

26 June 2023

Perenti and DDH1 – Continued creation of enduring value

Key Points

- Transaction to occur by way of Scheme of Arrangement, with Perenti to acquire 100% of shares in DDH1
- DDH1 shareholders to receive \$0.1238 cash plus 0.7111 Perenti shares for each DDH1 share held, with ability to elect maximum scrip or maximum cash alternatives (subject to scale back based on a total cash pool of \$50 million)
- Implies a value of \$1.01 per DDH1 share and a premium of 17.4% based on 5-day VWAPs to 23 June 2023
- Perenti shareholders to hold 71% and DDH1 shareholders to hold 29% of the combined entity, enabling both sets of shareholders to participate in significant additional value creation upside
- DDH1 to be combined with Perenti's existing Ausdrill business as part of a newly created Drilling Services Division, to be led by Sy Van Dyk (current DDH1 Managing Director & CEO)
- Expanded board of eight members, comprised of six existing Perenti directors, with Diane Smith-Gander AO (current DDH1 Chair) and Andrea Sutton (current DDH1 NED) to join from DDH1
- Unanimously recommended by the DDH1 Board, subject to no superior proposal emerging and an independent expert concluding the scheme is in the best interests of DDH1 shareholders
- Shareholders and Directors representing a combined 38% of DDH1 shares on issue have indicated an intention to vote in favour of the Transaction (subject to no superior proposal emerging and an independent expert concluding the scheme is in the best interests of shareholders)

Strategic Rationale

- **Highly synergistic and accretive:** \$22m post-tax synergies (FY24 at full run rate), driving double digit EPS accretion
- **Enhances scale:** creates the ASX's leading diversified contract mining services company, with pro forma market capitalisation of ~\$1.3 billion (pre-synergies and potential re-rate), positioning Perenti for potential ASX200 inclusion
- **Globally competitive service offering to customers:** provides ability to offer a complete range of specialised surface and underground drilling services – highly complementary to Perenti's client base
- **Improves Australian earnings and free cash flow:** increases proportion of Australian earnings and accelerates utilisation of existing tax losses
- **Delivers on Perenti's FY25 financial targets:** improves margins, significantly improves free cash flow generation, increases return on equity and strengthens balance sheet

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Perenti is a diversified mining services group with interests in contract mining, mining support services and future technology solutions. The Group was founded in Kalgoorlie in 1987 and is today one of the world's largest mining services companies providing surface and underground mining at scale, technology solutions and mining support services. Headquartered in Perth, Australia, and operating across four continents with a workforce of 9,000 employees, our focus is to create enduring value and certainty for our investors, clients, employees and the communities in which we operate.

Transaction Overview

Perenti Limited (ASX: PRN) (“Perenti”) today announces that it has entered into a Scheme Implementation Agreement (“SIA”) under which Perenti will acquire 100% of the issued share capital of DDH1 Limited (ASX: DDH) (“DDH1”) (the “Transaction”) subject to satisfaction of conditions.

Under the Transaction, DDH1 shareholders will receive \$0.1238 cash plus 0.7111 Perenti shares for each DDH1 share held (the “Standard Consideration”), adjusted for any dividends paid by Perenti or DDH1 between announcement and implementation of the Scheme.

DDH1 shareholders will also have the ability to elect to receive maximum scrip or maximum cash consideration alternatives to the Standard Consideration, subject to scale back based on a total cash pool of \$50 million. The maximum cash alternative will be calculated by reference to a 5-day VWAP of Perenti shares shortly before the election date.

Based on the 5-day VWAP of Perenti and DDH1 shares as of Friday, 23 June 2023 of \$1.252 and \$0.864 respectively, the Transaction implies a value of \$1.01 per DDH1 share, representing a premium of 17.4%.

Following implementation of the Transaction, DDH1 shareholders will own 29% of Perenti, providing the opportunity to participate in the substantial additional upside expected to be delivered.¹

Mark Norwell, Managing Director & CEO of Perenti said:

“This is a compelling transaction that represents an exciting next step in delivering on Perenti’s purpose, to create enduring value and certainty, by building a portfolio of complementary high quality businesses.

Perenti has a long history in drilling from its Ausdrill heritage and Barmenco Diamond Drilling business and understands the attractiveness of the market.

The long term outlook for a sustained production cycle needs increased drilling spend to ensure mining reserves are not diminished, and drilling is becoming more complex, resulting in larger programs and demand for specialist services.

DDH1 is a highly respected tier 1 global operator, with significant capabilities across a complete range of specialised surface and underground drilling services, that are complementary to our existing clients and service offering.

We have a clearly articulated framework against which we assess all investment opportunities, with this transaction addressing our key assessment criteria in relation to strategic attractiveness, fit within Perenti and value creation potential.”

¹ Subject to adjustments to final level of scrip consideration including as a result of dividends paid by either Perenti or DDH1.

Transaction Rationale

The Transaction represents a compelling opportunity to create significant value for both sets of shareholders:

1. Highly synergistic and accretive²

- Material P&L synergies of \$22 million (FY24 post tax basis, assuming full run rate) which drive earnings accretion
- Comprises \$7 million (post tax) of operational and listing synergies and \$15 million of accounting tax savings from offsetting DDH1 Australian earnings against Perenti's Australian tax losses
- Substantial additional cash tax savings of over \$20 million per annum arising largely from the utilisation of existing losses within the Perenti Australia tax group
- Operational and listing synergies to be delivered within 2 years, while tax synergies will be realised from transaction implementation
- Transaction expected to be double digit EPS accretive effective from completion, resulting in substantial value upside for both sets of shareholders

2. Enhances scale

- Positions Perenti as the leading ASX-listed contract mining, mining services, drilling services and technology company
- New drilling services division will be a tier one global provider
- Combined market capitalisation of over \$1.3 billion (pre synergies or any potential re-rate)³ – the #1 ASX listed contract mining services company
- Positions Perenti for potential ASX200 inclusion and enhanced investor relevance

3. Broadens strategic service offering to customers

- Attractive long term structural market drivers, with increasing drilling requirements to sustain production levels and increased complexity
- DDH1 provides significant capabilities and access to a complete range of specialised surface and underground drilling services operating across four iconic brands
- 85% of revenue base is from production and resource definition (rather than exploration)
- Modern fleet with over 190 rigs from DDH1 and 99 from Perenti – one of the largest drill fleets globally
- Highly complementary service offering to Perenti's client base

4. Improves Perenti's Australian earnings

- Re-weights portfolio back to Australia – combined Australian exposure of 54% of revenue
- Maintains highly attractive commodity mix, including exposure to battery metals and electrification trend
- Facilitates ability to utilise Perenti's substantial existing Australian tax losses

² See slide 18 of Investor Presentation of today's date for further detail. See also slides 2 and 3 for Important Notice and Disclaimer.

³ Pro forma fully diluted combined market capitalisation as at 23 June 2023.

5. Accelerates delivery of Perenti's FY25 targets⁴

- **Increases margins:** combined EBIT(A) margin of ~10%
- **Supports capital intensity:** combined ROACE of >20%
- **Reduces leverage:** combined ND / EBITDA of ~0.9x
- **Significantly improves free cash flow generation**

Organisational Structure and Governance

Following the Transaction, the DDH1 business will form part of a newly created Drilling Services Division, which will also comprise Perenti's existing Ausdrill business. Sy Van Dyk (current Managing Director & CEO of DDH1), will be appointed as President of the newly created division. Each of the four existing DDH1 brands, DDH1 Drilling, Ranger Drilling, Strike Drilling and Swick, will be maintained and led by their existing leadership teams, with a focus on providing a consistent offering and customer continuity.

Upon implementation, the Perenti Board will expand from seven members to eight, with Diane Smith-Gander AO (current Chair of DDH1) and Andrea Sutton (current non-executive director of DDH1) to join as DDH1 representatives. Having served as a Director of Perenti and Ausdrill for 9 years, Mark Hine will take the opportunity to retire from the Perenti Board on or before implementation of the scheme.

Rob Cole, Chair of Perenti said "We look forward to welcoming the DDH1 team to Perenti and working together to deliver on the significant value upside that will be delivered from this Transaction. Sy and the DDH1 management team are highly experienced executives leading a globally respected operator, which will continue as part of our newly established Drilling Services Division. We also look forward to working with our new colleagues Diane and Andrea who bring significant skills and experience to the Perenti Board, with Mark Hine announcing his intention to retire from the Perenti Board. On behalf of the Perenti Board, I would like to thank Mark for his enormous contribution to Perenti over the years, spanning major strategic shifts in the business from the combination of Ausdrill and Barminco, up until the Transaction being announced today."

DDH1 Board Recommendation and Shareholder Support⁵

The Board of DDH1 has unanimously recommended that DDH1 shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of DDH1 shareholders.

Directors of DDH1 controlling 13.1% of DDH1 shares outstanding intend to vote in favour of the Transaction (subject to no superior proposal emerging and an independent expert concluding that the scheme is in the best interests of shareholders).

DDH1 has separately procured voting intention statements from entities associated with Oaktree⁶, Matt Izett, Richard Bennett and Kent Swick, collectively representing an additional 24.9% of DDH1 shares outstanding. The voting intention statements are subject to no superior proposal emerging and an independent expert concluding the scheme is in the best interests of shareholders.

⁴ See slide 6 of Investor Presentation of today's date for further detail.

⁵ Refer to DDH1 ASX announcement of today's date for further details of recommendation and voting intention statements.

⁶ DDH1 Holdings Singapore Pte Ltd.

As part of its voting intention statement, Oaktree has confirmed its intent to elect the Standard Consideration, which would result in it maintaining a pro forma shareholding of 5.7% in Perenti following the Transaction and continuing to benefit from the ongoing value upside expected as a result of the Transaction.

Scheme Implementation Agreement

The implementation of the Scheme is subject to certain terms and conditions set out in the SIA, including:

- an Independent Expert concluding that the Scheme is in the best interests of DDH1 Shareholders (and not changing or withdrawing that conclusion);
- approval by the requisite majorities of DDH1 Shareholders and by the Court;
- no regulatory restraints to implementation of the Scheme;
- no material adverse change or prescribed occurrences occurring in relation to Perenti or DDH1; and
- no material breach of warranties.

Full details of the terms and conditions of the Scheme are set out in the Scheme Implementation Agreement, a copy of which is annexed to this announcement.

The Transaction does not require the approval of Perenti shareholders.

Deal Protections

The SIA contains market standard terms and conditions regarding such matters as exclusivity, no-shop, no-talk, notification of approaches and matching rights. A break fee of ~\$4 million may become payable by DDH1 in certain circumstances. A reverse break fee of ~\$4 million is also payable by Perenti to DDH1 in certain circumstances.

Perenti has separately entered into a call option arrangement with Oaktree, providing Perenti with the ability to acquire 19.99% of DDH1 shares from Oaktree in certain circumstances upon DDH1 receiving a competing proposal. A copy of the Call Option Deed will be attached to Perenti's initial substantial shareholder notice in respect of DDH1 that will be lodged with ASX.

Indicative Timetable

Perenti and DDH1 shareholders do not need to take any action at this time.

Under the SIA, DDH1 will prepare a Scheme Booklet, which, subject to Court approval, is expected to be despatched to DDH1 shareholders in August 2023. The Scheme Booklet will contain more information regarding the Transaction, including an Independent Expert's Report.

It is anticipated that DDH1 shareholders will meet in September 2023 to vote on the Scheme and that implementation of the Transaction will occur in October 2023.

Advisors

Perenti is being advised by UBS and Johnson Winter Slattery in relation to the Transaction.

Authorised by the Perenti Board of Directors

– END –

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Scheme implementation agreement

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Perenti

DDH1 Limited
DDH1

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Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	Best and reasonable endeavours	16
1.3	Business Day	17
1.4	Interpretation.....	17
1.5	Incentive plans	18
2.	Obligations in relation to Scheme	19
2.1	DDH1 to propose Scheme.....	19
2.2	DDH1 and Perenti to implement Scheme.....	19
3.	Conditions precedent	19
3.1	Conditions	19
3.2	General obligations in relation to Conditions	21
3.3	Obligations in relation to regulatory approvals	22
3.4	Notice in relation to satisfaction of Conditions.....	23
3.5	Waiver of Conditions.....	23
3.6	Consultation on failure of Conditions	24
3.7	Failure to agree.....	24
3.8	Exception	24
4.	Implementation of the Scheme	25
4.1	DDH1's obligations	25
4.2	Perenti's obligations.....	29
4.3	Access	31
4.4	DDH1 monthly management accounts.....	32
4.5	Dispute as to Scheme Booklet	32
4.6	Responsibility statement.....	32
4.7	Reconstitution of the DDH1 Board	32
4.8	Composition of Perenti Board.....	33
4.9	DDH1 Loan Shares.....	33
4.10	Removal of DDH1 from the official list of ASX	33
4.11	Court proceedings	34
4.12	Appeal process	34
4.13	Headcount Test	34
4.14	No amendment to the Scheme without consent.....	34
4.15	No partnership or joint venture	34
5.	Scheme Consideration	34
5.1	Obligations in respect of the Scheme Consideration	34
5.2	Entitlement.....	35
5.3	Election mechanism.....	35
5.4	Standard Consideration	36
5.5	Maximum Cash Consideration	36
5.6	Maximum Scrip Consideration.....	37
5.7	Cash component of the Scheme Consideration	38
5.8	Fractional entitlements and share splitting or division	38
5.9	Ineligible Overseas Shareholders and Non-Rollover Unmarketable Parcel Shareholders	38
5.10	Status of New Perenti Shares	39
5.11	CGT Withholding Amount.....	39
6.	Conduct of business.....	40
6.1	Conduct of DDH1's business.....	40
6.2	Conduct of Perenti's business	44
6.3	Counterparty consents.....	47
7.	Dividend	48

8.	Recommendation, intentions and announcements	48
8.1	DDH1 Board Recommendation and Voting Intention	48
8.2	Confirmation	49
9.	DDH1 incentives & executives.....	49
9.1	DDH1 Performance Rights and DDH1 Employee Shares.....	49
9.2	Executive Services Agreement.....	49
10.	Exclusivity arrangements	50
10.1	No current discussions	50
10.2	No shop	50
10.3	No talk and no due diligence	50
10.4	Notification of approaches	51
10.5	Limitation to no talk and no due diligence	51
10.6	Matching right	52
10.7	Normal provision of information	53
10.8	Legal advice.....	53
11.	Reimbursement of Costs.....	53
11.1	Rationale and nature of payment	53
11.2	DDH1 Payment.....	54
11.3	Perenti Payment	55
11.4	Timing of payment	55
11.5	Compliance with law	55
11.6	One payment only.....	56
11.7	No payment if Scheme Effective	56
11.8	DDH1's limitation of liability	56
11.9	Perenti's limitation of liability.....	56
11.10	Survival	57
12.	Liability of directors, officers and employees	57
12.1	Liability of directors, officers and employees.....	57
12.2	Directors and officers insurance	57
12.3	Obligations in relation to directors and officers insurance.....	58
12.4	Directors and officers indemnities	58
12.5	Compliance with law and benefit	58
13.	Representations, warranties and indemnities	59
13.1	Representations and warranties by Perenti	59
13.2	Perenti indemnity	59
13.3	Qualification of the Perenti Warranties and the indemnity	59
13.4	Representations and warranties by DDH1	59
13.5	DDH1 indemnity.....	60
13.6	Qualification of the DDH1 Warranties and the indemnity	60
13.7	Notifications	60
13.8	Status of representations and warranties	60
13.9	Status and enforcement of indemnities	60
13.10	Necessary tense changes	61
14.	Confidentiality and public announcements	61
14.1	Confidentiality Deed.....	61
14.2	Survival of obligations.....	61
14.3	Disclosure on termination of agreement.....	61
14.4	Public announcements	61
15.	Termination and remedies	62
15.1	Limited termination events.....	62
15.2	Termination by Perenti.....	62
15.3	Termination by DDH1	62
15.4	Effect of termination.....	63

15.5	Remedies.....	63
16.	GST	63
16.1	Interpretation.....	63
16.2	GST exclusive.....	63
16.3	Reimbursements and similar payments	63
16.4	GST payable.....	64
17.	Notices	64
17.1	How notice to be given	64
17.2	When notice taken to be received	65
18.	Entire agreement.....	65
19.	General	65
19.1	Amendments.....	65
19.2	Assignment.....	65
19.3	Consents.....	66
19.4	Costs.....	66
19.5	Counterparts	66
19.6	Further acts and documents.....	66
19.7	No merger	66
19.8	No representation or reliance	66
19.9	Severance.....	66
19.10	Stamp duties.....	66
19.11	Waivers	67
20.	Governing law and jurisdiction	67
20.1	Governing law	67
20.2	Jurisdiction.....	67
	Schedule 1 – Perenti Warranties.....	68
	Schedule 2 – DDH1 Warranties	74
	Schedule 3 - Timetable.....	80
	Schedule 4 - DDH1 Loan Shares	81
	Annexure A – Scheme.....	83
	Annexure B - Deed Poll.....	84

Scheme implementation agreement

Date	25 June 2023
Parties	DDH1 Limited ACN 636 677 088 of 21 Baile Road, Canning Vale WA 6155 (DDH1) Perenti Limited ACN 009 211 474 of Level 4, 45 Francis Street, Northbridge WA 6003 (Perenti)

Background

- A. Perenti proposes that it will acquire all of the Scheme Shares pursuant to a scheme of arrangement under Part 5.1 of the Corporations Act between DDH1 and Scheme Shareholders.
- B. DDH1 has agreed to propose the Scheme and issue the Scheme Booklet at the request of Perenti, and DDH1 and Perenti have agreed to implement the Scheme on the terms and conditions of this agreement.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this agreement:

Agreed Form means a document that has been agreed in writing by DDH1 and Perenti on or before the date of this agreement and has been initialled by or on behalf of DDH1 and Perenti or acknowledged via email, in each case for the purposes of identification.

Aggregate Maximum Cash Elections means the aggregate of the Full Cash Consideration payable under the Scheme (before the operation of the Scaleback Arrangements) to Scheme Shareholders who validly make a Maximum Cash Election.

Available Cash Consideration means the Cash Consideration Pool minus the aggregate cash consideration payable under the Scheme to all Scheme Shareholders who make a Standard Consideration Election.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12 of the Corporations Act, as if section 12(1) included a reference to this agreement.

ASX means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

Beneficiary means a present or former director or officer of the DDH1 Group in respect of whom the Policy applies.

Business Day means a business day as defined in the Listing Rules, provided that such day is not a Saturday, Sunday or public holiday or a day on which banks are not open for business generally in Perth, Western Australia.

Cash Consideration Pool means \$50,010,901.67.

CGT Withholding Amount means the amount that Perenti is required to pay to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 of the TAA in respect of the acquisition of DDH1 Shares from a DDH1 Shareholder.

Competing Proposal means any transaction or arrangement, or any proposal, offer or expression of interest in relation to a transaction or arrangement:

- (a) which, if implemented substantially in accordance with its terms, would result in a Third Party (either directly or indirectly, and whether alone or with an Associate):
 - (i) acquiring or becoming, or having a right to acquire or become, the holder of a legal, beneficial and/or economic interest in, all or a substantial part of the business, assets or undertakings of the DDH1 Group;
 - (ii) acquiring or obtaining the right to acquire Control of DDH1; or
 - (iii) acquiring a Relevant Interest in, or otherwise acquiring or having a right to acquire a legal, beneficial and/or economic interest in, more than 20% of DDH1 Shares in aggregate; or
- (b) pursuant to which DDH1 would be required to not proceed with the Transaction or as a result of which the Transaction would otherwise not proceed,

in each case, whether by way of takeover bid, scheme of arrangement, shareholder approved transaction, capital reduction or buy-back, sale or purchase of shares, other securities or assets, assignment of assets, transfer of liabilities, incorporated or unincorporated joint venture, dual-listed company structure (or other synthetic merger), deed of company arrangement, any debt for equity recapitalisation or other transaction or arrangement.

Condition means each condition specified in clause 3.1.

Confidentiality Deed means the confidentiality and exclusivity deed dated 13 June 2023 between DDH1 and Perenti.

Consideration Election has the meaning given in clause 5.3(a)(ii) and includes a deemed Standard Consideration Election under clause 5.3(b)(v).

Control has the meaning given in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cth).

Corporations Regulations means Corporations Regulations 2001 (Cth).

Court means the Federal Court or such other court of competent jurisdiction as DDH1 and Perenti agree in writing.

DD Cut-Off Time means 5pm on the second day before the date of this agreement.

DDH1 Actual Dividend, or **DAD** means the amount per DDH1 Share of any dividend declared, or determined to be paid (and not rescinded), after the date of this agreement where that dividend has a record date prior to the Implementation Date.

DDH1 Announcement means the announcement of the Scheme by DDH1 in the Agreed Form, or in such other form as is agreed in writing by the parties.

DDH1 Board means the board of directors of DDH1.

DDH1 Consolidated Tax Group means the consolidated group of which DDH1 is the head company. In this definition, "consolidated group" and "head company" have the respective meanings given by the Income Tax Assessment Act 1997 (Cth).

DDH1 Disclosure Letter means the letter executed by DDH1 and countersigned by Perenti on or before the execution of this agreement; which shall be regarded as having been given before the DD Cut-Off Time.

DDH1 Due Diligence Materials means:

- (a) all information and documents provided to Perenti by or on behalf of DDH1 by the DD Cut-Off Time in the online data room established by DDH1, a copy of the index of which is in the Agreed Form; and
- (b) the questions raised by Perenti during the due diligence process and the responses to those questions given by or on behalf of DDH1 prior to the DD Cut-Off Time (as included in the online data room established by DDH1), a copy which is in the Agreed Form.

DDH1 Employee Share means a DDH1 Share that is issued under and in accordance with the DDH1 Employee Share Plan.

DDH1 Employee Share Plan means the incentive scheme established by the employee share plan rules as approved by the DDH1 Board and effective on 10 February 2021 and subsequently amended on 30 June 2022.

DDH1 Equipment means the plant and equipment owned or used by the DDH1 Group.

DDH1 Executive Team means Sy Van Dyk, Simon Franich, Russell Chard, Peter Crennan, Matt Izett, Richard Bennett and Kent Swick.

DDH1 Group means DDH1 and each of its Related Bodies Corporate.

DDH1 Indemnified Parties means DDH1 and its Related Bodies Corporate and their respective directors, officers and employees.

DDH1 Information means all information included in the Scheme Booklet (or in any update or supplement to the Scheme Booklet released by DDH1), other than the Perenti Information, the Independent Expert's Report, any Investigating Accountant's Report, and any statement on the letterhead of DDH1's tax adviser of the tax consequences of the Scheme and related matters for DDH1 Shareholders.

DDH1 IP means all Intellectual Property Rights owned by the DDH1 Group that are material to the operation of its business.

DDH1 Key Employees has the meaning given in the DDH1 Disclosure Letter.

DDH1 Loan Share means a DDH1 Share held by each of the persons set out in Schedule 4 of this agreement, where that DDH1 Share is subject to a loan under and in accordance with the Limited Recourse Loan Agreement between DDH1 and the holder of that DDH1 Share.

DDH1 Loan Share Deed means a deed between Perenti, a holder of DDH1 Loan Shares and DDH1 (in a form acceptable to Perenti, acting reasonably) pursuant to which, subject to the implementation of the Scheme, the outstanding loan owing to DDH1 by that holder of DDH1 Loan Shares is replaced by a loan from Perenti to the holder (with a holding lock in place to prevent any disposal of the New Perenti Shares issued to the holder as consideration for the acquisition of their DDH1 Loan Shares in accordance with the terms of the Scheme, until the loan has been fully repaid) and as further described in clause 4.9(d).

DDH1 Long Term Incentive Plan means the incentive scheme established by the long term incentive plan rules as approved by the DDH1 Board and effective on 10 February 2021 and subsequently amended on 30 June 2022.

DDH1 Material Adverse Change means any event, matter, change or circumstance which occurs or is reasonably likely to occur, is announced, or becomes known to Perenti (regardless of when occurring) between the date of this agreement and the Delivery Time (including any action taken by a Regulatory Authority) which, whether individually or when aggregated with all such events, matters, changes, or circumstances or things of a like kind has had or would be reasonably likely to have (after taking into account any matter which offsets the impact of the event, change or circumstance and in each case other than those events, changes or circumstances):

- (a) the effect of diminishing:
 - (i) the consolidated net assets of the DDH1 Group by at least \$58 million;
 - (ii) the consolidated EBITDA of the DDH1 Group by at least \$13 million (and for this purpose, the full financial year effect of any resulting EBITDA diminution must be taken into account); or
 - (iii) the consolidated revenue of the DDH1 Group by at least \$60 million (and for this purpose, the full financial year effect of any resulting revenue diminution must be taken into account),

other than those events, matters, changes or circumstances:

- (b) expressly contemplated or expressly required to be done by DDH1 under the Transaction Documents (or necessary to achieve the foregoing);
- (c) where Perenti, acting reasonably, has consented in writing;
- (d) done or not done at the written request of Perenti, including any consequences which ought reasonably to be expected to arise as a result of such matters;
- (e) that have been Disclosed by DDH1;
- (f) to the extent resulting from:
 - (i) an act of God, lightning, war, terrorism, storm, flood, fire, earthquake or explosion, cyclone, tidal wave or landslide occurring on or after the date of this agreement;
 - (ii) any disruption to the financial markets or economic conditions of any relevant jurisdiction; or
 - (iii) any change in political conditions,
 to the extent that such things have not had a disproportionate impact on DDH1 relative to its competitors; or
- (g) to the extent resulting from a change in any legislation or regulation (including any generally accepted accounting principles or the interpretation of them), any judicial or administrative interpretation of the law or any practice or policy of a Regulatory Authority (whether or not retrospective in effect).

DDH1 Monthly EBITDA means, in relation to any calendar month, the consolidated earnings before interest, taxes, depreciation and amortisation of the DDH1 Group for that month, calculated on a consistent basis with the management accounting policies and practices applied by DDH1 in relation to the 11 month period to 31 May 2023 as Disclosed to Perenti.

DDH1 Monthly Revenue means, in relation to any calendar month, the actual consolidated revenue of the DDH1 Group for that month, calculated on a consistent basis with the management accounting policies and practices applied by DDH1 in relation to the 11 month period to 31 May 2023 as Disclosed to Perenti.

DDH1 Payment means the amount of \$4.13 million (representing the amounts referred to in the subparagraphs of clause 11.1(d) in respect of Perenti).

DDH1 Performance Rights means any performance rights in respect of DDH1 Shares granted or issued pursuant to the DDH1 Long Term Incentive Plan.

DDH1 Permitted Dividend means a fully franked dividend per DDH1 Share not exceeding \$15 million in aggregate, declared and/or paid by DDH1 in the ordinary course in respect of the period ending 30 June 2023, provided that the declaration and payment of such dividend complies with the requirements of clause 7.

DDH1 Prescribed Occurrence means the occurrence of any of the following events:

- (a) DDH1 converting all or any of its securities into a larger or smaller number of securities;
- (b) DDH1 agreeing to, or resolving to, reduce its share capital in any way or resolving to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) DDH1 or any other DDH1 Group member:
 - (i) entering into or resuming a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) DDH1 or any other DDH1 Group member issuing shares, or granting an option or a performance right over its shares or agreeing to make such an issue or grant such an option or a performance right (other than the issue of DDH1 Shares upon exercise or vesting of any DDH1 Performance Rights in the ordinary course and in accordance with the terms of those DDH1 Performance Rights);
- (e) DDH1 or any other DDH1 Group member issuing, or agreeing to issue, convertible notes or any other security convertible into or exchangeable for shares or debt securities or enters into any new debt facility, or amends or extends the terms of any existing debt facility;
- (f) DDH1 agreeing to pay, determining or declaring or paying a dividend or making or incurring any liability to pay any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets or return of capital to its members other than in accordance with clause 7;
- (g) the constitution of DDH1 is amended, repealed or replaced (other than in accordance with section 648G(3) of the Corporations Act);
- (h) DDH1 or any other member of the DDH1 Group disposing, or agreeing to dispose, of the whole, or a substantial part of the business or property of the DDH1 Group (taken as a whole);
- (i) DDH1 or any other member of the DDH1 Group ceasing, or threatening to cease, the whole or a material part of the business of the DDH1 Group;

- (j) DDH1 or any other member of the DDH1 Group creating, or agreeing to create, any Encumbrance over any of its business or property other than in the ordinary course of business;
- (k) an Insolvency Event occurring in relation to DDH1 or any other DDH1 Group member;
- (l) other than in accordance with clause 1.5, any member of the DDH1 Group creating any new security-based (or phantom security-based) incentive plan or scheme, or modifying the terms of an existing plan or scheme (or any incentive rights granted under them);
- (m) a member of the DDH1 Group doing anything that would result in a change in the DDH1 Consolidated Tax Group; or
- (n) the terms of any other securities issued by any member of the DDH1 Group are modified,

other than an event:

- (o) required by law or a Regulatory Authority;
- (p) in the usual and ordinary course of business and consistent with past practice, that is a wholly intra group transaction between members of the DDH1 Group;
- (q) expressly contemplated or expressly required to be done by DDH1 under the Transaction Documents (or necessary to achieve the foregoing);
- (r) where Perenti has, acting reasonably, consented in writing; or
- (s) that has been Disclosed by DDH1; provided that this exception does not permit the on-market buy-back of DDH1 Shares.

DDH1 Share Register means the register of members of DDH1 maintained by or on behalf of DDH1 in accordance with section 168(1) of the Corporations Act.

DDH1 Shareholder means each person registered in the DDH1 Share Register as the holder of one or more DDH1 Shares.

DDH1 Shares means fully paid ordinary shares in the capital of DDH1.

DDH1 Warranties means the representations and warranties made by DDH1 set out in Schedule 2.

Decision Time means 6:00 pm on the Business Day before the Second Court Date.

Deed Poll means a deed poll to be executed by Perenti in favour of the Scheme Shareholders, substantially in the form set out in Annexure B or in such other form as DDH1 and Perenti agree in writing.

Delivery Time means 8:00 am on the Second Court Date.

Disclosed means fairly disclosed by (unless otherwise stated) the DD Cut-Off Time:

- (a) in respect of DDH1:
 - (i) by DDH1 to Perenti in the DDH1 Due Diligence Materials or the DDH1 Disclosure Letter; or

- (ii) in documents that were publicly available in any announcement made by DDH1 on ASX, the public filings of DDH1 with ASIC, or in the PPSR; and
- (b) in respect of Perenti:
 - (i) by Perenti to DDH1 in the Perenti Due Diligence Materials or the Perenti Disclosure Letter; or
 - (ii) in documents that were publicly available in any announcement made by Perenti on ASX, the public filings of Perenti with ASIC, or in the PPSR.

EBITDA means earnings before interest, taxes, depreciation and amortisation, calculated in accordance with the accounting policies and practices applied by DDH1 or Perenti (as applicable) in respect of the half year ended 31 December 2022 and (except to the extent inconsistent with the foregoing) the financial year ended 30 June 2022, and excluding all costs and expenses incurred by DDH1 or Perenti (as applicable) in connection with, or in any way associated with the Scheme process and the Scheme (such costs and expenses includes all related fees payable to external advisers or service providers of DDH1 or Perenti).

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to 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.

Election means a Consideration Election or an Unmarketable Parcel Rollover Election and **Elect** has a corresponding meaning.

Election Date means the last date for receipt of an Election Form in order to make an Election in accordance with the terms of the Scheme, being 7pm (Sydney time) on the fourth Business Day before the cut-off date for the lodgement of proxies at the Scheme Meeting, or such other date and time as Perenti and DDH1 agree in writing.

Election Form means the election form(s) to be provided with the Scheme Booklet as described in clause 5.3.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest, or any agreement to create any of them or allow them to exist.

End Date means the date that is 8 months after the date of this agreement or such other date agreed in writing between DDH1 and Perenti.

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

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

First Court Date means the first day of the hearing of an application made to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Full Cash Consideration means, for each Scheme Share, a cash amount calculated in accordance with the following formula:

$$\text{Standard Cash Component} + \text{Standard Scrip Component} \times (\text{VWAP} - \text{PAD}_2)$$

Full Scrip Consideration means, for each Scheme Share, the number of New Perenti Shares calculated in accordance with the following formula:

$$\frac{\text{Full Cash Consideration}}{\text{VWAP} - \text{PAD}_2}$$

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme Meeting is passed by a majority in number of the DDH1 Shareholders present and voting, either in person or by proxy.

Implementation Date means the date that is 5 Business Days after the Record Date or such other date as DDH1 and Perenti agree in writing or as ordered by the Court.

Impugned Amount has the meaning given in clause 11.5.

Industrial Instrument means any award, enterprise agreement, transitional instrument or any other form of agreement made or taken to exist under any industrial law including the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth) and the *Fair Work Act 2009* (Cth).

Ineligible Overseas Shareholder means a Scheme Shareholder whose address shown in the DDH1 Share Register on the Record Date is a place outside Australia and its external territories and New Zealand, unless Perenti determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Perenti Shares when the Scheme becomes Effective.

Investigating Accountant means the accountant that may be engaged by DDH1 in its discretion to prepare an Investigating Accountant's Report, and includes any update or supplement to that report.

Investigating Accountant's Report means a report in respect of the historical financial information of DDH1, the historical financial information of Perenti and the pro forma historical financial information of the combined DDH1 Group and Perenti Group which may be prepared for inclusion in the Scheme Booklet, and includes any update or supplement to that report.

Independent Expert means the independent expert to be engaged by DDH1 to express an opinion on whether the Scheme is in the best interests of DDH1 Shareholders.

Independent Expert's Report means the report (including the initial report and any update, revision, amendment, addendum or supplementary report) from the Independent Expert in respect of whether the Scheme is in the best interests of DDH1 Shareholders.

Insolvency Event means in relation to an entity:

- (a) the entity resolving that it be wound up or the making of an application or order for the winding up or dissolution or deregistration of the entity, other than where the application or order (as the case may be) is set aside within 14 days;
- (b) a liquidator or provisional liquidator of the entity being appointed;
- (c) a court making an order for the winding up of the entity;
- (d) an administrator of the entity being appointed;

- (e) the entity being or becoming unable to pay its debts when they fall due or is unable to pay its debts within the meaning of the Corporations Act or otherwise insolvent;
- (f) the entity becoming an insolvent under administration, or entering into a compromise or arrangement with, or assignment for the benefit of, any of its creditors, including the entity executing a deed of company arrangement;
- (g) a controller, receiver, or a receiver and manager, being appointed in relation to the entity, or a substantial part, of the property, business or assets of the entity;
- (h) the holder of an Encumbrance, or any agent on its behalf, appointing a controller or taking possession of any of the entity's property;
- (i) the entity being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand; or
- (j) something having a substantially similar effect to any of the foregoing events happens in connection with that entity under the laws of any jurisdiction,

but not including any voluntary and solvent deregistration, liquidation, winding up or analogous process in relation to any dormant Subsidiary of a party.

Intellectual Property Rights means all intellectual and industrial proprietary rights of whatever nature throughout the world conferred under statute, common law or equity, whether existing now or at any time in the future, including rights in respect of or in connection with:

- (a) inventions (including patents), designs, trade marks and service marks (whether registered or unregistered, and including goodwill in those marks), business names, trade names, domain names and circuit layouts;
- (b) copyright (including copyright in software, websites, databases and advertising and other promotional materials) and analogous rights;
- (c) all rights to have information (including trade secrets, know-how, operating procedures and technical information) kept confidential; and
- (d) all other rights or protections having similar effect anywhere in the world,

whether or not registered or registrable, and includes pending applications for such rights and the right to apply for or renew the registration of such rights.

Limited Recourse Loan Agreement means the limited recourse loan agreements each dated 9 February 2021 and as amended or varied from time to time (prior to the DD Cut-Off Time) between DDH1 Drilling Pty Limited and each of the holders of DDH1 Loan Shares as set out in Schedule 4 of this agreement.

Listing Rules means the official listing rules of ASX.

Marketable Parcel means a parcel of shares that are worth not less than \$500 in accordance with the ASX Operating Rules Procedures.

Material Change of Control Contract means each contract in the Agreed Form "List of Change of Control Contracts".

Material Contracts means each contract in the Agreed Form "List of Material Contracts".

Maximum Cash Consideration means the Scheme Consideration calculated in accordance with clause 5.5.

Maximum Cash Election has the meaning given in clause 5.3(a)(ii)C.

Maximum Scrip Consideration means the Scheme Consideration calculated in accordance with clause 5.6.

Maximum Scrip Election has the meaning given in clause 5.3(a)(ii)B.

Merged Group means the combination of the Perenti Group and the DDH1 Group, as comprised by Perenti and its Subsidiaries following implementation of the Scheme.

New Perenti Shares means fully paid ordinary shares in Perenti to be provided to Scheme Shareholders under the Scheme.

Non-Rollover Unmarketable Parcel Shareholder means an Unmarketable Parcel Shareholder that has not made a valid Unmarketable Parcel Rollover Election by the Election Date.

Oaktree means DDH1 Holdings Singapore Pte Ltd and its Associates.

Perenti Actual Dividend means the amount per Perenti Share of any dividend declared, or determined to be paid (and not rescinded), after the date of this agreement with a record date before the Implementation Date; and

- (a) **PAD₁** means any Perenti Actual Dividend paid before the 5 trading day period referred to in the definition of VWAP; and
- (b) **PAD₂** means any Perenti Actual Dividend paid after the 5 trading day period referred to in the definition of VWAP.

Perenti Announcement means the announcement of the Scheme by Perenti in the Agreed Form, or in such other form as is agreed in writing by the parties.

Perenti Counter Proposal has the meaning given in clause 10.6(a)(iii).

Perenti Disclosure Letter means the letter executed by Perenti and countersigned by DDH1 on or before the execution of this agreement; which shall be regarded as having been given before the DD Cut-Off Time.

Perenti Key Employees has the meaning given in the Perenti Disclosure Letter

Perenti Due Diligence Materials means:

- (a) all information and documents provided to DDH1 by or on behalf of Perenti prior to the DD Cut-Off Time (including that contained in the online data room established by Perenti, a copy of the index of which is in the Agreed Form); and
- (b) the questions raised by DDH1 during the due diligence process and the responses to those questions given by or on behalf of Perenti prior to the DD Cut-Off Time (including those contained in the online data room established by Perenti a copy of which is in the Agreed Form).

Perenti Executive Team means Mark Norwell, Peter Bryant, Paul Muller, Raj Ratneser, Cameron Bailey.

Perenti Equipment means the plant and equipment owned or used by the Perenti Group.

Perenti Group means Perenti and each of their Related Bodies Corporate.

Perenti Indemnified Parties means Perenti and its Related Bodies Corporate and their respective directors, officers and employees.

Perenti Information means:

- (a) all information contained in the Scheme Booklet (or in any update or supplement to the Scheme Booklet released by DDH1) regarding Perenti or the Perenti Group;
- (b) any other information required under the Corporations Act or ASIC Regulatory Guide 60 Schemes of Arrangement to enable the Scheme Booklet to be prepared, that the parties agree is "Perenti Information" and that is identified in the Scheme Booklet or supplementary disclosures as such; and
- (c) any other information that DDH1 and Perenti agree is Perenti Information,

but excluding the Independent Expert's Report, any Investigating Accountant's Report, and the statement on the letterhead of DDH1's tax adviser of the Tax consequences of the Scheme and related matters for DDH1 Shareholders.

Perenti Incentive Rights Plan means the incentive scheme established by the "Perenti Limited Incentive Rights Plan Rules" operated by Perenti.

Perenti IP means all Intellectual Property Rights owned by the Perenti Group that are material to the operation of its business.

Perenti Material Adverse Change means any event, matter, change or circumstance which occurs or is reasonably likely to occur, is announced, or becomes known to DDH1 (regardless of when occurring) between the date of this agreement and the Delivery Time (including any action taken by a Regulatory Authority) which, whether individually or when aggregated with all such events, matters, changes, or circumstances or things of a like kind has had or would be reasonably likely to have (after taking into account any matter which offsets the impact of the event, change or circumstance and in each case other than those events, changes or circumstances)

- (c) the effect of diminishing:
 - (i) the consolidated net assets of the Perenti Group by at least \$148 million;
 - (ii) the consolidated EBITDA of the Perenti Group by at least \$58 million (and for this purpose, the full financial year effect of any resulting EBITDA diminution must be taken into account); or
 - (iii) the consolidated revenue of the Perenti Group by at least \$300 million (and for this purpose, the full financial year effect of any resulting revenue diminution must be taken into account),

other than those events, matters, changes or circumstances:

- (d) expressly contemplated or expressly required to be done by Perenti under the Transaction Documents (or necessary to achieve the foregoing);
- (e) where DDH1, acting reasonably, has consented in writing;
- (f) done or not done at the written request of DDH1, including any consequences which ought reasonably to be expected to arise as a result of such matters;
- (g) that have been Disclosed by Perenti;
- (h) to the extent resulting from:
 - (i) an act of God, lightning, war, terrorism, storm, flood, fire, earthquake or explosion, cyclone, tidal wave or landslide occurring on or after the date of this agreement;

(ii) any disruption to the financial markets or economic conditions of any relevant jurisdiction; or

(iii) any change in political conditions,

to the extent that such things have not had a disproportionate impact on Perenti relative to its competitors; or

(b) to the extent resulting from a change in any legislation or regulation (including any generally accepted accounting principles or the interpretation of them), any judicial or administrative interpretation of the law or any practice or policy of a Regulatory Authority (whether or not retrospective in effect).

Perenti Payment means the amount of \$4.13 million (representing the amounts referred to in the subparagraphs of clause 11.1(d) in respect of DDH1).

Perenti Performance Rights means performance rights in respect of Perenti Shares issued pursuant to the Perenti Incentive Rights Plan.

Perenti Permitted Dividend means a fully franked dividend per Perenti Share not exceeding \$20 million in aggregate, declared and/or paid by Perenti in the ordinary course in respect of the period ending 30 June 2023, provided that the declaration and payment of such dividend complies with the requirements of clause 7.

Perenti Prescribed Occurrence means the occurrence of any of the following events:

- (a) Perenti converting all or any of its securities into a larger or smaller number of securities;
- (b) Perenti agreeing to, or resolving to, reduce its share capital in any way or resolving to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) Perenti or any other Perenti Group member:
 - (i) entering into or resuming a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) Perenti or any other Perenti Group member issuing shares, or granting an option or a performance right over its shares or agreeing to make such an issue or grant such an option or a performance right (other than the issue of Perenti Rights in the ordinary course, the issue of Perenti Shares upon exercise or vesting of any Perenti Rights in the ordinary course and in accordance with the terms of those Perenti Rights or in accordance with Perenti's dividend reinvestment plan);
- (e) Perenti or any other Perenti Group member issuing, or agreeing to issue, convertible notes or any other security convertible into or exchangeable for shares or debt securities or enters into any new debt facility, or amends or extends the terms of any existing debt facility (other than the issue of Perenti Rights in the ordinary course);
- (f) Perenti agreeing to pay, determining or declaring or paying a dividend or making or incurring any liability to pay any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets or return of capital to its members other than in accordance with clause 7;
- (g) the constitution of Perenti is amended, repealed or replaced (other than in accordance with section 648G(3) of the Corporations Act);

- (h) Perenti or any other member of the Perenti Group disposing, or agreeing to dispose, of the whole, or a substantial part of the business or property of the Perenti Group (taken as a whole);
- (i) Perenti or any other member of the Perenti Group ceasing, or threatening to cease, the whole or a material part of the business of the Perenti Group;
- (j) Perenti or any other member of the Perenti Group creating, or agreeing to create, any Encumbrance over any of its business or property other than in the ordinary course of business;
- (k) an Insolvency Event occurring in relation to Perenti or any other Perenti Group member;
- (l) other than in accordance with clause 1.5, any member of the Perenti Group creating any new security-based (or phantom security-based) incentive plan or scheme, or modifying the terms of an existing plan or scheme (or any incentive rights granted under them); or
- (m) the terms of any other securities issued by any member of the Perenti Group are modified,

other than an event:

- (n) required by law or a Regulatory Authority;
- (o) any wholly intra group transaction between members of the Perenti Group;
- (p) expressly contemplated or expressly required to be done by Perenti under the Transaction Documents (or necessary to achieve the foregoing);
- (q) where DDH1 has, acting reasonably, consented in writing; or
- (r) that has been Disclosed by Perenti; provided that this exception does not permit the on-market buy-back of Perenti Shares.

Perenti Retention Rights means the retention rights in respect of Perenti Shares issued pursuant to the Perenti Incentive Rights Plan.

Perenti Rights means Perenti Performance Rights, Perenti STI Rights and Perenti Retention Rights.

Perenti Shareholder means a holder of Perenti Shares.

Perenti Shares means fully paid ordinary shares in the capital of Perenti.

Perenti STI Rights means the short term incentive rights in respect of Perenti Shares issued pursuant to the Perenti Incentive Rights Plan.

Perenti Warranties means the representations and warranties made by Perenti set out in Schedule 1.

PPSR means the Personal Property Securities Register maintained under the Personal Property Securities Act 2009 (Cth).

Policy means the DDH1 Group directors' and officers' insurance policy in effect at the DD Cut-Off Time.

Recommendation has the meaning in 8.1(a)(i).

Record Date means 7pm (Sydney time) on the date that is 2 Business Days after the Effective Date or such other time and date agreed in writing between DDH1 and Perenti.

Reference Date means each of:

- (a) 30 June 2023; and
- (b) the last day of each calendar month after 30 June 2023.

Regulator's Draft has the meaning in clause 4.1(f).

Regulatory Authority means:

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

Regulatory Guides means all regulatory guides published by ASIC and in force at the date of this agreement.

Regulatory Review Period means the period from the date on which DDH1 provides the Regulator's Draft to ASIC in accordance with clause 4.1(f) to the date on which ASIC provides a letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the Scheme, when the application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is heard.

Related Body Corporate has the meaning given to that term in section 50 of the Corporations Act.

Relevant Scheme Shareholder means a Scheme Shareholder that is not an Ineligible Overseas Shareholder.

Relevant Interest has the meaning given in the Corporations Act.

Representatives means, in relation to a party, the directors, officers, employees, professional advisers (including financiers, financial advisers, corporate advisers, legal advisers or technical or other expert advisers or consultants) and agents of the party or of its Related Bodies Corporate.

Restriction Period means the period of restriction applying to any DDH1 Share issued under the DDH1 Employee Share Plan that prevents the disposal of that DDH1 Share.

Run Off Cover has the meaning given in clause 12.2.

Scaleback Arrangements means the scaleback arrangements described in clauses 5.5(b) and 5.6(b).

Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between DDH1 and the Scheme Shareholders in the form set out in Annexure A or in such other form as DDH1 and Perenti agree in writing.

Scheme Booklet means the Scheme Booklet to be prepared by DDH1 pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of this agreement and to be despatched to DDH1 Shareholders.

Scheme Consideration means the consideration which a Scheme Shareholder is entitled to receive under the Scheme, as described in clause 5.2 for each Scheme Share ascertained and subject to adjustment in accordance with clause 5.

Scheme Meeting means the meeting of DDH1 Shareholders to be convened pursuant to section 411(1) of the Corporations Act to consider and, if thought fit, to approve the Scheme.

Scheme Share means a DDH1 Share on issue as at the Record Date, other than any DDH1 Shares held by Perenti or a Related Body Corporate of Perenti as at the Record Date.

Scheme Shareholder means each person registered in the DDH1 Share Register as the holder of one or more Scheme Shares as at the Record Date.

Second Court Date means the first day of the hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

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

Standard Consideration means, for each Scheme Share, both:

- (a) \$0.1238 in cash (the **Standard Cash Component**); and
- (b) the number of New Perenti Shares calculated in accordance with the following formula (the **Standard Scrip Component**):

$$\frac{0.7111 \times (VWAP + PAD_1) - DAD}{VWAP - PAD_2}$$

Standard Consideration Election has the meaning given in clause 5.3(a)(ii)A.

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

Superior Proposal means a bona fide Competing Proposal (other than a Competing Proposal resulting from a breach by DDH1 of any of its obligations under clause 10) which the DDH1 Board considers, acting in good faith and in order to satisfy what its constituent directors consider to be their fiduciary or statutory obligations (and after consulting with their financial advisers and receiving written advice from external legal advisers):

- (a) is reasonably capable of being completed substantially in accordance with its terms within a reasonable timeframe; and
- (b) would, if completed substantially in accordance with its terms, result in an outcome more favourable to DDH1 Shareholders (as a whole) than the Scheme,

in each case taking into account all aspects of the Competing Proposal and the Scheme, including their respective terms and conditions, the price and financial value of the Competing Proposal and the Scheme, timing considerations, funding certainty and any other matters relevant to the Competing Proposal or the Scheme.

TAA means the Taxation Administration Act 1953 (Cth).

Takeovers Panel means the Takeovers Panel constituted under the Australian Securities and Investments Commission Act 2001 (Cth).

Tax means any tax, levy, excise, duty, charge, surcharge, contribution, withholding tax, impost, withholding obligation, or similar liability, of whatever nature, whether direct or indirect, by whatever method collected or recovered, and whether paid, payable or assessed as being

payable by any Regulatory Authority, together with any fees, penalties, fines, interest or statutory charges, in any country or jurisdiction.

Third Party means a person other than Perenti, DDH1, the Perenti Group or the DDH1 Group.

Timetable means the indicative timetable in relation to the Scheme set out in Schedule 3, or such other indicative timetable as DDH1 and Perenti agree in writing.

Transaction means the acquisition by Perenti of the Scheme Shares for the Scheme Consideration pursuant to the Scheme.

Transaction Documents means:

- (a) this agreement;
- (b) the Scheme; and
- (c) the Deed Poll.

Unmarketable Parcel Shareholder means a Scheme Shareholder (other than an Ineligible Overseas Shareholder) who, based on their holding of Scheme Shares on the Record Date, their Consideration Election and the operation of the Scaleback Arrangements (if applicable), would, on Implementation, be entitled to receive less than a Marketable Parcel of Perenti Shares under the Scheme (assessed by reference to the price of Perenti Shares on ASX at the close of trade on the trading day prior to the Record Date).

Unmarketable Parcel Rollover Election has the meaning given in clause 5.3(a).

VWAP means the volume-weighted average price of Perenti Shares traded on the ASX over the five trading day period that ends two Business Days prior to the Election Date, excluding any 'Crossing' transacted outside of the 'Open Session State' or any 'Special Crossing' transacted at any time, each as defined in the ASX Operating Rules.

Voting Intention has the meaning in clause 8.1(a)(ii).

1.2 Best and reasonable endeavours

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

- (a) pay any money or to provide any financial compensation, or any other incentive to or for the benefit of any person in the form of an inducement or consideration except for payment of any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority or the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing;
- (b) (without limiting clause 1.2(a)) agree terms that, in the context of the parties' intention to implement the Transaction on the terms of this agreement, are commercially onerous or unreasonable; or
- (c) commence or defend any legal action or proceeding against any person,

except, in each case, where that provision expressly specifies otherwise and, for the avoidance of doubt, that party will not breach the relevant provision requiring the use of best or all reasonable endeavours where the party does not procure that the thing is performed or occurs or does not occur as a result of matters outside the control or influence of the party.

1.3 Business Day

If the day on which any act to be done under this agreement is a day other than a Business Day, that act must be done on the immediately preceding Business Day except where this agreement expressly specifies otherwise.

1.4 Interpretation

In this agreement headings and labels used for definitions are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, a Regulatory Authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) a reference to **law** includes the common law, principles of equity and legislation (including delegated legislation);
- (k) a reference to an event, matter or circumstance being **fairly disclosed** means disclosed in sufficient detail so as to enable a reasonable and sophisticated person experienced in transactions similar to the Transaction and experienced in business similar to any business conducted by the DDH1 Group (if disclosed by DDH1) or the Perenti Group (if disclosed by Perenti) to identify the nature, substance and scope of the relevant event (including, in each case, that the potential financial effect of the relevant matter, event or circumstances was reasonably ascertainable from the information disclosed) (and includes events, matters or circumstances which ought reasonably to be expected to arise from an event, matter or circumstance so disclosed);

- (l) a reference to a party being **aware** of certain information, having **knowledge** of certain information, having an **awareness** of certain information or to certain information being **known** to a party, at a particular time, is a reference to:
- (i) in respect of Perenti, a member of the Perenti Executive Team having actual knowledge or awareness of that information at the relevant time, or circumstances where a member of the Perenti Executive Team would have had actual knowledge or awareness of that information at the relevant time had they made due enquiries of people who might reasonably be expected to have knowledge or awareness of that information, but only to the extent that member of the Perenti Executive Team was employed by Perenti at the relevant time; and
 - (ii) in respect of DDH1, a member of the DDH1 Executive Team having actual knowledge or awareness of that information at the relevant time, or circumstances where a member of the DDH1 Executive Team would have had actual knowledge or awareness of that information at the relevant time had they made due enquiries of people who might reasonably be expected to have knowledge or awareness of that information, but only to the extent that member of the DDH1 Executive Team was employed by DDH1 at the relevant time,

provided that in the case of those DDH1 Warranties and Perenti Warranties which are qualified by such references, the relevant time for the purposes of paragraphs (i) and (ii) above is the date of this agreement, even if those warranties are repeated at a later date;

- (m) a reference to \$ or dollar is to Australian currency;
- (n) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this agreement;
- (o) a reference to a date or time is to that date or time in Perth, Australia; and
- (p) this agreement (including any term or condition of it) must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

1.5 Incentive plans

Notwithstanding anything else in this agreement:

- (a) DDH1 and Perenti may make such modifications to their respective incentive plans and schemes as they may reasonably consider appropriate to permit offers to be made under Division 1A of Part 7.12 of the Corporations Act and any other similar relief from ASIC in respect of employee incentive schemes (and any other modifications reasonably incidental thereto), provided such modifications do not affect the commercial substance of the plans or schemes or incentives offered or granted under them.
- (b) References in this agreement to such plans and schemes (or to incentives issued under them), or to their terms as at the DD Cut-Off Time or the date of this agreement, include such plans and schemes (or incentives issued under them), or their terms, as amended in accordance with clause 1.5(a). For the avoidance of doubt, a modification described in clause 1.5(a) will not (without more) constitute a DDH1 Prescribed Occurrence, a Perenti Prescribed Occurrence, or a breach of clauses 6.1 or 6.2.

2. Obligations in relation to Scheme

2.1 DDH1 to propose Scheme

- (a) DDH1 agrees to propose the Scheme on and subject to the terms and conditions of this agreement.
- (b) Perenti agrees to assist DDH1 to propose the Scheme on and subject to the terms and conditions of this agreement.

2.2 DDH1 and Perenti to implement Scheme

DDH1 and Perenti agree to implement the Scheme on and subject to the terms and conditions of this agreement.

3. Conditions precedent

3.1 Conditions

Subject to this clause 3.1, the Scheme will not become Effective and the obligations of DDH1 and Perenti to complete the implementation of the Scheme are not binding until each of the conditions listed in the first column of the following table are either satisfied or waived in accordance with clause 3.5:

Condition	Right to benefit and waive	Responsibility to satisfy
(a) (Scheme shareholder approval) DDH1 Shareholders approve the Scheme by the majority required under section 411(4)(a)(ii)(B) of the Corporations Act;	None	DDH1
(b) (Court approval of Scheme) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;	None	DDH1
(c) (Regulatory approvals) on or before the Delivery Time, all consents, waivers and approvals from a Regulatory Authority which DDH1 and Perenti (acting reasonably) agree in writing are necessary or desirable to implement the Scheme are granted or obtained and none of those consents, waivers and approvals have been withdrawn, cancelled or revoked. For the avoidance of doubt, this includes, but is not limited to, ASIC and ASX having issued or provided such consents or approvals or having done such other acts which DDH1 and Perenti agree (acting reasonably) are necessary to implement the Scheme. It also includes any party complying with any court-enforceable undertaking given in the context of an application for informal clearance by the	DDH1 and Perenti	In respect of each agreed consent, waiver or approval, the party who has the legal obligation to obtain it (or the party legally capable of doing so)

Condition	Right to benefit and waive	Responsibility to satisfy
<p>Australian Competition & Consumer Commission.</p> <p>If such consents, approvals or other acts are subject to conditions, those conditions must be acceptable to DDH1 and Perenti (acting reasonably);</p>		
<p>(d) (No restraint) no temporary restraining order, preliminary or permanent injunction or other temporary, preliminary or final order issued by any court of competent jurisdiction, no preliminary or final decision, determination, notice of objection, or order issued by any Regulatory Authority or any other legal restraint preventing any of the transactions contemplated by this agreement is in effect at the Delivery Time;</p>	DDH1 and Perenti	DDH1 and Perenti
<p>(e) (Independent Expert's Report) the Independent Expert's Report concludes that the Scheme is in the best interests of DDH1 Shareholders on or before the date on which the Scheme Booklet is registered by ASIC under the Corporations Act and the Independent Expert does not change or publicly withdraw that conclusion prior to the Delivery Time;</p>	DDH1	DDH1
<p>(f) (Material Change of Control Contracts) on or before the Delivery Time, DDH1 has received a copy of each consent, waiver or confirmation required under the Material Change of Control Contracts to the change of control of DDH1 resulting from the Transaction (and such consents, waivers or confirmations have not been withdrawn, suspended or revoked);</p>	Perenti	DDH1
<p>(g) (DDH1 Loan Shares) the parties (each acting reasonably and in good faith) have agreed the form of the DDH1 Loan Share Deed in accordance with clause 4.9(a) and Perenti has complied with its obligations under clause 4.9(c), prior to the Delivery Time;</p>	DDH1	Perenti and DDH1
<p>(h) (No DDH1 Material Adverse Change) no DDH1 Material Adverse Change occurs before the Delivery Time;</p>	Perenti	DDH1

Condition	Right to benefit and waive	Responsibility to satisfy
(i) (No DDH1 Prescribed Occurrence) no DDH1 Prescribed Occurrence occurs before the Delivery Time;	Perenti	DDH1
(j) (DDH1 Warranties) each DDH1 Warranty is true and correct in all material respects as at the time they are given or made;	Perenti	DDH1
(k) (Perenti Warranties) each Perenti Warranty is true and correct in all material respects as at the time they are given or made;	DDH1	Perenti
(l) (No Perenti Material Adverse Change) no Perenti Material Adverse Change occurs before the Delivery Time;	DDH1	Perenti
(m) (No Perenti Prescribed Occurrence) no Perenti Prescribed Occurrence occurs before the Delivery Time; and	DDH1	Perenti
(n) (Quotation of New Perenti Shares) before the Delivery Time, ASX provides such comfort as is acceptable to DDH1, acting reasonably, that the New Perenti Shares to be issued to Scheme Shareholders pursuant to the Scheme are likely to be approved for official quotation by ASX (subject to the Scheme becoming Effective) and the application by Perenti for the quotation of the Shares in accordance with the Listing Rules).	DDH1	Perenti

3.2 General obligations in relation to Conditions

Without prejudice to any other obligations of DDH1 and Perenti under this agreement, in respect of any given Condition:

- (a) if one party is specified in the third column of the table in clause 3.1 opposite that Condition (or specified in respect of a particular regulatory approval in the case of the Condition in clause 3.1(c)), that party must use its best endeavours to procure that that Condition is satisfied (only to the extent of the particular regulatory approval in the case of the Condition in clause 3.1(c)) as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require);
- (b) if DDH1 and Perenti are specified in the third column of a table in clause 3.1 opposite that Condition, both parties must, to the extent that it is within their respective control or influence, use their best endeavours to procure that that Condition is satisfied as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require); and

- (c) DDH1 and Perenti must each, to the extent that it is within its respective control or influence, use its best endeavours to procure that there is no occurrence that would prevent the Conditions being satisfied and no party shall take any action that will or is likely to hinder or prevent the satisfaction of the Conditions except to the extent that such action is required to be done or procured pursuant to the Transaction Documents, is required by law or is done at the request or encouragement of a Regulatory Authority in connection with the Transaction (and compliance with that request or encouragement is reasonable in the circumstances, including having regard to the Condition in clause 3.1(c)).

3.3 Obligations in relation to regulatory approvals

Without limiting clause 3.2, to the extent that clause 3.2 requires a party to use best endeavours to procure that a regulatory consent, waiver or approval is obtained, that party must:

- (a) as soon as practicable prepare and, subject to clause 3.3(b), lodge, each notice or application required to be given by that party for the purposes of procuring that the regulatory consent, waiver or approval is obtained and take all procedural steps it is responsible for as part of such consent, waiver or approval process, including responding to requests for information at the earliest practicable time and using its best endeavours to obtain such consent, waiver or approval as soon as practicable after the date of this agreement;
- (b) consult with the other party in advance of, and before sending, all communications with, or submissions or applications to, any Regulatory Authority relating to any regulatory consent, waiver or approval and provide the other party with a draft copy of such communications, submissions or applications as soon as practicable and consider in good faith any reasonable comments received from the other party;
- (c) keep the other party informed of progress in relation to each such regulatory consent, waiver or approval and of any material matters raised by, or conditions, material actions or other arrangements proposed by, or to, any Regulatory Authority which relate to any such regulatory consent, waiver or approval; and
- (d) provide copies, on a confidential basis, to the other party of all documents and other communications provided to and received from each relevant Regulatory Authority in relation to each such regulatory consent, waiver or approval (including before the date of this agreement),

provided that:

- (e) in relation to clause 3.3(d), the party applying for the consent, waiver or approval may withhold or redact information or documents if and to the extent that they are confidential to a Third Party;
- (f) nothing in this clause 3.3 requires a party to disclose materially commercially sensitive information to the other party and so such information can be redacted; and
- (g) the party applying for the consent, waiver or approval will not be prevented from taking procedural steps or communicating with or providing documents to a Regulatory Authority if the other party has not responded promptly under clause 3.3(b).

The other party must provide the applicant for a regulatory consent, waiver or approval with all assistance and information reasonably requested by the applicant in connection with the application and submissions for obtaining that consent, waiver or approval.

3.4 Notice in relation to satisfaction of Conditions

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) in relation to any Condition, promptly notify the other party in writing upon becoming aware of:
 - (i) the satisfaction of that Condition, in which case the notifying party must also provide reasonable evidence that the Condition has been satisfied; or
 - (ii) any fact or circumstance that it becomes aware of which results in, or may result in, that Condition becoming incapable of satisfaction or may result in that Condition not being satisfied in accordance with its terms; and
- (c) in relation to any Condition, promptly notify the other party in writing of a breach or non-fulfilment of a Condition or any occurrence or event that will prevent a Condition from being satisfied and where a party is entitled to waive that Condition upon receipt or delivery of such a notice (as applicable) that party must notify the other party in accordance with clause 3.5 as soon as reasonably practicable after receipt of that notice, (in any event before the Decision Time) as to whether the party waives the breach or non-fulfilment of the Condition resulting from the occurrence or event.

3.5 Waiver of Conditions

- (a) A Condition is only for the benefit of:
 - (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, that party; or
 - (ii) if both DDH1 and Perenti are specified in the second column of the table in clause 3.1 opposite that Condition, both parties.
- (b) A Condition may be waived and may only be waived:
 - (i) if the Condition is for the benefit of one party, by that party by written notice to the other party; or
 - (ii) if the Condition is for the benefit of both DDH1 and Perenti, by written agreement between the parties.
- (c) A party entitled to waive or to agree to waive a Condition under this clause 3.5 may do so in its absolute discretion subject to the provision of written notice to the other party, and may do so before the Condition is to be satisfied.
- (d) A party that waives or agrees to waive a Condition is not prevented from bringing a claim against any other party in respect of any breach of this agreement that caused that Condition not to be satisfied.
- (e) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or

- (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

3.6 Consultation on failure of Conditions

If:

- (a) there is a breach or non-fulfilment of a Condition which is not waived in accordance with this agreement by the time or date specified in this agreement for the satisfaction of the Condition;
- (b) there is an act, failure to act, event or occurrence which will, or which either party becomes aware will, prevent a Condition being satisfied by the time or date specified in this agreement for the satisfaction of the Condition (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this agreement); or
- (c) the Scheme has not become Effective by the End Date,

then DDH1 and Perenti must consult, acting reasonably and in good faith, with a view to determining whether:

- (d) the Scheme may proceed by way of alternative means or methods, with a view to achieving, as far as is possible (having regard to all the prevailing circumstances, including the reasons for the breach or non-fulfilment of a Condition), a commercial outcome that is:
 - (i) commercially substantially the same as the Scheme; and
 - (ii) no less favourable to the DDH1 Shareholders or to Perenti than would result from the implementation of the Scheme
- (e) to extend the relevant time for satisfaction of the Condition or to adjourn or change the date of an application to the Court;
- (f) to apply to the Court to postpone or adjourn the Scheme Meeting;
- (g) to extend the End Date; or
- (h) to do all, or any combination of, the matters listed in clauses 3.6(d) to 3.6(g) (inclusive).

3.7 Failure to agree

If DDH1 and Perenti are unable to reach an agreement under clause 3.6 within 5 Business Days after the delivery of the notice under that clause (or any shorter period ending at the Decision Time) then, in each case before the Delivery Time:

- (a) subject to clauses 3.7(b) and 3.8, either party may terminate this agreement by writing to the other party; or
- (b) if a Condition may be waived and exists for the benefit of one party only, only that party may waive that Condition or terminate this agreement (by writing to the other party).

3.8 Exception

A party will not be entitled to terminate this agreement pursuant to clause 3.7 if the relevant Condition has not been satisfied or agreement cannot be reached as a result of (or if that outcome was directly and materially contributed to by):

- (a) a breach of this agreement by that party; or
- (b) a deliberate act or omission of that party for the purpose of frustrating satisfaction of the Condition.

4. Implementation of the Scheme

4.1 DDH1's obligations

DDH1 must use its best endeavours to implement the Scheme in accordance with the Timetable and, in particular, DDH1 must:

- (a) **(Scheme Booklet)** as soon as reasonably practicable after the date of this agreement, prepare the Scheme Booklet (excluding the Perenti Information and the Independent Expert's Report and any Investigating Accountant's Report) in accordance with all applicable laws, the Listing Rules, ASIC regulatory guides (including Regulatory Guide 60) and applicable Takeovers Panel guidance notes applicable to members' schemes of arrangement and provide a draft of the Scheme Booklet to Perenti;
- (b) **(Consult with Perenti in relation to the Scheme Booklet)** consult with Perenti and its Representatives (acting reasonably and in good faith) as to the content and presentation of the Scheme Booklet (noting that DDH1 has ultimate discretion with respect to the preparation, content and presentation of the Scheme Booklet other than as expressly provided in this agreement), including:
 - (i) allowing Perenti and its Representatives a reasonable opportunity to review and make comments on successive drafts of the draft Scheme Booklet (including any draft of a report by the Independent Expert but excluding or redacting those sections containing the Independent Expert's opinions or conclusions);
 - (ii) taking any reasonable comments made by Perenti and its Representatives into account in good faith when producing revised drafts of the Scheme Booklet; and
 - (iii) obtaining Perenti's written consent to the inclusion of the Perenti Information (including in respect of the form and context in which the Perenti Information appears in the Scheme Booklet) such consent not to be unreasonably withheld or delayed;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Scheme Booklet and if, after the date of public release of the initial Independent Expert's Report, DDH1 proposes to provide any new or additional information to the Independent Expert, provide a copy of that information to Perenti and consult with Perenti and its Representatives in relation to that information, including by having regard to (acting reasonably and in good faith) all comments from Perenti and its Representatives in relation to that information;
- (d) **(Tax consequences)** engage its tax adviser to provide a statement on its letterhead, for inclusion in the Scheme Booklet, of the tax consequences of the Scheme and related matters for DDH1 Shareholders; and provide all assistance and information reasonably requested by its tax adviser in connection with the preparation of that letter;
- (e) **(Approval of draft Scheme Booklet)** procure that a meeting of the DDH1 Board is convened to approve the draft Scheme Booklet to be provided to ASIC for its review;

- (f) **(ASIC review)** as soon as reasonably practicable, but by no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet **(Regulator's Draft)** to ASIC, for its review and approval for the purposes of section 411(2) of the Corporations Act;
- (g) **(ASX review)** as soon as reasonably practicable, but by no later than 5 Business Days before the First Court Date, provide an advanced draft of the Scheme Booklet to ASX for its review and approval for the purposes of the Listing Rules;
- (h) **(liaise with ASIC and ASX)**
 - (i) liaise with ASIC and ASX as necessary and to the extent reasonably practicable in connection with the Scheme; and
 - (ii) keep Perenti informed in relation to any matters raised by ASIC or ASX in connection with the Scheme Booklet or the Scheme and without limiting clause 3, use reasonable endeavours to resolve any such matters in consultation with Perenti;
- (i) **(Section 411(17)(b) statement)** apply to ASIC for the production of:
 - (i) a letter stating that ASIC does not intend to appear at the First Court Hearing; and
 - (ii) a letter stating that, pursuant to section 411(17)(b) of the Corporations Act, ASIC has no objection to the Scheme;
- (j) **(Court documents)** promptly prepare all documents necessary for the Court proceedings (including any appeals) relating to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) in accordance with all applicable laws and provide Perenti with drafts of those documents for review and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments from Perenti and its Representatives on those drafts;
- (k) **(First Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for an order under section 411(1) of the Corporations Act directing DDH1 to convene the Scheme Meeting;
- (l) **(Approval of Scheme Booklet)** procure that a meeting of the DDH1 Board is convened to approve the Scheme Booklet for registration with ASIC and despatch to DDH1 Shareholders;
- (m) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Scheme Booklet (other than the Perenti Information, the Independent Expert's Report, any Investigating Accountant's Report, and the statement on the letterhead of DDH1's tax adviser of the tax consequences of the Scheme and related matters for DDH1 Shareholders);
- (n) **(Register Scheme Booklet)** request that ASIC registers the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (o) **(Elections)** on the Business Day following the Election Date (or on such other date as Perenti and DDH1 agree in writing), announce to the ASX its indicative calculations as to the operation of the Scaleback Arrangements, based on the Elections received on or before the Election Date;
- (p) **(Compliance with Court orders; Scheme Meeting)**

- (i) take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Scheme Booklet to DDH1 Shareholders and all others entitled to receive notice of the Scheme Meeting, and convening and holding the Scheme Meeting;
 - (ii) not adjourn or postpone the Scheme Meeting or request the Court to adjourn or postpone the Scheme Meeting in either case without obtaining the prior written approval of Perenti (such approval not to be unreasonably withheld or delayed);
- (q) **(Update Scheme Booklet)** if it becomes aware of information after the date of despatch of the Scheme Booklet that is (or becomes aware that information of which it was already aware is):
- (i) not included in the Scheme Booklet and is material for disclosure to DDH1 Shareholders in deciding whether to approve the Scheme, or is otherwise required to be disclosed to DDH1 Shareholders under any applicable law; or
 - (ii) false, misleading or deceptive in a material respect in the form and context in which it appears in the Scheme Booklet,
- as expeditiously as practicable:
- (iii) inform DDH1 Shareholders of the information in an appropriate and timely manner, and in accordance with applicable law (but in respect of the Perenti Information, only to the extent that Perenti provides DDH1 with updates to the Perenti Information); and
 - (iv) to the extent it is reasonably practicable to do so, provide Perenti and its Representatives with drafts of any documents that it proposes to issue to DDH1 Shareholders under this clause 4.1(q) and take any reasonable comments made by Perenti and its Representatives into account in good faith when revising or finalising those drafts;
- (r) **(ASX listing)** use its best endeavours to ensure that DDH1 continues to be admitted to ASX, and that DDH1 Shares continue to be quoted for trading (and not permanently suspended) on ASX, until the close of business on the Business Day immediately following the Implementation Date;
- (s) **(Suspension)** apply to ASX to have trading in DDH1 Shares suspended from the close of trading on the Effective Date;
- (t) **(Court approval application)** if the resolution submitted to the Scheme Meeting in relation to the Scheme is passed by the requisite majority required under section 411(4)(a)(ii)(B) of the Corporations Act and subject to all Conditions (other than the Condition in clause 3.1(b)) being satisfied or waived in accordance with this agreement), apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme in accordance with sections 411(4)(b) and, if applicable, 411(6) of the Corporations Act;
- (u) **(Representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of the Scheme;
- (v) **(Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(b)) have been satisfied or waived in accordance with this agreement and provide a draft of that certificate to Perenti by 5:00 pm on the second Business Day prior to the Second Court Date;

- (w) **(Implementation of Scheme)** if the Scheme is approved by the Court:
- (i) lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act before 5:00 pm on the Business Day following the day of receipt of such office copy (or such other date as is agreed between DDH1 and Perenti in writing);
 - (ii) close the DDH1 Share Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
 - (iii) provide to Perenti all information about the Scheme Shareholders that Perenti reasonably requires in order for Perenti to provide, or procure the provision of, the Scheme Consideration in accordance with the Scheme; and
 - (iv) subject to Perenti satisfying its obligations under clause 5.1(b), on the Implementation Date (or as soon as practicable thereafter):
 - A. execute proper instruments of transfer and effect the transfer of Scheme Shares to Perenti in accordance with the Scheme; and
 - B. register all transfers of Scheme Shares to Perenti in accordance with the Scheme;
- (x) **(Promote merits of Transaction)** participate in efforts reasonably requested by Perenti to promote the merits of the Transaction and the Scheme Consideration to DDH1 Shareholders, including through communications to DDH1 Group employees, DDH1 Shareholders and meeting with key DDH1 Shareholders at the reasonable request of Perenti;
- (y) **(DDH1 Share Register)** promptly provide to Perenti a copy of the DDH1 Share Register as requested by Perenti from time to time in electronic form as reasonably requested by Perenti, and such other information that Perenti may reasonably request for it to understand the legal and beneficial ownership of DDH1 Shares;
- (z) **(proxy solicitation)** if reasonably required by Perenti, undertake in consultation with Perenti reasonable shareholder engagement and proxy solicitation actions so as to promote the merits of the Transaction and encourage DDH1 Shareholders to vote on the Scheme in accordance with the recommendation of DDH1 Board, subject to applicable law and ASIC policy;
- (aa) **(proxy information)** upon request by Perenti from time to time, inform Perenti of the total number of proxy votes received by DDH1:
- (i) to vote in favour of the Scheme;
 - (ii) to vote against the Scheme;
 - (iii) to abstain from voting on the Scheme; and
 - (iv) where the proxy may vote at the proxy's discretion;
- (bb) **(Timetable)** keep Perenti reasonably informed about its progress against the Timetable, and notify Perenti if it believes that any of the dates in the Timetable are not achievable;

- (cc) **(Compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with the terms of this agreement and applicable laws; and
- (dd) **(Other things)** promptly do all other things contemplated by or necessary to give effect to the Scheme and, if the Scheme is approved by the Court, the orders of the Court approving the Scheme.

4.2 Perenti's obligations

Perenti must use its best endeavours to assist DDH1 to implement the Scheme in accordance with the Timetable and, in particular, Perenti must:

- (a) **(Draft of the Perenti Information)** provide to DDH1 a draft of the Perenti Information as soon as reasonably practicable after the date of this agreement and consult with DDH1 in relation to the content of drafts of the Perenti Information and (acting reasonably and in good faith) take into account any comments from DDH1 and its Representatives on those drafts;
- (b) **(Final form of the Perenti Information)** provide to DDH1 the Perenti Information in a form appropriate for inclusion in the Scheme Booklet;
- (c) **(Review Scheme Booklet)** review the draft of the Scheme Booklet provided by DDH1 and provide comments on that draft as soon as reasonably practicable and in good faith;
- (d) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare its report for inclusion in the Scheme Booklet;
- (e) **(Investigating Accountant)** promptly provide all assistance and information reasonably requested by any Investigating Accountant to enable it to prepare any report for inclusion in the Scheme Booklet;
- (f) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Perenti Information and if requested by DDH1 in writing, provide to DDH1 a certificate attesting to the fact that appropriate due diligence and verification processes have been undertaken in respect of the Perenti Information;
- (g) **(Reasonable assistance)** provide all assistance and information reasonably requested by DDH1 or its Representatives in connection with:
 - (i) the preparation of the Scheme Booklet (including any supplemental disclosure to DDH1 Shareholders) and any documents required to be filed with the Court in respect of the Scheme; and
 - (ii) DDH1 applying for any regulatory modifications determined appropriate or necessary by DDH1 (and provide any necessary consents in relation to such applications);
- (h) **(Liaise with ASIC and ASX)** provide all reasonable assistance requested by DDH1 to assist DDH1 to resolve any matters raised by ASIC or ASX regarding the Scheme Booklet or the Scheme;
- (i) **(Approval of the Perenti Information)** as soon as reasonably practicable after receipt from DDH1 of the draft of the Scheme Booklet, and in any event before a draft of the Scheme Booklet is lodged with ASIC and if reasonably required by DDH1 again before the Scheme Booklet is despatched to DDH1 Shareholders, confirm in writing to DDH1 that:

- (i) Perenti consents to the inclusion of the Perenti Information in the Scheme Booklet (including in respect of the form and context in which the Perenti Information appears in the Scheme Booklet) such consent not to be unreasonably withheld or delayed; and
 - (ii) the Perenti Information in the form and context in which it appears in the draft of the Scheme Booklet is not misleading or deceptive in any material respect, does not contain any material omission and is in a form appropriate for despatch to DDH1 Shareholders (subject to the approval of the Court);
- (j) **(Keep DDH1 informed)** promptly inform DDH1 if it becomes aware after the despatch of the Scheme Booklet that the Perenti Information in the form and context in which it appears in the Scheme Booklet is or has become misleading or deceptive in any respect or contains any omission (including of any information required to be disclosed under any applicable law), and provide such further or new information as is required to ensure that such information is no longer misleading or deceptive in any respect or contains any material omission;
- (k) **(Deed Poll)** by the Business Day prior to the First Court Date, enter into the Deed Poll, and deliver the executed Deed Poll to DDH1;
- (l) **(Representation)** procure that, if requested by DDH1, it is represented by counsel at the Court hearings convened for the purposes of the Scheme, at which, through its counsel and, if requested by the Court, Perenti will undertake to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme;
- (m) **(Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(b)) have been satisfied or waived in accordance with this agreement and provide a draft of that certificate to DDH1 by 5:00 pm on the second Business Day prior to the Second Court Date;
- (n) **(Official quotation)** apply to ASX for official quotation by ASX of the New Perenti Shares to be issued to Scheme Shareholders pursuant to the Scheme having regard to its obligations in clause 5.10(b);
- (o) **(Scheme Consideration)** if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration on the Implementation Date in accordance with clause 5 and the terms of the Scheme and the Deed Poll;
- (p) **(Despatch of Holding Statements)** despatch holding statements to Scheme Shareholders for the New Perenti Shares issued to those Scheme Shareholders pursuant to the Scheme on the Implementation Date;
- (q) **(Promote merits of Transaction)** participate in efforts reasonably requested by DDH1 to promote the merits of the Transaction and the Scheme Consideration, including meeting with key employees of DDH1 and key DDH1 Shareholders at the request of DDH1;
- (r) **(Timetable)** keep DDH1 reasonably informed about its progress against the Timetable, and notify DDH1 if it believes that any of the dates in the Timetable are not achievable;
- (s) **(Compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with the terms of this agreement and applicable laws; and

- (t) **(Other things necessary)** promptly do all other things contemplated by or reasonably necessary to assist DDH1 to propose the Scheme and, if the Scheme is approved by the Court, to give effect to the orders of the Court approving the Scheme.

4.3 Access

- (a) From the date of this agreement and up to the Implementation Date, subject to applicable laws, each party must give (and must procure each of its Subsidiaries gives) the other party reasonable access to its records, premises and personnel, as reasonably requested by the other party at mutually convenient times for the purpose of:
- (i) the implementation of the Scheme;
 - (ii) in the case of the provision of access by Perenti to DDH1 – the collation and provision of the DDH1 Information;
 - (iii) in the case of the provision of access by DDH1 to Perenti:
 - A. the collation and provision of the Perenti Information; and
 - B. evaluating the impact of any adverse indications or confirmations received from counterparties pursuant to clause 6.3; or
 - (iv) any other purpose which is agreed in writing between the parties,
- provided that:
- (b) the requirements of this clause 4.3 are subject to any competition law protocols agreed between the parties, the prohibitions contained in the *Competition and Consumer Act 2010* (Cth) and all other applicable laws;
 - (c) such requests do not result in unreasonable disruptions to, or interferences with, the party's business;
 - (d) nothing in this clause 4.3 or anywhere else in this document:
 - (i) requires a party to provide information concerning the party or its Subsidiaries' business that, in the reasonable opinion of the disclosing party:
 - A. is commercially sensitive where the provision of such information is reasonably likely to prejudice the commercial or legal interests of the party providing the information and its Subsidiaries (taken as a whole), having regard to any competition law protocols agreed between the parties;
 - B. is subject to an existing confidentiality obligation to a third party;
 - C. would require a party to make further disclosures to any other entity or to a Regulatory Authority; or
 - D. would compromise legal privilege; or
 - (ii) gives a party any rights to undertake further due diligence; and

- (iii) gives a party any rights to restrict the decision making of the other party (or its Subsidiaries) as to how it competes in any market, and each party acknowledges that it has no intention to do so.

4.4 DDH1 monthly management accounts

As soon as reasonably practicable (and in any event no later than 21 days) after each Reference Date, DDH1 must provide to Perenti:

- (i) the DDH1 Group management accounts for the calendar month ending on the relevant Reference Date, which must include (and set out) the DDH1 Monthly Revenue and DDH1 Monthly EBITDA for that month and a detailed schedule showing how they were each calculated; and
- (ii) any supporting information in relation to the DDH1 Monthly Revenue or DDH1 Monthly EBITDA that is reasonably requested by Perenti.

4.5 Dispute as to Scheme Booklet

If, after a reasonable period of consultation, DDH1 and Perenti, each acting reasonably and in good faith, are unable to agree on the form or content of the Scheme Booklet, then:

- (a) If the disagreement relates to the form or content of the Perenti Information (or any information solely derived from, or prepared solely in reliance on, the Perenti Information), DDH1 will, acting in good faith, make such amendments to that information in the Scheme Booklet as Perenti may reasonably require; and
- (b) otherwise, DDH1 will, acting in good faith, decide the final form of that aspect of the Scheme Booklet.

4.6 Responsibility statement

The Scheme Booklet will contain a responsibility statement to the effect that:

- (a) Perenti is responsible for the Perenti Information contained in the Scheme Booklet and, to the maximum extent permitted by law, DDH1 will not be responsible for any Perenti Information and will disclaim any liability for the Perenti Information;
- (b) DDH1 is responsible for DDH1 Information contained in the Scheme Booklet and, to the maximum extent permitted by law, Perenti will not be responsible for any DDH1 Information and will disclaim any liability for DDH1 Information;
- (c) the Independent Expert is responsible for the Independent Expert's Report;
- (d) the Investigating Accountant is responsible for the Investigating Accountant's Report (if applicable); and
- (e) the statement on the letterhead of DDH1's tax adviser of the tax consequences of the Scheme and related matters for DDH1 Shareholders is the responsibility of that tax adviser.

4.7 Reconstitution of the DDH1 Board

On the Implementation Date, and subject to Perenti having provided the Scheme Consideration in accordance with clause 5, DDH1 must:

- (a) cause the appointment to the DDH1 Board and to the boards of each Subsidiary of DDH1 of such persons as nominated by Perenti in writing to DDH1, subject to those persons being appointed having provided to DDH1 a duly signed consent to act as a director of the relevant companies; and

- (b) procure that the directors of DDH1 and each Subsidiary of DDH1 which Perenti nominates resign from the board of each relevant entity, unconditionally and irrevocably releasing each relevant company from any claims they may have against that company in their capacity as a director (without prejudice to any rights they may have under any deed of indemnity, access and insurance or policy of directors' and officers' insurance).

4.8 Composition of Perenti Board

With effect on and from the implementation of the Scheme, and subject to Perenti having received duly signed consents to act as a director of Perenti, Perenti must appoint Diane Smith-Gander and Andrea Sutton to the Perenti Board, in accordance with Perenti's constituent documents, the Corporations Act and the Listing Rules.

4.9 DDH1 Loan Shares

- (a) The parties must use reasonable endeavours (acting co-operatively and in good faith) to, as soon as practicable after the date of this document, agree a form of DDH1 Loan Share Deed on terms reasonably acceptable to Perenti.
- (b) DDH1 must use its reasonable endeavours to ensure that, by the Delivery Time, each holder of DDH1 Loan Shares signs a DDH1 Loan Share Deed in the form agreed to by Perenti. For the avoidance of doubt, a holder may sign a DDH1 Loan Share Deed at any time until the Implementation Date.
- (c) Perenti must execute each DDH1 Loan Share Deed by the Delivery Time, other than where a holder of the DDH1 Loan Shares indicates in writing that they do not intend to execute their DDH1 Loan Share Deed.
- (d) The DDH1 Loan Share Deeds will contemplate:
 - (i) the release of any obligations of DDH1 to the holder under the existing loans (and the DDH1 Loan Share Deeds will operate as deeds poll in this regard);
 - (ii) a holding lock being placed on the New Perenti Shares issued to the holder in accordance with the terms of the Scheme;
 - (iii) the terms of the replacement loan will be substantially the same as the existing terms, including as to maturity; and
 - (iv) any and all outstanding amounts of the loan will be repayable within 3 Business Days of the relevant holder being no longer employed or engaged by any member of the Perenti Group.
- (e) Notwithstanding clauses 4.9(a) to 4.9(d), DDH1 must use its best endeavours to procure that any holders of DDH1 Loan Shares who are no longer employed by the DDH1 Group will agree to repay all outstanding loan amounts in respect of their DDH1 Loan Shares (or under their DDH1 Loan Share Deed) promptly following the Implementation Date.

4.10 Removal of DDH1 from the official list of ASX

Subject to the Scheme becoming Effective, DDH1 must take all steps necessary for DDH1 to be removed from the official list of ASX with effect from the close of business on the Business Day immediately following the Implementation Date, including by lodging a request for removal with ASX prior to the Implementation Date, and DDH1 and Perenti (to the extent necessary) must satisfy any conditions reasonably required by ASX for it to act on that request.

4.11 Court proceedings

Without limiting clause 4.2(l) above:

- (a) Perenti is entitled to separate representation at all Court proceedings relating to the Scheme (at its own cost); and
- (b) DDH1 must support any application by Perenti for leave of the Court to be represented, or the separate representation of Perenti, at any hearing held by the Court in relation to the Scheme whether following a request by DDH1 or otherwise.

4.12 Appeal process

If the Court refuses to make orders convening the Scheme Meeting or approving the Scheme, the parties must appeal the Court's decision to the fullest extent possible except to the extent that:

- (a) the parties agree otherwise; or
- (b) an independent senior counsel advises that, in their opinion, an appeal would have no reasonable prospect of success before the End Date,

in which case either party may terminate this agreement in accordance with clause 3.7.

4.13 Headcount Test

If Perenti considers (acting in good faith and reasonably) that share splitting or some other improper conduct has caused the Headcount Test to not be satisfied, then Perenti may by written notice to DDH1 within three Business Days of the Scheme Meeting, require DDH1 to:

- (a) apply for an order to the Court as contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval for the Scheme under section 411(4)(b) of the Corporations Act; and
- (b) make such submissions to the Court and file such evidence as DDH1's counsel, in consultation with Perenti's counsel, considers is reasonably required for the Court to exercise its discretion to disregard the Headcount Test.

4.14 No amendment to the Scheme without consent

DDH1 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 Perenti, such consent not to be unreasonably withheld or delayed.

4.15 No partnership or joint venture

Subject to this agreement, nothing in this clause 4 requires Perenti to act at the direction of DDH1 (or vice versa). The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this agreement constitutes the relationship of a partnership or a joint venture between the parties.

5. Scheme Consideration

5.1 Obligations in respect of the Scheme Consideration

Perenti agrees in favour of DDH1 (in DDH1's own right and separately as trustee for each Scheme Shareholder) that, if the Scheme becomes Effective, in consideration of the transfer to Perenti of each Scheme Share under the Scheme, Perenti will:

- (a) accept that transfer and execute any instruments of transfer required to effect it; and
- (b) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder for Scheme Shares in accordance with the terms of the Scheme.

5.2 Entitlement

For each Scheme Share held by a Scheme Shareholder at the Record Date, that Scheme Shareholder will be entitled to receive one of the Standard Consideration, the Maximum Scrip Consideration or the Maximum Cash Consideration.

5.3 Election mechanism

- (a) DDH1 must ensure that the Scheme Booklet permits:
 - (i) Unmarketable Parcel Shareholders to make an election (**Unmarketable Parcel Rollover Election**) not to have the scrip component of their Scheme Consideration sold under the sale facility described in clause 5.9; and
 - (ii) Relevant Scheme Shareholders to make an election to receive, for all of their Scheme Shares, one of the following:
 - A. the Standard Consideration (being, along with a deemed election under clause 5.3(b)(v), a **Standard Consideration Election**);
 - B. the Maximum Scrip Consideration (**Maximum Scrip Election**); or
 - C. the Maximum Cash Consideration (**Maximum Cash Election**),

(each a **Consideration Election**) by completing an Election Form by the Election Date, such Election being subject to the terms of the Scheme.

- (b) The Election Form shall provide that:
 - (i) subject to clause 5.3(b)(iii), a Relevant Scheme Shareholder may make only one Consideration Election, and an Unmarketable Parcel Shareholder may make only one Unmarketable Parcel Rollover Election, in relation to a particular holding;
 - (ii) an Election may be made by a Scheme Shareholder, as applicable, by:
 - A. completing the Election Form in accordance with the instructions specified on the Election Form or set out in the Scheme Booklet; and
 - B. returning the completed Election Form in accordance with the instructions on it so that it is received by DDH1 no later than the Election Date,

or by taking equivalent actions in electronic form if permitted by DDH1's constitution and the Court;
 - (iii) once made:

- A. a Consideration Election may be varied before the Election Date by making a new Consideration Election; and
 - B. an Unmarketable Parcel Rollover Election may be rescinded at any time before the Election Date;
- (iv) a Scheme Shareholder that holds one or more parcels of DDH1 Shares as trustee or nominee for, or otherwise on account of, another person, may, in a manner to be agreed between the parties (acting reasonably), make separate Elections in relation to each of those parcels of DDH1 Shares (and, for the purpose of calculating the Scheme Consideration to which the Scheme Shareholder is entitled each such parcel of DDH1 Shares will be treated as though it were held by a separate Scheme Shareholder);
 - (v) if a valid Consideration Election is not made by a Relevant Scheme Shareholder prior to the Election Date, then that Relevant Scheme Shareholder will be deemed to have made a Standard Consideration Election; and
 - (vi) a Consideration Election made by a person who is not a Relevant Scheme Shareholder, or an Unmarketable Parcel Rollover Election made by a person who is not an Unmarketable Parcel Shareholder, will be disregarded,
- and must otherwise be in a form agreed between DDH1 and Perenti.
- (c) DDH1 must ensure that, to the extent reasonably practicable, DDH1 Shareholders (other than Ineligible Overseas Shareholders) who acquire DDH1 Shares after the date of the despatch of the Scheme Booklet can receive an Election Form on request to DDH1.
 - (d) In order to facilitate the provision of the Scheme Consideration, DDH1 must provide, or procure the provision, to Perenti or a nominee of Perenti, of:
 - (i) a weekly update of the Elections that have been received, and an additional update on the Business Day following the Election Date; and
 - (ii) details of the final Elections made by each DDH1 Shareholder and their holdings of Scheme Shares as at the Record Date, within one Business Day after the Record Date,

and such other information as Perenti may reasonably require, upon the written request of Perenti, to provide the Scheme Consideration in accordance with this agreement and the terms of the Scheme.

5.4 Standard Consideration

If a Scheme Shareholder makes a valid Standard Consideration Election, the Scheme Shareholder will be entitled to receive the Standard Consideration for each Scheme Share they hold at the Record Date.

5.5 Maximum Cash Consideration

If a Scheme Shareholder has made a Maximum Cash Election before the Election Date, that Scheme Shareholder will be entitled to receive for the Scheme Shares they hold at the Record Date:

- (a) if the Available Cash Consideration is greater than or equal to the Aggregate Maximum Cash Elections – the Full Cash Consideration for all their Scheme Shares; or
- (b) if the Available Cash Consideration is less than the Aggregate Maximum Cash Elections – :
- (i) the Full Cash Consideration for that proportion of their Scheme Shares as is calculated in accordance with the following formula (the resulting number of Scheme Shares being rounded down to the nearest whole number):
- $$\frac{ACC}{AMCE}$$
- Where:
- ACC = Available Cash Consideration
- AMCE = Aggregate Maximum Cash Elections; and
- (ii) the Full Scrip Consideration for the remainder of their Scheme Shares.

5.6 Maximum Scrip Consideration

If a Scheme Shareholder has made a Maximum Scrip Election before the Election Date, that Scheme Shareholder will be entitled to receive for the Scheme Shares they hold at the Record Date:

- (a) if the Available Cash Consideration is less than or equal to the Aggregate Maximum Cash Elections – the Full Scrip Consideration for all their Scheme Shares;
- (b) if the Available Cash Consideration is greater than the Aggregate Maximum Cash Elections – :
- (i) the Full Cash Consideration for that proportion of their Scheme Shares as is calculated in accordance with the following formula (the resulting number of Scheme Shares being rounded down to the nearest whole number):
- $$\frac{ACC - AMCE}{n_{MSE} \times FCC}$$
- Where:
- ACC = Available Cash Consideration
- AMCE = Aggregate Maximum Cash Elections
- n_{MSE} = The aggregate number of Scheme Shares held at the Record Date by Scheme Shareholders who have made a valid Maximum Scrip Election
- FCC = The Full Cash Consideration per Scheme Share; and
- (ii) the Full Scrip Consideration for the remainder of their Scheme Shares.

5.7 Cash component of the Scheme Consideration

- (a) Perenti must, by no later than the Business Day before the Implementation Date, deposit in cleared funds an amount equal to the Cash Consideration Pool (or such larger number as is required under the Scheme having regard to clause 5.8) in an Australian dollar denominated trust account operated by DDH1 or its registry as trustee of the Scheme Shareholders who are entitled to receive a cash amount as part of the Scheme Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Perenti's account.
- (b) Subject to Perenti having complied with clause 5.7(a), DDH1 must, on the Implementation Date and from the trust account referred to in clause 5.7(a), pay or procure the payment to each Scheme Shareholder the amount of cash (if any) to which it is entitled to receive under the Scheme.

5.8 Fractional entitlements and share splitting or division

- (a) If the number of Scheme Shares held by a Scheme Shareholder at the Record Date, having regard to any Consideration Election made by the Scheme Shareholder, is such that the entitlement of the Scheme Shareholder (in aggregate across the entirety of their Scheme Shares) to Scheme Consideration is such that a fractional entitlement to a Perenti Share arises, or an entitlement to a cash amount involving a fraction of a cent arises, then the aggregate entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than half a Perenti Share or half a cent (as the case may be) being rounded down and any such fractional entitlement of half a Perenti Share or half a cent (as the case may be) or more being rounded up.
- (b) If Perenti is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.8(a)) have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Perenti may give notice to those Scheme Shareholders:
 - (i) setting out their names and registered addresses as shown in the DDH1 Share Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all of the specified Scheme Shares will, for the purposes of the other provisions of the Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and registered addresses are set out in the notice will, for the purposes of the other provisions of the Scheme, be taken to hold no Scheme Shares. Perenti in complying with the other provisions of the Scheme relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all of the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

5.9 Ineligible Overseas Shareholders and Non-Rollover Unmarketable Parcel Shareholders

- (a) Perenti will ensure that New Perenti Shares to which an Ineligible Overseas Shareholder or a Non-Rollover Unmarketable Parcel Shareholder would otherwise

have been entitled will be issued to a nominee appointed by Perenti (and approved by ASIC if required).

- (b) Perenti will procure that, as soon as reasonably practicable and in any event not more than 30 Business Days after the Implementation Date, the nominee:
 - (i) sells on the financial market conducted by ASX all of the New Perenti Shares issued to the nominee pursuant to clause 5.9(a) in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - (ii) remits to Perenti the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (c) Promptly after the last sale of New Perenti Shares in accordance with clause 5.9(b), Perenti will pay to each Ineligible Overseas Shareholder and each Non-Rollover Unmarketable Parcel Shareholder the proportion of the net proceeds of sale received by Perenti pursuant to clause 5.9(b)(ii) to which that Ineligible Overseas Shareholder or Non-Rollover Unmarketable Parcel Shareholder is entitled.
- (d) Neither Perenti nor DDH1 gives any assurance as to the price that will be achieved for the sale of New Perenti Shares described in clause 5.9(b). The sale of the New Perenti Shares under this clause 5.9 will be at the risk of each Ineligible Overseas Shareholder and Non-Rollover Unmarketable Parcel Shareholder.
- (e) Perenti must appoint the nominee on terms reasonably acceptable to DDH1 (confirmation of such approval not to be unreasonably withheld or delayed) at least five Business Days prior to the Scheme Meeting.

5.10 Status of New Perenti Shares

Perenti covenants in favour of DDH1 (in its own right and on behalf of each Scheme Shareholder) that:

- (a) the New Perenti Shares issued as Scheme Consideration will, on their issue, rank equally in all respects with all other Perenti Shares on issue at the Effective Date, and the New Perenti Shares issued as Scheme Consideration will be entitled to participate in and receive any dividends, any distribution of capital and any other entitlements accruing in respect of Perenti Shares after the Implementation Date;
- (b) it will use best endeavours to ensure that the New Perenti Shares issued as Scheme Consideration will be listed for quotation on the official list of ASX with effect as soon as reasonably practicable after the Record Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis; and
- (c) on issue, each New Perenti Share will be fully paid and, to the extent within the control of Perenti, free from any Encumbrance.

5.11 CGT Withholding Amount

Notwithstanding any other provision of this agreement, if Perenti determines (acting reasonably) that an amount is required to be withheld under Subdivision 14-D of Schedule 1 of the TAA from the Scheme Consideration payable to a Scheme Shareholder, Perenti:

- (a) may determine the CGT Withholding Amount to be paid to the Commissioner of Taxation in respect of the acquisition of the DDH1 Shares from such DDH1 Shareholder;

(b) may deduct a sufficient amount from the Scheme Consideration to ensure that the CGT Withholding Amount is remitted to the Commissioner; and payment of the reduced amount shall be taken to be full payment of the relevant amount for the purposes of the Scheme. If a Scheme Shareholder receives:

- (i) cash consideration in relation to some or all of the Scheme Shares held by that Scheme Shareholder, Perenti will withhold and remit the CGT Withholding Amount from the cash consideration payable; or
- (ii) New Perenti Shares, and/or Perenti was unable to withhold the CGT Withholding Amount from the cash consideration payable to a Scheme Shareholder, Perenti must notify DDH1 (and the nominee appointed by Perenti under clause 5.9) by 12pm on the third Business Day following the Record Date of the number of New Perenti Shares that Perenti has determined (in its reasonable opinion which, for the avoidance of doubt, includes a sufficient provision for potential share price movement up to the anticipated sale date of the New Perenti Shares by the nominee) should be issued to the nominee, that would otherwise have been directly issued to such Scheme Shareholder to:
 - A. enable the CGT Withholding Amount (or remaining CGT Withholding Amount where Perenti has withheld some of the cash consideration) to be realised from the sale of the New Perenti Shares and paid to the Commissioner (or reimburse Perenti where Perenti has already paid the CGT Withholding Amount to the Commissioner); and
 - B. satisfy the fees and any taxes and duty which the nominee may be entitled to be paid or reimbursed for in connection with the sale of those New Perenti Shares,

and Perenti must deal with the number of New Perenti Shares the subject of such notice in the same manner as under clause 5.9, including by remitting to the Scheme Shareholder the net proceeds (if any) of such sale after the uses described in paragraphs (A) and (B) above.

6. Conduct of business

6.1 Conduct of DDH1's business

- (a) From the date of this agreement up to and including the Implementation Date, DDH1 must procure that the business and operations of the DDH1 Group are conducted as follows:
 - (i) as a going concern in the ordinary and normal course and consistent with the business plans and budgets Disclosed to Perenti;
 - (ii) otherwise substantially consistent with the manner in which the business and operations were conducted in the 12 months prior to the date of this agreement (subject to all applicable laws, regulations and requirements of Regulatory Authorities) and not making any significant change in the nature or scale of its business or operations;
 - (iii) complying in all material respects with its material contractual obligations;
 - (iv) protecting and maintaining each of its physical assets in the normal course and consistent with past practices and maintaining appropriate and adequate insurance in respect of each of those assets which are insurable;

- (v) keeping and maintaining proper records of all its dealings and transactions relating to its business and operations;
 - (vi) ensuring that all amounts owing to trade or other creditors of the entity are paid in accordance with applicable payment terms or the payment practices of the DDH1 Group in the 12 months prior to the date of this agreement;
 - (vii) subject to law, including any competition law protocols agreed between the parties, consulting with Perenti in relation to the preparation and approval of any budget or business plan relating to DDH1 businesses or operations;
 - (viii) using reasonable endeavours to preserve its current business organisation, the services of its current officers and material employees and its current relationships with Regulatory Authorities, customers, suppliers and others with whom it has business dealings;
 - (ix) to the extent within its control, ensuring that there is no occurrence or omission that would constitute or be likely to constitute a DDH1 Material Adverse Change;
 - (x) ensuring that no DDH1 Prescribed Occurrence occurs;
 - (xi) conducting its business and operations in accordance with all applicable laws and regulations and sound industry practice;
 - (xii) subject to compliance with law, including any competition law protocols agreed between the parties, and the other matters referred to in clause 4.3(d), keeping Perenti informed of any material developments concerning the DDH1 Group including:
 - A. a material departure from the business plans and budgets Disclosed to Perenti;
 - B. any notice or communication from any person alleging that the consent (or waiver, permit, exemption, order, approval, agreement or confirmation) of that person (or another person) is or may be required in connection with this agreement or the Transaction; and
 - C. any material claims commenced or, to the knowledge of DDH1, threatened, that relate to or involve any member of the DDH1 Group, this agreement or the Transaction; and
 - (xiii) subject to compliance with law, including any competition law protocols agreed between the parties, and the other matters referred to in clause 4.3(d), consulting with Perenti with respect to decisions regarding the DDH1 Group's business that will have a material impact on the DDH1 Group or Merged Group following the implementation of the Scheme, other than decisions in the ordinary course of business consistent with past practice in the 12 months prior to the date of this agreement.
- (b) Without limiting clause 6.1(a), but for the avoidance of doubt subject to clause 6.1(d) and to preserve the goodwill of its business, from the date of this agreement up to and including the Implementation Date, DDH1 must not, and must procure that each other member of the DDH1 Group does not:

- (i) other than in relation to customer contracts and associated capital expenditure, or subcontracting/supply arrangements required to support performance under customer contracts – acquire or agree to acquire any securities, business, asset, operation, entity or undertaking in a single or series of related transactions, other than in the ordinary course of business, the value of which exceeds \$1 million;
- (ii) dispose or agree to dispose of any securities, business, asset, entity or undertaking in a single or series of related transactions, other than in the ordinary course of business, the value of which exceeds \$1 million;
- (iii) other than in relation to customer contracts and associated capital expenditure, or subcontracting/supply arrangements required to support performance under customer contracts – enter into, terminate, extend, renew or vary any commitment (including any non-contractual commitment or undertaking) which has a value or involves a liability or expenditure of \$2 million or more, or any commitment which, when aggregated with related transactions, is in aggregate \$7 million or more;
- (iv) other than as Disclosed by DDH1, in relation to customer contracts:
 - A. enter into, terminate, extend, renew or vary any agreement (including any non-contractual commitment or undertaking) which has a value or involves a liability or expenditure of \$25 million or more; or
 - B. incur a liability or make capital expenditure in order to perform existing contracts, or any contracts referred to in clause 6.1(b)(iv)A, where the aggregate amount of all such liability and expenditure is \$1 million or more over the budgeted amount (as Disclosed to Perenti) in respect of the period from the date of this agreement up to and including the Implementation Date;
- (v) other than in relation to customer contracts and associated capital expenditure, or subcontracting/supply arrangements required to support performance under customer contracts – exercise a contractual right or other option to renew or extend, or otherwise renew or extend, an existing agreement (including under any lease or non-contractual commitment or undertaking) which has a value or involves a liability or expenditure of \$2 million or more, or any number of which, when aggregated with related transactions, is in aggregate \$7 million or more;
- (vi) enter, or propose to enter, into or amend, or propose to amend, in any material respect any joint venture, partnership or similar agreement with any person;
- (vii) enter into a loan, advance or financing arrangement (other than with another member of the DDH1 Group) as lender;
- (viii) vary any employment agreement with one or more of its officers, directors, other executives, or employees, or accelerate or otherwise increase remuneration, compensation or rights to benefits for any of the aforementioned, other than:
 - A. in accordance with an existing contractual obligation to do so;
 - B. in the ordinary course of business including variations resulting from annual pay reviews;

- C. pursuant to an obligation under the DDH1 Group's policies and guidelines in effect as at the date of this agreement (the terms of which have been Disclosed to Perenti); or
- D. as required by law or regulation;
- (ix) enter into a new employment contract with a potential employee of the DDH1 Group in which the total employment costs payable to that potential or existing employee exceed \$300,000 per annum;
- (x) make or enter into any enterprise agreement or similar collective employment agreement;
- (xi) pay a director or senior manager a termination payment exceeding 12 months' base salary, other than as required by law or in accordance with pre-existing contractual entitlements;
- (xii) waive any non-competition or non-solicitation obligation of any senior manager;
- (xiii) do or omit to do anything which might result in the termination, suspension, revocation or non-renewal of any licence or authorisation held by the DDH1 Group which is material to the operation of its business;
- (xiv) materially change any accounting policies or practices;
- (xv) giving or agreeing to give a financial benefit to a related party (other than a related party that is a member of the DDH1 Group) as defined in section 228 of the Corporations Act, other than pursuant to an exception in Division 2 of Part 2E.1 of the Corporations Act;
- (xvi) make any material tax election or settle or compromise any material liability relating to tax unless DDH1 has received an opinion from a King's Counsel or Senior Counsel that the settlement or compromise is in the best interests of the DDH1 Group;
- (xvii) incur any additional financial indebtedness, other than draw-downs of existing debt facilities or additional financial indebtedness incurred in the ordinary course of business;
- (xviii) guarantee or indemnify the obligations of any other person, or provide any bank guarantee or other security for the performance of any obligation;
- (xix) cease, or threaten to cease, to carry on a substantial part of its business; or (considering the DDH1 Group as a whole) enter into any line of business or other activities in which it is not engaged as at the date of this agreement;
- (xx) notwithstanding any matter Disclosed to Perenti, carry on any business in any jurisdiction outside Australia, Portugal, Canada, Spain or the United States;
- (xxi) settle or compromise any claim, litigation, investigation, arbitration or other like proceeding in relation to any member of the DDH1 Group, where the payment or other value to be given exceeds \$1,000,000 (individually or in aggregate);

- (xxii) authorise, agree, offer, commit or resolve to do any of the things referred to in clauses 6.1(b)(i) to 6.1(b)(xxi), whether conditionally or otherwise.
- (c) From the date of this agreement up to and including the Implementation Date, DDH1 must notify Perenti if DDH1 becomes aware that a counterparty to a Material Contract intends to wholly or substantially cease using the services of the DDH1 Group as a consequence of the Transaction.
- (d) Nothing in this clause restricts the ability of DDH1 or any member of the DDH1 Group to take, or omit to take, any action:
 - (i) as expressly contemplated or expressly required to be done by DDH1 under the Transaction Documents (or necessary to achieve the foregoing);
 - (ii) where Perenti has, acting reasonably, consented in writing;
 - (iii) that has been Disclosed by DDH1 (except where otherwise noted in this clause); or
 - (iv) as required by law or otherwise arising as a result of any court or Regulatory Authority order, injunction or undertaking, or permitted by any competition protocol entered into between the parties.

6.2 Conduct of Perenti's business

- (a) From the date of this agreement up to and including the Implementation Date, Perenti must procure that the business and operations of the Perenti Group are conducted as follows:
 - (i) as a going concern in the ordinary and normal course and consistent with the business plans and budgets Disclosed to DDH1;
 - (ii) otherwise substantially consistent with the manner in which the business and operations were conducted in the 12 months prior to the date of this agreement (subject to all applicable laws, regulations and requirements of Regulatory Authorities) and not making any significant change in the nature or scale of its business or operations;
 - (iii) complying in all material respects with its material contractual obligations;
 - (iv) protecting and maintaining each of its physical assets in the normal course and consistent with past practices and maintaining appropriate and adequate insurance in respect of each of those assets which are insurable;
 - (v) keeping and maintaining proper records of all its dealings and transactions relating to its business and operations;
 - (vi) ensuring that all amounts owing to trade or other creditors of the entity are paid in accordance with applicable payment terms or the payment practices of the Perenti Group in the 12 months prior to the date of this agreement;
 - (vii) using reasonable endeavours to preserve its current business organisation, the services of its current officers and material employees and its current relationships with Regulatory Authorities, customers, suppliers and others with whom it has business dealings;

- (viii) to the extent within its control, ensuring that there is no occurrence or omission that would constitute or be likely to constitute a Perenti Material Adverse Change;
 - (ix) ensuring that no Perenti Prescribed Occurrence occurs;
 - (x) conducting its business and operations in accordance with all applicable laws and regulations and sound industry practice;
 - (xi) subject to compliance with law, including any competition law protocols agreed between the parties, and the other matters referred to in clause 4.3(d), keeping DDH1 informed of any material developments concerning the Perenti Group including:
 - A. a material departure from the business plans and budgets Disclosed to DDH1;
 - B. any notice or communication from any person alleging that the consent (or waiver, permit, exemption, order, approval, agreement or confirmation) of that person (or another person) is or may be required in connection with this agreement or the Transaction; and
 - C. any material claims commenced or, to the knowledge of Perenti, threatened, that relate to or involve any member of the Perenti Group, this agreement or the Transaction; and
 - (xii) subject to compliance with law, including any competition law protocols agreed between the parties, and the other matters referred to in clause 4.3(d), consulting with DDH1 with respect to decisions regarding the Perenti Group's business that will have a material impact on the Perenti Group or Merged Group following the implementation of the Scheme, other than decisions in the ordinary course of business consistent with past practice in the 12 months prior to the date of this agreement.
- (b) Without limiting clause 6.2(a), but for the avoidance of doubt subject to clause 6.2(c) and to preserve the goodwill of its business (and therefore the value of the scrip component of the Scheme Consideration), from the date of this agreement up to and including the Implementation Date, Perenti must not, and must procure that each other member of the Perenti Group does not:
- (i) other than in relation to customer contracts and associated capital expenditure, or subcontracting/supply arrangements required to support performance under customer contracts – acquire or agree to acquire any securities, business, asset, operation, entity or undertaking in a single or series of related transactions, other than in the ordinary course of business, the value of which exceeds \$20 million;
 - (ii) dispose or agree to dispose of any securities, business, asset, entity or undertaking in a single or series of related transactions, other than in the ordinary course of business, the value of which exceeds \$20 million;
 - (iii) other than in relation to customer contracts and associated capital expenditure, or subcontracting/supply arrangements required to support performance under customer contracts – enter into, terminate, extend, renew or vary any commitment (including any non-contractual commitment or undertaking) which has a value or involves a liability or expenditure of \$7 million or more, or any commitment which, when aggregated with related transactions, is in aggregate \$20 million or more;

- (iv) incur a liability or make capital expenditure in order to perform new or existing customer contracts, where the aggregate amount of all such liability and expenditure is \$20 million or more over the budgeted amount (as Disclosed to DDH1) in respect of the period from the date of this agreement up to and including the Implementation Date;
- (v) other than in relation to customer contracts and associated capital expenditure, or subcontracting/supply arrangements required to support performance under customer contracts – exercise a contractual right or other option to renew or extend, or otherwise renew or extend, an existing agreement (including under any lease or non-contractual commitment or undertaking) which has a value or involves a liability or expenditure of \$7 million or more, or any number of which, when aggregated with related transactions, is in aggregate \$20 million or more;
- (vi) enter, or propose to enter, into or amend, or propose to amend, in any material respect any joint venture, partnership or similar agreement with any person;
- (vii) enter into a loan, advance or financing arrangement (other than with another member of the Perenti Group) as lender;
- (viii) vary any employment agreement with one or more of its officers, directors, other executives, or employees, or accelerate or otherwise increase remuneration, compensation or rights to benefits for any of the aforementioned, other than:
 - A. in accordance with an existing contractual obligation to do so;
 - B. in the ordinary course of business including variations resulting from annual pay reviews;
 - C. pursuant to an obligation under the Perenti Group's policies and guidelines in effect as at the date of this agreement (the terms of which have been Disclosed to DDH1); or
 - D. as required by law or regulation;
- (ix) enter into a new employment contract with a potential employee of the Perenti Group in which the total employment costs payable to that potential or existing employee exceed \$500,000 per annum;
- (x) make or enter into any enterprise agreement or similar collective employment agreement;
- (xi) pay a director or senior manager a termination payment exceeding 12 months' base salary, other than as required by law or in accordance with pre-existing contractual entitlements;
- (xii) waive any non-competition or non-solicitation obligation of any senior manager;
- (xiii) do or omit to do anything which might result in the termination, suspension, revocation or non-renewal of any licence or authorisation held by the Perenti Group which is material to the operation of its business;
- (xiv) materially change any accounting policies or practices;

- (xv) giving or agreeing to give a financial benefit to a related party (other than a related party that is a member of the Perenti Group) as defined in section 228 of the Corporations Act, other than pursuant to an exception in Division 2 of Part 2E.1 of the Corporations Act;
 - (xvi) incur any additional financial indebtedness, other than draw-downs of existing debt facilities or additional financial indebtedness incurred in the ordinary course of business;
 - (xvii) guarantee or indemnify the obligations of any other person, or provide any bank guarantee or other security for the performance of any obligation;
 - (xviii) cease, or threaten to cease, to carry on a substantial part of its business; or (considering the Perenti Group as a whole) enter into any line of business or other activities in which it is not engaged as at the date of this agreement which is not consistent with or otherwise complementary to its existing lines of business and other activities;
 - (xix) settle or compromise any claim, litigation, investigation, arbitration or other like proceeding in relation to any member of the Perenti Group, where the payment or other value to be given exceeds \$10,000,000 (individually or in aggregate); or
 - (xx) authorise, agree, offer, commit or resolve to do things referred to in clauses 6.2(b)(i) and 6.2(b)(xix), whether conditionally or otherwise.
- (c) Nothing in this clause restricts the ability of Perenti or any member of the Perenti Group to take, or omit to take, any action:
- (i) as expressly contemplated or expressly required to be done by Perenti under the Transaction Documents (or necessary to achieve the foregoing);
 - (ii) where DDH1 has, acting reasonably, consented in writing;
 - (iii) that has been Disclosed by Perenti; or
 - (iv) as required by law or otherwise arising as a result of any court or Regulatory Authority order, injunction or undertaking, or permitted by any competition protocol entered into between the parties.

6.3 Counterparty consents

DDH1 and Perenti will cooperate with each other in good faith, and will take all actions reasonably required, to:

- (a) seek to identify and obtain all counterparty consents which are necessary or desirable to implement the Scheme (including under the Material Contracts) and other consents to avoid breach of any change of control provisions or minimise the risk of a counterparty exercising a unilateral right or power to cease using the services of the DDH1 Group as a consequence of the Transaction; and
- (b) without limiting clause 6.3(a), seek to obtain from the counterparties to each Material Contract a confirmation that the counterparty does not presently intend to wholly or substantially cease using the services of the DDH1 Group as a consequence of the transaction.

7. Dividend

Notwithstanding any other provision of this agreement:

- (a) DDH1 may in its sole discretion declare (or fix the time for payment of) and pay the DDH1 Permitted Dividend to any DDH1 Shareholder provided that:
 - (i) the record date for the DDH1 Permitted Dividend must occur on or before the Record Date;
 - (ii) the franking account of DDH1 does not fall into deficit upon payment of the DDH1 Permitted Dividend; and
 - (iii) the DDH1 Permitted Dividend must comply with section 254T of the Corporations Act; and
- (b) Perenti may in its sole discretion declare (or fix the time for payment of) and pay the Perenti Permitted Dividend to any Perenti Shareholder provided that:
 - (i) the franking account of Perenti does not fall into deficit upon payment of the Perenti Permitted Dividend;
 - (ii) the Perenti Permitted Dividend must comply with section 254T of the Corporations Act; and
 - (iii) the dividend is not paid (and the ex-dividend date for that dividend does not occur) within the period over which the VWAP is assessed.

8. Recommendation, intentions and announcements

8.1 DDH1 Board Recommendation and Voting Intention

- (a) Subject to clauses 8.1(b) and 8.1(c), DDH1 must ensure that DDH1 Announcement and the Scheme Booklet state that each DDH1 director:
 - (i) recommends that DDH1 Shareholders vote in favour of the resolution to approve the Scheme (**Recommendation**); and
 - (ii) intends to cause any DDH1 Shares in which he or she has a Relevant Interest to be voted in favour of the resolution to approve the Scheme (**Voting Intention**),in the absence of a Superior Proposal and subject to the Independent Expert concluding, and continuing to conclude, that the Scheme is in the best interests of DDH1 Shareholders.
- (b) A DDH1 director may only change, withdraw, adversely modify or adversely qualify his or her Recommendation and Voting Intention if (and DDH1 must procure that no DDH1 Director changes, withdraws, adversely modifies or adversely qualifies his or her Recommendation or Voting Intention unless):
 - (i) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of DDH1 Shareholders (or the Independent Expert changes or publicly withdraws its conclusion that the Scheme is in the best interests of DDH1 Shareholders);
 - (ii) there is a Superior Proposal and the DDH1 Board, after complying with its obligations under clause 10 and considering the matter in good faith and receiving written legal advice from its external legal advisers,

determines that a failure to change, withdraw or modify its Recommendation would, or would be reasonably likely to, constitute a breach of any of the fiduciary or statutory duties of the DDH1 Directors; or

- (iii) this agreement is validly terminated in accordance with its terms.
- (c) A DDH1 director may withdraw his or her Recommendation and/or Voting Intention, or not make a Recommendation, where there is, or there is reasonably expected (based on the written advice from senior counsel or a written request by ASIC) to be, a requirement or request by the Court at or before the First Court Date that the relevant Director abstain from making the Recommendation or Voting Intention due to a personal interest that they have in the outcome of the Scheme.
- (d) For the purposes of this clause 8.1, a statement to the effect that a specific alternative transaction may be pursued by DDH1 if the Scheme does not proceed will be regarded as a failure to make a Recommendation and, if made subsequently, will be regarded as a modification of a Recommendation (unless Perenti agrees to the making of such a statement).

8.2 Confirmation

DDH1 represents and warrants to Perenti that it has been advised by each DDH1 director in office at the date of this agreement that he or she will make and maintain their Recommendation and Voting Intention unless permitted to change or withdraw it in accordance with this agreement.

9. DDH1 incentives & executives

9.1 DDH1 Performance Rights and DDH1 Employee Shares

- (a) Before the Delivery Time, DDH1 must in accordance with the terms of the DDH1 Long Term Incentive Plan, procure that all DDH1 Performance Rights on issue at the time the Scheme becomes Effective will vest on or before the Record Date and will result in the issue of DDH1 Shares on or before the Record Date without the need for any further action by any person, other than the updating of the DDH1 share register. DDH1 must also ensure that the relevant DDH1 Shares are in fact issued on or before the Record Date.
- (b) Before the Delivery Time, DDH1 must in accordance with the terms of the DDH1 Employee Share Plan:
 - (i) procure that any Restriction Period attached to the DDH1 Employee Shares is waived and any holding lock attached to the shares lifted; and
 - (ii) notify each holder of the DDH1 Employee Shares of the waiving of the Restriction Period attached to their DDH1 Employee Shares,

subject to, and with effect from the time that, the Scheme becomes Effective.

9.2 Executive Services Agreement

DDH1 and Perenti must each use all reasonable endeavours to procure that, before the Delivery Time, Sy Van Dyk and a member of the Perenti Group enter into an agreement for the employment of Sy Van Dyk subject to and with effect from the implementation of the Scheme, on the terms of the Perenti Group's standard executive service agreement, for total remuneration consistent with his existing arrangements with the DDH1 Group (as Disclosed to Perenti).

10. Exclusivity arrangements

10.1 No current discussions

- (a) DDH1 represents and warrants that, as at the date of this agreement:
- (i) it is not a party to any agreement or arrangement with any third party entered into for the purposes of facilitating a Competing Proposal;
 - (ii) it is not, directly or indirectly, participating in any negotiations, discussions or other communications, and has ceased any existing negotiations, discussions or communications, with any person that concern, or could reasonably be expected to lead to a Competing Proposal.
 - (iii) any due diligence access granted to any third party for the purposes of such third party making, formulating, developing or finalising, or assisting in the making, formulation, development or finalisation of, a Competing Proposal has been terminated.
- (b) Subject to clause 10.5, DDH1 undertakes, in respect of any confidentiality or other agreement it has with any person (that has been or is entered into at any time after the date that is 12 months before the date of this agreement in connection with the provision of confidential information to that person or in connection with a Competing Proposal) (other than Perenti), to not waive, and to promptly enforce (including in respect of an anticipated breach), any obligations (including standstill obligations) under any such agreements.

10.2 No shop

During the Exclusivity Period, DDH1 must not, and must ensure that its Representatives do not, whether directly or indirectly and except with the prior written consent of Perenti, solicit, encourage, investigate, initiate or invite any Competing Proposal or initiate enquiries, expressions of interest, negotiations or discussions with any Third Party or communicate any intention to do any of these things which may reasonably be expected to encourage or lead to, an expression of interest, offer or proposal from any person in relation to an actual, proposed or potential Competing Proposal or communicate to any person any intention to do anything referred to in this clause 10.2.

10.3 No talk and no due diligence

Subject to clause 10.5, during the Exclusivity Period, DDH1 must not, and must ensure that its Representatives do not, except with the prior written consent of Perenti, directly or indirectly:

- (a) enter into, facilitate, continue or participate in any negotiations or discussions with any Third Party in relation to a Competing Proposal or anything which may reasonably be expected to lead to an actual, proposed or potential Competing Proposal;
- (b) disclose, provide or otherwise make available any information to a Third Party for the purposes of enabling or encouraging that party to make an actual, proposed or potential Competing Proposal or with a view to obtaining or which would reasonably be expected to encourage or lead to the formulation, receipt or announcement of any actual, proposed or potential Competing Proposal; or
- (c) communicate any intention to do any of the things listed in clauses 10.3(a) to 10.3(b).

10.4 Notification of approaches

- (a) During the Exclusivity Period, DDH1 must promptly notify Perenti (and in any event within 24 hours of becoming aware) if:
- (i) it (or any of its Related Bodies Corporate or Representatives) receives an approach, or a request for information, by any person which proposes or relates to a bona fide Competing Proposal (or what DDH1 has reasonable grounds to suspect may relate to a potential Competing Proposal); or
 - (ii) DDH1 or its Representatives provide any non-public information concerning the business or operations of the DDH1 Group to any person for the purposes of enabling that party to make or develop a Competing Proposal,
- whether direct or indirect, solicited or unsolicited and in writing or otherwise.

- (b) A notification given under clause 10.4 must include:
- (i) the identity of the relevant person making or proposing the Competing Proposal (or potential Competing Proposal); and
 - (ii) all material terms and conditions of the Competing Proposal (including, price and form of consideration, conditions precedent, proposed deal protection arrangements and timetable) and any material updates received in relation to the proposal,

in each case to the extent known by DDH1 or any of its Related Bodies Corporate or Representatives.

10.5 Limitation to no talk and no due diligence

Clauses 10.1(b) and 10.3 do not apply to the extent that they restrict DDH1 from taking or refusing to take any action with respect to a genuine Competing Proposal (which was not directly or indirectly solicited or invited by DDH1, any member of the DDH1 Group or any of its Representatives in breach of clause 10) provided that the DDH1 Board has first determined, acting in good faith, that:

- (a) after consultation with its financial advisors, such a genuine Competing Proposal is, or could reasonably be considered to become, a Superior Proposal; and
- (b) after receiving written advice from its external legal advisers, taking or refusing to take such action in compliance with clauses 10.1(b) or 10.3 in relation to such genuine Competing Proposal would be reasonably likely to constitute a breach of DDH1's Board's fiduciary or statutory obligations,

and provided that:

- (c) DDH1 immediately notifies Perenti of any action or inaction by it or any of its Related Bodies Corporate or its Representatives in reliance on this clause 10.5; and
- (d) to the extent DDH1, any member of the DDH1 Group or its Representatives propose to provide information to which clause 10.3 applies, DDH1 has entered into a binding confidentiality agreement with the relevant person who will receive that information on terms no more favourable to the relevant person than apply to Perenti under the Confidentiality Deed.

10.6 Matching right

- (a) During the Exclusivity Period, DDH1 must not enter into any legally binding agreement pursuant to which a Third Party undertakes to give effect to a Competing Proposal, unless:
- (i) the DDH1 Board, acting in good faith and in order to satisfy what the directors of DDH1 consider to be their statutory or fiduciary duties (having received written legal advice from their external legal adviser) determine that the Competing Proposal is, or could reasonably be expected to, a Superior Proposal;
 - (ii) DDH1 has provided Perenti with the material terms and conditions of the Competing Proposal (including the matters specified in clause 10.4(b)) on a confidential basis;
 - (iii) DDH1 has given Perenti at least 5 Business Days after the provision of the information referred to in paragraph 10.6(a)(i) above to provide an irrevocable written offer, expressed to be binding on Perenti, of a matching or superior proposal to the terms of the relevant Competing Proposal (**Perenti Counter Proposal**); and
 - (iv) upon the expiry of the period referred to in each of clauses 10.6(a)(iii), 10.6(b) and 10.6(b)(ii), the DDH1 Board has considered in good faith any Perenti Counter Proposal or revised Perenti Counter Proposal (as applicable), and has determined, acting in good faith and in order to satisfy what its constituent directors consider to be their fiduciary or statutory obligations (and after consulting with their financial advisers and receiving written advice from external legal advisers) that the Competing Proposal continues to constitute a Superior Proposal as compared to the Perenti Counter Proposal or revised Perenti Counter Proposal.
- (b) DDH1 must promptly, and in any event within 3 Business Days of receiving the Perenti Counter Proposal, notify Perenti of its determination under clause 10.6(a)(iv), stating the reasons for that determination. If the notification is that the DDH1 Board has determined that:
- (i) the Competing Proposal is not a Superior Proposal as compared to the Perenti Counter Proposal, then DDH1 and Perenti must use their best endeavours to agree any necessary amendments to this agreement and agree such other documents that are reasonably necessary to reflect the Perenti Counter Proposal as soon as reasonably practicable and DDH1 must use best endeavours to procure that each of the directors of DDH1 continue to recommend that DDH1 Shareholders vote in favour of the Scheme (as modified by the Perenti Counter Proposal) (subject to the same qualifications as set out in clause 8.1); or
 - (ii) the Competing Proposal remains a Superior Proposal even as compared to the Perenti Counter Proposal, then Perenti may take steps to amend the Perenti Counter Proposal to address the reasons given by DDH1 for that determination and must provide such revised Perenti Counter Proposal to DDH1 within a further period of 2 Business Days, and if Perenti does so and the DDH1 Board, following the process in clause 10.6(a)(iv), concludes that the Competing Proposal is not a Superior Proposal as compared to the revised Perenti Counter Proposal, then the process in clause 10.6(b)(i) applies to that revised Perenti Counter Proposal.
- (c) For the avoidance of doubt, if DDH1 directors determine that the Perenti Counter Proposal (taken as a whole) would deliver an equal or superior outcome for DDH1

Shareholders than that of the relevant Competing Proposal, DDH1 and Perenti must each use their best endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Perenti Counter Proposal as soon as reasonably practicable, and DDH1 must use its best endeavours to procure that each of its directors makes a public statement recommending the Perenti Counter Proposal to DDH1 Shareholders.

- (d) For the purposes of this clause 10.6, each successive material modification of any Competing Proposal or potential Competing Proposal will constitute a new Competing Proposal or potential Competing Proposal, and the procedures set out in this clause 10.6 must again be followed prior to DDH1 (or any of its Related Bodies Corporate) entering into any agreement, arrangement, understanding or commitment in respect of such Competing Proposal or potential Competing Proposal.

10.7 Normal provision of information

Nothing in this clause 10 prevents DDH1 from:

- (a) providing information to its Representatives;
- (b) providing information to any Regulatory Authority;
- (c) providing information to its employees, auditors, consultants, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law; or
- (e) making presentations to brokers, portfolio investors, analysts and other Third Parties in the ordinary course of business.

10.8 Legal advice

DDH1 acknowledges that it has received legal advice on this agreement and the operation of this clause 10 from reputable legal advisers experienced in transactions of this nature.

11. Reimbursement of Costs

11.1 Rationale and nature of payment

Each party acknowledges and agrees that:

- (a) it has required the inclusion of this clause 11 in the absence of which it would not have entered into this agreement or otherwise agreed to implement the Scheme, subject to the terms and conditions in this agreement;
- (b) it believes that the Scheme will provide significant benefits to it and its shareholders, and that it is reasonable and appropriate that DDH1 (in respect of the DDH1 Payment) and Perenti (in respect of Perenti Payment) agree to the inclusion of this clause 11 in order to secure the other party's execution of this agreement and agreement to implement the Scheme, subject to the terms and conditions in this agreement;
- (c) it has received legal advice on the operation of this clause 11 from reputable legal advisers experienced in transactions of this nature;
- (d) the amount payable by DDH1 (in respect of the DDH1 Payment) pursuant to clause 11.2 and by Perenti (in respect of Perenti Payment) pursuant to clause 11.3 is to be

purely and strictly compensatory in nature so as to compensate Perenti (in respect of the DDH1 Payment) and DDH1 (in respect of Perenti Payment) for the following:

- (i) advisory costs relating to the Scheme;
 - (ii) costs of management and directors' time;
 - (iii) out-of-pocket expenses relating to the Scheme;
 - (iv) reasonable opportunity costs incurred by Perenti or DDH1 (as applicable) in pursuing the Scheme or in not pursuing other alternative acquisitions or strategic initiatives which Perenti or DDH1 (as applicable) could have developed to further its business and objectives; and
 - (v) damage to Perenti's or DDH1's (as applicable) reputation associated with a failed transaction and the implications of that damage to Perenti's or DDH1's (as applicable) business; and
- (e) the costs incurred by each party are of a nature that cannot be accurately quantified, and that a genuine and reasonable pre-estimate of the costs to be incurred by each of DDH1 and Perenti would equal or exceed the compensatory amount payable under clause 11.2 and clause 11.3, respectively.

11.2 DDH1 Payment

DDH1 agrees to pay the DDH1 Payment to Perenti without deduction, set-off or withholding if:

- (a) **(Competing Proposal)** a Competing Proposal is received by DDH1 during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions), and within 12 months after the date of such receipt, any Third Party:
 - (i) completes a Competing Proposal; or
 - (ii) without limiting clause 11.2(a)(i), acquires (either alone or in aggregate) a Relevant Interest in more than 50% of the DDH1 Shares;
- (b) **(Change of recommendation)** during the Exclusivity Period, one or more of the DDH1 directors does or fails to do (as the case may be) any thing the subject of clause 15.2(b)(ii), unless:
 - (i) it occurs after the Independent Expert has concluded that the Scheme is not in the best interests of DDH1 Shareholders, other than where the reason for that conclusion is a Competing Proposal;
 - (ii) it occurs after the Independent Expert changes or publicly withdraws its conclusion that the Scheme is in the best interests of DDH1 Shareholders, other than where the reason for that conclusion is a Competing Proposal;
 - (iii) it occurs after DDH1 has become entitled to terminate this agreement pursuant to clause 15.3(b)(i) and has given the appropriate notice to Perenti; or
 - (iv) the relevant event is the withdrawal by a DDH1 director of his or her Recommendation pursuant to a requirement or request of the Court in accordance with clause 8.1(c); or
- (c) **(material breach)** Perenti terminates this agreement in accordance with clause 15.2(b)(i); or

- (d) **(DDH1 Prescribed Occurrence)** this agreement is terminated in accordance with clause 3.7, where that clause applied due to a DDH1 Prescribed Occurrence.

11.3 Perenti Payment

Perenti agrees to pay the Perenti Payment to DDH1 without deduction, set-off or withholding if:

- (a) **(material breach)** at any time after the date of this agreement, DDH1 terminates this agreement in accordance with clause 15.3(b); or
- (b) **(Perenti Prescribed Occurrence)** this agreement is terminated in accordance with clause 3.7, where that clause applied due to a Perenti Prescribed Occurrence.

11.4 Timing of payment

- (a) A demand by a party for payment of the DDH1 Payment under clause 11.2 or Perenti Payment under clause 11.3 must:
- (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of Perenti or a Related Body Corporate into which DDH1 is to pay the DDH1 Payment or DDH1 or a Related Body Corporate into which Perenti is to pay Perenti Payment (as applicable).
- (b) DDH1 must pay the DDH1 Payment into the account nominated by Perenti and Perenti must pay Perenti Payment into the account nominated by DDH1 (as applicable), without deduction, set-off or withholding, within 10 Business Days after receiving a valid demand for payment where Perenti is entitled under clause 11.2 to the DDH1 Payment or DDH1 is entitled under clause 11.3 to Perenti Payment (as applicable).

11.5 Compliance with law

- (a) If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court that all or any part of the DDH1 Payment or Perenti Payment (as applicable) **(Impugned Amount)**:
- (i) would, if paid, be unlawful for any reason;
 - (ii) involves a breach of the fiduciary or statutory duties of the DDH1 Board or the Perenti Board (as applicable); or
 - (iii) constitutes 'unacceptable circumstances' within the meaning of the Corporations Act or breaches an order of the Takeovers Panel,
- then
- (iv) the requirement to pay the DDH1 Payment or Perenti Payment (as applicable) does not apply to the extent of the Impugned Amount; and
 - (v) if Perenti or DDH1 (as applicable) has received the Impugned Amount, it must refund it within 5 Business Days of the final determination.

- (b) DDH1 and Perenti must not make, or cause to be made, any application to the Takeovers Panel or a Court for or in relation to a determination referred to in this clause 11.5.

11.6 One payment only

- (a) Where the DDH1 Payment becomes payable to Perenti under clause 11.2 and is actually paid to Perenti, Perenti cannot make any claim against DDH1 for the payment of any subsequent DDH1 Payment.
- (b) Where Perenti Payment becomes payable to DDH1 under clause 11.3 and is actually paid to DDH1, DDH1 cannot make any claim against Perenti for the payment of any subsequent Perenti Payment.

11.7 No payment if Scheme Effective

Despite anything to the contrary in this agreement (including the occurrence of any event in clause 11.2 or clause 11.3), neither the DDH1 Payment nor Perenti Payment will be payable if the Scheme becomes Effective and if any amount has already been paid, it must be refunded by Perenti or DDH1 (as applicable) within 10 Business Days after the Scheme becomes Effective.

11.8 DDH1's limitation of liability

- (a) Subject to clause 15.5 but notwithstanding any other provision of this agreement, other than in the case of conduct designed or intended to frustrate the Transaction, or fraud, wilful misconduct or wilful breach on the part of DDH1:
 - (i) the maximum liability of DDH1 to all other persons under or in connection with this agreement, including in respect of any breach of this agreement and the indemnity in clause 13.5, will be the amount of the DDH1 Payment; and
 - (ii) if DDH1 pays the DDH1 Payment under this clause 11, Perenti may not make a claim against any member of the DDH1 Group under or in connection with this agreement for any further damages, fees, expenses or reimbursements of any kind, and none of them will be payable by DDH1 under or in connection with this agreement.
- (b) The amount of the DDH1 Payment to be paid to Perenti under this clause 11 will be reduced by the amount of any loss or damage recovered by Perenti in relation to a breach of this agreement and the indemnity in clause 13.5.

11.9 Perenti's limitation of liability

- (a) Subject to clause 15.5, but notwithstanding any other provision of this agreement, other than in the case of conduct designed or intended to frustrate the Transaction, or fraud, wilful misconduct or wilful breach on the part of Perenti:
 - (i) the maximum liability of Perenti to all other persons under or in connection with this agreement, including in respect of any breach of this agreement and the indemnity in clause 13.2, will be the amount of Perenti Payment; and
 - (ii) if Perenti pays the Perenti Payment under this clause 11, DDH1 may not make a claim against any member of the Perenti Group under or in connection with this agreement for any further further damages, fees, expenses or reimbursements of any kind, and none of them will be payable by Perenti under or in connection with this agreement.

- (b) The amount of Perenti Payment to be paid to DDH1 under this clause 11 will be reduced by the amount of any loss or damage recovered by DDH1 in relation to a breach of this agreement and the indemnity in clause 13.2.

11.10 Survival

Any accrued obligations under this clause 11 survive termination of this agreement.

12. Liability of directors, officers and employees

12.1 Liability of directors, officers and employees

To the maximum extent permitted by law, each party releases all rights against, and agrees that it will not make any claim against, the other party's past or present Representatives in respect of any matter arising in connection with this agreement or the Transaction, including:

- (a) any breach of any representation, warranty or covenant of this agreement;
- (b) any disclosure containing any statement which is false or misleading (whether by omission or otherwise);
- (c) any failure to provide information; or
- (d) whether current, future, known or unknown, arising at common law, in equity, under statute or otherwise,

except:

- (e) in the case of the release in clause 12.1(a), to the extent arising from the fraud of the relevant Representative; and
- (f) otherwise, to the extent arising from the fraud, dishonesty or wilful default of the relevant Representative.

12.2 Directors and officers insurance

- (a) Perenti acknowledges and agrees that subject to clause 12.2(b):
 - (i) prior to the Implementation Date, DDH1 may arrange and pay all premiums required for run off directors' and officers' liability insurance cover (**Run Off Cover**) to be put in place for the benefit of each Beneficiary; and
 - (ii) the Run Off Cover will cover claims made up to 7 years after the Implementation Date in respect of conduct or matters occurring on or before the Implementation Date.
- (b) If DDH1 wishes to rely upon clause 12.2(a), it will:
 - (i) obtain at least two proposals for Run Off Cover from reputable insurers in relation to a policy that (as nearly as practicable):
 - A. has the same coverage and limits of liability;
 - B. has the same deductible or excess; or
 - C. is otherwise on terms substantially similar to, the Policy;

- (ii) keep Perenti reasonably informed of all material developments in the process and provide a copy of the proposals received; and
- (iii) unless Perenti otherwise consents in writing (in its absolute discretion), ensure any Run Off Cover taken out:
 - A. is the lowest cost policy (inclusive of the costs of brokerage, stamp duty and any other transaction costs) of the proposals received which comply with the requirements in clause 12.2(b)(i);
 - B. is on terms consistent with that proposal; and
 - C. is entered into before the Delivery Time.

12.3 Obligations in relation to directors and officers insurance

From the Implementation Date, Perenti must procure that DDH1 does not:

- (a) vary or cancel the Policy or Run Off Cover; or
- (b) unless required under the Policy or Run Off Cover, commit any act or omission that may prejudice any claim by a Beneficiary under the Policy or Run Off Cover.

12.4 Directors and officers indemnities

Without limiting any other term of this agreement, Perenti undertakes that it will, for the period of seven years from the Implementation Date and in respect of each deed of indemnity, access and insurance (**Relevant Deed**) made by a member of the DDH1 Group (**Relevant Entity**) in favour of a director, officer or employee of any member of the DDH1 Group, whether past or present, (**Indemnified Person**) from time to time procure that:

- (a) the Relevant Entity complies with the Relevant Deed; and
- (b) to the extent that the Relevant Entity ceases to exist after the Implementation Date, each Indemnified Person has the benefit of an indemnity from another member of the DDH1 Group of good financial standing (at the Indemnified Person's election) on terms no less favourable to the Indemnified Person than those contained in the Relevant Deed as at the Implementation Date.

12.5 Compliance with law and benefit

- (a) Clause 12.1 and clause 12.4 are subject to any restriction under the Corporations Act and will (if and to the extent required) be read down accordingly.
- (b) The undertakings contained in clauses 12.3 and 12.4 are given until the earlier of the period (if any) specified in that clause or the time the relevant member of the DDH1 Group ceases to be part of the Perenti Group.
- (c) Perenti acknowledges and agrees that DDH1 holds the benefit of this clause 12 to the extent it relates to each DDH1 Indemnified Party as trustee for them, and, as such, each such DDH1 Indemnified Party may enforce this clause 12 against Perenti.
- (d) DDH1 acknowledges and agrees that Perenti holds the benefit of this clause 12 to the extent it relates to each Perenti Indemnified Party as trustee for them, and, as such, each such Perenti Indemnified Party may enforce this clause 12 against DDH1.

13. Representations, warranties and indemnities

13.1 Representations and warranties by Perenti

Perenti represents and warrants to DDH1 (on its own behalf and separately as trustee for each of the DDH1 Indemnified Parties) that each of the Perenti Warranties is true and correct in all material respects and is not misleading or deceptive:

- (a) as at the date of this agreement; and
- (b) continuously thereafter until the Delivery Time, by reference to the circumstances then existing,

unless the relevant Perenti Warranty is expressed to be given only at a particular time in which case it is given as at that time.

13.2 Perenti indemnity

- (a) Perenti acknowledges and agrees that in entering into this agreement DDH1 and the DDH1 Indemnified Parties have relied on the Perenti Warranties.
- (b) DDH1 acknowledges and agrees that other than the Perenti Warranties, it has not relied on any representation or warranty in deciding whether to enter into this agreement.
- (c) Subject to clause 11.9, Perenti indemnifies DDH1 (on its own behalf and separately as trustee for each of the DDH1 Indemnified Parties) 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 DDH1 Indemnified Parties may suffer or incur by reason of any breach of any of the Perenti Warranties.

13.3 Qualification of the Perenti Warranties and the indemnity

The Perenti Warranties and the indemnity under clause 13.2 are subject to facts, matters, circumstances and acts which:

- (a) are or have been expressly required to be done by Perenti under the Transaction Documents;
- (b) were approved by DDH1 in writing (prior to the fact, matter, circumstance or act occurring);
- (c) were within the actual knowledge of DDH1 or its Representatives as at the date of this agreement; or
- (d) have been Disclosed by Perenti.

13.4 Representations and warranties by DDH1

DDH1 represents and warrants to Perenti (on its own behalf and separately as trustee for each of the Perenti Indemnified Parties) that each of the DDH1 Warranties is true and correct in all material respects and is not misleading or deceptive:

- (a) as at the date of this agreement; and
- (b) continuously thereafter until the Delivery Time, by reference to the circumstances then existing,

unless the relevant DDH1 Warranty is expressed to be given only at a particular time in which case it is given as at that time.

13.5 DDH1 indemnity

- (a) DDH1 acknowledges and agrees that in entering into this agreement Perenti and the Perenti Indemnified Parties have relied on the DDH1 Warranties.
- (b) Perenti acknowledges and agrees that other than the DDH1 Warranties, it has not relied on any representation or warranty in deciding whether to enter into this agreement.
- (c) Subject to clause 11.8, DDH1 indemnifies Perenti (on its own behalf and separately as trustee for each of the Perenti Indemnified Parties) 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 Perenti Indemnified Parties may suffer or incur by reason of any breach of any of the DDH1 Warranties.

13.6 Qualification of the DDH1 Warranties and the indemnity

The DDH1 Warranties and the indemnity under clause 13.5 are subject to facts, matters, circumstances and acts which:

- (a) are or have been expressly required to be done by DDH1 under the Transaction Documents;
- (b) were approved by Perenti in writing (prior to the fact, matter, circumstance or act occurring);
- (c) were within the actual knowledge of Perenti or its Representatives as at the date of this agreement; or
- (d) have been Disclosed by DDH1.

13.7 Notifications

Each party will promptly (and in any event, within 2 Business Days) advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may (including with the passage of time) constitute a breach of any of the representations or warranties given by it under this clause 13, with such notice to include details of the relevant circumstances and any actions taken or proposed (including timelines) to remedy the actual or potential breach.

13.8 Status of representations and warranties

Each representation and warranty in this clause 13:

- (a) is severable;
- (b) will survive the termination of this agreement; 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 agreement.

13.9 Status and enforcement of indemnities

- (a) Each indemnity in this agreement is a continuing obligation, separate and independent from the other obligations of DDH1 and Perenti, and survives termination, completion or expiration of this agreement.

- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this agreement.

13.10 Necessary tense changes

For the purposes of clauses 13.1 and 13.4, the Perenti Warranties and the DDH1 Warranties shall be read with any necessary adjustments to the tense used in the relevant warranty.

14. Confidentiality and public announcements

14.1 Confidentiality Deed

DDH1 and Perenti acknowledge and agree that they continue to be bound by the Confidentiality Deed after the date of this agreement in respect of all information received by it from the other party on, before or after the date of this agreement and that the terms of this agreement will prevail over the terms of the Confidentiality Deed to the extent of any inconsistency.

14.2 Survival of obligations

The rights and obligations of DDH1 and Perenti in relation to confidential information under the Confidentiality Deed survive termination of this agreement.

14.3 Disclosure on termination of agreement

The parties agree that, if this agreement is terminated under clause 15, any party may disclose:

- (a) the fact that this agreement has been terminated, where such disclosure is required by the Listing Rules or is in the reasonable opinion of that party required to ensure that the market in its securities is properly informed; and
- (b) the fact that this agreement has been terminated to ASIC.

14.4 Public announcements

- (a) Immediately after execution of this agreement, DDH1 must issue the DDH1 Announcement to ASX.
- (b) Immediately after execution of this agreement, Perenti must issue the Perenti Announcement to ASX.
- (c) Where a party proposes or is required to make any subsequent public announcement or disclosure in connection with the Transaction or the Scheme, that party must, before making such announcement, to the extent lawful and practicable to do so, consult with the other party prior to making the relevant announcement or disclosure and unless immediate disclosure is required must give the other party a reasonable opportunity to comment on the form and content of the public announcement or disclosure and considering in good faith any such comments from the other party.
- (d) This agreement is conditional upon the parties complying with clauses 14.4(a) and 14.4(b) and, notwithstanding anything in this agreement:
- (i) this agreement is only binding on Perenti once DDH1 has complied with clause 14.4(a); and
- (ii) this agreement is only binding on DDH1 once Perenti has complied with clause 14.4(b).

15. Termination and remedies

15.1 Limited termination events

This agreement may only be terminated by Perenti or DDH1 in the circumstances contemplated by clauses 15.2 and 15.3, or if DDH1 and Perenti agree in writing to terminate this agreement.

15.2 Termination by Perenti

Perenti may terminate this agreement at any time before the Delivery Time:

- (a) **(Condition not satisfied or waived)** in accordance with clause 3.7; or
- (b) by notice in writing to DDH1 if:
 - (i) **(material breach)** DDH1 is in breach of any clause of this agreement (including in relation to the DDH1 Warranties) (which breach is material in the context of the Transaction as a whole) and:
 - A. Perenti has given written notice to DDH1 setting out the relevant circumstances and stating an intention to terminate this agreement; and
 - B. the relevant circumstances are not remedied and have continued to exist for 10 Business Days from the time such notice is received by DDH1 (or any shorter period ending at the Delivery Time);
 - (ii) **(lack of DDH1 director support)** other than in accordance with clause 8.1(c), a DDH1 director:
 - A. publicly withdraws, fails to make or adversely changes or qualifies their Recommendation or Voting Intention, for any reason;
 - B. makes a public statement indicating that they no longer recommend the Scheme or the Transaction or recommends, supports or endorses another transaction (including any Competing Proposal but excluding a statement that no action should be taken by DDH1 shareholders pending assessment of a Competing Proposal by the DDH1 Board or the completion of the matching right process set out in clause 10.6); or
 - C. takes any other action that is inconsistent with their recommendation that DDH1 shareholders vote in favour of the Scheme (including that they no longer support the Scheme or they support, endorse or recommend a Competing Proposal).

15.3 Termination by DDH1

DDH1 may terminate this agreement at any time before the Delivery Time:

- (a) **(Condition not satisfied or waived)** in accordance with clause 3.7; or

- (b) **(material breach)** by notice in writing to Perenti if Perenti is in breach of any clause of this agreement (which breach is material in the context of the Transaction as a whole) and:
- (i) DDH1 has given written notice to Perenti setting out the relevant circumstances and stating an intention to terminate this agreement; and
 - (ii) the relevant circumstances are not remedied and have continued to exist for 10 Business Days from the time such notice is received by Perenti (or any shorter period ending at the Delivery Time); or

15.4 Effect of termination

If this agreement is terminated the provisions of this agreement (and all further obligations and liabilities of the parties under this agreement) shall cease to have effect except for the provisions of (and obligations set out in) this clause and clauses 1, 11, 12, 14, 15.5 and 16 to 18 (inclusive), 19.1 to 19.5 (inclusive), 19.7 to 19.11 (inclusive) and 20 which will survive termination.

15.5 Remedies

The parties acknowledge that damages may not be a sufficient remedy for breach of this agreement and that specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this agreement by any party, notwithstanding the ability of the other party to terminate this agreement or demand payment of the DDH1 Payment or Perenti Payment (as the case may be).

16. GST

16.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999 (Cth) (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (c) To the extent any consideration for a supply is expressly specified to be inclusive of GST, that consideration must not be taken into account in calculating the GST payable under clause 16.4(a) in relation to that supply.

16.2 GST exclusive

Unless this agreement expressly states otherwise, all consideration to be provided under this agreement is exclusive of GST.

16.3 Reimbursements and similar payments

Any payment or reimbursement required to be made under this agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity (or the representative member of the GST group of which the entity seeking reimbursement is a member of) is entitled for the acquisition to which the cost, expense or amount relates.

16.4 GST payable

- (a) If GST is payable in relation to a taxable supply made under or in connection with this agreement then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the amount of that GST at the same time as other consideration is to be provided for that supply.
- (b) No payment of any amount pursuant to clause 16.4(a) is required until the Supplier has provided a valid tax invoice to the Recipient.
- (c) If the GST payable in relation to a supply made under or in connection with this agreement varies from the additional amount paid by the Recipient under clause 16.4(a) then the Supplier must promptly issue an adjustment note to the Recipient and will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 16.4(a).
- (d) Clauses 16.4(a) to 16.4(c) do not apply to the extent that the consideration for the supply is subject to a reverse-charge.

17. Notices

17.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) may be given by personal service, post or email;
- (b) must be in writing;
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

- (i) if to DDH1:

Address: 21 Baile Road, Canning Vale, 6155

Attention: Company Secretary

Email: darryl.edwards@ddh1.com.au

with a copy (for information purposes only) in each case to:

Email: sy.vandyk@ddh1.com.au

- (ii) if to Perenti:

Address: Level 4, 45 Francis Street, Northbridge WA 6003

Attention: Chief Legal & Risk Officer

Email: Raj.Ratneser@perentigroup.com

with a copy (for information purposes only) in each case to:

Email: paul.vinci@jws.com.au & justin.harris@jws.com.au

- (d) (in the case of personal service or post) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (e) (in the case of email) must state the first and last name of the sender, and the email is taken to be signed by the sender; and
- (f) must be delivered by hand or posted by prepaid post to the address or sent by email to the email address, of the addressee, in accordance with this clause 17.1.

17.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of delivery by hand) on delivery; and
- (d) (in the case of email) unless the sender knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of clause 17.1:
 - (i) when the sender receives a delivery confirmation report that records the time that the email was delivered to the recipient's email address;
 - (ii) if no such notification is received, four hours after the email was sent; or
 - (iii) if earlier, the time it is otherwise established that the email (including any attachment) came to the attention of the recipient,

but if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5:00 pm, it is taken to be received at 9:00 am on the next Business Day.

18. Entire agreement

The Transaction Documents and the Confidentiality Deed constitute the entire agreement between the parties in relation to their subject matter and supersede all previous agreements and understandings between the parties in relation to their subject matter.

19. General

19.1 Amendments

This agreement may only be varied by a document signed by or on behalf of each party.

19.2 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

19.3 Consents

Unless this agreement expressly provides otherwise, a consent under this agreement may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

19.4 Costs

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing each Transaction Document.

19.5 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

19.6 Further acts and documents

Each party must promptly do 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 another party to give effect to this agreement.

19.7 No merger

A party's rights and obligations do not merge on completion of any transaction contemplated by this agreement.

19.8 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 agreement, except for representations or inducements expressly set out in this agreement and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this agreement, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement.

19.9 Severance

If any provision or part of a provision of this agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be read down to the extent necessary to avoid that result, and if it cannot be so read down, it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability; but (in either case) the remainder of that provision will remain in full force and effect.

19.10 Stamp duties

Perenti must:

- (a) pay or procure the payment of all stamp duties and other duties together with any related fees, fines, penalties, interest or statutory charges, and similar Taxes in

respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement; and

- (a) indemnifies DDH1 against, and must pay to DDH1 on demand the amount of, any loss or liability suffered or incurred by DDH1 arising out of or in connection with any delay or failure to comply with clause 19.10(a).

19.11 Waivers

Without limiting any other provision of this agreement, the parties agree that:

- (a) failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement;
- (b) a waiver given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party; and
- (c) no waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

20. Governing law and jurisdiction

20.1 Governing law

This agreement is governed by the law applying in Western Australia.

20.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Western Australia, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 20.2(a).

Schedule 1 – Perenti Warranties

Perenti represents and warrants to DDH1 (on its own behalf and separately as trustee for each of the DDH1 Indemnified Parties) that:

- (a) **(Validly existing)** each Perenti Group member is a company properly incorporated and validly existing under the laws of its place of incorporation;
- (b) **(Authority)** the execution and delivery by Perenti of the Transaction Documents to which Perenti is party has been properly authorised by all necessary corporate action and Perenti has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;
- (c) **(Binding and enforceable)** the Transaction Documents to which Perenti is party constitute legal, valid and binding obligations on it, enforceable in accordance with their terms;
- (d) **(No default)** the Transaction Documents to which Perenti is party (and Perenti's entry into and compliance with those Transaction Documents) do not conflict with or result in a breach of or default under:
 - (i) the constitution or equivalent constituent documents of Perenti or any of its Subsidiaries; or
 - (ii) any writ, order or injunction, judgment, law, rule, obligation or regulation to which Perenti or any of its Subsidiaries is party, or by which Perenti or any of its Subsidiaries is bound;
- (e) **(Capacity)** it is not entering into this agreement as trustee of any trust or settlement or otherwise in a representative capacity;
- (f) **(No approvals)** other than as contemplated by clause 3.1, no shareholder or Regulatory Authority approvals are required to be obtained by any member of the Perenti Group in order for Perenti to execute and perform the Transaction Documents to which it is party;
- (g) **(Capital structure)** as at the date of this agreement, there are:
 - (i) 682,172,308 Perenti Shares on issue; and
 - (ii) 37,265,573 Perenti Rights on issue,
 and Perenti has not issued any other securities, instruments or rights which may convert into Perenti Shares which are still outstanding;
- (h) **(Interests in other entities)** the Perenti Due Diligence Materials set out full details of any company, partnership, trust, joint venture (whether incorporated or unincorporated) or other enterprise in which any member of the Perenti Group owns or otherwise holds any interest as at the date of this agreement;
- (i) **(Perenti Information)** as at the First Court Date, the date of despatch of the Scheme Booklet, the date of the Scheme Meeting and the Second Court Date:
 - (i) the Perenti Information has been prepared and provided to DDH1 for inclusion in the Scheme Booklet in good faith and on the understanding that DDH1 and the DDH1 Indemnified Parties have relied, and will continue to rely, on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme;

- (ii) the Perenti Information (other than to the extent that it consists of information relating to the DDH1 Group that was provided by or on behalf of DDH1, or has been extracted from announcements made by DDH1 to ASX regarding the DDH1 Group) complies in all material respects with, and contains all information regarding Perenti, the Perenti Group and the Scheme Consideration required by, all relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides);
 - (iii) the Perenti Information (other than to the extent that it consists of information relating to the DDH1 Group that was provided by or on behalf of DDH1, or has been extracted from announcements made by DDH1 to ASX regarding the DDH1 Group) in the form and context in which it appears in the Scheme Booklet is accurate in all material respects and does not contain any statement that is misleading or deceptive in any material respect (whether by omission or otherwise);
 - (iv) any statement of opinion or belief contained in the Perenti Information is honestly held and there are reasonable grounds for holding the opinion or belief; and
 - (v) all information provided by or on behalf of Perenti to the Independent Expert and the Investigating Accountant (if applicable) has been prepared and provided in good faith and on the understanding that the Independent Expert and the Investigating Accountant (if applicable) has relied, and will continue to rely, on the information for the purposes of preparing the Independent Expert's Report and any Investigating Accountant's Report;
- (j) **(Disclosure)** as at the date of this agreement, Perenti is in compliance with all of its continuous disclosure obligations under Listing Rule 3.1 and following the making by Perenti of the Perenti Announcement to ASX pursuant to clause 14.4(b), will not be withholding any information pursuant to Listing Rule 3.1A;
 - (k) **(ASX announcements)** no material information contained in any document or announcement which any member of the Perenti Group has lodged, or filed with, or otherwise given to, ASIC or ASX (or which has been lodged, filed or given on behalf of a member of the Perenti Group) since the date 12 months prior to the date of this agreement, was misleading or deceptive in any material respect (whether by omission or otherwise) as at the date the relevant document was lodged, filed with or given to ASIC or ASX (or, if applicable, such other date that the information in the relevant document was expressed to be given);
 - (l) **(Financial reports)** the Perenti Group's financial statements as filed with the ASX comply with all applicable statutory requirements and were prepared in accordance with the Corporations Act, relevant accounting standards and all other applicable laws and regulations, and as far as Perenti is aware, there has not been any event, change or circumstance that would require Perenti to restate any of those financial statements;
 - (m) **(Insolvency)** no Insolvency Event has occurred in relation to Perenti, nor has any regulatory action of any nature of which it is aware been taken or threatened to be taken that would prevent or restrict its ability to fulfil its obligations under this agreement;
 - (n) **(Other relationships)** other than in connection with the option deed to be entered into between Perenti and Oaktree on or about the date of this agreement, neither Perenti nor any of its Associates:
 - (i) has a Relevant Interest in any DDH1 Shares; or
 - (ii) is a party to any agreement, arrangement or understanding involving the conferring of rights on it, the economic effect of which is equivalent, substantially equivalent, or similar to, it acquiring, holding or disposing of DDH1 Shares (whether combined with a financing arrangement or not);
 - (o) **(Assets)** as at the date of this agreement, the Perenti Group owns, or has the right to use, all of the assets and real property used in its business, free and clear of any Encumbrances that

are material for the conduct of the business of the Perenti Group, and will continue to do so upon and immediately following implementation of the Transaction;

- (p) **(Equipment)** to the best of Perenti's knowledge the Perenti Equipment is, in all material respects in good repair and condition and in satisfactory working order, subject to fair wear and tear, and capable of doing the work for which it is designed;
- (q) **(Properties)** no Perenti Group member has any material registered or beneficial interest in land other than its interests Disclosed in the Perenti Due Diligence Materials, and no Perenti Group member is party to any material agreement or arrangement in relation to the ownership (including purchase or sale), occupation, lease, licence or use of any real property;
- (r) **(Licences, permits, authorisations and approvals)** Perenti and each member of the Perenti Group has all material licences, permits, authorisations and approvals necessary for it to conduct its business in the manner in which it is conducted at the date of this agreement, and as far as Perenti is aware, none of Perenti or any member of the Perenti Group are in material breach of, or default under, any such licence, permit, authorisation or approval, nor has Perenti or any of its Subsidiaries received any notice in respect of the termination, revocation, variation or non-renewal of any such licence, permit, authorisation or approval;
- (s) **(Award and enterprise agreement coverage)** as far as Perenti is aware, all employees of Perenti and each member of the Perenti Group are properly assessed as being covered, or not covered, by any applicable Industrial Instrument;
- (t) **(Workplace compliance)** Perenti and each member of the Perenti Group has:
 - (i) paid all amounts due to, and accrued all leave entitlements in respect of, each employee and former employee, however arising, and including pursuant to any contract of employment, applicable Industrial Instrument and otherwise as required by law, and the accruals relating to such amounts and entitlements are correct;
 - (ii) made all superannuation contributions required to avoid any liability for a superannuation guarantee charge under any applicable superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), and has otherwise complied in all material respects with all of its obligations under applicable superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth); and
 - (iii) otherwise complied in all material respects with all of its obligations in relation to the employment of its employees, including all obligations arising under any applicable Industrial Instrument, all obligations in relation to work health and safety and workers' compensation, all obligations under the *Fair Work Act 2009* (Cth) and all anti-discrimination legislation, and other obligations that exist in relation to Perenti's employees;
- (u) **(Retention)** as at the date of this agreement, no Perenti Key Employee has:
 - (i) been given notice of dismissal or termination;
 - (ii) given notice resigning from employment, or has otherwise indicated an intention to terminate their employment; or
 - (iii) has been placed on gardening leave or any equivalent arrangement;
- (v) **(Contractors)** as far as Perenti is aware, no individual providing services to Perenti and each member of the Perenti Group as or on behalf of a contractor is an employee of Perenti or of a member of the Perenti Group;
- (w) **(Safety incidents)** as at the date of this document, details of all material current and unresolved incidents, investigations or claims relating to health and safety issues which have

occurred, been made or carried out before the date of this agreement and affecting any member of the Perenti Group or any of its employees or contractors have been Disclosed in the Perenti Due Diligence Materials;

(x) **(Intellectual Property Rights):**

- (i) the Perenti Group is the sole legal and beneficial owner of all right, title and interest in and to the Perenti IP;
- (ii) as far as Perenti is aware, no member of the Perenti Group has licensed, assigned or otherwise disposed of any right, title or interest in the Perenti IP, and there is no obligation for any member of the Perenti Group to grant a licence, assignment or other right in respect of any Perenti IP to any third party (including companies related to the Perenti Group, other than to Perenti or its Subsidiaries);
- (iii) the Perenti IP comprises all the material Intellectual Property Rights necessary for each of Perenti and its Subsidiaries to operate its business as it has been operated in the 12 months before the date of this agreement; and
- (iv) the conduct of the business of the Perenti Group does not infringe, misappropriate, violate or otherwise breach the Intellectual Property Rights of any person; and as at the date of this agreement, no person has asserted in writing to the Perenti Group that a member of the Perenti Group or the conduct of its business has infringed, violated or otherwise breached the Intellectual Property Rights of any person.

(y) **(Compliance with laws)**

- (i) to the best of Perenti's knowledge, Perenti and each member of the Perenti Group have complied in all material respects with all applicable laws, rules and regulations and orders of Regulatory Authorities in each jurisdiction in which the Perenti Group operates; and
- (ii) none of Perenti or any member of the Perenti Group is aware of, or has as at the date of this agreement received any notice of any actual or alleged breach of any such laws, rules or regulations by any member of the Perenti Group or otherwise affecting the Perenti Group that may reasonably be expected to have a material adverse effect on the implementation of the Transaction by the End Date or which, if such alleged breach were proven, would constitute or would likely constitute a Perenti Material Adverse Change (if such information became known to DDH1 before the Delivery Time).

(z) **(Contracts; other liabilities)**

- (i) Perenti and each member of the Perenti Group have complied in all material respects with each material contract to which it is a party;
- (ii) no member of the Perenti Group has breached any contract or otherwise become actually or contingently liable to pay any amount (including under a contractual indemnity) to any Third Party (including in relation to any liability that is not yet conclusively quantified), where such breach or liability would constitute or would likely constitute a Perenti Material Adverse Change (if such information became known to DDH1 before the Delivery Time); and
- (iii) in relation to the Perenti Group's top ten customers by revenue in the three months to 31 May 2023, to the best of Perenti's knowledge, there is no intention on the part of any customer to terminate or wholly or substantially cease using the services of the Perenti Group, whether as a consequence of the Transaction or otherwise; and nothing has occurred which does (or would following the giving of notice or the lapse of time) constitute an event of default or would give another party a termination right or right to accelerate any material right or obligation under any contract with such customers to which Perenti is a party.

- (aa) **(Third party relationships)** as at the date of this agreement, no Perenti Group member has been notified in writing by any Third Party that such Third Party intends to cease or alter the nature or extent of its commercial or business dealings with the Perenti Group, whether as a consequence of the Transaction or otherwise, where the cessation or alteration of such commercial or business dealings (taken as a whole) could be reasonably expected to constitute a Perenti Material Adverse Change if such information became known to DDH1 before the Delivery Time;
- (bb) **(Financing arrangements)** to the best of Perenti's knowledge, no outstanding calls or demands have been made under, or in respect of, any existing financing or security arrangements to which Perenti or any of its Subsidiaries is party to or by which any member of the Perenti Group (or any assets thereof) is bound;
- (cc) **(No breach of any financing arrangements)** to the best of Perenti's knowledge, there is no existing or unremedied event of default, cancellation event, review event, prepayment event, material breach of, material default under, or similar event currently subsisting under any existing financing or security arrangements to which Perenti or any of its Subsidiaries is party to or by which any member of the Perenti Group (or any assets thereof) is bound;
- (dd) **(No Perenti Prescribed Occurrence)** no Perenti Prescribed Occurrence is subsisting or has occurred between the date of this agreement and the Implementation Date;
- (ee) **(No litigation)** as at the date of this agreement, neither Perenti nor any of its Subsidiaries are:
- (i) a party to any material legal action, investigation, prosecution, proceeding, dispute, claim, demand, notice, direction, inquiry, arbitration, mediation, dispute resolution, litigation, industrial action or enterprise agreement bargaining; or
 - (ii) the subject of any material ruling, judgment, order, declaration or decree by any Regulatory Authority,
- and as far as Perenti is aware, there is nothing mentioned in subparagraphs (i) or (ii) that is pending or threatened (or that might reasonably be expected to arise as a result of the circumstances of which Perenti is aware) against Perenti or its Subsidiaries, other than as Disclosed to DDH1;
- (ff) **(Insurance)**
- (i) the insurances taken out in respect of the Perenti Group provide reasonable insurance coverage for the business activities undertaken by the Perenti Group;
 - (ii) the Perenti Group has not carried out any business activities in respect of which it does not have reasonable insurance coverage, and without limiting the foregoing, the Perenti Group has at all times held appropriate workers' compensation insurance;
 - (iii) each insurance taken out by the Perenti Group is in full force and effect in accordance with its terms and all applicable premiums have been paid by the due date for payment; and
 - (iv) nothing has been done or omitted to be done that would make any insurance taken out by the Perenti Group void or voidable or that would permit an insurer to cancel the policy or refuse or materially reduce a claim or materially increase the premium payable under any insurance or otherwise alter the terms of the policy;
- (gg) **(Insurance claims)** as at the date of this agreement:
- (i) there are no outstanding material claims made by a Perenti Group member or any person on its behalf under any insurance or an insurance policy previously taken out by or for the benefit of any Perenti Group member;

- (ii) so far as Perenti is aware, there are no material threatened or pending claims under any insurance and there are no facts, matters or circumstances which could give rise to an entitlement to make a material claim under any insurance;
 - (iii) the Perenti Group members have notified insurers of all material claims, facts, matters and circumstances as required by the notification provisions under each insurance;
 - (iv) no Perenti Group member has made a material claim under any insurance that has been rejected or denied by the insurer; and
 - (v) each Perenti Group member has in place all material insurances required by law or contract to be taken out by it, subject to excesses and deductibles;
- (hh) **(No non-arm's length liabilities)** it does not owe any liabilities to any Perenti Shareholders or Third Parties that are outside the ordinary course of business or not on arm's length terms;
- (ii) **(Anti-bribery)** no member of the Perenti Group or any director, officer or employee of the Perenti Group (acting in connection with such role), or to the knowledge of Perenti, any other person acting on behalf of any member of the Perenti Group, has directly or indirectly:
- (i) made any unlawful contribution, gift, entertainment, or paid or incurred any other unlawful expense relating to political activity;
 - (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee, political party or political candidate; or
 - (iii) made any bribe, facilitation payment, rebate, payoff, influence payment, kickback or other unlawful payment,
- in each case, in violation of any applicable domestic or foreign anti-bribery or anti-corruption laws in Australia or any other jurisdiction the laws of which apply to the Perenti Group; and
- (jj) **(Money laundering laws)** the operations of the Perenti Group are and have been conducted at all times in compliance with all applicable money laundering legislation of Australia or any other jurisdiction which is applicable to the Perenti Group, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Regulatory Authority in those jurisdictions, including, but not limited to, conducting customer identification and verification in a manner consistent with the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument (No 1) 2007*.

Schedule 2 – DDH1 Warranties

DDH1 represents and warrants to Perenti (on its own behalf and separately as trustee for each of the Perenti Indemnified Parties) that:

- (a) **(Validly existing)** each DDH1 Group member is a company properly incorporated and validly existing under the laws of its place of incorporation;
- (b) **(Authority)** the execution and delivery by DDH1 of the Transaction Documents to which DDH1 is party has been properly authorised by all necessary corporate action and DDH1 has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;
- (c) **(Binding and enforceable)** the Transaction Documents to which DDH1 is party constitute legal, valid and binding obligations on it, enforceable in accordance with their terms;
- (d) **(No default)** the Transaction Documents to which DDH1 is party (and DDH1's entry into and compliance with those Transaction Documents) do not conflict with or result in a breach of or default under:
 - (i) the constitution or equivalent constituent documents of DDH1 or any of its Subsidiaries; or
 - (ii) any writ, order or injunction, judgment, law, rule, obligation or regulation to which DDH1 or any of its Subsidiaries is party, or by which DDH1 or any of its Subsidiaries is bound;
- (e) **(Capacity)** it is not entering into this agreement as trustee of any trust or settlement or otherwise in a representative capacity;
- (f) **(No approvals)** other than as contemplated by clause 3.1, no shareholder or Regulatory Authority approvals are required to be obtained by any member of the DDH1 Group in order for DDH1 to execute and perform the Transaction Documents to which it is a party;
- (g) **(Capital structure)** as at the date of this agreement, there are:
 - (i) 401,093,420 DDH1 Shares on issue; and
 - (ii) 2,871,860 DDH1 Performance Rights on issue,

and there are no other shares, options, performance rights or convertible instruments or other securities or financial products granted or on issue, or the subject of any agreement or arrangement or understanding that they will be issued by DDH1 or its Related Bodies Corporate;
- (h) **(Interests in other entities)** the DDH1 Due Diligence Materials set out full details of any company, partnership, trust, joint venture (whether incorporated or unincorporated) or other enterprise in which any member of the DDH1 Group owns or otherwise holds any interest as at the date of this agreement;
- (i) **(DDH1 Information)** as at the First Court Date, the date of despatch of the Scheme Booklet, the date of the Scheme Meeting and the Second Court Date:
 - (i) the DDH1 Information has been prepared and included in the Scheme Booklet in good faith and on the understanding that Perenti and the Perenti Indemnified Parties have relied, and will rely, on that information for the purposes of considering and approving the Perenti Information in the Scheme Booklet;

- (ii) the DDH1 Information complies in all material respects with relevant laws (including the Corporations Act, Corporations Regulations, Listing Rules and relevant Regulatory Guides);
 - (iii) the DDH1 Information (as well as any Perenti Information to the extent that it consists of information relating to the DDH1 Group that was provided to Perenti by or on behalf of DDH1 or has been extracted from announcements made by DDH1 to ASX regarding the DDH1 Group) is accurate in all material respects and does not contain any statement which is false, misleading or deceptive in any material respect (whether by omission or otherwise);
 - (iv) any statement of opinion or belief contained in the DDH1 Information is honestly held and there are reasonable grounds for holding the opinion or belief; and
 - (v) all information provided by or on behalf of DDH1 to the Independent Expert and the Investigating Accountant (if applicable) has been prepared and provided in good faith and on the understanding that the Independent Expert and the Investigating Accountant (if applicable) has relied, and will continue to rely, on the information for the purposes of preparing the Independent Expert's Report and any Investigating Accountant's Report;
- (j) **(Disclosure)** DDH1 is in compliance with all of the disclosure requirements under the Listing Rules, including its continuous disclosure obligations under Listing Rule 3.1 and, as at the date of this agreement, following the making by DDH1 of the DDH1 Announcement to ASX pursuant to clause 14.4(a), will not be withholding any information pursuant to Listing Rule 3.1A;
- (k) **(ASX announcements)** no material information contained in any document or announcement which any member of the DDH1 Group has lodged, or filed with, or otherwise given to, ASIC or ASX (or which has been lodged, filed or given on behalf of a member of the DDH1 Group) since the date 12 months prior to the date of this agreement, was misleading or deceptive in any material respect (whether by omission or otherwise) as at the date the relevant document was lodged, filed with or given to ASIC or ASX (or, if applicable, such other date that the information in the relevant document was expressed to be given);
- (l) **(DDH1 Due Diligence Materials)** the DDH1 Due Diligence Materials and all other information provided to Perenti by DDH1 in connection with this agreement and the transactions contemplated by this agreement were compiled and made available to Perenti and its Representatives in good faith and the DDH1 Due Diligence Materials, to the best of DDH1's knowledge
- (i) have been collated with all reasonable care and skill;
 - (ii) are not misleading or deceptive in any material respect (including by omission); and
 - (iii) do not omit any information known to DDH1 which might reasonably be considered necessary for Perenti to make an informed decision as to whether to enter into this agreement and proceed with the Transaction;
- (m) **(Financial reports)** the DDH1 Group's financial statements as filed with the ASX comply with all applicable statutory requirements and were prepared in accordance with the Corporations Act, relevant accounting standards and all other applicable laws and regulations, and as far as DDH1 is aware, there has not been any event, change or circumstance that would require DDH1 to restate any of those financial statements;
- (n) **(Insolvency)** no Insolvency Event has occurred in relation to the DDH1 Group, nor has any regulatory action of any nature of which it is aware been taken or threatened to be taken that would prevent or restrict its ability to fulfil its obligations under this agreement;
- (o) **(Assets)** as at the date of this agreement, the DDH1 Group owns, or has the right to use, all of the assets and real property used in its business, free and clear of any Encumbrances that are

material for the conduct of the business of the DDH1 Group, and will continue to do so upon and immediately following implementation of the Transaction;

- (p) **(Equipment)** to the best of DDH1's knowledge the DDH1 Equipment is, in all material respects in good repair and condition and in satisfactory working order, subject to fair wear and tear, and capable of doing the work for which it is designed;
- (q) **(Properties)** no DDH1 Group member has any material registered or beneficial interest in land other than its interest as lessee under the leases Disclosed in the DDH1 Due Diligence Materials, and no DDH1 Group member is party to any material agreement or arrangement in relation to the ownership (including purchase or sale), occupation, lease, licence or use of any real property;
- (r) **(Licences, permits, authorisations and approvals)** DDH1 and each member of the DDH1 Group has all material licences, permits, authorisations and approvals necessary for it to conduct its business in the manner in which it is conducted at the date of this agreement, and as far as DDH1 is aware, none of DDH1 or any member of the DDH1 Group are in material breach of, or default under, any such licence, permit, authorisation or approval, nor has DDH1 or any of its Subsidiaries received any notice in respect of the termination, revocation, variation or non-renewal of any such licence, permit, authorisation or approval;
- (s) **(Award and enterprise agreement coverage)** as far as DDH1 is aware, all employees of DDH1 and each member of the DDH1 Group are properly assessed as being covered, or not covered, by any applicable Industrial Instrument;
- (t) **(Workplace compliance)** DDH1 and each member of the DDH1 Group has:
 - (i) paid all amounts due to, and accrued all leave entitlements in respect of, each employee and former employee, however arising, and including pursuant to any contract of employment, applicable Industrial Instrument and otherwise as required by law, and the accruals relating to such amounts and entitlements are correct;
 - (ii) made all superannuation contributions required to avoid any liability for a superannuation guarantee charge under any applicable superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), and has otherwise complied in all material respects with all of its obligations under applicable superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth); and
 - (iii) otherwise complied in all material respects with all of its obligations in relation to the employment of its employees, including all obligations arising under any applicable Industrial Instrument, all obligations in relation to work health and safety and workers' compensation, all obligations under the *Fair Work Act 2009* (Cth) and all anti-discrimination legislation, and other obligations that exist in relation to DDH1's employees;
- (u) **(Retention)** as at the date of this agreement, no DDH1 Key Employee has:
 - (i) been given notice of dismissal or termination;
 - (ii) given notice resigning from employment, or has otherwise indicated an intention to terminate their employment; or
 - (iii) has been placed on gardening leave or any equivalent arrangement;
- (v) **(Contractors)** as far as DDH1 is aware, no individual providing services to DDH1 and each member of the DDH1 Group as or on behalf of a contractor is an employee of DDH1 or of a member of the DDH1 Group;

- (w) **(Safety incidents)** as at the date of this document, details of all material current and unresolved incidents, investigations or claims relating to health and safety issues which have occurred, been made or carried out before the date of this agreement and affecting any member of the DDH1 Group or any of its employees or contractors have been Disclosed in the DDH1 Due Diligence Materials;
- (x) **(Intellectual Property Rights):**
- (i) the DDH1 Group is the sole legal and beneficial owner of all right, title and interest in and to the DDH1 IP;
 - (ii) as far as DDH1 is aware, no member of the DDH1 Group has licensed, assigned or otherwise disposed of any right, title or interest in the DDH1 IP, and there is no obligation for any member of the DDH1 Group to grant a licence, assignment or other right in respect of any DDH1 IP to any third party (including companies related to the DDH1 Group, other than to DDH1 or its Subsidiaries);
 - (iii) the DDH1 IP comprises all the material Intellectual Property Rights necessary for each of DDH1 and its Subsidiaries to operate its business as it has been operated in the 12 months before the date of this agreement; and
 - (iv) the conduct of the business of the DDH1 Group does not infringe, misappropriate, violate or otherwise breach the Intellectual Property Rights of any person; and as at the date of this agreement, no person has asserted in writing to the DDH1 Group that a member of the DDH1 Group or the conduct of its business has infringed, violated or otherwise breached the Intellectual Property Rights of any person.
- (y) **(Compliance with laws)**
- (i) to the best of DDH1's knowledge, DDH1 and each member of the DDH1 Group have complied in all material respects with all applicable laws, rules and regulations and orders of Regulatory Authorities in each jurisdiction in which the DDH1 Group operates; and
 - (ii) none of DDH1 or any member of the DDH1 Group is aware of, or has as at the date of this agreement received any notice of any actual or alleged breach of any such laws, rules or regulations by any member of the DDH1 Group or otherwise affecting the DDH1 Group that may reasonably be expected to have a material adverse effect on the implementation of the Transaction by the End Date or which, if such alleged breach were proven, would constitute or would likely constitute a DDH1 Material Adverse Change (if such information became known to Perenti before the Delivery Time).
- (z) **(Contracts; other liabilities)**
- (i) DDH1 and each member of the DDH1 Group have complied in all material respects with each material contract to which it is a party (including the Material Contracts);
 - (ii) no member of the DDH1 Group has breached any contract or otherwise become actually or contingently liable to pay any amount (including under a contractual indemnity) to any Third Party (including in relation to any liability that is not yet conclusively quantified), where such breach or liability would constitute or would likely constitute a DDH1 Material Adverse Change (if such information became known to Perenti before the Delivery Time); and
 - (iii) to the best of DDH1's knowledge, there is no intention on the part of any counterparty to a Material Contract to terminate or wholly or substantially cease using the services of the DDH1 Group, whether as a consequence of the Transaction or otherwise; and nothing has occurred which does (or would following the giving of notice or the lapse of time) constitute an event of default or would give

another party a termination right or right to accelerate any material right or obligation under any Material Contract.

- (aa) **(Third party relationships)** as at the date of this agreement, no DDH1 Group member has been notified in writing by any Third Party that such Third Party intends to cease or alter the nature or extent of its commercial or business dealings with the DDH1 Group, whether as a consequence of the Transaction or otherwise, where the cessation or alteration of such commercial or business dealings (taken as a whole) could be reasonably expected to constitute a DDH1 Material Adverse Change if such information became known to Perenti before the Delivery Time;
- (bb) **(Financing arrangements)** to the best of DDH1's knowledge, no outstanding calls or demands have been made under, or in respect of, any existing financing or security arrangements to which DDH1 or any of its Subsidiaries is party to or by which any member of the DDH1 Group (or any assets thereof) is bound;
- (cc) **(No breach of any financing arrangements)** to the best of DDH1's knowledge, there is no existing or unremedied event of default, cancellation event, review event, prepayment event, material breach of, material default under, or similar event currently subsisting under any existing financing or security arrangements to which DDH1 or any of its Subsidiaries is party to or by which any member of the DDH1 Group (or any assets thereof) is bound;
- (dd) **(No DDH1 Prescribed Occurrence)** no DDH1 Prescribed Occurrence is subsisting or has occurred between the date of this agreement and the Implementation Date;
- (ee) **(No litigation)** as at the date of this agreement, neither DDH1 nor any of its Subsidiaries are:
 - (i) a party to any material legal action, investigation, prosecution, proceeding, dispute, claim, demand, notice, direction, inquiry, arbitration, mediation, dispute resolution, litigation, industrial action or enterprise agreement bargaining; or
 - (ii) the subject of any material ruling, judgment, order, declaration or decree by any Regulatory Authority,

and as far as DDH1 is aware, there is nothing mentioned in subparagraphs (i) or (ii) that is pending or threatened (or that might reasonably be expected to arise as a result of the circumstances of which DDH1 is aware) against DDH1 or its Subsidiaries, other than as Disclosed to Perenti;

- (ff) **(Insurance)**
 - (i) the insurances taken out in respect of the DDH1 Group provide reasonable insurance coverage for the business activities undertaken by the DDH1 Group;
 - (ii) the DDH1 Group has not carried out any business activities in respect of which it does not have reasonable insurance coverage, and without limiting the foregoing, the DDH1 Group has at all times held appropriate workers' compensation insurance;
 - (iii) each insurance taken out by the DDH1 Group is in full force and effect in accordance with its terms and all applicable premiums have been paid by the due date for payment; and
 - (iv) nothing has been done or omitted to be done that would make any insurance taken out by the DDH1 Group void or voidable or that would permit an insurer to cancel the policy or refuse or materially reduce a claim or materially increase the premium payable under any insurance or otherwise alter the terms of the policy;
- (gg) **(Insurance claims)** as at the date of this agreement:

- (i) there are no outstanding material claims made by a DDH1 Group member or any person on its behalf under any insurance or an insurance policy previously taken out by or for the benefit of any DDH1 Group member;
 - (ii) so far as DDH1 is aware, there are no material threatened or pending claims under any insurance and there are no facts, matters or circumstances which could give rise to an entitlement to make a material claim under any insurance;
 - (iii) the DDH1 Group members have notified insurers of all material claims, facts, matters and circumstances as required by the notification provisions under each insurance;
 - (iv) no DDH1 Group member has made a material claim under any insurance that has been rejected or denied by the insurer; and
 - (v) each DDH1 Group member has in place all material insurances required by law or contract to be taken out by it, subject to excesses and deductibles;
- (hh) **(No non-arm's length liabilities)** it does not owe any liabilities to any DDH1 Shareholders or Third Parties that are outside the ordinary course of business or not on arm's length terms;
- (ii) **(Anti-bribery)** no member of the DDH1 Group or any director, officer or employee of the DDH1 Group (acting in connection with such role), or to the knowledge of DDH1, any other person acting on behalf of any member of the DDH1 Group, has directly or indirectly:
- (i) made any unlawful contribution, gift, entertainment, or paid or incurred any other unlawful expense relating to political activity;
 - (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee, political party or political candidate; or
 - (iii) made any bribe, facilitation payment, rebate, payoff, influence payment, kickback or other unlawful payment,
- in each case, in violation of any applicable domestic or foreign anti-bribery or anti-corruption laws in Australia or any other jurisdiction the laws of which apply to the DDH1 Group; and
- (jj) **(Money laundering laws)** the operations of the DDH1 Group are and have been conducted at all times in compliance with all applicable money laundering legislation of Australia or any other jurisdiction which is applicable to the DDH1 Group, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Regulatory Authority in those jurisdictions, including, but not limited to, conducting customer identification and verification in a manner consistent with the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument (No 1) 2007*.

Schedule 3 - Timetable

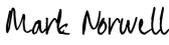
Event	Date
Send Scheme Booklet to ASIC	July/August 2023
First Court Date	August/September 2023
Election Date	September/October 2023
Scheme Meeting	September/October 2023
Second Court Date	September/October 2023
Effective Date	September/October 2023
Record Date	September/October 2023
Implementation Date	September/October 2023

Schedule 4 - DDH1 Loan Shares

Holder	Initial number of DDH1 Loan Shares	Remaining number DDH1 Loan Shares as at the date of this agreement	Initial Value of Loan	Outstanding Value of Loan as at the date of this agreement
Russell Chard	1,104,896	1,104,896	\$500,021	\$402,530
Clay Schmidt	883,916	883,916	\$400,016	\$321,030
Sy Van Dyk	4,420,000	4,420,000	\$2,000,271	\$1,610,270
Sy Van Dyk	205,000	205,000	\$92,773	\$74,684
Craig Chitty	883,916	883,916	\$400,016	\$321,030
Andrew Venn	1,911,342	450,000	\$864,978	\$163,238
Ben Mackinnon	1,104,896	1,104,896	\$500,021	\$402,530

Signed as an agreement.

Executed by **Perenti Limited ACN 009 211 474**
in accordance with section 127 of the
Corporations Act 2001 (Cth):

DocuSigned by:

8F5CC97C08414E4

Signature of director

Mark Norwell

Full name of director

DocuSigned by:

2822C9D2D6EE4B4

Signature of company secretary/director

Rajiv Ratneser

Full name of company secretary/director

Executed by **DDH1 Limited ACN 636 677 088** in
accordance with section 127 of the Corporations
Act 2001 (Cth):

Signature of director

Full name of director

Signature of company secretary/director

Full name of company secretary/director

Signed as an agreement.

Executed by Perenti Limited ACN 009 211 474
in accordance with section 127 of the
Corporations Act 2001 (Cth):

Signature of director

Full name of director

Signature of company secretary/director

Full name of company secretary/director

Executed by DDH1 Limited ACN 636 677 088 in
accordance with section 127 of the Corporations
Act 2001 (Cth):



Signature of director

Sybrandt Van Dyk

Full name of director



Signature of director

Diane Smith-Gander

Full name of director

Annexure A – Scheme

Confidential

Scheme of Arrangement

Pursuant to section 411 of the Corporations Act

DDH1 Limited
DDH1

Each person registered in the DDH1 Share Register as a holder of Scheme Shares as at the Record Date

Clayton Utz
Level 27 QV.1
250 St Georges Terrace
Perth WA 6000
GPO Box 9806
Perth WA 6848
Tel +61 8 9426 8000
Fax +61 8 9481 3095
www.claytonutz.com

Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	Interpretation.....	5
1.3	Business Day	6
2.	Conditions precedent	6
2.1	Conditions	6
2.2	Certificates in relation to Conditions	6
2.3	Termination of Implementation Agreement	7
3.	Scheme	7
3.1	Effective Date of this Scheme	7
3.2	End Date	7
4.	Implementation of Scheme	7
4.1	Lodgement of Court Orders with ASIC	7
4.2	Transfer of Scheme Shares.....	7
4.3	Election	8
4.4	Standard Consideration	9
4.5	Maximum Cash Consideration	9
4.6	Maximum Scrip Consideration.....	10
4.7	Provision of cash component of Scheme Consideration.....	10
4.8	Provision of scrip component of Scheme Consideration.....	11
4.9	Joint holders	12
4.10	Unclaimed monies	12
4.11	Orders of a court or Regulatory Authority	12
4.12	Fractional entitlements and share splitting or division	13
4.13	Binding instruction or notifications	13
4.14	Ineligible Shareholder Sale Facility	14
4.15	CGT Withholding Amount.....	15
4.16	Status of New Perenti Shares	15
5.	Dealings in DDH1 Shares	16
5.1	Dealings in DDH1 Shares by the Scheme Shareholders	16
5.2	DDH1 Share Register.....	16
5.3	Information to be made available to Perenti	16
5.4	Effect of share certificates and holding statements	16
5.5	No disposals after Record Date.....	17
6.	Suspension and termination of quotation.....	17
7.	General Scheme provisions.....	17
7.1	Appointment of agent and attorney	17
7.2	Enforcement of Deed Poll.....	17
7.3	Scheme Shareholders' consent.....	17
7.4	Scheme Shareholder's agreements and warranties.....	18
7.5	Title to Scheme Shares and transfer free from Encumbrance	18
7.6	Appointment of Perenti as sole proxy.....	19
7.7	Consent to alterations.....	19
7.8	Notices	19
7.9	Inconsistencies	19
7.10	Further assurance.....	19
7.11	No liability when acting in good faith	19
7.12	Stamp duties.....	20
7.13	Governing law and jurisdiction.....	20

Scheme of arrangement made under section 411 of the Corporations Act 2001 (Cth)

Date

Parties DDH1 Limited ACN 636 677 088 of 21 Baile Road, Canning Vale WA 6155 (DDH1)

Each person registered in the DDH1 Share Register as a holder of Scheme Shares as at the Record Date

Background

- A. DDH1 and Perenti have entered into the Implementation Agreement, pursuant to which, amongst other things, DDH1 has agreed to propose this Scheme, and each of DDH1 and Perenti has agreed to take certain steps to give effect to this Scheme.
- B. If this Scheme becomes Effective, Perenti will acquire all of the Scheme Shares and DDH1 will enter Perenti in the DDH1 Share Register as the holder of the Scheme Shares.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this Scheme, unless the contrary intention appears or the context requires otherwise:

Aggregate Maximum Cash Elections means the aggregate of the Full Cash Consideration payable under the Scheme (before the operation of the Scaleback Arrangements) to Scheme Shareholders who validly make a Maximum Cash Election.

Available Cash Consideration means the Cash Consideration Pool minus the aggregate cash consideration payable under the Scheme to all Scheme Shareholders who make a Standard Consideration Election.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

Business Day means a business day as defined in the Listing Rules, provided that such day is not a Saturday, Sunday or public holiday or a day on which banks are not open for business generally in Perth, Western Australia.

CHESS means the clearing house electronic sub-register system for the electronic transfer of securities operated by ASX Settlements Pty Limited ABN 49 008 504 532.

Cash Consideration Pool means \$50,010,901.67.

CGT Withholding Amount means the amount that Perenti is required to pay to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 of the TAA in respect of the acquisition of DDH1 Shares from a DDH1 Shareholder.

Condition means each condition to this Scheme set out in clause 2.1.

Consideration Election has the meaning given in clause 4.3(a)(ii) and includes a deemed Standard Consideration Election under clause 4.3(f).

Corporations Act means the Corporations Act 2001 (Cth).

Court means the Federal Court or such other court of competent jurisdiction as DDH1 and Perenti agree in writing.

DDH1 Actual Dividend, or **DAD** means the amount per DDH1 Share of any dividend declared, or determined to be paid (and not rescinded), after the date of this agreement where that dividend has a record date prior to the Implementation Date.

DDH1 Share Register means the register of members of DDH1 maintained by or on behalf of DDH1 in accordance with section 168(1) of the Corporations Act.

DDH1 Share Registry means Computershare Investor Services Pty Ltd ACN 078 279 277.

DDH1 Shareholder means a person who is registered in the DDH1 Share Register as a holder of DDH1 Shares.

DDH1 Shares means fully paid ordinary shares in the capital of DDH1.

Deed Poll means the deed poll dated [insert] executed by Perenti in favour of the Scheme Shareholders (subject to any amendments permitted by its terms).

Delivery Time means 8:00 am on the Second Court Date.

Effective means, when used in relation to this Scheme, the coming into effect, pursuant to 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 this Scheme.

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

Election means a Consideration Election or an Unmarketable Parcel Rollover Election and **Elect** has a corresponding meaning.

Election Date means the last date for receipt of an Election Form in order to make an Election in accordance with the terms of the Scheme, being 7pm (Sydney time) on the fourth Business Day before the cut-off date for the lodgement of proxies at the Scheme Meeting, or such other date and time as Perenti and DDH1 agree in writing.

Election Form means the election form(s) contemplated by clause 4.3.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest, or any agreement to create any of them or allow them to exist.

End Date means the date that is 8 months after the date of the Implementation Agreement or such other date agreed in writing between DDH1 and Perenti.

Full Cash Consideration means, for each Scheme Share, a cash amount calculated in accordance with the following formula:

$$\text{Standard Cash Component} + \text{Standard Scrip Component} \times (\text{VWAP} - \text{PAD}_2)$$

Full Scrip Consideration means, for each Scheme Share, the number of New Perenti Shares calculated in accordance with the following formula:

$$\frac{\text{Full Cash Consideration}}{\text{VWAP} - \text{PAD}_2}$$

Implementation Agreement means the Scheme Implementation Agreement dated [insert] between DDH1 and Perenti under which, amongst other things, DDH1 has agreed to propose this Scheme, and each of DDH1 and Perenti has agreed to take certain steps to give effect to this Scheme.

Implementation Date means the date that is 5 Business Days after the Record Date or such other date as DDH1 and Perenti agree in writing or as ordered by the Court.

Ineligible Overseas Shareholder means a Scheme Shareholder whose address shown in the DDH1 Share Register on the Record Date is a place outside Australia and its external territories and New Zealand, unless Perenti determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Perenti Shares when the Scheme becomes Effective.

Ineligible Shareholder Sale Facility means the facility to be conducted in accordance with clause 4.14.

Listing Rules means the official listing rules of ASX.

Marketable Parcel means a parcel of shares that are worth not less than \$500 in accordance with the ASX Operating Rules Procedures.

Maximum Cash Consideration means the Scheme Consideration calculated in accordance with clause 4.5.

Maximum Cash Election has the meaning given in clause 4.3(a)(ii)C.

Maximum Scrip Consideration means the Scheme Consideration calculated in accordance with clause 4.6.

Maximum Scrip Election has the meaning given in clause 4.3(a)(ii)B.

New Perenti Shares means fully paid ordinary shares in Perenti to be provided to Scheme Shareholders under the Scheme.

Non-Rollover Unmarketable Parcel Shareholder means an Unmarketable Parcel Shareholder that has not made a valid Unmarketable Parcel Rollover Election by the Election Date.

Perenti means Perenti Limited ACN 009 211 474.

Perenti Actual Dividend means the amount per Perenti Share of any dividend declared, or determined to be paid (and not rescinded), after the date of this agreement with a record date before the Implementation Date; and

- (a) **PAD₁** means any Perenti Actual Dividend paid before the 5 trading day period referred to in the definition of VWAP; and
- (b) **PAD₂** means any Perenti Actual Dividend paid after the 5 trading day period referred to in the definition of VWAP.

Perenti Shares means fully paid ordinary shares in the capital of Perenti.

Perenti Share Register means the register of members of Perenti maintained by or on behalf of Perenti in accordance with section 168(1) of the Corporations Act.

Perenti Share Registry means Link Market Services Limited ACN 083 214 537.

Record Date means 5:00 pm on the date that is 2 Business Days after the Effective Date or such other time and date agreed in writing between DDH1 and Perenti.

Registered Address means in relation to a DDH1 Shareholder, the address shown in the DDH1 Share Register.

Regulatory Authority means:

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

Related Body Corporate has the meaning given to that term in section 50 of the Corporations Act.

Relevant Scheme Shareholder means a Scheme Shareholder that is not an Ineligible Overseas Shareholder.

Scaleback Arrangements means the scaleback arrangements described in clauses 4.5(b) and 4.6(b).

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between DDH1 and the Scheme Shareholders as set out in this document, subject to any alterations or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act and agreed to by DDH1 and Perenti.

Scheme Booklet means the scheme booklet published by DDH1 and dated [insert].

Scheme Consideration means the consideration to be provided to Scheme Shareholders for the transfer to Perenti of their Scheme Shares comprising one of the Standard Consideration, Maximum Scrip Consideration or Maximum Cash Consideration, subject to the terms of this Scheme.

Scheme Meeting means the meeting of DDH1 Shareholders to be convened pursuant to section 411(1) of the Corporations Act to consider and, if thought fit, to approve the Scheme.

Scheme Share means a DDH1 Share on issue as at the Record Date, other than any DDH1 Shares held by Perenti or a Related Body Corporate of Perenti as at the Record Date.

Scheme Shareholder means each person registered in the DDH1 Share Register as a holder of Scheme Shares as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of this Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day of the hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving this Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Security Interest has the meaning given in section 12 of the Personal Properties Securities Act 2009 (Cth).

Standard Consideration means, for each Scheme Share, both:

- (a) \$0.1238 in cash (the **Standard Cash Component**); and
- (b) the number of New Perenti Shares calculated in accordance with the following formula (the **Standard Scrip Component**):

$$\frac{0.7111 \times (VWAP + PAD_1) - DAD}{VWAP - PAD_2}$$

Standard Consideration Election has the meaning given in clause 4.3(a)(ii)A.

Subsidiary has the meaning given to it in the Corporations Act.

TAA means the Taxation Administration Act 1953 (Cth).

Unmarketable Parcel Shareholder means a Scheme Shareholder (other than an Ineligible Overseas Shareholder) who, based on their holding of Scheme Shares on the Record Date, their Consideration Election and the operation of the Scaleback Arrangements (if applicable), would, on Implementation, be entitled to receive less than a Marketable Parcel of Perenti Shares under the Scheme (assessed by reference to the price of Perenti Shares on ASX at the close of trade on the trading day prior to the Record Date).

Unmarketable Parcel Rollover Election has the meaning given in clause 4.3(a)(i).

VWAP means the volume-weighted average price of Perenti Shares traded on the ASX over the five trading day period that ends two Business Days prior to the Election Date, excluding any 'Crossing' transacted outside of the 'Open Session State' or any 'Special Crossing' transacted at any time, each as defined in the ASX Operating Rules.

1.2 Interpretation

In this Scheme headings and labels used for definitions are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, a Regulatory Authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) references to paragraphs or clauses are to a paragraph or clause of this Scheme;
- (g) a reference to a document (including this Scheme) is to that document as varied, novated, ratified or replaced from time to time;

- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this Scheme;
- (k) a reference to a date or time is to that date or time in Perth, Australia; and
- (l) this Scheme or any clause in this Scheme must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

1.3 Business Day

Except where otherwise expressly provided, where under this Scheme the day on which or by which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing shall be done on the immediately preceding Business Day.

2. Conditions precedent

2.1 Conditions

This Scheme is conditional on the satisfaction of each of the following conditions, and will have no force or effect until each of the following conditions is satisfied:

- (a) as at the Delivery Time, each of the conditions set out in clause 3.1 of the Implementation Agreement (other than the condition relating to the approval of the Court set out in clause 3.1(b) of the Implementation Agreement) has been satisfied or waived in accordance with the terms of the Implementation Agreement;
- (b) as at the Record Date, no DDH1 Performance Rights are on issue and the DDH1 Shares required to be issued pursuant to clause 9.1(a) of the Implementation Agreement have been issued;
- (c) as at the Delivery Time, neither the Implementation Agreement nor the Deed Poll has been terminated;
- (d) the Court approves this Scheme under section 411(4)(b) of the Corporations Act including any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to in writing by DDH1 and Perenti;
- (e) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to DDH1 and Perenti (each acting reasonably) have been satisfied or waived; and
- (f) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

2.2 Certificates in relation to Conditions

- (a) On the Second Court Date:

- (i) DDH1 must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not the Conditions set out in clauses 2.1(a) and 2.1(c) have been satisfied or waived and that DDH1 has fully performed its obligations under clause 9.1(a) of the Implementation Agreement (so far as they fall to be performed before the Delivery Time); and
 - (ii) Perenti must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not the Conditions set out in clauses 2.1(a) and 2.1(c) have been satisfied or waived.
- (b) Where the certificates disclose that any of those Conditions set out in clauses 2.1(a) and 2.1(c) have been satisfied or waived in accordance with the terms of the Implementation Agreement, they will constitute conclusive evidence (in the absence of manifest error) of the matters the subject of the certificates.

2.3 Termination of Implementation Agreement

Without limiting any rights under the Implementation Agreement, in the event that the Implementation Agreement is terminated in accordance with its terms before the Delivery Time, DDH1 and Perenti are each released from:

- (a) any further obligation to take steps to implement this Scheme; and
- (b) any liability with respect to this Scheme.

3. Scheme

3.1 Effective Date of this Scheme

Subject to clause 3.2, this Scheme will take effect on and from the Effective Date.

3.2 End Date

This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date, or such later date as DDH1 and Perenti agree in writing.

4. Implementation of Scheme

4.1 Lodgement of Court Orders with ASIC

If the Conditions (other than the Condition set out in clause 2.1(f)) are satisfied, DDH1 must promptly lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme, and in any event by no later than 5:00 pm on the Business Day following the date on which the Court approves this Scheme or such other Business Day as DDH1 and Perenti agree in writing.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 4.3, all of the Scheme Shares will, together with all rights and entitlements attaching to the Scheme Shares, be transferred to Perenti without the need for any further act by any Scheme Shareholder (other than acts performed by DDH1 or its directors as attorney or agent for the Scheme Shareholders under this Scheme) by:

- (i) DDH1 delivering to Perenti a completed Scheme Transfer duly executed on behalf of the Scheme Shareholders in accordance with clause 7.1 of this Scheme; and
 - (ii) Perenti delivering to DDH1 a completed Scheme Transfer, duly executed by Perenti, and attending to the stamping of the Scheme Transfer (if required); and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a), but subject to the stamping of the Scheme Transfer (if required), DDH1 must enter, or procure the entry of, the name and address of Perenti in the DDH1 Share Register as the holder of all of the Scheme Shares.

4.3 Election

- (a) Subject to the terms of the Scheme, by completing an Election Form by the Election Date:
- (i) an Unmarketable Parcel Shareholders may make an election (**Unmarketable Parcel Rollover Election**) not to have the scrip component of their Scheme Consideration sold under the Ineligible Shareholder Sale Facility; and
 - (ii) a Relevant Scheme Shareholder may make an election to receive, for all of their Scheme Shares, one of the following:
 - A. the Standard Consideration (being, along with a deemed election under clause 4.3(f), a **Standard Consideration Election**);
 - B. the Maximum Scrip Consideration (**Maximum Scrip Election**); or
 - C. the Maximum Cash Consideration (**Maximum Cash Election**),

(each a **Consideration Election**)
- (b) Subject to clause 4.3(e), a Relevant Scheme Shareholder may make only one Consideration Election, and an Unmarketable Parcel Shareholder may make only one Unmarketable Parcel Rollover Election, in relation to a particular holding.
- (c) An Election may be made by a Scheme Shareholder, as applicable, by:
- A. completing the Election Form in accordance with the instructions specified on the Election Form or set out in the Scheme Booklet; and
 - B. returning the completed Election Form in accordance with the instructions on it so that it is received by DDH1 no later than the Election Date,
- or by taking equivalent actions in electronic form if permitted by DDH1's constitution and the Court.
- (d) Once made:
- (i) a Consideration Election may be varied before the Election Date by making a new Consideration Election; and

- (ii) an Unmarketable Parcel Rollover Election may be rescinded at any time before the Election Date.
- (e) A Scheme Shareholder that holds one or more parcels of DDH1 Shares as trustee or nominee for, or otherwise on account of, another person, may, in the manner agreed between DDH1 and Perenti, make separate Elections in relation to each of those parcels of DDH1 Shares (and, for the purpose of calculating the Scheme Consideration to which the Scheme Shareholder is entitled each such parcel of DDH1 Shares will be treated as though it were held by a separate Scheme Shareholder).
- (f) If a valid Consideration Election is not made by a Relevant Scheme Shareholder prior to the Election Date, then that Relevant Scheme Shareholder will be deemed to have made a Standard Consideration Election.
- (g) A Consideration Election made by a person who is not a Relevant Scheme Shareholder, or an Unmarketable Parcel Rollover Election made by a person who is not an Unmarketable Parcel Shareholder, will be disregarded.
- (h) Subject to clause 4.3(e), an election made or deemed to be made by a Scheme Shareholder under this clause 4.3 will be deemed to apply in respect of the Scheme Shareholder's entire registered holding of Scheme Shares at the Record Date, regardless of whether the Scheme Shareholder's holding of Scheme Shares at the Record Date is greater or less than the Scheme Shareholder's holding at the time it made its Election.
- (i) Subject to clauses 4.3(j) and 4.3(k), an Election Form will not be valid unless it is completed and received in accordance with the procedures set out in clause 4.3(c).
- (j) Perenti will determine, in its sole discretion, all questions as to the correct completion of an Election Form, and time of receipt of an Election Form. Perenti is not required to communicate with any Scheme Shareholder prior to making this determination. The determination of Perenti will be final and binding on the Scheme Shareholder.
- (k) Notwithstanding clause 4.3(c), Perenti may, in its sole discretion, at any time and without further communication to Scheme Shareholders, deem any Election Form it receives from a Scheme Shareholder to be a valid Election in respect of the relevant Scheme Shares, even if a requirement for a valid Election has not been complied with.

4.4 Standard Consideration

If a Scheme Shareholder makes a valid Standard Consideration Election, the Scheme Shareholder will be entitled to receive the Standard Consideration for each Scheme Share they hold at the Record Date.

4.5 Maximum Cash Consideration

If a Scheme Shareholder has made a Maximum Cash Election before the Election Date, that Scheme Shareholder will be entitled to receive for the Scheme Shares they hold at the Record Date:

- (a) if the Available Cash Consideration is greater than or equal to the Aggregate Maximum Cash Elections – the Full Cash Consideration for all their Scheme Shares; or
- (b) if the Available Cash Consideration is less than the Aggregate Maximum Cash Elections – :

- (ii) the Full Cash Consideration for that proportion of their Scheme Shares as is calculated in accordance with the following formula (the resulting number of Scheme Shares being rounded down to the nearest whole number):

$$\frac{ACC}{AMCE}$$

Where:

ACC = Available Cash Consideration

AMCE = Aggregate Maximum Cash Elections; and

- (iii) the Full Scrip Consideration for the remainder of their Scheme Shares.

4.6 Maximum Scrip Consideration

If a Scheme Shareholder has made a Maximum Scrip Election before the Election Date, that Scheme Shareholder will be entitled to receive for the Scheme Shares they hold at the Record Date:

- (a) if the Available Cash Consideration is less than or equal to the Aggregate Maximum Cash Elections – the Full Scrip Consideration for all their Scheme Shares;
- (b) if the Available Cash Consideration is greater than the Aggregate Maximum Cash Elections – :
- (i) the Full Cash Consideration for that proportion of their Scheme Shares as is calculated in accordance with the following formula (the resulting number of Scheme Shares being rounded down to the nearest whole number):

$$\frac{ACC - AMCE}{n_{MSE} \times FCC}$$

Where:

ACC = Available Cash Consideration

AMCE = Aggregate Maximum Cash Elections

n_{MSE} = The aggregate number of Scheme Shares held at the Record Date by Scheme Shareholders who have made a valid Maximum Scrip Election

FCC = The Full Cash Consideration per Scheme Share; and

- (ii) the Full Scrip Consideration for the remainder of their Scheme Shares.

4.7 Provision of cash component of Scheme Consideration

- (a) Perenti must, by no later than the Business Day before the Implementation Date, deposit in cleared funds an amount equal to the Cash Consideration Pool (or such larger number as is required under the Scheme having regard to clause 4.12) in an Australian dollar denominated trust account operated by DDH1 or the DDH1 Share Registry as trustee of the Scheme Shareholders who are entitled to receive a cash amount as part of the Scheme Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Perenti's account.

- (b) Subject to Perenti having complied with clause 4.7(a), DDH1 must, on the Implementation Date and from the trust account referred to in clause 4.7(a), pay or procure the payment to each Scheme Shareholder the amount of cash (if any) to which it is entitled to receive under the Scheme.
- (c) DDH1's obligation under clause 4.7(b) will be satisfied by DDH1 (in its absolute discretion):
- (i) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of the DDH1 Share Registry to receive dividend payments from DDH1 by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount of Australian currency by electronic means in accordance with that election; or
 - (ii) otherwise, dispatching, or procuring the dispatch of, a cheque in Australian currency to the Scheme Shareholder by prepaid post to their address shown in the DDH1 Share Register as at the Record Date, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 4.9), for the relevant amount.

4.8 Provision of scrip component of Scheme Consideration

- (a) Perenti must subject to clauses 4.9, 4.12 and 4.14:
- (i) on or before the Implementation Date
 - A. issue to each Relevant Scheme Shareholder such number of New Perenti Shares as that Relevant Scheme Shareholder is entitled to as Scheme Consideration;
 - B. issue to a nominee appointed by Perenti in accordance with clause 4.14 such number of Perenti Shares as are attributable to the Ineligible Overseas Shareholders or Non-Rollover Unmarketable Parcel Shareholders;
 - C. procure the entry in the Perenti Share Register:
 - 1) of the name and address of each Relevant Scheme Shareholder in respect of the New Perenti Shares issued to them; and
 - 2) of the name and address of the nominee appointed by Perenti in respect of those New Perenti Shares that would otherwise be issued to each Scheme Shareholder who is an Ineligible Overseas Shareholder or Non-Rollover Unmarketable Parcel Shareholder; and
 - (ii) within 5 Business Days after the Implementation Date, send or procure the despatch to each Scheme Shareholder whose New Perenti Shares are held on the issuer sponsored subregister of Perenti or the nominee appointed by Perenti (as the case may be) to their address (as recorded in the DDH1 Share Register as at the Record Date, except in the case of the nominee appointed by Perenti) of uncertificated holding statements for New Perenti Shares issued to the Scheme Shareholder or the nominee appointed by Perenti (as the case may be) in accordance with this Scheme.

- (b) This clause 4.8 does not apply to a Scheme Shareholder who does not have a Registered Address or where DDH1 and Perenti believe that such Scheme Shareholder (other than Ineligible Overseas Shareholders and Non-Rollover Unmarketable Parcel Shareholders) is not known at their Registered Address.

4.9 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any monies required to be paid to the Scheme Shareholders will be payable to the joint holders;
- (b) any holding statements for New Perenti Shares to be issued to Scheme Shareholders will be issued in the names of the joint holders; and
- (c) any other document required to be sent under this Scheme will be issued in the names of the joint holders,

and will be forwarded to the holder whose name appears first in the DDH1 Share Register as at the Record Date.

4.10 Unclaimed monies

- (a) In relation to cheques issued under this clause 4, the issuer may cancel a cheque if the cheque:
- (i) is returned; or
- (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder (which request may not be made until that date which is 10 Business Days after the Implementation Date), DDH1 or Perenti (as applicable) must reissue a cheque that was previously cancelled under this clause 4.10.
- (c) The *Unclaimed Money Act 1990* (WA) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of that Act).

4.11 Orders of a court or Regulatory Authority

If written notice is given to DDH1 (or the DDH1 Share Registry) or Perenti (or the Perenti Share Registry) of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that:

- (a) requires payment (including by the issue of New Perenti Shares) to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by DDH1 or Perenti in accordance with this clause 4, then DDH1 or Perenti (as applicable) will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents DDH1 or Perenti from making a payment (including by the issue of New Perenti Shares) to a particular Scheme Shareholder in accordance with this clause 4, or such payment is otherwise prohibited by applicable law, DDH1 or Perenti (as applicable) will be entitled:

- (i) in the case of a cash payment, to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 4 is permitted by that order or direction or otherwise by law; or
- (ii) not to issue, or to issue to a trustee or nominee such number of New Perenti Shares as that Scheme Shareholder would otherwise be entitled to receive under this clause 4.

4.12 Fractional entitlements and share splitting or division

- (a) If the number of Scheme Shares held by a Scheme Shareholder at the Record Date, having regard to any Consideration Election made by the Scheme Shareholder, is such that the entitlement of the Scheme Shareholder (in aggregate across the entirety of their Scheme Shares) to Scheme Consideration is such that a fractional entitlement to a Perenti Share arises, or an entitlement to a cash amount involving a fraction of a cent arises, then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than half a Perenti Share or half a cent (as the case may be) being rounded down to the nearest whole Perenti Share and any such fractional entitlement of half a Perenti Share or half a cent (as the case may be) or more being rounded up.
- (a) If Perenti is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 4.12(a)) have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Perenti may give notice to those Scheme Shareholders:
 - (i) setting out their names and registered addresses as shown in the DDH1 Share Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all of the specified Scheme Shares will, for the purposes of the other provisions of the Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and registered addresses are set out in the notice will, for the purposes of the other provisions of the Scheme, be taken to hold no Scheme Shares. Perenti in complying with the other provisions of the Scheme relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all of the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

4.13 Binding instruction or notifications

Except for a Scheme Shareholder's tax file number, any binding instruction or notification between a Scheme Shareholder and DDH1 relating to Scheme Shares as at the Record Date (including, without limitation, any instructions relating to payment of dividends or to communications from DDH1) will, from the Record Date, be deemed (except to the extent determined otherwise by Perenti in its sole discretion) to be a similarly binding instruction or notification to, and accepted by Perenti, in respect of Perenti Shares issued to the Scheme Shareholder until that instruction or notification is revoked or amended in writing addressed to Perenti at Perenti's share registry, provided that any such instructions or notifications accepted by Perenti will apply to and in respect of the issue of Perenti Shares as the Scheme

Consideration only to the extent that they are not inconsistent with the other provisions of this Scheme.

4.14 Ineligible Shareholder Sale Facility

- (a) Each Ineligible Overseas Shareholder or Non-Rollover Unmarketable Parcel Shareholder (each, an **Ineligible Shareholder**), authorises Perenti to:
- (i) issue to a nominee appointed by Perenti (and approved by ASIC if required) any New Perenti Shares to which an Ineligible Shareholder would otherwise be entitled (**Non-Rollover Perenti Shares**);
 - (ii) procure that, as soon as reasonably practicable and in any event not more than 30 Business Days after the Implementation Date, the nominee:
 - A. sells on the financial market conducted by ASX all of the Non-Rollover Perenti Shares issued to the nominee pursuant to clause 4.14(a) in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - B. remits to Perenti the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges (**Net Proceeds**)).
 - (iii) promptly after the last sale of the Non-Rollover Perenti Shares issued in accordance with clause 4.14(a)(ii)A, pay to each Ineligible Shareholder an amount equal to the proportion of the net proceeds of sale received by Perenti under clause 4.14(a)(ii)B to which that Ineligible Shareholder is entitled, in full satisfaction of their entitlement to the Non-Rollover Perenti Shares, accordance with the following formula:

$$A = (B \div C) \times D$$

Where:

 - A is the amount to be paid to the Ineligible Shareholder;
 - B is the number of Non-Rollover Perenti Shares attributable to, and that would otherwise have been issued to, that Ineligible Shareholder had it not been an Ineligible Shareholder and which are instead issued to the nominee;
 - C is the total number of Non-Rollover Perenti Shares attributable to and which would otherwise have been issued to, all Ineligible Shareholders collectively and which are instead issued to the nominee; and
 - D is the Net Proceeds.
- (b) Neither Perenti nor DDH1 gives any assurance as to the price that will be achieved for the sale of New Perenti Shares described in clause 4.14(a)(ii)B. The sale of the New Perenti Shares under this clause 4.14 will be at the risk of the Ineligible Shareholder.
- (c) Perenti must appoint the nominee on terms reasonably acceptable to DDH1 (confirmation of such approval not to be unreasonably withheld or delayed) at least five Business Days prior to the Scheme Meeting.

4.15 CGT Withholding Amount

Notwithstanding any other provision of this Scheme, if Perenti determines (acting reasonably) that an amount is required to be withheld under Subdivision 14-D of Schedule 1 of the TAA from the Scheme Consideration payable to a Scheme Shareholder, Perenti:

- (a) may determine the CGT Withholding Amount to be paid to the Commissioner of Taxation in respect of the acquisition of the DDH1 Shares from such DDH1 Shareholder;
- (b) may deduct a sufficient amount from the Scheme Consideration to ensure that the CGT Withholding Amount is remitted to the Commissioner; and payment of the reduced amount shall be taken to be full payment of the relevant amount for the purposes of this Scheme. If a Scheme Shareholder receives:
 - (i) cash consideration in relation to some or all of the Scheme Shares held by that Scheme Shareholder, Perenti will withhold and remit the CGT Withholding Amount from the cash consideration payable; or
 - (ii) New Perenti Shares, and/or Perenti was unable to withhold the CGT Withholding Amount from the cash consideration payable to a Scheme Shareholder, Perenti must notify DDH1 (and the nominee appointed by Perenti under clause 4.14 by 12pm on the third Business Day following the Record Date of the number of New Perenti Shares that Perenti has determined (in its reasonable opinion which, for the avoidance of doubt, includes a sufficient provision for potential share price movement up to the anticipated sale date of the New Perenti Shares by the nominee) should be issued to the nominee, that would otherwise have been directly issued to such Scheme Shareholder to:
 - A. enable the CGT Withholding Amount (or remaining CGT Withholding Amount where Perenti has withheld some of the cash consideration) to be realised from the sale of the New Perenti Shares and paid to the Commissioner (or reimburse Perenti where Perenti has already paid the CGT Withholding Amount to the Commissioner); and
 - B. satisfy the fees and any taxes and duty which the nominee may be entitled to be paid or reimbursed for in connection with the sale of those New Perenti Shares,

and Perenti must deal with the number of New Perenti Shares the subject of such notice in the same manner as under clause 4.14, including by remitting to the Scheme Shareholder the net proceeds (if any) of such sale after the uses described in paragraphs (A) and (B) above.

4.16 Status of New Perenti Shares

Perenti covenants in favour of DDH1 (in its own right and on behalf of each Scheme Shareholder) that:

- (a) the New Perenti Shares issued as Scheme Consideration will, on their issue, rank equally in all respects with all other Perenti Shares on issue at the Effective Date, and the New Perenti Shares issued as Scheme Consideration will be entitled to participate in and receive any dividends, any distribution of capital and any other entitlements accruing in respect of Perenti Shares after the Implementation Date;
- (b) it will use best endeavours to ensure that the New Perenti Shares issued as Scheme Consideration will be listed for quotation on the official list of ASX with

effect as soon as reasonably practicable after the Record Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis; and

- (c) on issue, each New Perenti Share will be fully paid and, to the extent within the control of Perenti, free from any Encumbrance.

5. Dealings in DDH1 Shares

5.1 Dealings in DDH1 Shares by the Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in DDH1 Shares or other alterations to the DDH1 Share Register will only be recognised by DDH1 provided that:

- (a) in the case of dealings of the type to be effected on CHESS, the transferee is registered in the DDH1 Share Register as the holder of the relevant DDH1 Shares by the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Record Date at the place where the DDH1 Share Register is kept,

and DDH1 will not accept for registration, or recognise for any purpose (except a transfer to Perenti pursuant to this Scheme and any subsequent transfer by Perenti or its successors in title), any transmission application or transfer in respect of DDH1 Shares received on or after the Record Date, or received prior to the Record Date but not in registrable or actionable form.

5.2 DDH1 Share Register

DDH1 will, until the Scheme Consideration has been paid or issued and Perenti has been entered in the DDH1 Share Register as the holder of all of the Scheme Shares, maintain the DDH1 Share Register in accordance with the provisions of this clause 5 and the DDH1 Share Register in this form and the terms of this Scheme will solely determine entitlements to the Scheme Consideration.

5.3 Information to be made available to Perenti

- (a) DDH1 must procure that as soon as practicable following the Record Date (and in any event, at least three Business Days before the Implementation Date), details of the following matters (in respect of each Scheme Shareholder) are given to Perenti in such form as Perenti may reasonably require:
- (i) the names, registered addresses and holdings of DDH1 Shares of every Scheme Shareholder shown in the DDH1 Share Register at the Record Date; and
- (ii) (unless otherwise agreed by Perenti) the instructions or notifications deemed by virtue of clause 4.13 to be made by the Scheme Shareholders to Perenti.
- (b) Each Scheme Shareholder agrees that this information may be disclosed to the Perenti Share Registry and Perenti's advisers and other service providers to the extent necessary to effect the Scheme.

5.4 Effect of share certificates and holding statements

As from the Record Date (and other than for Perenti following the Implementation Date), all share certificates and holding statements for the Scheme Shares will cease to have effect as

documents of title, and, subject to provision of the Scheme Consideration by Perenti and registration of the transfer to Perenti of the Scheme Shares contemplated by clauses 4.2, each entry on the DDH1 Share Register (other than for Perenti) at that date will cease to have any effect other than as evidence of entitlement to the Scheme Consideration.

5.5 No disposals after Record Date

If this Scheme becomes Effective, a Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Record Date and any attempt to do so will be void and will have no legal effect whatsoever.

6. Suspension and termination of quotation

- (a) DDH1 must apply to ASX for suspension of trading of DDH1 Shares on ASX with effect from the close of trading on the Effective Date.
- (b) DDH1 must apply to ASX for:
 - (i) termination of official quotation of DDH1 Shares on ASX; and
 - (ii) the removal of DDH1 from the official list of ASX,
 with effect from the close of business on the Business Day immediately following the Implementation Date.

7. General Scheme provisions

7.1 Appointment of agent and attorney

Each Scheme Shareholder, without the need for any further act, irrevocably appoints DDH1 (and each of its directors and officers, jointly and severally) as its agent and attorney for the purpose of:

- (a) executing any document or form or doing any other act necessary to give effect to the terms of this Scheme including, without limitation, the execution of the Scheme Transfer to be delivered under clause 4.2 and the giving of the Scheme Shareholders' consent under clause 7.3; and
- (b) enforcing the Deed Poll against Perenti,

and DDH1 accepts such appointment. DDH1, as agent and attorney of each Scheme Shareholder, may sub delegate its functions, authorities or powers under this clause 7.1 to all or any of its directors and officers (jointly, severally, or jointly and severally).

7.2 Enforcement of Deed Poll

DDH1 undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Perenti (as applicable on behalf of and as agent and attorney for the Scheme Shareholders).

7.3 Scheme Shareholders' consent

Each Scheme Shareholder irrevocably:

- (a) consents to DDH1 and Perenti doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of this Scheme; and

- (b) acknowledges that this Scheme binds DDH1 and all of the Scheme Shareholders (including those who do not attend the Scheme Meeting, do not vote at that meeting or vote against this Scheme).

7.4 Scheme Shareholder's agreements and warranties

Each Scheme Shareholder:

- (a) to whom New Perenti Shares are to be issued in accordance with this Scheme irrevocably:
- (i) agrees to become a member of Perenti and to have their name entered in the Perenti Share Register; and
 - (ii) accepts Perenti Shares issued under this Scheme on the terms and conditions of the constitution of Perenti and agrees to be bound by the constitution of Perenti as in force from time to time in respect of Perenti Shares,
- without the need for any further act by a Scheme Shareholder;
- (b) irrevocably agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares in accordance with this Scheme;
- (c) irrevocably agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (d) irrevocably agrees to, on the direction of Perenti, destroy any holding statements or share certificates relating to their Scheme Shares; and
- (e) is deemed to have warranted to Perenti and, to the extent enforceable, appointed and authorised DDH1 as its agent to warrant to Perenti that:
- (i) all its Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Perenti, be fully paid and free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and from any restrictions on transfer of any kind;
 - (ii) that it has full power and capacity to sell and to transfer those Scheme Shares together with any rights and entitlements attaching to such shares to Perenti under this Scheme; and
 - (iii) it has no right (whether conditional or not) to be issued any shares or other securities in DDH1 or any of its Subsidiaries.

7.5 Title to Scheme Shares and transfer free from Encumbrance

- (a) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 4.3, Perenti will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by DDH1 of Perenti in the DDH1 Share Register as the holder of the Scheme Shares.
- (b) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Perenti, will, at the time of transfer to Perenti, vest in Perenti free from all Encumbrances, interests of third parties of any kind, whether legal or otherwise, and from any restrictions on transfer of any kind.

7.6 Appointment of Perenti as sole proxy

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 4.3 of this Scheme, on and from the Implementation Date until DDH1 registers Perenti as the holder of all of the Scheme Shares in the DDH1 Share Register, each Scheme Shareholder:

- (a) irrevocably appoints Perenti and each of its directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable corporate representative, to attend shareholders' meetings, exercise the votes attaching to Scheme Shares registered in its name and sign any shareholders resolution, and no Scheme Shareholder may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 7.6(a));
- (b) must take all other actions in the capacity of the registered holder of Scheme Shares as Perenti reasonably directs; and
- (c) acknowledges and agrees that in exercising the powers referred to in this clause 7.6, Perenti and any director of Perenti may act in the best interests of Perenti as the intended registered holder of the Scheme Shares.

7.7 Consent to alterations

If the Court proposes to approve this Scheme subject to any alterations or conditions, DDH1 may, by its counsel or solicitors, and with the written consent of Perenti, consent on behalf of all persons concerned, including a Scheme Shareholder, to any modification of or amendment to this Scheme which the Court thinks fit to impose.

7.8 Notices

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to DDH1, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at DDH1's registered office or at the DDH1 Share Registry as the case may be.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a DDH1 Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

7.9 Inconsistencies

This Scheme binds DDH1 and all DDH1 Shareholders (including Scheme Shareholders who do not attend the Scheme Meeting, do not vote at that meeting or vote against the Scheme), and to the extent of any inconsistency, overrides the DDH1 constitution.

7.10 Further assurance

DDH1 will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, this Scheme.

7.11 No liability when acting in good faith

Neither DDH1 nor Perenti, nor any of their respective officers or employees, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

7.12 Stamp duties

Perenti:

- (a) must pay or procure the payment of all stamp duties and other duties together with any related fees, fines, penalties, interest or statutory charges, and similar taxes in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under this Scheme and the Deed Poll; and
- (b) indemnifies each Scheme Shareholder against any loss or liability suffered or incurred by the Scheme Shareholders arising out of or in connection with any delay or failure to comply with clause 7.12(a).

7.13 Governing law and jurisdiction

- (a) This Scheme is governed by the law applying in Western Australia.
- (b) Each party irrevocably:
 - (i) submits to the non-exclusive jurisdiction of the courts of Western Australia, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 7.13(b)(i).

Annexure B - Deed Poll

Deed Poll

Perenti Limited
Perenti

In favour of each person registered in the DDH1 Share Register as a holder of Scheme Shares as at the Record Date

Clayton Utz
Level 27 QV.1
250 St Georges Terrace
Perth WA 6000
GPO Box 9806
Perth WA 6848
Tel +61 8 9426 8000
Fax +61 8 9481 3095
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Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	Interpretation.....	2
1.3	Nature of deed poll	2
2.	Conditions precedent	3
2.1	Conditions.....	3
2.2	Termination.....	3
2.3	Consequences of termination.....	3
3.	Scheme obligations	3
3.1	Scheme Consideration	3
3.2	Official quotation of New Perenti Shares.....	4
4.	Representations and warranties	4
5.	Continuing obligations.....	4
6.	Notices	4
6.1	How notice to be given	4
6.2	When notice taken to be received	5
6.3	Notices sent by more than one method of communication	6
7.	General.....	6
7.1	Assignment.....	6
7.2	Cumulative rights	6
7.3	Further action.....	6
7.4	Stamp duties.....	7
7.5	Variation.....	7
7.6	Waiver.....	7
7.7	Moratorium legislation.....	7
7.8	Costs.....	8
7.9	Time	8
7.10	Counterparts	8
8.	Governing law and jurisdiction	8

Deed Poll

Date

Party Perenti Limited ACN 009 211 474 of Level 4, 45 Francis Street, Northbridge WA 6003 (**Perenti**)

In favour of Each person registered in the DDH1 Share Register as a holder of Scheme Shares as at the Record Date (**Scheme Shareholders**)

Background

- A. DDH1 and Perenti have entered into the Implementation Agreement.
- B. DDH1 has agreed in the Implementation Agreement to propose the Scheme, the effect of which will be that Perenti will acquire all of the Scheme Shares from the Scheme Shareholders, subject to the satisfaction of certain conditions.
- C. In accordance with clause 4.2(k) of the Implementation Agreement, Perenti is entering into this deed poll.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed poll:

DDH1 means DDH1 Limited ACN 636 677 088 of 21 Baile Road, Canning Vale WA 6155.

First Court Date means the first day of the hearing of an application made to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Implementation Agreement means the scheme implementation agreement dated [insert] between DDH1 and Perenti pursuant to which, amongst other things, DDH1 has agreed to propose the Scheme, and each of DDH1 and Perenti has agreed to take certain steps to give effect to the Scheme.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between DDH1 and the Scheme Shareholders, in the form of Annexure A to the Implementation Agreement, or in such other form as DDH1 and Perenti agree in writing.

Capitalised terms have the meaning given to them in the Scheme, unless the context requires otherwise.

1.2 Interpretation

In this deed poll headings and labels used for definitions are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word including or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) references to paragraphs or clauses are to a paragraph or clause of this deed poll;
- (g) a reference to a document (including this deed poll) is to that document as varied, novated, ratified or replaced from time to time;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this deed poll;
- (k) a reference to a date or time is to that date or time in Perth, Australia; and
- (l) this deed poll or any clause in this deed poll must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

1.3 Nature of deed poll

Perenti acknowledges and agrees that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints DDH1 and each of its directors and officers (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Perenti.

2. Conditions precedent

2.1 Conditions

Perenti's obligations under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination

Perenti's obligations under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Implementation Agreement is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date,

unless DDH1 and Perenti otherwise agree in accordance with the Implementation Agreement.

2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, then in addition and without prejudice to any other rights, powers or remedies:

- (a) Perenti is released from its obligations to further perform this deed poll except those obligations under clause 7.4 and any other obligations which by their nature survive termination; and
- (b) each Scheme Shareholder retains the rights it has against Perenti in respect of any breach of this deed poll which occurs before it was terminated.

3. Scheme obligations

3.1 Scheme Consideration

Subject to clause 2, Perenti undertakes in favour of each Scheme Shareholder to:

- (a) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and
- (b) undertake all other actions attributed to it under, and otherwise comply with, the Scheme, as if named as a party to the Scheme, subject to and in accordance with the terms of the Scheme, including:
 - (i) by no later than the Business Day before the Implementation Date, depositing in cleared funds an amount equal to the Cash Consideration Pool (or such larger number as is required under the Scheme having regard to clause 5.8 of the Implementation Agreement) in an Australian dollar denominated trust account operated by DDH1 or the DDH Share Registry as trustee of the Scheme Shareholders who are entitled to receive a cash amount as part of the Scheme Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Perenti's account; and
 - (ii) issuing, on or before the Implementation Date, the New Perenti Shares required to be issued under the Scheme and procuring that the name and address of each such Scheme Shareholder is entered in the Perenti Share Register in respect of those New Perenti Shares,

subject to and in accordance with the Scheme.

3.2 Official quotation of New Perenti Shares

Perenti will use its best endeavours to ensure that the New Perenti Shares will be listed for quotation on the official list of ASX, with effect as soon as reasonably practicable after the Record Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis.

4. Representations and warranties

Perenti represents and warrants that:

- (a) **(Status)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(Power)** it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(Authorisation)** it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(Binding)** this deed poll is valid and binding on it and is enforceable against it in accordance with its terms;
- (e) **(Transaction permitted)** the execution and performance by it of this deed poll and each transaction contemplated by this deed poll does not and will not violate in any respect:
 - (i) any writ, order or injunction, judgment, law, rule or regulation to which it is party, or by which it is bound; or
 - (ii) the constitution or equivalent constituent documents of it or any of its Related Bodies Corporate (as defined in the Implementation Agreement); and
- (f) **(Solvency)** it is solvent and no resolution has been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

5. Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until the earlier of:

- (a) Perenti fully performing its obligations under this deed poll; or
- (b) the termination of this deed poll under clause 2.2.

6. Notices

6.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed poll:

- (b) must be given to a party:
 - (i) using one of the following methods (and no other method) namely, hand delivery, courier service, prepaid express post or email; and
 - (ii) using the address or other details for the party set out in the below table (or as otherwise notified by that party to each other party from time to time under this clause 6):

Party name	Attention	Address (for hand delivery or delivery by courier or post)	Email address
Perenti Limited	Chief Legal & Risk Officer	Level 4, 45 Francis Street, Northbridge WA 6003	Raj.Ratneser@perentigroup.com with a copy (for information purposes only) in each case to: paul.vinci@jws.com.au & justin.harris@jws.com.au

- (c) must be in legible writing and in English;
- (d) (in the case of communications other than email) must be signed by the sending party or by a person duly authorised by the sending party;
- (e) (in the case of email) must:
 - (i) state the name of the sending party or a person duly authorised by the sending party and state that the email is a communication under or in connection with this deed poll; and
 - (ii) if the email contains attachments, ensure the attachments are in PDF or other non-modifiable format the receiving party can open, view and download at no additional cost,

and communications sent by email are taken to be signed by the named sender.

6.2 When notice taken to be received

Without limiting the ability of a party to prove that a notice has been given and received at an earlier time, each communication (including each notice, consent, approval, request and demand) under or in connection with this deed poll is taken to be given by the sender and received by the recipient:

- (a) (in the case of delivery by hand or courier service) on delivery;
- (b) (in the case of prepaid express post sent to an address in the same country) on the second Business Day after the date of posting;
- (c) (in the case of prepaid express post sent to an address in another country) on the fourth Business Day after the date of posting;
- (d) (in the case of email, whether or not containing attachments) the earlier of:
 - (i) the time sent (as recorded on the device from which the sender sent the email) unless, within 4 hours of sending the email, the party sending the

email receives an automated message that the email has not been delivered;

- (ii) receipt by the sender of an automated message confirming delivery; and
- (iii) the time of receipt as acknowledged by the recipient (either orally or in writing),

provided that:

- (e) the communication will be taken to be so given by the sender and received by the recipient regardless of whether:
 - (i) the recipient is absent from the place at which the communication is delivered or sent;
 - (ii) the communication is returned unclaimed; and
 - (iii) (in the case of email) the email or any of its attachments is opened by the recipient;
- (f) if the communication specifies a later time as the time of delivery then that later time will be taken to be the time of delivery of the communication; and
- (g) if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is delivered or sent).

6.3 Notices sent by more than one method of communication

If a communication delivered or sent under this clause 6 is delivered or sent by more than one method, the communication is taken to be given by the sender and received by the recipient whenever it is taken to be first received in accordance with clause 6.2.

7. General

7.1 Assignment

The rights and obligations of Perenti and each Scheme Shareholder under this deed poll are personal and must not be assigned, charged or otherwise dealt with at law or in equity.

7.2 Cumulative rights

The rights, powers and remedies in connection with this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by the law independently of this deed poll.

7.3 Further action

Perenti will, at its own expense, promptly do all things and execute and deliver all further documents required by law to give effect to this deed poll and the transactions contemplated by it.

7.4 Stamp duties

Perenti:

- (a) must pay or procure the payment of all stamp duties and other duties together with any related fees, fines, penalties, interest or statutory charges, and similar taxes in respect of this deed poll, the performance of this deed poll and each transaction effected by or made under or in connection with this deed poll; and
- (b) indemnifies each Scheme Shareholder against any loss or liability suffered or incurred by the Scheme Shareholders arising out of or in connection with any delay or failure to comply with clause 7.4(a).

7.5 Variation

A provision of this deed poll may not be varied unless:

- (a) before the First Court Date, the variation is agreed to in writing by DDH1 and Perenti; or
- (b) on or after the First Court Date, the variation is agreed to in writing by DDH1 and Perenti and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Perenti will enter into a further deed poll in favour of the Scheme Shareholders giving effect to such variation.

7.6 Waiver

- (a) Waiver of any right arising from a breach of this deed poll or of any right, power, authority, discretion or remedy arising upon default under this deed poll must be in writing and signed by the person granting the waiver. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) A failure or delay in exercise, partial exercise, or enforcement of:
 - (i) any right, power or remedy provided by law or under this deed poll; or
 - (ii) any right, power, authority, discretion or remedy created or arising upon default under this deed poll,by any person 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 poll.
- (c) A person is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this deed poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A person may not rely on any conduct of another person as a defence to the exercise of a right, power, authority, discretion or remedy by that other person.
- (e) This clause 7.6 may not itself be waived except in writing.

7.7 Moratorium legislation

Any law which varies prevents or prejudicially affects the exercise by a party of any right, power or remedy conferred on it under this deed is excluded to the extent permitted by law.

7.8 Costs

Each party is responsible for all its own costs incurred in the negotiation and performance of this deed including legal costs.

7.9 Time

- (a) Time is of the essence of this deed poll.
- (b) If the parties agree to vary a time requirement, the time requirement so varied is of the essence of this deed poll.
- (c) An agreement to vary a time requirement must be in writing.

7.10 Counterparts

This deed may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument. A party who has executed a counterpart of this deed may deliver it to, or exchange it with, another party by:

- (a) faxing; or
- (b) emailing a pdf (portable document format) copy of,
the executed counterpart to that other party.

8. Governing law and jurisdiction

- (a) This deed poll is governed by the law applying in Western Australia.
- (b) Perenti irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to for any proceedings in connection with this deed poll.
- (c) Perenti waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 8(b).

Executed as a deed poll.

Executed by Perenti Limited ACN 009 211 474
in accordance with section 127 of the
Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of above signatory

Full name of above signatory