Group;
- (k) any member of the Health House Group ceases, or threatens to cease to, carry on the business conducted as at the date of this deed;

- (l) any member of the Health House Group (other than a dormant, non-operating member of the Health House Group) being deregistered as a company or being otherwise dissolved;
- (m) any disposal of shares or securities by a member of the Health House Group in any member of the Health House Group other than to a member of the Health House Group; or
- (n) any member of the Health House Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (m) inclusive above insofar as it applies to the member of the Health House Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that a Health House Prescribed Occurrence will not include any matter:

- (o) required to be done or procured by the Health House Group under this deed or the Scheme;
- (p) required by law or by an order of a court or Governmental Agency;
- (q) to the extent it is Fairly Disclosed in filings of Health House with the ASX in the 24 months prior to the date of this deed;
- (r) to the extent it is Fairly Disclosed in the Due Diligence Material; or
- (s) the undertaking of which Zelira has previously approved in writing.

Health House Register means the register of shareholders maintained by Health House under section 168(1) of the Corporations Act.

Health House Share means an issued fully paid ordinary share in the capital of Health House.

Health House Shareholder means a person who is registered in the register maintained by Health House under section 168(1) of the Corporations Act as a holder of one or more Health House Shares.

Health House Warranties means the representations and warranties of Health House set out in clause 10.4.

Implementation Date means, with respect to the Scheme, the later of:

- (a) the fifth Business Day following the Scheme Record Date (as relevant); and
- (b) such other Business Day as the parties agree.

Independent Expert means an expert, independent of the parties, engaged by Health House in good faith to prepare the Independent Expert's Report.

Independent Expert's Report means the report from the Independent Expert commissioned by Health House for inclusion in the Scheme Booklet, which includes a statement or opinion from the Independent Expert on whether the Scheme is in the best interest of Health House Shareholders and includes any update of that report by the Independent Expert.

Ineligible Shareholder means a Health House Shareholder that is not eligible to receive Zelira Shares under the terms of this deed.

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 scheme of arrangement (other than the Scheme) or composition with its creditors or takes similar actions as a result of which the entity's assets are, or are proposed to be, submitted to the control of its creditors;
- (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:
 - (iii) a breach of trust or obligation as partner by the person;
 - (iv) the person acting outside the scope of its powers as trustee or partner;
 - (v) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (vi) 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,

and a person shall be **Insolvent** if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

Interest Rate means the Bank Bill Swap Reference Rate as published as at the relevant due date for payment by the Australian Financial Markets Association.

Investigating Accountant's Report means the report prepared by the Investigating Accountant for inclusion in the Scheme Booklet.

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

Material Adverse Change means a change, event, circumstance or occurrence (singularly or in combination) which results in or has the effect of (or which with the lapse of time is reasonably likely to result in or have the effect of):

- (a) a reduction in the value of the consolidated net assets of Health House by more than 20% compared with the consolidated net assets reported as at 30 June 2021 calculated in accordance with the accounting policies and practices applied at the date of this deed;
 - (b) the business of the Health House Group being unable to be carried on in substantially the same manner as it is carried on at the date of this deed, including as a result of an adverse effect on the status or terms of any licences, permits or authorisations from any Government Agency applicable to Health House;
 - (c) materially impacting the reputation of the Health House Group, including in relation to its good standing with any Governmental Agency having jurisdiction over the conduct of business of the Health House Group (including any regulatory investigation, legal proceeding or class action);
 - (d) materially reducing the revenue potential of the Health House Group,
- other than an event, circumstance or occurrence which:
- (e) was Fairly Disclosed in the Due Diligence Materials;
 - (f) was Fairly Disclosed in documents that were publicly available prior to the date which is 2 Business Days prior to the date of this deed from public filings of Health House with ASX or ASIC or public registers;
 - (g) results from a change in applicable accounting standards or principles;
 - (h) results from a change in any applicable law or policy required by law or general economic, political or regulatory conditions in Australia or that otherwise affects or otherwise has an impact on Australia;
 - (i) results from any acts of war or terrorism;
 - (j) results from any change or disruption to the financial markets in Australia;
or

- (k) which result from a general deterioration in equity markets, interest rates, exchange rates or credit spreads that impacts the Health House Group and its competitors in a similar manner.

Material Contracts means the contracts identified as such in the Disclosure Letter.

Proposed Transaction means:

- (a) the proposed acquisition by Zelira in accordance with the terms and conditions of this deed, of all of the Health House Shares through the implementation of the Scheme; and
- (b) all associated transactions and steps contemplated by this deed.

Regulatory Approvals means the approvals set out in clause 3.1(a).

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.

Relevant Interest has the meaning given in the Corporations Act.

RG 60 means Regulatory Guide 60 issued by ASIC on 22 September 2011.

Sanctioned Person means:

- (a) any person listed in any sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, the United Kingdom, Canada, or Australia;
- (b) any person operating organised or resided in a U.S.-sanctioned country (including Iran, Syria, Sudan, Cuba, the Democratic Republic of Korea, or the Crimea Region of Ukraine); or
- (c) any person owned or controlled by any such person.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Health House and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in or in such other form as the parties agree in writing, subject to any alterations or conditions that are:

- (a) agreed to in writing by Health House and Zelira, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by each party.

Scheme Booklet means the explanatory booklet to be prepared by Health House in respect of the Proposed Transaction in accordance with the terms of this deed and to be dispatched to Health House Shareholders.

Scheme Consideration means a total of 2,311,045 Zelira Consideration Share(s) issuable under this deed.

Scheme Meeting means the meeting of Health House 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 Record Date means, in respect of the Scheme, 7.00pm on the second Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Scheme Share means a Health House Share on issue as at the Record Date.

Scheme Shareholder means a person who holds one or more Scheme Shares.

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, the date on which the adjourned application is heard or scheduled to be heard.

Senior Manager means each of:

- (a) David Wheeler (in his capacity as executive chairman);
- (b) David Attwood (in his capacity as group CEO);
- (c) Henrik Sprengel (in his capacity as CanPharma CEO);
- (d) Paul Mavor (in his capacity as COO (Australasia); and
- (e) Robert Beenstock (in his capacity as CFO).

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

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

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

- (a) is 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 Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Health House Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the Competing Proposal, including consideration, conditionality, funding, certainty and timing.

Tax means any tax, levy, charge, impost, fee, deduction, offset (including research and development tax offsets), goods and services tax, payroll tax, superannuation guarantee, fringe benefits tax, compulsory loan, PAYG instalment and withholding, that is assessed, levied, imposed or collected by any

Government Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above, but excludes Duty.

Timetable means the indicative timetable in relation to the Proposed Transaction set out in clause 18.16(c) with such modifications as may be agreed in writing by the parties.

Zelira Board means the board of directors of Zelira (or any committee of the board of directors of Health House constituted to consider the Proposed Transaction on behalf of Zelira).

Zelira Consideration Share means a Zelira Share to be issued under the terms of the Scheme as Scheme Consideration.

Zelira Director means a director of Zelira.

Zelira Due Diligence Material means the written information disclosed by or on behalf of Zelira and its Subsidiaries (including any management presentations and all written responses provided to written questions or requests for information) to Health House, or any of its Authorised Persons prior to the date of this deed on the day immediately preceding the date of this deed.

Zelira Group means Zelira and each of its Subsidiaries (excluding, at any time, Health House and its Subsidiaries to the extent that Health House and its Subsidiaries are Subsidiaries of Zelira at that time). A reference to a member of the **Zelira Group** or an **Zelira Group Member** is a reference to Zelira or any such Subsidiary.

Zelira Indemnified Parties means Zelira, its Related Entities and each of their respective shareholders, directors, company secretaries and employees.

Zelira Information means such information regarding Zelira that is provided by or on behalf of Zelira, or any of their Advisers, to Health House, the Independent Expert or the Investigating Accountant:

- (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 Zelira's obligations under clause 7.2(a),

and, for the avoidance of doubt, does not include the Health House Information, the Independent Expert's Report or the Investigating Accountant's Report.

Zelira Nominee has the meaning given to that term in clause 2(c).

Zelira Parties means the members of the Zelira Group and their respective Authorised Persons.

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

- (a) Zelira converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) Zelira:

- (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;
- (c) any member of the Zelira Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a right or an option other than:
 - (iii) under the valid exercise of an option or performance right on issue immediately before the date of this deed; or
 - (iv) an issue or grant of a security or a performance right under an employee incentive scheme in place as the date of this deed, where such issue or grant has been Fairly Disclosed in the Zelira Due Diligence Material;
- (d) any member of the Zelira Group issues, or agrees to issue, convertible notes;
- (e) any member of the Zelira Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property which represents or contributes more than 50% of the EBITDA of the Zelira Group;
- (f) any member of the Zelira Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (g) an Insolvency Event occurs in relation to any member of the Zelira Group;
- (h) any member of the Zelira Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the Zelira Group;
- (i) any member of the Zelira Group ceases, or threatens to cease to, carry on the business conducted as at the date of this deed;
- (j) any member of the Zelira Group (other than a dormant, non-operating member of the Zelira Group) being deregistered as a company or being otherwise dissolved;
- (k) any disposal of shares or securities by a member of the Zelira Group in any member of the Zelira Group other than to a member of the Zelira Group; or
- (l) any member of the Zelira Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (k) inclusive above insofar as it applies to the member of the Zelira Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that an Zelira Prescribed Occurrence will not include any matter:

- (m) required to be done or procured by the Zelira Group under this deed or the Scheme;
- (n) required by law or by an order of a court or Governmental Agency;

- (o) to the extent it is Fairly Disclosed in filings of Zelira with ASX in the 24 months prior to the date of this deed;
- (p) to the extent it is Fairly Disclosed in the Zelira Due Diligence Material; or
- (q) the undertaking of which Health House has previously approved in writing.

Zelira Related Person means, in respect of Zelira:

- (a) a Related Body Corporate of Zelira; and
- (b) any director, officer, member or employee of Zelira or of a Related Body Corporate of Zelira.

Zelira Share means an issued fully paid ordinary share in the capital of Zelira.

Zelira Warranties means the representations and warranties of Zelira set out in clause 10.1.

1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) a reference to time is to Perth, Western Australia time;
- (h) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;

- (k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act unless it is otherwise defined in this deed;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (o) 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; and
- (p) a reference to **Fairly Disclosed** means disclosed to a party or any of their respective Authorised Persons to a sufficient extent and in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction to identify the nature and scope of the relevant matter, event or circumstance.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.5 Consents or approvals

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless provided otherwise.

1.6 Listing requirements included as law

A listing rule or operating rule of a financial market or of a clearing and settlement facility will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.7 Reasonable endeavours

Any provision of this deed which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person

except for payment of any applicable fee for the lodgement or filing of any relevant application with any Governmental Agency; or

- (b) to commence any legal action or proceeding against any person,

except where that provision specifies otherwise.

1.8 Consolidation

On 11 March 2022, Zelira announced its intention to undertake the Consolidation. On 12 April 2022, Zelira Shareholders approved the Consolidation, and as a result all Zelira Shares issuable under this deed will be issued on a post-Consolidation basis.

2. AGREEMENT TO PROPOSE SCHEME

- (a) Health House agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (b) Subject to clauses 2(c) and 2(d), Zelira agrees to assist Health House in proposing and implementing the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (c) Zelira expects that the entity that acquires the Scheme Shares under the Scheme will be Zelira, but may nominate any wholly-owned Subsidiary of Zelira (**Zelira Nominee**) to acquire the Scheme Shares by giving written notice to Health House on or before the date that is 5 Business Days before the First Court Date.
- (d) If Zelira nominates a Zelira Nominee to acquire the Scheme Shares under the Scheme, then:
 - (i) references in this deed to Zelira are to be read as references to the Zelira Nominee;
 - (ii) Zelira must procure that the Zelira Nominee complies with the obligations of Zelira under this deed and under the Scheme and enter into a deed of accession on terms acceptable to the Health House, acting reasonably; and
 - (iii) any such nomination will not relieve Zelira of its obligations under this deed, including the obligation to provide the Scheme Consideration in accordance with the terms of the Scheme.

3. CONDITIONS PRECEDENT AND PRE-IMPLEMENTATION STEPS

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(Regulatory Approvals):**

- (i) **(ASIC and ASX)** before the Delivery Time on the Second Court Date, ASIC and ASX issue or provide such consents or approvals as are necessary or which Health House and Zelira agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date; and
 - (ii) **(Other Governmental Authorities)** before the Delivery Time on the Second Court Date, each other relevant Governmental Agency issue or provide such consents, waivers, approvals which Zelira and Health House consider are necessary or desirable to implement the Scheme (noting that if such consents waivers/and/or approvals are subject to conditions those conditions must be acceptable to the parties (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
- (b) **(FIRB)** Before the Delivery Time on the Second Court Date, either:
 - (i) Zelira has received a written notice under FATA from the Treasurer (or his delegate) stating that, or to the effect that, the Commonwealth Government does not object to the acquisition of all the Scheme Shares by Zelira pursuant to the Scheme, either without condition or on terms that are acceptable to Zelira (acting reasonably); or
 - (ii) following notice of the proposed acquisition of all the Scheme Shares by Zelira pursuant to the Scheme having been given by Zelira to the Treasurer under FATA, the Treasurer ceases to be empowered to make any order under Part 3 of FATA;
- (c) **(No Health House Prescribed Occurrence)** no Health House Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (d) **(No Zelira Prescribed Occurrence)** no Zelira Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (e) **(Health House Warranties)** the Health House Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;
- (f) **(Zelira Warranties)** the Zelira Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;
- (g) **(Shareholder approval)** the Scheme is approved by Health House Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (h) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (acting reasonably); and

- (i) **(No Material Adverse Change)** no Material Adverse Change occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (j) **(Restraining orders)** no judgment, order, decree, statute, law, ordinance, rule of regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Governmental Agency of competent jurisdiction in Australia remains in effect as at the Delivery Time on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme; and
- (k) **(Third party consents)** all consents, approvals or waivers of rights by parties other than Health House under any Material Contracts are necessary or desirable are obtained in a form and subject to conditions acceptable to Zelira (acting reasonably), and such consents, approvals or waivers have not been withdrawn, cancelled or revoked before the Delivery Time on the Second Court Date.

3.2 Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a) (Regulatory Approvals) and 3.1(j) (No restraining orders) are for the benefit of each party and any breach or non-fulfilment of it may only be waived (if capable of waiver) with the written consent of both parties, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(b) (FIRB), 3.1(c) (No Health House Prescribed Occurrences), 3.1(e) (Health House Warranties) and 3.1(i) (No Material Adverse Change) and 3.1(k) (Third party consents) are for the sole benefit of Zelira and any breach or non-fulfilment of them may only be waived by Zelira giving its written consent.
- (c) The Conditions in clauses 3.1(d) (No Zelira Prescribed Occurrences) and 3.1(f) (Zelira Warranties) are for the sole benefit of Health House and any breach or non-fulfilment of them may only be waived by Health House giving its written consent.
- (d) A party entitled to waive a Condition under this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to the Delivery Time on the Second Court Date. The Conditions in clauses 3.1(g) (Shareholder approval) and 3.1(h) (Court approval) cannot be waived.
- (e) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other party for any breach of this deed including a breach that resulted in the non-fulfilment of the Condition that was waived.

3.3 Reasonable endeavours

- (a) Health House and Zelira will use their respective reasonable endeavours to procure that each of the Conditions (as applicable) is satisfied as soon as reasonably practicable after the date of this deed or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).

- (b) Without limiting clauses 3.4 and 3.5 below, each of Health House and Zelira must:
- (i) consult and co-operate fully with the other party in relation to the satisfaction of the Conditions, including in relation to all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (ii) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (iii) take all the steps for which it is responsible as part of the Regulatory Approvals process;
 - (iv) respond to all requests for information in respect of the applications for Regulatory Approvals as soon as reasonably practicable;
 - (v) provide the other with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals; and
 - (vi) so far as it is reasonable to do so, allow the other and its Authorised Persons the opportunity to be present and make submissions at any meetings with any regulatory body relating to the Regulatory Approvals in respect of the Scheme,

provided that:
 - (vii) the party applying for a Regulatory Approval may withhold or redact information or documents from the other party if and to the extent that they are either confidential to a third party or commercially sensitive and confidential to the applicant; and
 - (viii) neither party is required to consent to the disclosure by the other party of materially commercially sensitive information of the first mentioned party to any Governmental Agency.

3.4 Notifications

Each of Zelira and Health House must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other in writing if it becomes aware that any Condition has been satisfied; and
- (c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

At or before the hearing on the Second Court Date, in respect of the Scheme:

- (a) Zelira and Health House will provide a joint certificate to the Court confirming whether or not the Conditions set out in clause 3.1(a) (Regulatory Approvals) and 3.1(j) (No restraining orders) have been satisfied or waived in accordance with the terms of this deed;
- (b) Health House will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(c) (No Health House Prescribed Occurrences), 3.1(e) (Health House Warranties), 3.1(g) (Shareholder approval) and 3.1(k) (Third party consents) have been satisfied or waived in accordance with the terms of this deed;
- (c) Zelira will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(b) (FIRB), 3.1(d) (No Zelira Prescribed Occurrences) and 3.1(f) (Zelira Warranties) have been satisfied or waived in accordance with the terms of this deed;
- (d) Health House will provide a certificate to Zelira confirming whether or not Health House has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
- (e) Zelira will provide a certificate to Health House confirming whether or not Zelira has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches.

3.6 Scheme voted down

If the Scheme is not approved by Health House Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and Zelira and Health House consider, 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 Health House must:

- (a) 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
- (b) make such submissions to the Court and file such evidence as Counsel engaged by Health House to represent it in Court proceedings related to the Scheme, in consultation with Zelira, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Act by making an order to disregard the Headcount Test.

3.7 Conditions not capable of being fulfilled

- (a) If:
 - (i) 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 precedent being satisfied by the date specified in this deed);
 - (ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the

Condition within 5 Business Days after the occurrence of the circumstance; or

- (iii) it becomes more likely than not that the Scheme does not become Effective by the End Date,

then Health House and Zelira must consult in good faith with a view to determining whether:

- (i) the Scheme may proceed by way of alternative means or methods;
- (iv) to extend the relevant time or date for satisfaction of the Condition; or
- (v) 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.

- (b) Subject to clause 3.7(c), if a Condition becomes incapable of being satisfied before the End Date and Health House and Zelira are unable to reach agreement under clause 3.7(a) 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 the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:

- (i) in relation to the Conditions in clauses 3.1(a) (Regulatory Approval), 3.1(b) (FIRB), 3.1(g) (Shareholder approval), 3.1(j) (No restraining orders), either Zelira or Health House may terminate this deed by giving the other notice without any liability to any party by reason of that termination alone;
- (ii) in relation to the Conditions in clauses 3.1(c) (No Health House Prescribed Occurrences), 3.1(e) (Health House Warranties), 3.1(i) (No Material Adverse Change), and 3.1(k) (Third party consents), Zelira may terminate this deed by giving Health House notice without any liability to any party by reason of that termination alone; and
- (iii) in relation to the Conditions in clauses 3.1(d) (No Zelira Prescribed Occurrences) and 3.1(f) (Zelira Warranties), Health House may terminate this deed by giving Zelira notice without any liability to any other party by reason of that termination alone.

- (c) A party will not be entitled to terminate this deed under clause 3.7(b) if the relevant Condition has not been satisfied as a result of:

- (i) a breach of this deed by that party; or
- (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

- (a) in the case of a Condition relating to a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) 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

4.1 Scheme

- (a) Health House must, as soon as reasonably practicable after the date of this deed and 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 Zelira and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration.
- (b) Health House 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 Zelira.

4.2 Scheme Consideration

Zelira covenants in favour of Health House (in Health House's own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to Zelira of the Scheme Shares under the terms of the Scheme), on the Implementation Date, Zelira will:

- (a) accept that transfer; and
- (b) provide each Scheme Shareholder the Scheme Consideration,

in accordance with the Scheme.

4.3 Allotment and issue of Zelira Consideration Shares

- (a) Subject to the Scheme becoming Effective, Zelira must:
 - (i) in accordance with the Deed Poll, issue the Zelira Consideration Shares to the Scheme Shareholders in accordance with the Scheme on terms that each Zelira Consideration Share will rank equally in all respects with each other Zelira Share then on issue;
 - (ii) ensure that on issue each Zelira Consideration Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of Zelira); and

- (iii) use all reasonable endeavours to ensure that such Zelira Consideration Shares are, from the first Business Day following the date the Scheme becomes Effective (or such later date as ASX requires), quoted for trading on the ASX initially on a deferred settlement basis and thereafter on an ordinary settlement basis.
- (b) To facilitate the issue of the Zelira Consideration Shares to Scheme Shareholders, Health House must provide to Zelira, or procure the provision to Zelira of, a complete copy of the Health House Register as at the Record Date (which must include the name, 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 must be provided in such form as Zelira, its Advisers or share registry may reasonably require.
- (c) Zelira will not issue any Zelira Consideration Shares to Foreign Scheme Shareholders, and instead will issue the Zelira Consideration Shares that would otherwise have been issued to the Foreign Scheme Shareholders to a nominee appointed by Zelira. Zelira will procure that the nominee sells those Zelira Consideration Shares on-market and remits the proceeds from that sale (after deducting any selling costs and taxes) to Zelira. Zelira will then remit the proceeds it receives to the Ineligible Shareholders in accordance with their entitlement.
- (d) Any fractional entitlement of a Scheme Shareholder to a part of a Zelira Consideration Share will be rounded down to the nearest whole number of Zelira Consideration Shares.

4.4 Deed Poll

Zelira covenants in favour of Health House (in Health House's own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform the Deed Poll prior to the dispatch of the Scheme Booklet.

5. TREATMENT OF CONVERTIBLE SECURITIES

- (a) Zelira acknowledges and agrees that the Health House Performance Shares will vest and convert into Health House Shares on the Scheme becoming Effective.
- (b) As soon as reasonably practicable after the date of this deed but in any event within 25 Business Days of that date, Health House must use all reasonable endeavours to obtain the written agreement of each person who is a holder of Health House Options to have those Health House Options cancelled and issued a reasonably equivalent value of options in Zelira, subject to the Scheme becoming Effective and with effect from the Implementation Date, under private treaty agreements between Zelira, Health House and each Health House Option holder. The form of agreement to be used for this purpose must be agreed to by Zelira (acting reasonably). Health House agrees to seek a waiver as soon as reasonably practicable after the date of this deed from ASX Listing Rule 6.23.2 to allow for the cancellation of up to all Health House Options (if required).
- (c) If, within 25 Business Days of the date of this deed, Health House has not obtained the agreement of each person who is a holder of Health House Options to have their Health House Options exchanged in accordance

with clause 5(b), after the Implementation Date Zelira will initiate the compulsory acquisition of any of the Health House Convertible Securities that remain on issue as at that date, under Part 6A.2 (Div 2) of the Corporations Act.

6. RECOMMENDATION, INTENTIONS AND ANNOUNCEMENTS

6.1 Health House Board Recommendation and Voting Intention

- (a) Subject to clause 6.2, Health House must ensure that the Announcement and the Scheme Booklet state that each Health House Director:
 - (i) recommends that Health House Shareholders vote in favour of the Scheme (**Recommendation**); and
 - (ii) intends to cause any Health House Shares in which they have a Relevant Interest to be voted in favour of the Scheme (**Voting Intention**),

in each case qualified only by words to the effect of:
 - (i) 'in the absence of a Superior Proposal'; and
 - (iii) other than in respect of the Scheme Booklet, 'subject to the Independent Expert concluding that the Scheme is in the best interest of Health House Shareholders' and in respect of the Scheme Booklet and any public document issued after the Scheme Booklet, 'subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of Health House Shareholders'.
- (b) Subject to clause 6.2, Health House must ensure that the Health House Board collectively, and the members of the Health House Board individually, do not change, withdraw or modify his or her Recommendation or Voting Intention unless:
 - (i) Health House has received, other than as a result of a breach of clause 15, a Superior Proposal and (i) has entered into a legally binding agreement to undertake or give effect to that proposal or (ii) in the case of a proposal by way of takeover bid which is not subject to an agreement with Health House, an announcement has been made which attracts section 631(1) of the Corporations Act; or
 - (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interest of the Health House Shareholders,

and Health House has complied with its obligations under clause 15 (including ensuring that all of Zelira's rights under clause 15.8 have been exhausted).

6.2 Exclusion from Recommendation

The obligation of Health House under clause 6.1 to ensure that each Health House Director provides and maintains the Recommendation is qualified to the extent that any Health House Director considers, acting reasonably (including after having taken legal advice) and in good faith, that he or she should not provide

or continue to maintain any recommendation (positive or adverse) because that Health House Director has an interest in the Scheme that is so materially different from other Health House Shareholders which would properly preclude or render it inappropriate for him or her to provide any such recommendation.

6.3 Confirmation

Health House represents and warrants to Zelira that each Health House Director has confirmed his or her agreement not to do anything inconsistent with their Recommendation and Voting Intention (including withdrawing, changing or in any way qualifying their Recommendation or Voting Intention) other than in the circumstances referred to in clause 6.1(b).

6.4 Promotion of Scheme

During the Exclusivity Period, Health House must procure that the Senior Managers, as reasonably requested by Zelira and as agreed by Health House, participate in efforts to promote the merits of the Scheme, including:

- (a) meeting with key Health House Shareholders;
- (b) communicating with Health House's employees, customers and suppliers and the employees, customers and suppliers of Health House's Related Bodies Corporate; and
- (c) communicating with the public to promote the merits of the Scheme, subject only to:
 - (i) the Independent Expert not having concluded in the Independent Expert's Report that the Scheme is not in the best interest of Health House Shareholders; and
 - (ii) there being no Superior Proposal.

7. PROPOSED TRANSACTION – PARTIES' RESPECTIVE IMPLEMENTATION OBLIGATIONS

7.1 Health House's obligations

Health House must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable and after the date of this deed and substantially in accordance with the Timetable, including without limitation taking each of the following steps:

- (a) **(Scheme Booklet)** prepare the Scheme Booklet in accordance with clause 7.3;
- (b) **(Independent Expert)** promptly appoint the Independent Expert to prepare the Independent Expert's Report and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **(review of draft Independent Expert's Report)** on receipt from the Independent Expert, provide Zelira with the draft report received from the Independent Expert for factual accuracy review (noting in each case that any draft of the Independent Expert's Report provided to Zelira for review will not include those sections containing the Independent Expert's opinion), and promptly give to the Independent Expert any

comments that Zelira provides Health House in relation to factual matters regarding Zelira in any draft of the Independent Expert's Report;

- (d) **(approval of draft to provide to ASIC and ASX)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC and ASX, procure that a meeting of the Health House Board, or of a committee of the Health House 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 and to ASX for its review and approval for the purposes of Appendix 7A to the Listing Rules;
- (e) **(liaison with ASIC and ASX)** as soon as reasonably practicable after the date of this deed and otherwise in accordance with the Timetable:
 - (i) provide an advanced draft of the Scheme Booklet, in a form approved in accordance with clauses 7.1(d) and 7.2(e), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to ASX for its review and approval for the purposes of Appendix 7A to the Listing Rules; and
 - (ii) liaise with ASIC and ASX during the period of their respective consideration of that draft of the Scheme Booklet and keep Zelira reasonably informed of any matters raised by ASIC or ASX in relation to the Scheme Booklet and use reasonable endeavours, in consultation with Zelira, to resolve any such matters (provided that, where any matters relate to Zelira Information, Health House must not take any steps to address them without the prior written consent of Zelira, not to be unreasonably withheld or delayed);
- (f) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the reviews by ASIC and ASX of the Scheme Booklet, procure that a meeting of the Health House Board, or of a committee of the Health House Board appointed for the purpose, is held to consider approving the Scheme Booklet for dispatch to the Health House Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (g) **(section 411(17)(b) statements)** apply to ASIC for the production of statements in writing under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (h) **(confirmation of no objection from ASX)** request ASX to confirm that it has no objection to the draft Scheme Booklet;
- (i) **(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 7.1(f) and 7.2(f) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Health House to convene the Scheme Meeting;
- (j) **(registration of Scheme statement)** request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

- (k) **(information):**
- (i) provide reasonable information about the Scheme and Health House Shareholders to Zelira and its Related Bodies Corporate, which Zelira requests and reasonably requires in order to:
 - (A) canvass views on the Scheme by Health House Shareholders;
 - (B) facilitate the provision by, or on behalf of, Zelira of the Scheme Consideration; or
 - (C) review the tally of proxy appointments and directions received by Health House before the Scheme Meeting;
 - (ii) within 5 Business Days after the date of this deed, provide Zelira with:
 - (A) a copy of the Health House Register as at the date of this deed to the extent doing so does not breach applicable privacy laws; and
 - (B) the most recently available information in Health House's possession regarding the beneficial ownership of Health House Shares including a copy of the most recent beneficial ownership analysis report received by Health House (which, for the avoidance of doubt, may be as at a date prior to the date of this deed); and
 - (iii) provide Zelira:
 - (A) on a fortnightly basis, a copy of the latest Health House Register; and
 - (B) on a fortnightly basis, the most recently available information in Health House's possession regarding the beneficial ownership of Health House Shares including a copy of the most recent beneficial ownership analysis report received by Health House,

provided that if the Health House Register or any beneficial ownership analysis report is received by Health House more frequently than on a fortnightly basis Health House must provide Zelira with a copy of each such report after it is received by Health House;
 - (l) **(convene Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Scheme Booklet to the Health House Shareholders and convening and holding the Scheme Meeting;
 - (m) **(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 3.6 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 and apply to the Court for orders approving the Scheme;

- (n) **(appeal process)** if the Court refuses to make any orders directing Health House to convene the Scheme Meeting or approving the Scheme, Health House and Zelira must consult with each other in good faith as to whether to appeal the Court's decision;
- (o) **(implementation of Scheme)** if the Scheme is approved by the Court:
 - (i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
 - (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to Zelira on the Implementation Date; and
 - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (p) **(regulatory notifications)** in relation to the Regulatory Approvals, lodge with any Governmental Agency within the relevant periods all documentation and filings required by law to be so lodged by Health House in relation to the Proposed Transaction;
- (q) **(Zelira Information)** without the prior written consent of Zelira, not use the Zelira Information for any purposes other than those contemplated by this deed or the Scheme;
- (r) **(documents)** consult with Zelira in relation to the content of the documents required for the purpose of the Scheme including originating process, affidavits, submissions and draft minutes of Court orders;
- (s) **(Shareholder support)** in consultation with Zelira, promote to its shareholders the merits of the Scheme and encourage Health House Shareholders to vote on the Scheme in accordance with the recommendation of the Health House Board, including, if requested to do so by Zelira and at Zelira's expense, engage a proxy solicitation firm to assist in soliciting proxy votes (and Health House may independently decide to appoint a proxy solicitation firm after consulting in good faith with Zelira);
- (t) **(quotation of Health House Shares and ASX listing)** apply to ASX:
 - (i) to have trading in Health House Shares suspended from the close of trading on the Effective Date;
 - (ii) to have Health House removed from the official list of ASX from:
 - (A) the close of trading on the Business Day immediately following the Implementation Date; or

- (B) such other later date after the Implementation Date to be determined by Zelira; and
- (u) **(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 and regulations.

7.2 Zelira's obligations

Zelira must take all steps reasonably necessary to assist Health House to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including, without limitation, taking each of the following steps:

- (a) **(Zelira Information)** provide to Health House, in a form appropriate for inclusion in the Scheme Booklet, all Zelira Information that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Scheme Booklet, which information must without limiting the above:
 - (i) contain all information necessary to enable Health House to ensure that the Scheme Booklet complies with the requirements of RG 60;
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Scheme Booklet; and
 - (iii) be updated by all such further or new material information which may arise after the Scheme Booklet has been dispatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(regulatory notifications)** in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by Zelira in relation to the Proposed Transaction;
- (c) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (d) **(review of Scheme Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Scheme Booklet prepared by Health House and provide comments on those drafts in good faith;
- (e) **(approval of draft to provide to ASIC and ASX)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC and ASX, procure that a meeting of the appropriate representatives of Zelira is held to consider approving those sections of that draft that relate to Zelira as being in a form appropriate for provision to ASIC and ASX for review;
- (f) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC and ASX of the Scheme Booklet, procure that a meeting of the appropriate representatives of Zelira is held to consider approving those sections of the Scheme Booklet that relate

to Zelira as being in a form appropriate for dispatch to Health House Shareholders, subject to approval of the Court;

- (g) **(representation)** procure that Zelira is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (h) **(promote the Proposed Transaction)** if requested by Health House, participate in reasonable efforts to promote the merits of the Proposed Transaction and the Scheme Consideration;
- (i) **(Health House Information)** without the prior written consent of Health House, not use Health House Information for any purposes other than those contemplated by this deed and the Scheme; and
- (j) **(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 and regulations.

7.3 Scheme Booklet – preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, Health House must prepare the Scheme Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
 - (ii) this clause 7.3.
- (b) The Scheme Booklet will include:
 - (i) the terms of the Scheme;
 - (ii) the notice of 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 proxy forms for the Scheme Meeting and for any ancillary meeting;
 - (iii) the Health House Information;
 - (iv) the Zelira Information;
 - (v) a copy of this deed (without the schedules or annexures);
 - (vi) a copy of the executed Deed Poll; and
 - (vii) a copy of the Independent's Expert Report.
- (c) The Scheme Booklet must include a statement that:
 - (i) other than the Zelira Information and the Independent Expert's Report, the Scheme Booklet has been prepared by Health House and is the responsibility of Health House, and that Zelira assumes no responsibility for the accuracy or completeness of the Scheme Booklet (other than Zelira Information); and

- (ii) the Zelira Information has been provided by Zelira and is the responsibility of Zelira, and Health House assumes no responsibility for the accuracy or completeness of the Zelira Information.
- (d) Health House must make available to Zelira drafts of the Scheme Booklet (excluding any part of the draft of the Independent Expert's Report which contains the Independent Expert's opinion), consult with Zelira in relation to the content of those drafts (other than the Zelira Information), and consider in good faith, for the purpose of amending those drafts, comments from Zelira on those drafts. Zelira acknowledges and agrees that Health House has ultimate discretion with respect to the preparation, form and content of the Scheme Booklet, other than as provided in this deed with respect to the Zelira Information.
- (e) Health House must seek approval from Zelira for the form and context in which the Zelira Information appears in the Scheme Booklet, which approval Zelira must not unreasonably withhold or delay, and Health House must not lodge the Scheme Booklet with ASIC until such approval is obtained from Zelira.
- (f) If Health House and Zelira disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after reasonable consultation, then:
 - (i) if the disagreement relates to the form or content of any information appearing in the Scheme Booklet other than the Zelira Information, the Health House Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet; and
 - (ii) if the disagreement relates to the form or content of the Zelira Information, Health House will make such amendments to the form or content of the disputed part of the Zelira Information as Zelira requires (acting reasonably and in good faith).
- (g) Health House must take all reasonable steps to ensure that the Scheme Booklet (other than the Zelira Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is dispatched to Health House Shareholders.
- (h) Zelira must take all reasonable steps to ensure that the Zelira 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 dispatched to Health House Shareholders.
- (i) Health House must provide to Zelira all such further or new information of which Health House becomes aware that arises after the Scheme Booklet has been dispatched 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.
- (j) Zelira must provide to Health House all such further or new information of which Zelira becomes aware that arises after the Scheme Booklet has been dispatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Zelira Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.

- (k) Health House and Zelira each agree that the efficient preparation of the Scheme Booklet and the implementation of the Scheme are in the interests of Health House Shareholders and Zelira and that they will use all reasonable endeavours and utilise all reasonably necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 7.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

8. CONDUCT OF BUSINESS BEFORE THE IMPLEMENTATION DATE

8.1 Conduct of Health House business

- (a) Subject to clause 8.2(a), from the date of this deed up to and including the Implementation Date, Health House must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:
- (i) operate those businesses consistent with past practice, in substantially the same manner as previously conducted in the 12 month period prior to the date of this deed and use its reasonable endeavours to operate those businesses generally and materially consistent with the business plan and budget for the Health House Group for the 2022 financial year, disclosed in the Due Diligence Material;
 - (ii) 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;
 - (iii) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (iv) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the Health House Group is a party, and with laws, authorisations and licences applicable to each member of the Health House Group; and
 - (v) not take or fail to take any action that constitutes a Health House Prescribed Occurrence or that could reasonably be expected to result in a Health House Prescribed Occurrence.
- (b) Without limiting clause 8.1(a) but subject to clause 8.2(a), Health House 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):
- (i) 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 Health House Group, other than in the usual and ordinary course of business and consistent with past practice;

- (ii) other than as approved in writing by Zelira (not to be unreasonably withheld or delayed), amend or take any action that:
 - (A) seeks or causes a financier (or person acting on its behalf) to consent to or waive (whether or not such consent or waiver is conditioned) any provision under; or
 - (B) would be reasonably likely to give rise to a financier (or person acting on its behalf) being capable of exercising a right that would pose a risk to the continuity of,

any Financial Indebtedness to which one or more members of the Health House Group are a party
- (iii) make any change to its constitution;
- (iv) (except as required by law or as provided in an existing contract in place as at the date of this deed) enter into or make any material change to the terms of employment of (including increasing the remuneration or compensation of), any person, including an officer, director, executive or other employee, whose total employment cost exceeds \$100,000 per annum (**Key Person**);
- (v) increase the remuneration or compensation of any person, including an officer, director, executive or other employee of the Health House Group that would result in an increase by 5% of their total remuneration from the year ended 30 June 2021, other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Material,
- (vi) amend the terms of the Health House Incentive Plan or any option, performance right, incentive or share plan;
- (vii) accelerate the rights of any of their employees to compensation or benefits of any kind (including under the Health House Incentive Plan, any option, performance right, incentive or share plan);
- (viii) terminate or encourage the resignation of a Key Person, except for cause (acting reasonably) in accordance with contractual arrangements in effect on the date of this deed or otherwise in accordance with current personnel practices;
- (ix) pay any of its officers, directors, executives or other employees a bonus payment, a severance, termination or retention payment in excess of \$25,000 (in aggregate), other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Material;
- (x) make any concession or acknowledgment in respect of, or vary any pattern of work of, any employee or group of employees that is reasonably expected to give rise to a future potential claim, dispute or liability for the Health House Group that may reasonably give rise to potential costs or liability of more than \$25,000 in aggregate for all such potential costs or liabilities;

- (xi) settle or compromise any dispute, audit or inquiry in relation to tax or duty or amend any tax return, other than in the ordinary course of its business;
- (xii) commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding that relates to potential costs or liability of more than \$50,000 (after allowing for insurance recoveries), other than pursuing debts in the ordinary course of business;
- (xiii) (except under contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Material) enter into any enterprise bargaining agreement or similar collective employment agreement;
- (xiv) 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 \$50,000, 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;
- (xv) incur or enter into commitments involving capital expenditure of more than \$50,000 whether in one transaction or a series of related transactions;
- (xvi) enter into, vary or terminate any contract, joint venture, partnership or commitment involving total expenditure greater than \$50,000, individually or when aggregated with all such contracts, joint ventures, partnerships or commitments;
- (xvii) enter into, vary or terminate any contract, joint venture, partnership or commitment (or any series of related contracts, joint ventures, partnerships or commitments):
 - (A) waiving any third party default which has a financial impact upon the Health House Group, or accepting as a compromise anything less than the full compensation due to the Health House Group, in each case where the applicable expenditure or impact is or will be in excess of \$10,000 in any financial year;
 - (B) restraining any material member of the Health House Group from competing with any person or conducting activities in any market; or
 - (C) with any related entity of any member of the Health House Group (other than a member of the Health House Group);
- (xviii) enter into any new financing arrangement, agreement or otherwise provide financial accommodation other than with members of the Health House Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;
- (xix) write-down any of its material assets other than in accordance with the Accounting Standards;

- (xx) 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) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this deed;
- (xxi) pay, incur or agree to pay or incur transaction costs (being any investment banking, financial adviser, legal, accounting, share registry and other costs payable to other advisers or third party service providers, and any payments to employees that relate directly to the Proposed Transaction such as deal or retention bonuses) other than in accordance with arrangements Fairly Disclosed in the Due Diligence Material prior to the date of this deed;
- (xxii) 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 Due Diligence Materials;
- (xxiii) alter in any material respect any accounting policy of any member of the Health House Group other than any change required by the Accounting Standards; or
- (xxiv) 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.

8.2 Permitted activities

- (a) The obligations of Health House under clause 8.1 do not apply in respect of any matter:
 - (i) undertaken by a member of the Health House Group in conducting its businesses in the usual and ordinary course and consistent with past practice;
 - (ii) required to be done or procured by Health House or its Subsidiaries under, or which is otherwise contemplated by, this deed or the Scheme;
 - (iii) required by law or by an order of a court or Governmental Agency;
 - (iv) subject to clause 8.2(b), is Fairly Disclosed in the Due Diligence Material or in documents that were publicly available in the 12 months prior to the date of this deed from public filings of Health House with ASX, ASIC or public registers as being actions that the Health House Group may carry out between the date of this deed and the Implementation Date;

- (v) the undertaking of which Zelira has approved in writing (which approval must not be unreasonably withheld or delayed);
 - (vi) required in order to comply with any Law relating to Tax, including to pay any Tax when due; or
 - (vii) which, in the reasonable opinion of Health House, is a reasonable and prudent response to an emergency or disaster (including, but not limited to an epidemic or pandemic or the impact arising from such an event or a situation giving rise to a risk of personal injury or damage to property) and it is impractical to seek the approval of Zelira prior to giving effect to the response.
- (b) Health House must, in respect of any matter referred to in clause 8.2(a)(iv) above that it proposes to undertake:
- (i) if the Disclosure Letter permits the carrying out of the action only in accordance with certain conditions, ensure those conditions are met; and
 - (ii) promptly provide Zelira with any information regarding the matter reasonably requested by Zelira.

Clause 8.2(b) does not operate to provide Zelira with a veto right in respect of any matter referred to in clause 8.2(a)(iv).

8.3 Access

- (a) In the period from the date of this deed to the Implementation Date, Health House must:
- (i) procure that at least two members of Health House's executive management team meet regularly with representatives of Zelira on at least a fortnightly basis (unless otherwise agreed by the parties) to assist with, among other things:
 - (A) keeping Zelira fully informed of the matters contemplated by clause 8.3(a)(ii) below; and
 - (B) providing Zelira with access to information and people it has requested under clause 8.3(a)(iii) below;
 - (ii) keep Zelira fully informed of all material developments relating to the Health House Group and provide to Zelira monthly management, financial and operational reports provided to the Health House Board;
 - (iii) promptly following a reasonable request by Zelira, provide Zelira (and its Authorised Persons) with access to:
 - (A) documents and information relating to the Health House Group; and
 - (B) executives and Senior Managers of the Health House Group (as agreed with Health House from time to time),
 for the purpose of or in connection with:

- (A) planning the transition of the Health House Group and other matters relating to the conduct of the Health House Group following the Implementation Date;
 - (C) the financing arrangements in respect of the Proposed Transaction, including any refinancing of existing financial indebtedness of the Health House Group;
 - (D) holding discussions with third parties, with the consent of Health House (such consent not to be unreasonably withheld or delayed) that Zelira and its Authorised Persons reasonably wish to enter into with respect to the Proposed Transaction prior to the Implementation Date, including procuring that employees of any member of Health House Group participate in such discussions; and
 - (E) otherwise facilitating the Proposed Transaction;
- (iv) provide Zelira with complete copies of monthly accounts of the Health House Group prepared by management of the Health House Group to the extent such accounts are prepared (which must be prepared in accordance with IFRS, AIFRS or GAAP (as applicable) applied to the entities on a basis consistent with past practice) as soon as reasonably practicable after those materials have been provided to the Health House Board.
- (b) Nothing in this clause 8.3 obliges Health House to do anything, or to provide to Zelira or its Authorised Persons any information:
 - (i) which would cause undue disruption to the operation of its business in the ordinary course;
 - (ii) concerning the Health House Directors' consideration of the Scheme; or
 - (iii) which would breach any applicable law (including privacy and competition laws), or any obligation of confidentiality to any person or result in the loss of legal professional privilege.
- (c) Health House will provide reasonable assistance to Zelira for the purpose of satisfying Health House's obligations under this clause 8.3 but nothing in this clause 8.3 requires Health House to provide access to its people or documentation or to take any other action which would involve refreshing or updating the Due Diligence Material or which would disrupt the usual and ordinary course of Health House's businesses and operations.

8.4 Change of control rights

In respect of Material Contracts:

- (a) the parties will seek to identify any change of control or similar provisions, or any consent, approval or notification requirements in any Material Contract which would be triggered by the implementation of the Proposed Transaction;
- (b) the parties will use their reasonable endeavours to agree a proposed strategy to obtain any approvals or consents required pursuant to clause

8.4(a) and, if agreed, Health House will then contact the relevant counterparties to these contracts to request that they provide any consent required in relation to the Proposed Transaction (including confirmation that they will not terminate those contracts due to a change in control of Health House as a result of the implementation of the Proposed Transaction); and

- (c) the parties must use reasonable endeavours to obtain the consents referred to in clause 8.4(a) in accordance with the agreed strategy as expeditiously as possible and, in any event, prior to the Second Court Date and to ensure that once obtained, the consents are not withdrawn, cancelled or revoked, including by:
 - (i) cooperating with, and doing all things reasonably requested by, Health House, Zelira or the counterparty to a Material Contract;
 - (ii) promptly provide any information reasonably required by a counterparty to a Material Contract, including providing any information requested by Health House or those counterparties from Zelira or in relation to an Zelira Related Person; and
 - (iii) make representatives of Health House or Zelira available, where necessary, to meet with counterparties to Material Contracts to deal with issues arising in relation to the change of control of Health House.
- (d) Zelira must cooperate with, and provide any assistance (including providing factual information regarding Zelira and attending relevant meetings), reasonably requested by Health House for the purposes of Health House complying with its obligations under this clause 8.4, except that Zelira is not responsible for any costs incurred in connection with any application for or granting of consent from the counterparties to the Material Contracts.
- (e) Health House must not, without the prior written consent of Zelira which must not be unreasonably withheld or delayed, incur any costs other than reasonable travel and legal expenses in connection with performing its obligations under this clause. Health House is not obliged to incur any costs that it considers in good faith to be material and unreasonable or uncommercial in connection with any application for or granting of consent from the counterparties to the Material Contracts.

8.5 Provision of information by Health House prior to the Effective Date

In the period from the date of this deed to the Effective Date, Health House must promptly following the end of each calendar month (and in any event no later than 5 Business Days after the end of the calendar month):

- (a) provide Zelira with confirmation of the Health House Group's consolidated available cash as at the end of the relevant month; and
- (b) provide Zelira with details of any commitment of any Health House Group member or members involving expenditure of more than \$100,000 whether in one transaction or a series of related transactions which is incurred, authorised, committed to or agreed to during the relevant month,

on condition that Zelira keeps the above information confidential in accordance with the Confidentiality Deed but does not disclose it to any third party adviser or consultant (including any independent expert engaged to opine on the Scheme), other than its lawyers and only on the basis that those lawyers maintain similar confidentiality.

9. ACTIONS ON AND FOLLOWING IMPLEMENTATION DATE

9.1 Reconstitution of the board of each member of the Health House Group

- (a) On the Implementation Date, but subject to the Scheme Consideration having been paid in full to the Scheme Shareholders, and receipt by Health House of signed consents to act, Health House must take all actions necessary (and in accordance with the constitution of the Health House Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by Zelira as new Health House Directors and new directors of each Subsidiary.
- (b) Without limiting clause 9.1 (a), on the Implementation Date, but subject to receipt by Health House of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Health House Group, Health House must procure that:
 - (i) all outgoing Health House Directors resign from the Health House Board; and
 - (ii) all outgoing directors of each Subsidiary of Health House resigns from their office.

9.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:

- (a) Zelira will issue the Scrip Consideration to relevant Scheme Shareholders in accordance with the Scheme;
- (b) Zelira and Health House will deal with Health House Convertible Security holders in accordance with clause 5;
- (c) the Health House Board and the board of each Subsidiary of Health House will be reconstituted in accordance with clause 9.1;
- (d) Zelira will acquire all of the Scheme Shares in accordance with the Scheme; and
- (e) Health House will apply to ASX to be removed from the official list of ASX (to the extent this has not been done prior to the Implementation Date).

10. REPRESENTATIONS AND WARRANTIES

10.1 Zelira representations

- (a) Zelira represents and warrants to Health House (on Health House's own behalf and separately as trustee for each of the other Health House Parties) each of the matters set out in clause 10.1 (b) as at the date of this deed and on each subsequent day until the Delivery Time 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).

- (b) Zelira represents and warrants that:
- (i) Zelira is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed has been properly authorised by all necessary corporate action and Zelira 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;
 - (iii) this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which Zelira is a party or is bound;
 - (iv) the Zelira Information provided to Health House in accordance with clause 7.2(a) for inclusion in the Scheme Booklet will:
 - (A) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
 - (B) be provided on the understanding that each of the Health House Indemnified Parties 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;
 - (v) all information provided by or on behalf of Zelira 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;
 - (vi) as at the date the Scheme Booklet is dispatched to Health House Shareholders, the Zelira 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);
 - (vii) Zelira will, as a continuing obligation, provide to Health House all such further or new information which may arise after the Scheme Booklet has been dispatched until the date of the Scheme Meeting which is necessary to ensure that the Zelira 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);

- (viii) all factual information Zelira has provided to Health House prior to this deed is, to the best of Zelira's knowledge, accurate in all material respects and not misleading in any material respect;
- (ix) Zelira's financial statements as disclosed to the ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice financial statements and, so far as Zelira is aware, there has not been any event, change, effect or development which would require Zelira to restate its financial statements as disclosed to the ASX;
- (x) each member of the Zelira Group has all material licenses and permits necessary for it to conduct its business;
- (xi) as at the date of this deed, neither ASIC nor ASX (as applicable) has commenced court proceedings against any member of the Zelira Group for any contravention of the requirements of the Corporations Act or the Listing Rules;
- (xii) no Zelira Prescribed Occurrence has occurred;
- (xiii) as at the date of this deed, no shareholder approval of Zelira is required to complete the Proposed Transaction;
- (xiv) as at the date of this deed, the total issued capital of Zelira is:
 - (A) 1,675,101,964 Zelira Shares;
 - (B) 153,991,338 issued options; and
 - (C) 393,870,322 performance rights,
 and there are no other Zelira options, warrants, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);
- (xv) at the date of this deed, there is no judgment, injunction, order or decree binding on any member of the Zelira Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any material business of the Zelira Group as presently being conducted;
- (xvi) as at the date of this deed, no member of the Zelira Group, nor the assets, properties or business of any member of the Zelira Group, is subject to any judgment, order, writ, injunction or decree of any court, Governmental Agency or arbitration tribunal and so far as Zelira is aware:
 - (A) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the Zelira Group; and
 - (B) no member of the Zelira Group is the subject of any pending investigation,
 other than as Fairly Disclosed in the Zelira Due Diligence Materials;

- (xvii) as at the date of this deed, Zelira is not in breach of its continuous disclosure obligations under the Listing Rules 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 Health House on or before the date of this deed that a reasonable person would expect to have a material effect on the price or value of Zelira Shares;
- (xviii) from 22 November 2016 to the date of this deed, no member of the Zelira Group nor, to the Zelira Group's knowledge, any of the officers, directors, employees, agents, intermediaries, representatives, suppliers or joint venture partners of any member of the Zelira Group has, directly or indirectly, in connection with the business of the Zelira Group:
- (A) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;
 - (B) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (C) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
 - (D) established or maintained any unlawful fund of corporate monies or other properties;
 - (E) created or caused the creation of any false or inaccurate books and records of any member of the Zelira Group related to any of the foregoing;
 - (F) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the Zelira Group; or
 - (G) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine;
- (xix) from 22 November 2016 to the date of this deed, no current or former director or officer of any member of the Zelira Group is or was a Sanctioned Person and, so far as Zelira is aware, no

member of the Zelira Group or any of their respective current or former employees or their respective intermediaries is or was a Sanctioned Person.

- (xx) except as Fairly Disclosed in the Zelira Due Diligence Material, there is no security interest over all or any of its or its Subsidiaries' present or future assets or revenues of its business or its Subsidiaries' businesses;
- (xxi) Zelira has provided all material information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to materially adversely affect any Financial Indebtedness or debt arrangements of the Zelira Group, from or after the date of this deed;
- (xxii) Zelira has provided complete and accurate information regarding fee levels in all retainers and mandates with Advisers and fee estimates for other advisers in relation to the Proposed Transaction and any other transaction where such retainer or mandate is current, or under which the Zelira Group still has obligations;
- (xxiii) the Zelira Due Diligence Materials have been collated and disclosed in good faith for the purposes of a due diligence process and in this context and, so far as Zelira is aware after due enquiry, the Zelira Due Diligence Materials are true, complete and accurate and not misleading or deceptive in any material respect, including by omission;
- (xxiv) as at the date of this deed, Zelira is not aware of any facts or circumstances that will cause a third party, as a result of the entry into this document and the implementation of either the Proposed Transaction to exercise a right to terminate a contract which is material to the business of the Zelira Group or vary the performance of any material obligation of Zelira under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the Zelira Group; and
- (xxv) as at the date of this deed, no Insolvency Event has occurred or is reasonably likely to occur in the near term in relation to Zelira or another Zelira Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Scheme.

10.2 Zelira's indemnity

Zelira agrees with Health House (on Health House's own behalf and separately as trustee or nominee for each of the other Health House Parties) to indemnify and keep indemnified the Health House Parties 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 any of the Health House Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 10.1(a) or 10.1(b).

10.3 Qualifications on Zelira's representations, warranties and indemnities

The representations and warranties in clause 10.1 and the indemnity in clause 10.2 are each subject to matters which:

- (a) are expressly provided for in this deed;
- (b) have been Fairly Disclosed in:
 - (i) the Zelira Due Diligence Material; and
 - (ii) Zelira's announcements to ASX in the 24 month period on or prior to the date of this deed; or
- (c) are within the actual knowledge of Health House, which for these purposes is taken to include (and be limited to) the facts, matters and circumstances of which a Health House Director is actually aware as at the date of this deed.

10.4 Health House representations

- (a) Health House represents and warrants to Zelira (on its own behalf and separately as trustee for each of the Zelira Parties) each of the matters set out in clause 10.4(b) as at the date of this deed and on each subsequent day until the Delivery Time 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).
- (b) Health House represents and warrants that:
 - (i) Health House is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this deed by Health House has been properly authorised by all necessary corporate action and Health House 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;
 - (iii) this deed constitutes legal, valid and binding obligations on Health House 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 Health House or any of its Subsidiaries is a party or to which they are bound;
 - (iv) the Health House Information contained in the Scheme Booklet will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60;
 - (v) as at the date the Scheme Booklet is dispatched to Health House Shareholders, the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the Zelira Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);

- (vi) as at the date of this deed, Health House is not in breach of its continuous disclosure obligations under the Listing Rules 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 Zelira on or before the date of this deed) that a reasonable person would expect to have a material effect on the price or value of Health House Shares;
- (vii) as at the date of this deed, the total issued capital of Health House is:
 - (A) 178,224,621 Health House Shares (42,457,838 of which are subject to ASX-imposed escrow restrictions);
 - (B) 5,000,000 Options issued on the following terms:
 - (I) 1,250,000 Options exercisable at \$0.20 and expiring on 24 June 2024;
 - (II) 1,250,000 Options exercisable at \$0.67 and expiring on 24 June 2024;
 - (III) 1,250,000 Options exercisable at \$1.00 and expiring on 24 June 2024; and
 - (IV) 1,250,000 Options exercisable at \$1.33 and expiring on 24 June 2024;
 - (C) 12,300,000 Class A Performance Shares;
 - (D) 12,300,000 Class B Performance Shares; and
 - (E) 12,300,000 Class C Performance Shares

and there are no other Health House options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);
- (viii) between 30 June 2021 and the date of this deed Health House has not taken any action, or failed to take any action which if it had taken, or failed to take (as applicable) after the date of this deed it would have been a breach of clause 8 (subject to any matter permitted under clause 8.2) or constituted either a Health House Prescribed Occurrence or a Material Adverse Change;
- (ix) at the date of this deed, there is no judgment, injunction, order or decree binding on any member of the Health House Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any material business of Health House Group as presently being conducted;
- (x) as at the date of this deed, no member of the Health House Group, nor the assets, properties or business of any member of the Health House Group, is subject to any judgment, order, writ, injunction or decree of any court, Governmental Agency or arbitration tribunal and so far as Health House is aware:

- (A) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the Health House Group; and
- (B) no member of the Health House Group is the subject of any pending investigation,

other than as Fairly Disclosed in the Due Diligence Materials;

(xi) since 16 April 2021, there has been no material breach by Health House or any of its Authorised Persons of any Australian or foreign law or regulation applicable to them or order of any Australian or foreign Governmental Agency having jurisdiction over them that:

- (A) has or could reasonably expected to have a materially adverse implication in relation to:
 - (I) the conduct of the business of the Health House Group;
 - (II) the value of the Health House Group; or
 - (III) the reputation of the Health House Group, including any implication in relation to its good standing with any Governmental Agency having jurisdiction over the conduct of business of the Health House Group; or
- (B) has resulted or could reasonably be expected to result in any in criminal liability of any member of the Health House Group involving proof of intention or any criminal penalty exceeding \$5,000;

(xii) since 16 April 2021 and so far as the Health House Board and the senior management of any member of the Health House Group are aware after due and diligent inquiry, there is no material breach by Health House or any of its Authorised Persons of any Australian or foreign law or regulation applicable to them or order of any Australian or foreign Governmental Agency having jurisdiction over them, which breach, alone or together with any other breaches of law, has or could reasonably be expected to have the effect of causing:

- (A) any contract to be terminable or terminated;
- (B) Health House 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
- (C) any other material adverse effect on the Health House Group;

(xiii) each member of the Health House Group has all material licences and permits necessary for it to conduct its business;

- (xiv) as at the date of this deed, neither ASIC nor ASX (as applicable) has made a determination against any member of the Health House 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;
- (xv) the prospectus lodged by Health House with ASIC dated 21 January 2021 contained all information required to ensure it complied with Part 6D.2 of the Corporations Act;
- (xvi) from 16 April 2021 to the date of this deed, no member of the Health House Group nor, to the Health House Group's knowledge, any of the officers, directors, employees, agents, intermediaries, representatives, suppliers or joint venture partners of any member of the Health House Group has, directly or indirectly, in connection with the business of the Health House Group:
 - (A) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;
 - (B) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (C) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
 - (D) established or maintained any unlawful fund of corporate monies or other properties;
 - (E) created or caused the creation of any false or inaccurate books and records of any member of the Health House Group related to any of the foregoing;
 - (F) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the Health House Group; or
 - (G) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine;

- (xvii) from 16 April 2021 to the date of this deed, no current or former director or officer of any member of the Health House Group is or was a Sanctioned Person and, so far as Health House is aware, no member of the Health House Group or any of their respective current or former employees or their respective intermediaries is or was a Sanctioned Person.
- (xviii) Health House's financial statements as disclosed to ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice financial statements and, so far as Health House is aware, there has not been any event, change, effect or development which would require Health House to restate its financial statements as disclosed to ASX;
- (xix) except as disclosed in the Disclosure Letter, there is no security interest over all or any of its or its Subsidiaries' present or future assets or revenues of its business or its Subsidiaries' businesses;
- (xx) Health House has provided all material information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to materially adversely affect any Financial Indebtedness or debt arrangements of the Health House Group, from or after the date of this deed;
- (xxi) Health House has provided complete and accurate information regarding fee levels in all retainers and mandates with Advisers and fee estimates for other advisers in relation to the Proposed Transaction, any Competing Proposals as at the date of this deed and any other transaction where such retainer or mandate is current, or under which the Health House Group still has obligations;
- (xxii) the Due Diligence Materials have been disclosed in good faith and, so far as the Health House Board and the senior management of Health House are aware after due enquiry, Health House has not knowingly or recklessly:
 - (A) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (B) included anything materially false or misleading in such information;
- (xxiii) so far as Health House is aware, the Due Diligence Materials contain sufficient information for Zelira to identify each third party to whom a member of the Health House Group is required to give notice, or from whom a member of the Health House Group is required to obtain consent or approval under a contract to which a member of the Health House Group is a party, in connection with this deed or the transactions contemplated by it (including in respect of the change of control of Health House resulting from the implementation of the Proposed Transaction), except where the failure to give such notice to or obtain such consent or approval from (as applicable) the relevant third party

could not reasonably expected to give rise to a material liability on the part of any member of the Health House Group;

- (xxiv) as at the date of this deed, Health House is not aware of any facts or circumstances that will cause a third party, as a result of the entry into this document and the implementation of either the Proposed Transaction to exercise a right to terminate a contract which is material to the business of the Health House Group or vary the performance of any material obligation of Health House under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the Health House Group;
- (xxv) as at the date of this deed, no Insolvency Event has occurred or is reasonably likely to occur in the near term in relation to Health House or another Health House Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Scheme; and
- (xxvi) Health House is not aware of any information relating to the Health House Group or its respective businesses or operations (having made reasonable enquiries) as at the date of this deed that has or could reasonably be expected to give rise to a Material Adverse Change that has not been Fairly Disclosed in an announcement by Health House to ASX or in the Due Diligence Materials.

10.5 Health House's indemnity

Health House agrees with Zelira (on Zelira's own behalf and separately as trustee for each of the Zelira Parties) to indemnify and keep indemnified the Zelira Parties 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 any of the Zelira Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 10.4(a) or 10.4(b).

10.6 Qualifications on Health House's representations, warranties and indemnities

The representations and warranties in clause 10.4 and the indemnity in clause 10.5 are each subject to matters which:

- (a) are expressly provided for in this deed;
- (b) have been Fairly Disclosed in:
 - (i) the Due Diligence Material; and
 - (ii) Health House's announcements to ASX in the 24 month period prior to the date of this deed; or
- (c) are within the actual knowledge of Zelira, which for these purposes is taken to include (and be limited to) the facts, matters and circumstances of which a Zelira Director (other than Tim Slate) is actually aware as at the date of this deed and other than information known to Tim State which he has not passed or will not pass on to Zelira because it is information obtained in his capacity as the company secretary of Health

House and he considered or considers that his statutory and fiduciary duties prevented or prevent him from sharing that information with Zelira.

10.7 Notifications

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 10.

10.8 Survival of representations

Each representation and warranty in clauses 10.1 and 10.4:

- (a) is severable;
- (b) will survive the termination of this deed; and
- (c) 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.

10.9 Survival of indemnities

Each indemnity in this deed (including those in clauses 10.2 and 10.5) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survive the termination of this deed.

11. RELEASES

11.1 Health House Parties

- (a) Without limiting Zelira's rights under clause 10, Zelira (for itself and as agent of every member of the Zelira Group) releases all rights against and agrees with Health House that it will not make a Claim against any Health House Party (other than Health House) in connection with:
 - (i) Health House's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of Health House in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any Health House Party including in the Due Diligence Material or the Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,

except to the extent the relevant Health House Party has not acted in good faith or has engaged in wilful misconduct.

- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Health House receives and holds the benefit of this clause as trustee for each other Health House Party.

11.2 Zelira Parties

- (a) Without limiting Health House's rights under clause 10, Health House releases its rights against, and agrees with Zelira that it will not make a Claim against any Zelira Party (other than Zelira) in connection with:
 - (i) Zelira's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of Zelira in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any Zelira Party that contains any statement which is false or misleading whether in content or by omission,except to the extent that the relevant Zelira Party has not acted in good faith or has engaged in wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Zelira receives and holds the benefit of this clause as trustee for each other Zelira Party.

11.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, Zelira undertakes in favour of Health House and each other person who is a Health House Party that it will:
 - (i) subject to clause 11.3(d), for 7 years from the Implementation Date, ensure that the constitutions of Health House and each other member of the Health House Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Health House Group; and
 - (ii) procure that Health House and each other member of the Health House Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
- (b) The undertakings contained in clause 11.3(a) are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (c) Health House receives and holds for the benefit of clause 11.3(a), to the extent it relates to the other Health House Parties, as trustee for them.
- (d) The undertakings contained in clause 11.3(a) are given:

- (i) in the case of clause 11.3(a)(i), until the earlier of 7 years from the Implementation Date or the relevant member of the Health House Group ceasing to be part of the Zelira Group; or
- (ii) in the case of clause 11.3(a)(ii), until the earlier of 7 years from the retirement of each director and officer or the relevant member of the Health House Group ceasing to be part of the Zelira Group.

11.4 Obligations in relation to directors' and officers' insurance

From the Implementation Date, Health House must not:

- (a) vary or cancel any run-off policy or policies in place as at 24 February 2022 within Health House or within any Health house directors and officers insurance policy (**Run-Off Policy**); or
- (b) unless required under the Run-Off Policy, commit any act or omission that may prejudice any claim by a director or officer of Health House under the Run-Off Policy.

12. CONFIDENTIALITY AND ANNOUNCEMENTS

12.1 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Deed save that the terms of this deed will prevail over the Confidentiality Deed to the extent of any inconsistency.

12.2 Announcements

- (a) Immediately after the execution of this deed each party must issue the Announcement to the ASX.
- (b) Subject to clause 12.2(c), any further public announcements by either of the parties in relation to, or in connection with, the Scheme may only be made in a form approved by the other party in writing (acting reasonably).
- (c) 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 related to this deed or the Scheme, it may do so to the extent legally required and only then after it has given the other party as much notice as possible and has consulted in good faith to the fullest extent possible in the circumstances with the other party.

12.3 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clause 12.2 applies to any such statements or disclosures.

13. TERMINATION

13.1 Termination by notice

- (a) Zelira or Health House may, by notice in writing to the other, terminate this deed at any time prior to the Second Court Date:
 - (i) if the other is in material breach of any of its material obligations under this deed (other than the breaching of a party's respective representations and warranties which are regulated by clause 13.2) and the other party has failed to remedy that breach within 5 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach;
 - (ii) in accordance with clause 3.7;
 - (iii) if the Court refuses to make any order directing Health House to convene the Scheme Meeting, provided that both Health House and Zelira have met and consulted in good faith and either party does not wish to proceed with the Scheme; or
 - (iv) if the Effective Date for the Scheme has not occurred on or before the End Date.
- (b) Health House may, by notice in writing to Zelira, terminate this deed at any time prior to the Delivery Time on the Second Court Date if at any time before then each of that number of Health House Directors as constitutes a majority of the Health House Board publicly recommend a Superior Proposal and do not, within 3 Business Days, reinstate their recommendation of the Proposed Transaction; and
- (c) Zelira may, by notice in writing to Health House, terminate this deed at any time prior to the Delivery Time on the Second Court Date if at any time before then any director of Health House:
 - (i) fails to recommend the Scheme;
 - (ii) withdraws or adversely revises or adversely modifies his or her recommendation of the Scheme;
 - (iii) makes a public statement indicating that he or she recommends, endorses or supports a Competing Proposal,

other than as a result of the circumstances described in clause 6.2, which for the avoidance of doubt will not extend to any Health House Director adversely revising or adversely modifying his or her recommendation of the Proposed Transaction or making a public statement indicating that they recommend, endorse or support a Competing Proposal.

13.2 Termination for breach of representations and warranties

- (a) Zelira may, by notice in writing to Health House, terminate this deed at any time prior to the Delivery Time on the Second Court Date if:
 - (i) Health House is in material breach of a Health House Warranty; or

- (ii) Health House is in breach of the Health House Warranty in clause 10.4(b)(vii),

and Health House has failed to remedy that breach within 5 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from Zelira setting out details of the relevant circumstance and requesting Health House to remedy the breach.

- (b) Health House may, by notice in writing to Zelira, terminate this deed at any time prior to the Delivery Time on the Second Court Date if:

- (i) Zelira is in material breach of an Zelira Warranty; or
- (ii) Zelira is in breach of the Zelira Warranty in clause 10.1(b)(xiv),

and Zelira has failed to remedy that breach within 5 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from Health House setting out details of the relevant circumstance and requesting Zelira to remedy the breach.

13.3 Effect of termination

- (a) In the event of termination of this deed under clause 3.7 (Conditions not capable of being fulfilled), 13.1 (Termination by notice) or 13.2 (Termination for breach of representations and warranties), this deed will become void and have no effect, except that the provisions of clauses 10.8 (Survival of representations), 10.9 (Survival of indemnities), 13 (Termination), 14 (Health House Break Fee) and 18.3 to 18.16 (inclusive) survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

14. HEALTH HOUSE BREAK FEE

14.1 Background

- (a) Health House and Zelira acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, Zelira will incur significant costs including those described in clause 14.2.
- (b) In the circumstances referred to in clause 14.1(a), Zelira has requested that provision be made for the payments outlined in clause 14.3, without which Zelira would not have entered into this deed.
- (c) The Health House Board believes that the Scheme will provide benefit to Health House and Health House Shareholders and that it is appropriate for Health House to agree to the payments referred to in this clause 14 in order to secure Zelira's participation in the Proposed Transaction.

14.2 Costs incurred by Zelira

- (a) The fee payable under clause 14.3 has been calculated to reimburse Zelira for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;

- (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
- (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
- (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction; and
- (v) any damage to the Zelira's reputation associated with a failed transaction and the implications of those damages if Zelira seeks to execute alternative acquisitions in the future,

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

(b) The parties acknowledge that:

- (i) the amount of fees, costs and losses referred to in this clause 14.2 is inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained; and
- (ii) the amount of the costs payable under clause 14.3 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

14.3 Payment by Health House to Zelira

- (a) Health House agrees to pay to Zelira \$100,000 (inclusive of GST) (**Health House Break Fee**) in any of the following circumstances:
 - (i) (**Competing Proposal Succeeds**) both of the following occur:
 - (A) a Competing Proposal is publicly announced during the period commencing on the date of this deed and ending on the End Date; and
 - (B) within 12 months from the date of the public announcement of such Competing Proposal:
 - (I) the Competing Proposal is implemented or completed substantially in the terms described in the public announcement; or
 - (II) without limiting clause 14.3(a)(i)(B)(I), the proponent of that Competing Proposal acquires a Relevant Interest in, an economic interest in or voting power of at least 50% of Health House Shares and the Competing Proposal is (or becomes) free of any defeating condition; or
 - (ii) (**Competing Proposal executed**) at any time before termination of this deed, Health House enters into any agreement with a third party in respect of a Competing Proposal under which that third

party and Health House agree to undertake or give effect to such Competing Proposal;

(iii) **(Change of Recommendation)** at any time prior to the Second Court Date, any director of Health House:

- (A) withdraws or adversely modifies their recommendation of the Proposed Transaction or recommends or supports a Competing Proposal;
- (B) does not recommend in the Explanatory Booklet that Health House Shareholders approve the Scheme; or
- (C) makes any public statement to the effect that the Scheme is not, or is no longer, recommended,

except where this is:

- (A) as a result of the circumstances set out in clause 6.2, which for the avoidance of doubt will not extend to any Health House Director adversely revising or adversely modifying his or her recommendation of the Proposed Transaction or making a public statement indicating that they recommend, endorse or support a Competing Proposal;
- (D) as a result of the Independent Expert (either in its initial report or any updated, revised or supplemental report) opining that the Scheme is not in the best interest of Health House Shareholders other than where the reason for that opinion is a Superior Proposal); or
- (E) in circumstances where Health House is entitled to terminate this deed under clause 13.1(a) or 13.2(b); or.

(iv) **(Material Breach)** Zelira terminates this deed in accordance with (and subject to the cure periods specified in) clause 13.1(a)(i) or 13.2(a).

- (b) Health House must pay Zelira the Health House Break Fee within 10 Business Days of receipt by Health House of a demand for payment from Zelira made after the occurrence of the event referred to in clause 14.3(a).
- (c) The maximum aggregate amount which Health House is required to pay in relation to a breach of this deed by Health House is the Zelira Break Fee, and in no event will the aggregate liability of Health House under or in connection with a breach of this deed exceed the Zelira Break Fee.
- (d) The Health House Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (e) The Health House Break Fee is only payable once and the maximum amount payable by Health House under this clause 14.3 is \$100,000 (inclusive of GST).

- (f) Where the Health House Break Fee becomes payable to Zelira under this clause 14.3 and is actually paid to Zelira, Zelira (for itself and as agent of every member of the Zelira Group):
 - (i) releases all rights against and agrees with Health House that Zelira will not make a Claim against any Health House Party (other than a claim under this clause 14.3) in connection with:
 - (A) the event that gave rise to the right to demand the payment of the Health House Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the Health House Break Fee or that constitutes or may constitute a breach of this deed (without limitation); and
 - (ii) indemnifies any Health House Party against a Claim that is made contrary to the release under clause 14.3(f)(i),

with the effect that the payment of the Health House Break Fee represents the sole and exclusive remedy of any Zelira Group Member in relation to this deed.
- (g) Clause 14.3(f) above does not apply to the extent of any right of Zelira to make a Claim against any Health House Party for any wilful, reckless or deliberate breach by Health House of its obligations under clause 15.
- (h) The Health House Break Fee is not payable where:
 - (i) Health House has become entitled to the Zelira Break Fee; or
 - (ii) the Scheme becomes Effective.

15. EXCLUSIVITY

15.1 No existing discussions

Other than in relation to the discussions with Zelira in connection with the Proposed Transaction, Health House represents and warrants to Zelira that, as at the date of this deed:

- (a) 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 Competing Proposal; and
- (b) 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 Competing Proposal.

15.2 No shop restriction

During the Exclusivity Period, except with the prior written consent of Zelira, Health House must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, directly or indirectly

- (a) solicit, invite, encourage, continue or initiate any Competing Proposal or any enquiries, negotiations or discussions with any third party in relation

to, or that may reasonably be expected to encourage or lead to, an actual, proposed or potential Competing Proposal or which may otherwise lead to the Proposed Transaction not being completed; or

- (b) solicit, invite, encourage or initiate approaches, enquiries, discussions or proposals with a view to obtaining any offer, proposal or expression of interest from any person in relation to, or which may reasonably be expected to lead to, an actual, proposed or potential Competing Proposal,

or communicate any intention to do any of those things.

15.3 No talk restriction

Subject to clause 15.5, during the Exclusivity Period, Health House must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, (whether directly or indirectly):

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of these things,

in relation to, or that may reasonably be expected to encourage or lead to, an actual or potential Competing Proposal or any agreement, understanding or arrangement that may be reasonably expected to encourage or lead to a Competing Proposal or which may otherwise lead to the Proposed Transaction not being completed, even if:

- (a) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Health House or any of its Related Bodies Corporate; or
- (c) that person has publicly announced the Competing Proposal.

15.4 No due diligence

- (a) During the Exclusivity Period, except with the prior written consent of Zelira, Health House must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:
 - (i) solicit, invite, initiate, or encourage, or (subject to clause 15.5) facilitate or permit, any person (other than Zelira) to undertake due diligence investigations in respect of Health House, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
 - (ii) subject to clause 15.5, make available to any person (other than Zelira) or permit any such person to receive any non-public information relating to Health House, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

- (b) If Health House proposes that any non-public information be provided to a third party, then:
 - (i) before Health House provides such information, the third party must enter into an Acceptable Confidentiality Deed; and
 - (ii) any non-public information provided to that third party must also be provided to Zelira (unless the information has already been provided to Zelira or its Authorised Person).

15.5 Exceptions

Clauses 15.3 and 15.4(a) do not apply to the extent that they restrict Health House or the Health House Board from taking or refusing to take any action with respect to a genuine Competing Proposal (in relation to which there has been no contravention of this clause 15) provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the Health House Board considers is of sufficient commercial standing;
- (b) the Health House Board, acting in good faith, determines:
 - (i) where there is a written Competing Proposal, after consultation with its financial advisers (if applicable), that the Competing Proposal is a Superior Proposal or the steps which the Health House Board proposes to take may reasonably be expected to lead to a Competing Proposal which is a Superior Proposal; and
 - (ii) after receiving written legal advice from Health House's external legal advisers experienced in transactions of this nature, that failing to respond to the Competing Proposal would be likely to constitute a breach of its fiduciary or statutory duties; and
- (c) Health House notifies promptly and in any event within 48 hours Zelira of each action or inaction by Health House or the Health House Board in reliance on this clause 15.5.

15.6 Health House warranty and undertakings

- (a) Health House warrants as at the date of this deed:
 - (i) that it has, and its Authorised Persons have, ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal; and
 - (ii) that it has requested, or will as soon as practicable request, the return of Health House's confidential information in accordance with the terms of any relevant confidentiality agreement from all third parties conducting due diligence investigations on the Health House Group prior to the date of this deed in connection with (or contemplation of) a Competing Proposal or potential Competing Proposal.
- (b) During the Exclusivity Period, Health House must:
 - (i) enforce all its rights under each confidentiality agreement entered into in connection with an actual or potential

Competing Proposal (before the date of this deed), including any standstill obligations and its rights to require the return of confidential information as referred to in clause 15.6(a)(ii);

- (ii) as soon as reasonably practicable, ensure that any electronic data room access granted to any third party prior to the date of this deed in connection with an actual or potential Competing Proposal is withdrawn; and
- (iii) not grant any waivers or agree to any amendments under any confidentiality agreements entered into in connection with an actual or potential Competing Proposal (before the date of this deed).

15.7 Notice of Competing Proposal

- (a) During the Exclusivity Period, Health House must promptly notify Zelira in writing of:
 - (i) any approach, inquiry or proposal made by any person to Health House, 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 Competing Proposal; and
 - (ii) any request made by any person to Health House, any of its Related Bodies Corporate or any of their respective Authorised Persons, for any information relating to Health House, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of a Competing Proposal,

(Competing Proposal Notice).

- (b) A Competing Proposal Notice must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 15.7(a)(i) or who made the relevant request for information referred to in clause 15.7(a)(ii); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and any break fee) of any Competing Proposal or any proposed Competing Proposal (to the extent known),

and Zelira agrees that any such information received will constitute "Confidential Information" as defined in the Confidentiality Deed.

- (c) During the Exclusivity Period Health House must also notify Zelira in writing as soon as possible after becoming aware of any material developments in relation to any actual, proposed or potential Competing Proposal, including in respect of any of the information previously notified to Zelira under this clause 15.7.

15.8 Health House's response to Competing Proposal and Zelira's right to respond

- (a) If Health House receives a Competing Proposal and as a result, any Health House Director proposes to either:
 - (i) change, withdraw or modify his or her recommendation of the Scheme; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Proposal with the person who has made the applicable Competing Proposal (**Rival Acquirer**) (other than an Acceptable Confidentiality Deed),

Health House must direct each Health House Director not to do so,

- (iii) unless the Competing Proposal is bona fide; and
- (iv) until each of the following has occurred:
 - (A) Health House has given Zelira written notice (**Relevant Notice**) of the Health House Director's proposal to take the action referred to in clauses 15.8(a)(i) or 15.8(a)(ii) (subject to Zelira's rights under clause 15.8(b)), including details of the grounds on which the Health House Directors propose to take such action;
 - (B) Health House has given Zelira all information that would be required by clause 15.7(b) (excluding the operation of clause 15.5), including the identity of the person making the Competing Proposal; and
 - (C) either:
 - (I) Zelira has not announced or provided to Health House a Counter Proposal before the Cut Off Date; or
 - (II) Zelira has announced or provided to Health House a Counter Proposal before the Cut Off Date and the Health House Board has determined, in good faith, that the Counter Proposal would not provide an equivalent or superior outcome to Health House shareholders as a whole compared with the Competing Proposal and Zelira have been given an opportunity to amend the Counter Proposal in accordance with clause 15.8(e).

- (b) If Health House gives a Relevant Notice to Zelira under clause 15.8(a)(iv)(A), Zelira will have the right, but not the obligation, at any time during the 5 Business Days following the receipt of the Relevant Notice (**Cut Off Date**), to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing another form of transaction (each a **Counter Proposal**), and if it does so then the Health House Directors must review the Counter Proposal and determine whether, in good faith, the Counter Proposal would provide an equivalent or superior outcome to

Health House shareholders as a whole compared with the Competing Proposal.

- (c) Health House must procure that the Health House Board promptly, and in any event within 2 Business Days, notifies Zelira of the determination in writing, stating reasons for that determination.
- (d) If the Health House Directors determine in good faith that the Counter Proposal would provide an equivalent or superior outcome to Health House Shareholders as a whole compared with the Competing Proposal, then Health House and Zelira must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Counter Proposal, and to enter into an amended agreement to give effect to those amendments and to implement the Counter Proposal, and Health House must use its best endeavours to procure that the Health House Directors recommend the Counter Proposal to the Shareholders and not recommend the applicable Competing Proposal.
- (e) If the determination is that the Counter Proposal would not provide an equivalent or superior outcome to Health House Shareholders as a whole compared with the Competing Proposal, then Zelira may take steps to amend the Counter Proposal to address the reasons given within a further period of 4 Business Days. If Zelira does so to Health House's satisfaction, then the process in clause 15.8(d) applies to that amended Counter Proposal.
- (f) For the purposes of this clause 15.8, each successive material modification of any third party expression of interest, offer or proposal in relation to a Competing Proposal will constitute a new Competing Proposal.

15.9 Normal provision of information

Nothing in this clause 15 prevents Health House from;

- (a) providing any information required to be provided by any applicable law (including to satisfy its obligations under the Listing Rules), any Government Agency, or any court of competent jurisdiction;
- (b) providing any information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business; and
- (c) making presentations to, or responding to enquiries from, brokers, portfolio investors, analysts and other third parties, and engaging with financiers and potential financiers, in the ordinary course of business in accordance with its usual practices.

16. MODIFICATION OF HEALTH HOUSE BREAK FEE, ZELIRA BREAK FEE OR EXCLUSIVITY ARRANGEMENTS

16.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Governmental Agency finds that all or any part of the payment required to be made under clause 14.3 or an exclusivity arrangement under clause 15 is unacceptable or unenforceable; or

- (b) as a result of an application to the Takeovers Panel, the Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the amount of the Health House Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 15, it will make a declaration of unacceptable circumstances,

then, subject to clause 16.2:

- (c) the parties must amend clauses 14.3 and 15 to the extent required to give effect to the requirements of the Governmental Agency or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 16.1(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clauses 16.1(a) or 16.1(b) nor the amendment of clauses 14 and/or 15 will be taken to be a breach of, or permit any party to terminate, this deed.

16.2 No requirement to act unless decision final

The parties are only required to take steps under 16.1(c) in relation to any requirement of a Governmental Agency or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or
- (b) Zelira and Health House do not agree in writing to appeal or seek review of the decision to impose that requirement (having consulted in good faith on whether to do so).

16.3 Appeals and review of regulatory decisions

Nothing in this deed requires either party to appeal or seek review of any decision of a Governmental Agency or the Takeovers Panel referred to in clause 16.1(a) or 16.1(b).

16.4 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the Health House Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the Health House Board (**Impugned Amount**) and either no appeal from that determination is available or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of Health House to pay the Health House Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if Zelira has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the period for lodging has expired, whichever is later.

17. NOTICES

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be sent to the address for service of the addressee specified in the Details;
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered or posted by prepaid post to the address, or sent to the email address, of the addressee, in accordance with the Details; and
- (e) will be deemed to be received by the addressee:
 - (i) **(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;
 - (ii) **(in the case of email)** immediately after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, unless that local time is not a Business Day, or is between 5.00pm and midnight on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day. If delivery is between 12.01am and 8.59am local time on a Business Day, then delivery will be deemed to be received at 9.00am on that Business Day; and
 - (iii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in the Details, 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. If delivery is between 12.01am and 8.59am local time on a Business Day, then delivery will be deemed to be received at 9.00am on that Business Day.

18. GENERAL

18.1 Further acts

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.

18.2 Timetable

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

18.3 Payments

Unless otherwise 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:

- (a) 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
- (b) without deduction, withholding or set-off.

18.4 Interest

- (a) 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 Interest Rate 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.
- (b) The interest payable under clause 18.4(a):
 - (i) 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
 - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

18.5 GST

- (a) Any reference in this clause 18.5 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) 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 18.5(c) 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 18.5(c) does not apply to any taxable supply under or in connection with this deed that is stated to include GST.
- (d) The amount on account of GST payable in accordance with this clause 18.5 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- (e) 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.

18.6 Stamp duty

Zelira must pay all stamp duties (if any) and any fines and penalties with respect to stamp 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 under the Scheme).

18.7 Expenses

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.

18.8 Amendments

This deed may only be varied by a document signed by or on behalf of each of the parties.

18.9 Assignment

- (a) Subject to clause 18.9(b) below, a party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.
- (b) Zelira may assign, grant a security interest over, novate or otherwise transfer by way of security, any of its rights or obligations under this deed to a financier or financiers (or a security agent or security trustee thereof) without the prior written consent of Health House solely for the purpose of obtaining finance or providing security in connection with the Scheme.

18.10 Business Day

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.

18.11 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.

- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

18.12 Counterparts and electronic execution

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by email to the email address of the other party specified in clause 17, 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.
- (d) A party may sign electronically a soft copy of this deed through DocuSign or other electronic means and bind itself accordingly. That will satisfy any statutory or other requirements for it to be in writing and signed by that party. Any soft copy so signed will constitute an executed original counterpart. In addition, it is intended to print it out when so signed, so that the relevant signatures will appear in the printout, and any printout will also be an executed original counterpart.

18.13 Entire agreement

- (a) This deed:
 - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite clause 18.13(a), the Confidentiality Deed 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.

18.14 No representation or reliance

- (a) 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 set out in this deed.
- (b) 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 set out in this deed.

18.15 No merger

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.

18.16 Governing law

- (a) This deed is governed by and will be construed according to the laws of Western Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia and of the courts competent to determine appeals from those courts.
- (c) Indicative timetable

Event	Date
Enter into Scheme Implementation Deed	18 April 2022
Lodge Scheme Booklet with ASIC and ASX for review and comment	10 May 2022
First Court Date	25 May 2022
Dispatch Scheme Booklet to Health House Shareholders	26 May 2022
Scheme Meeting	27 June 2022
Second Court Date	28 June 2022
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	29 June 2022
Scheme Record Date	13 July 2022
Implementation Date	6 July 2022
Dispatch of new holding statements to Scheme Shareholders	13 July 2022

SCHEDULE 1 – SCHEME

Not reproduced here. Await scheme booklet.

SCHEDULE 2 – DEED POLL

Not reproduced here. Await scheme booklet.

EXECUTED as a deed.

Executed by **Health House International Limited ACN 149 197 651** in accordance with Section 127 of the Corporations Act 2001



Signature of director

David Wheeler

Name of director (print)



Signature of director/~~company secretary~~
(Please delete as applicable)

Mike Rann

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

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.

Executed by **Zelira Therapeutics Ltd ACN 103 782 378** in accordance with Section 127 of the Corporations Act 2001



Signature of director

Oludare Odumosu

Name of director (print)



Signature of director/~~company secretary~~
(Please delete as applicable)

Osagie Imasogie

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

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.