

## ASX ANNOUNCEMENT

### Fantastic Holdings and Steinhoff Asia Pacific enter into Scheme Implementation Deed

#### Key Features

- Fantastic Holdings shareholders to receive \$3.50 cash per share
- Scheme consideration represents a significant premium to pre-announcement share price
- Fantastic Holdings Directors unanimously recommend that Fantastic Holdings shareholders vote in favour of the Scheme
- All Fantastic Holdings Directors intend to vote all Fantastic Holdings shares they hold or control in favour of the Scheme
- Major shareholders controlling over 50% of all Fantastic Holdings shares support the Scheme and intend to vote in favour of the Scheme
- Scheme is subject to limited conditions and scheduled for implementation before end of 2016

**14 October 2016 (Sydney, Australia):** Fantastic Holdings Limited (**Fantastic Holdings**) and Steinhoff Asia Pacific Holdings Pty Limited (**Steinhoff Asia Pacific**) today announce they have executed a Scheme Implementation Deed (**SID**) under which it is proposed that Steinhoff Asia Pacific will acquire 100% of the issued share capital in Fantastic Holdings by way of a scheme of arrangement (**Scheme**).

Under the terms of the Scheme, Fantastic Holdings shareholders will receive total consideration of \$3.50 in cash per Fantastic Holdings share, subject to all applicable conditions being satisfied or waived and the Scheme being implemented. The offer price values Fantastic Holdings' fully diluted equity<sup>1</sup> at approximately \$361.4 million.

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<sup>1</sup> Based on 103,257,398 fully diluted shares on issue upon implementation of the Scheme.

The Scheme consideration of \$3.50 cash per Fantastic Holdings share exceeds the highest price Fantastic Holdings shares have traded since April 2010 and represents an attractive premium of:

- 43% to the closing price of \$2.45 on 13 October 2016, the last price prior to the announcement of the Scheme;
- 46% to the Volume Weighted Average Price (**VWAP**) of \$2.41 for the 5 days prior to the announcement of the Scheme;
- 41% to the VWAP of \$2.49 for the one month prior to the announcement of the Scheme;
- 33% to the VWAP of \$2.62 for the six months prior to the announcement of the Scheme; and
- 42% to the VWAP of \$2.46 for the 12 months prior to the announcement of the Scheme.

Fantastic Holdings' Chairman, Julian Tertini said "This is a compelling proposal and provides Fantastic Holdings shareholders with the opportunity to realise a significant premium, reflecting the underlying strength of our brands, operations and people. The 100% cash consideration provides Fantastic Holdings shareholders with certainty of value and an opportunity to realise their investment in full for cash. Steinhoff Asia Pacific's management team shares our vision for the growth and expansion of Fantastic Holdings and, as such, we believe they are the right long-term partner for our customers, employees, suppliers and other stakeholders".

Tim Schaafsma, a Director of Steinhoff Asia Pacific, said "Steinhoff Asia Pacific is excited about the opportunity to add Fantastic Holdings and its brands to our business. Fantastic Holdings is a complementary business in terms of market segments, customer base and vertical integration. The addition of Fantastic Holdings, its brands and manufacturing operations will broaden our brand portfolio and accelerate the growth of Steinhoff Asia Pacific in Australasia".

### **Fantastic Holdings' Board of Directors Unanimously Recommends the Scheme**

The Directors of Fantastic Holdings unanimously recommend that Fantastic Holdings shareholders vote in favour of the Scheme in the absence of a superior proposal and subject to the independent expert concluding that the Scheme is in the best interests of Fantastic Holdings shareholders. Subject to those same qualifications, each Director of Fantastic Holdings intends to vote all Fantastic Holdings shares they hold or control (including any proxies given at their discretion) in favour of the proposed Scheme.

## Major Shareholder Support

Major Fantastic Holdings shareholders, Julian Tertini and Peter Brennan, have each separately advised Fantastic Holdings that they intend to vote all Fantastic Holdings shares held or controlled by them respectively (in total, 50.8%<sup>2</sup> of the Fantastic Holdings shares), in favour of the Scheme on the terms set out in the letters annexed to this announcement.

## Call Options from Major Shareholders

Steinhoff Asia Pacific has reached agreement pursuant to which entities controlled by Julian Tertini and Peter Brennan separately grant Steinhoff Asia Pacific, the option to buy in aggregate a total of 19.9% of Fantastic Holdings shares on terms set out in agreements that will be disclosed in a substantial holder notice to be released by Steinhoff Asia Pacific to ASX.

## Details of the Scheme

The transaction will be implemented by way of a Scheme of Arrangement under Australian law. The SID sets out the terms and conditions upon which Fantastic Holdings and Steinhoff Asia Pacific will give effect to the Scheme.

The Scheme is subject to a number of customary conditions including Fantastic Holdings shareholder and Federal Court of Australia approval, no material adverse change or prescribed occurrences, as well as approval of the Foreign Investment Review Board (**FIRB**). Steinhoff Asia Pacific has submitted its application for approval by FIRB. The Scheme is not conditional on due diligence or finance. Steinhoff Asia Pacific will fund the total cash consideration using existing cash and cash equivalents at call and undrawn debt facilities.

The SID contains customary exclusivity provisions including no shop and no talk restrictions, a notification obligation and a matching right, subject to Fantastic Holdings Directors' fiduciary and statutory obligations. The SID also details the circumstances under which a break fee may be payable by Fantastic Holdings to Steinhoff Asia Pacific. A copy of the executed SID accompanies this announcement

## Indicative Timetable and Next Steps

Fantastic Holdings shareholders do not need to take any action at the present time.

The Scheme Booklet is expected to be sent to Fantastic Holdings shareholders in early November 2016 after its review by ASIC. This booklet will contain, amongst other things,

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<sup>2</sup> Julian Tertini and Peter Brennan, who are both Directors of Fantastic Holdings, hold 40.46% and 10.36% of the total number of Fantastic Holdings shares respectively.

further information relating to the Scheme, an independent expert's report to be provided by Leadenhall Corporate Advisory opining on whether the proposed Scheme is in the best interests of Fantastic Holdings shareholders, reasons for the recommendations of the Fantastic Holdings Directors and details of the Scheme meeting.

Fantastic Holdings shareholders will be provided with an opportunity to vote on the Scheme at a Fantastic Holdings shareholder meeting expected to be held on or around 7 December 2016. Subject to Fantastic Holdings shareholder approval and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented by the end of December 2016.

## **Advisers**

Fantastic Holdings is being advised by Monash Private Capital and Watson Mangioni. Steinhoff Asia Pacific is being advised by Investec and Minter Ellison.

For further information, please contact:

### **Fantastic Holdings Limited**

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### **Steinhoff International Holdings NV**

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## About Fantastic Holdings Limited

Fantastic Holdings Limited (ASX: FAN) is a leading Australian furniture retailer and manufacturer. Fantastic Holdings operates over 125 stores across three furniture retail chains including, national retailers Fantastic Furniture, Plush and the Original Mattress Factory (NSW and ACT). Fantastic Holdings is also Australia's largest sofa manufacturer, has one of the country's leading mattress manufacturers and operates a national supply chain to service all Fantastic's retail brands. Fantastic Holdings has recently expanded its manufacturing activities into China and Vietnam.

## About Steinhoff Asia Pacific Holdings Pty Limited

Steinhoff Asia Pacific Holdings Pty Limited ("Steinhoff Asia Pacific") is a wholly owned subsidiary of Steinhoff International Holdings N.V. ("Steinhoff International").

Steinhoff Asia Pacific is a retailer of furniture and homeware in Australia and New Zealand through 157 retail stores under the Freedom, Snooze, POCO and Bay Leather Republic brands. The Snooze and Freedom brands have been in business in Australia and New Zealand for over 40 years and 35 years, respectively.

Steinhoff Asia Pacific also owns in Australia a mattress manufacturing business, Selectopedic, as well as a furniture importing specialist, G&G Furniture. In addition, Steinhoff Asia Pacific operates Unitrans Asia Pacific, a supply chain specialist.

Steinhoff Asia Pacific employs over 1,800 people in Australia and New Zealand.

## About Steinhoff International Holdings N.V.

Steinhoff International Holdings N.V. ("Steinhoff International") is an integrated retailer that retails, sources and manufactures furniture, household goods and general merchandise in Europe, Africa, the USA and Australasia. Retail operations are positioned towards price conscious (value) consumer segments, providing consumers with affordable products through a vertically integrated supply chain.

Steinhoff International's integrated retail divisions comprise of:

- Household goods (furniture and homeware retail businesses);
- General Merchandise, focusing on clothing and footwear, accessories and homeware; and
- Automotive dealerships in South Africa which provides a broad range of new and pre-owned vehicles, parts, insurance, accessories and servicing. In addition, Hertz car rental outlets are included in this segment.

Steinhoff International employs approximately 140,000 employees and has a listing on the Frankfurt Stock Exchange and a secondary listing on the Johannesburg Stock Exchange with a current market capitalisation of approximately €20 billion (A\$30 billion).



## **Scheme Implementation Deed**

### **Fantastic Holdings Limited**

(ABN 19 004 000 775)

### **Steinhoff Asia Pacific Group Holdings Pty Ltd**

(ABN 21 612 890 874)

### **Steinhoff Asia Pacific Holdings Pty Limited**

(ABN 44 105 828 957)

**Watson Mangioni Lawyers Pty Limited**  
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**This Scheme Implementation Deed** is made on 13 October 2016

## **Parties:**

1. **Fantastic Holdings Limited** (ABN 19 004 000 775) of 62 Hume Highway, Chullora NSW 2190 (**Fantastic**);
2. **Steinhoff Asia Pacific Group Holdings Pty Ltd** (ABN 21 612 890 874) of Level 4, 1 Epping Road, North Ryde, NSW 2113 (**Bidder**); and
3. **Steinhoff Asia Pacific Holdings Pty Limited** (ABN 44 105 828 957) of Level 4, 1 Epping Road, North Ryde, NSW 2113 (**Bidco**).

## **Recitals:**

- A. The parties have agreed that Bidco will, subject to the satisfaction of certain conditions, acquire all of the ordinary shares in Fantastic that Bidder or Bidco does not already own by means of a scheme of arrangement under Part 5.1 of the Corporations Act between Fantastic and the Scheme Shareholders.
- B. Fantastic intends to propose the scheme of arrangement and issue the Scheme Booklet.
- C. The parties have agreed to proceed with the scheme of arrangement on the terms of this deed.

## **1. Definitions and Interpretation**

### **1.1. Definitions**

In this deed:

**Announcement** means a public announcement by Fantastic with respect to the Transaction in a form agreed to in writing by Fantastic and Bidco prior to entry into this deed.

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

**Associate** has the meaning set out in section 12 of the Corporations Act, but so that section 12(1) of the Corporations Act will be treated to include a reference to this deed and deem that Fantastic is the 'designated body'.

**ASX** means, as the context requires, ASX Limited ABN 98 008 624 691 or the securities market conducted by it.

**Bidder Group** means the Bidder, Bidco and any Related Bodies Corporate of either of the Bidder or Bidco and a reference to **Bidder Group Member** is to either of the Bidder, Bidco or any Related Body Corporate of either of the Bidder or of Bidco.

**Bidder Indemnified Parties** means each Bidder Group Member and their respective directors, officers and employees.

**Bidder Information** means information regarding the Bidder Group, prepared by Bidco for inclusion in the Scheme Booklet.

**Bidder Proposal** has the meaning given in clause 10.6(a)(v).

**Bidder Proposal Period** has the meaning given in clause 10.6(a)(v).

**Bidder Representations and Warranties** means the representations and warranties set out in Schedule 1.

**Board** means the board of directors of Fantastic from time to time.

**Business Day** means a business day as defined in the Listing Rules.

**Change of Control Contract** has the meaning given in clause 5.6(a).

**Counterparty Consent** has the meaning given in clause 5.6(b)(i)(A).

**Competing Proposal** means any inquiry, offer, proposal, expression of interest, agreement, arrangement or transaction, which, if entered into or completed, would mean a Third Party (either alone or together with any Associate of the Third Party) may directly or indirectly:

- (a) acquire a Relevant Interest in, or have the right to acquire, a legal, beneficial or economic interest in, or control of, 20% or more of the Fantastic Shares or the shares of any other Fantastic Group Member;
- (b) acquire, or obtain a right to acquire, Control of Fantastic or Control of any other Fantastic Group Member;
- (c) acquire or become the holder of, or otherwise acquire, have a right to acquire or have an economic interest in, all or 20% or more by value of the business or assets of the Fantastic Group;
- (d) otherwise acquire or merge with Fantastic or any other Fantastic Group Member; or
- (e) enter into any agreement, arrangement or understanding requiring Fantastic to abandon or otherwise fail to proceed with, the Transaction or which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Transaction,

whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction or share buy-back, sale or purchase of shares, securities or assets, global assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), reverse takeover or other transaction or arrangement.

**conditions precedent** means the conditions set out in clause 3.1 and **condition precedent** means any one of them.

**Confidentiality Deed** means the confidentiality deed between Fantastic and Bidder signed in or around June 2016.

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

**Controller** has the meaning given in section 9 of the Corporations Act.

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

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

**Court** means the Federal Court of Australia (NSW registry) or such other court of competent jurisdiction under the Corporations Act as may be agreed to in writing by Fantastic and Bidco.

**Deed Poll** means a deed poll substantially in the form of Annexure B under which the Bidco covenants in favour of the Scheme Shareholders to perform the obligations attributed to the Scheme Shareholders under the Scheme.

**Delivery Time** means, in relation to the Second Court Date, the time being 2 hours before the commencement of the hearing of the Court on the Second Court Date.

**Disclosure Letter** means the letter so entitled provided by Fantastic to Bidco prior to the date of this deed.

**Disclosure Materials** means:

- (a) the documents and information contained in the online data room made available (including all written responses provided by or on behalf of the Fantastic Group in response to written requests for information) to the Bidder, Bidco and their respective Representatives prior to the date of this deed, the index of which has been initialled by, or on behalf of, the parties for identification; and
- (b) all written information disclosed by or on behalf of the Fantastic Group in management presentations made to the Bidder, Bidco and their respective Representatives prior to the date of this deed, being such management presentations identified in the Disclosure Letter.

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

**Effective Date** means, with respect to the Scheme, the date on which the Scheme becomes Effective.

**Encumbrance** means a mortgage, charge, pledge, lien, encumbrance, security interest (including a security interest as defined in section 12 of the *Personal Property Securities Act 2009* (Cth)), 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.

**End Date** means 14 March 2017 or such other date as is agreed in writing between Bidco and Fantastic.

**Exclusivity and Process Letter** means the exclusivity and process letter between Fantastic and the Bidder dated on or about 16 September 2016 (as amended).

**Exclusivity Period** means the period from and including the date of this deed to the earlier of:

- (a) the termination of this deed under clause 12; and
- (b) the End Date.

**Fairly Disclosed** means, in respect of information disclosed to the Bidder, Bidco or any of its Representatives, disclosed in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Transaction and is experienced in transactions similar to the Transaction in the retail furniture, homeware and bedding industry, to identify the nature and scope of the relevant matter, event or circumstance (including, in each case, the financial effect of the relevant matter, event or circumstance).

**Fantastic Break Fee** has the meaning given in clause 11.3(a).

**Fantastic Director** means a director of Fantastic.

**Fantastic Group** means Fantastic and each of its Related Bodies Corporate and a reference to a **Fantastic Group Member** is to Fantastic or any of its Related Bodies Corporate.

**Fantastic Indemnified Parties** means each director, officer and employee of a Fantastic Group Member.

**Fantastic Information** means all the contents of the Scheme Booklet other than the Bidder Information and the Independent Expert's Report.

**Fantastic Option** means a performance right or a contractual right to be granted a performance right, which contractual right or performance right confers the right to acquire one Fantastic Share pursuant to a Fantastic Option Plan.

**Fantastic Option Plan** means any Fantastic long term incentive plan in existence at the date of this deed.

**Fantastic Prescribed Occurrence** means the occurrence of any of the following:

- (a) Fantastic converting all or any of its shares into a larger or smaller number of shares (as contemplated under section 254H of the Corporations Act or otherwise);
- (b) any Fantastic Group Member resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming any of its shares;
- (c) any Fantastic Group Member:
  - (i) entering into a buy-back agreement; or
  - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) other than in respect of the Interim Dividend to the extent permitted pursuant to this deed, any Fantastic Group Member declaring, determining as payable, paying or distributing any

distribution, special dividend, bonus or other extraordinary share of its profits or assets or returning any capital to its members (whether in cash or in specie);

- (e) a Fantastic Group Member issuing securities (including without limitation shares), or granting an option, performance right, phantom performance right or shadow performance right over its securities, other than pursuant to, or following the vesting of, a Fantastic Option that:
  - (i) was on issue immediately before the date of this deed; and
  - (ii) was Fairly Disclosed in the Disclosure Letter;
- (f) a Fantastic Group Member issuing securities convertible into shares or any debt securities (including any hybrid securities);
- (g) a Fantastic Group Member disposing of the whole, or a substantial part, of its business or property, whether by any single transaction or series of related or similar transactions;
- (h) a Fantastic Group Member granting or otherwise creating, or agreeing to grant or otherwise create, an Encumbrance over the whole, or a substantial part, of its business or property;
- (i) a Fantastic Group Member being, or becoming, Insolvent;
- (j) a Fantastic Group Member ceasing, or threatening to cease, the whole, or a substantial part, of its business;
- (k) a Fantastic Group Member amending, varying, modifying, repealing, replacing or making any change to its constituent document or resolving to do any of those things;
- (l) any Fantastic Group Member entering into, or resolving to enter into, a transaction or arrangement with any related party of that Fantastic Group Member (other than another Fantastic Group Member) as defined in section 228 of the Corporations Act other than a transaction relating to the remuneration of an officer of a Fantastic Group Member; or
- (m) any Fantastic Group Member agreeing or otherwise committing to do any of the things set out in paragraphs (a) to (l) of this definition,

excluding, in the case of each paragraph above of this definition, any such occurrence that:

- (n) is expressly required to be done in order to implement the Scheme pursuant to this deed;
- (o) was the specific subject of the prior written consent of Bidco or the Bidder;
- (p) was Fairly Disclosed by Fantastic in an announcement made to the ASX or a document lodged with ASIC before the date of this deed; or
- (q) was Fairly Disclosed in the Disclosure Letter prior to the date of this deed.

**Fantastic Registry** means Computershare Investor Services Pty Limited ABN 48 078 279 277.

**Fantastic Representations and Warranties** means the representations and warranties of Fantastic set out in Schedule 2.

**Fantastic Share** means a fully paid ordinary share in the capital of Fantastic.

**Fantastic Shareholder** means each person who is registered from time to time in the Share Register as the holder of Fantastic Shares.

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

**Financial Adviser** means any financial adviser retained by Fantastic in relation to the Scheme or a Competing Proposal from time to time.

**Financial Indebtedness** means any debt or other monetary liability (whether actual or contingent) in respect of moneys borrowed or raised or any financial accommodation (together with all interest, fees and charges thereon) including under or in respect of any:

- (a) bill, bond, debenture, note or similar instrument;
- (a) acceptance, endorsement or discounting arrangement;
- (b) assignment of receivables;
- (c) guarantee or letter of credit;
- (d) finance or capital lease;
- (e) interest or non-interest bearing loans, including any overdraft facility;
- (f) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service; or
- (g) obligation to deliver goods or provide services paid for in advance by any financier.

**First Court Date** the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Fantastic to convene the Scheme Meeting to consider the Scheme is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard).

**Further Competing Proposal** has the meaning given in clause 10.6(b).

**Government Agency** means any government or any governmental, semi-governmental, statutory or judicial entity, agency or authority, whether in Australia, or elsewhere, including any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and the ASX or any other stock exchange.

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other date as agreed in writing between Bidco and Fantastic.

**Independent Expert** means the independent expert in respect of the Scheme appointed in good faith by Fantastic to opine on whether the Scheme is in the best interests of Fantastic Shareholders.

**Independent Expert's Report** means the report to be issued by the Independent Expert in connection with the Scheme for inclusion in the Scheme Booklet which includes a statement by the Independent Expert on whether, in its opinion, the Scheme is in the best interest of Fantastic Shareholders, and includes any update of that report by the Independent Expert.

**Insolvent** means in relation to a person:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up;
- (c) the appointment of a Controller, receiver, receiver and manager or other insolvency official (whether under an Australian or foreign law) to the person or to any part of its property or assets and the action is not stayed, withdrawn or dismissed within 14 days;
- (d) it is subject to any arrangement, compromise, assignment, moratorium or composition with its creditors generally or is otherwise protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved in writing by the other parties to this deed);
- (e) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days) in connection with that person, which could reasonably result in any of the events described in paragraphs (a) to (d) of this definition;

- (f) the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (g) it is deregistered as a company or otherwise dissolved;
- (h) it suspends or threatens to suspend payment of its debts as and when they become due;
- (i) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (j) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this deed reasonably deduces it is so subject);
- (k) it executes a deed of company arrangement;
- (l) it is otherwise unable to pay its debts when they fall due; or
- (m) something analogous to anything set out in paragraphs to (a) to (l) (inclusive) of this definition happens in connection with that person under the law of any jurisdiction.

**Interim Dividend** has the meaning given in clause 5.7(a).

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

**Non-Public Information** has the meaning given in clause 10.1(b)(ii).

**Recommendation** has the meaning given in clause 5.9(a)(i).

**Regulator's Draft** means the draft of the Scheme Booklet in a form acceptable to Fantastic and Bidco which is provided to ASIC for its review pursuant to section 411(2) of the Corporations Act.

**Regulatory Review Period** means the period from the date on which the Regulator's Draft is submitted to ASIC to the date on which ASIC confirms that it does not intend to make any submissions at the Court hearing on the First Court Date or otherwise object to the Scheme.

**Related Bodies Corporate** has the meaning given in section 9 of the Corporations Act and includes any body corporate that would be a related body corporate for the purposes of the Corporations Act if section 48(2) of the Corporations Act was omitted.

**Relevant Interest** has the meaning given in sections 608 and 609 of the Corporations Act.

**Representative** means:

- (a) in respect of a party or its Related Bodies Corporate, each director, officer, employee, adviser, agent or representative of that party or Related Body Corporate; and
- (b) in respect of a Financial Adviser, each director, officer, employee or contractor of that Financial Adviser.

**RG 60** means Regulatory Guide 60 issued by ASIC.

**Scheme** means a members' scheme of arrangement under Part 5.1 of the Corporations Act between Fantastic and the Scheme Shareholders, substantially in the form attached as Annexure B, subject to any alterations or conditions:

- (a) agreed to in writing by the Bidder, Bidco and Fantastic and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by the Bidder, Bidco and Fantastic.

**Scheme Booklet** means the information described in clause 5.1(a) to be approved by the Court and despatched to the Fantastic Shareholders and which must include the Scheme, an explanatory statement (complying with the requirements of the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules), an independent expert's report, notices of meeting and proxy form.

**Scheme Consideration** means the cash consideration to be provided to each Scheme Shareholder for the transfer to Bidco of each Scheme Share, being the amount of \$3.50 for each Scheme Share held by each Scheme Shareholder, in accordance with clause 4.4 and the terms of the Scheme.

**Scheme Meeting** means the meeting of Fantastic Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act at which Fantastic Shareholders will vote on the Scheme.

**Scheme Record Date** means 7.00pm on the second Business Day after the Effective Date or such other date as agreed in writing between Bidco and Fantastic.

**Scheme Share** means a Fantastic Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholders** means Fantastic Shareholders as at the Scheme Record Date.

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

**Senior Manager** means each of Debra Singh, Jason Newman, Chris Burke, Bill Keighran, Melissa Blackley and Brian Cassell.

**Share Register** means the register of members of Fantastic maintained in accordance with the Corporations Act.

**Superior Proposal** means a bona fide Competing Proposal received after the date of this deed which the Board, acting in good faith and in order to satisfy what the Board reasonably considers to be its fiduciary or statutory duties (after receiving written legal advice from its legal advisers and written advice from its Financial Advisers), determines:

- (a) is reasonably capable of being valued and completed taking into account all aspects of the Competing Proposal, including any timing considerations, conditions precedent, financial matters and relevant regulatory considerations relating to the Competing Proposal and the Board's reasonable assessment (based on the facts and circumstances known to it at the relevant time) of the ability of the proposing party or parties to consummate the transactions contemplated by the Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, result in a transaction that would be more favourable to Fantastic Shareholders (as a whole) than the Transaction taking into account all terms and conditions of the Competing Proposal, including consideration, conditionality, funding, certainty (based on the facts and circumstances known to the Board at the relevant time) and timing.

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

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

**Third Party** means a person other than the Bidder and Bidco and each of their respective Associates.

**Timetable** means the indicative timetable for the implementation of the Transaction set out in Annexure A.

**Transaction** means the acquisition of Fantastic by Bidco by implementation of the Scheme.

**Treasurer** means the Treasurer for the time being of the Commonwealth of Australia.

**Voting Intention** has the meaning given in clause 5.9(a)(ii).

## **1.2. Interpretation**

In this deed, headings are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture, a partnership, a trust and any Government Agency;
- (e) a reference to a clause, party, attachment, exhibit or schedule is a reference to a clause of, and a party, attachment, exhibit and schedule to this deed, and a reference to this deed includes any attachment, exhibit and schedule;
- (f) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) a reference to any document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (h) the word "includes" in any form is not a word of limitation;
- (i) a reference to "\$", "A\$" or "dollar" is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to the time in Sydney, New South Wales;
- (k) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (l) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (m) a term defined in the purposes of the Corporations Act has the same meaning when used in this deed; and
- (n) a reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

## **1.3. Business Day**

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

## **1.4. Next day**

If an act under this deed to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day.



### 1.5. Adverse construction excluded

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

## 2. Agreement to proceed with the Transaction

- (a) Fantastic agrees to propose the Scheme on and subject to the terms of this deed.
- (b) The Bidder and Bidco agree with Fantastic to assist Fantastic to propose the Scheme on and subject to the terms of this deed.
- (c) Fantastic, the Bidder and Bidco agree to implement the Transaction on the terms and conditions of this deed.

## 3. Conditions precedent and pre-implementation steps

### 3.1. Conditions precedent

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme (including the obligations of Bidco under clause 4.3) will not become binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in clause 3.3:

- (a) **Shareholder approval:** Fantastic Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under section 411(4)(a) of the Corporations Act;
- (b) **Court approval:** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that Bidco considers do not impose unduly onerous obligations on Bidco (acting reasonably);
- (c) **Restraints:** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or by any Government Agency or other legal restraint or prohibition preventing the Transaction is in effect, and no steps have been taken by any Court or Government Agency to effect any of the above, in each case as at the Delivery Time;
- (d) **Independent Expert:** the Independent Expert issues a report which concludes that the Scheme is in the best interests of Fantastic Shareholders before the time when the Scheme Booklet is registered with ASIC;
- (e) **Fantastic Prescribed Occurrence:** no Fantastic Prescribed Occurrence occurs between the date of this deed and the Delivery Time;
- (f) **Regulatory approvals:** before the Delivery Time:
  - (i) **ASIC and ASX:** ASIC and ASX have issued or provided such consents or approvals or have done such other acts which the Bidder and Fantastic agree in writing are reasonably necessary or desirable to implement the Transaction and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time;
  - (ii) **Foreign Investment Review Board:** before the Delivery Time, either:
    - (A) the Treasurer (or his delegate) has provided a notice in writing (without any term or condition which Bidco reasonably considers unacceptable) stating, or to the effect that, there are no objections under the FATA to Bidco acquiring the Scheme Shares; or

- (B) the Treasurer (and each of his delegates) becomes precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the acquisition of the Scheme Shares by Bidco; and
- (iii) **Government Agency:** all other approvals or consents of a Government Agency which the Bidder and Fantastic agree in writing are necessary or desirable to implement the Transaction are obtained;
- (g) **No Fantastic Material Adverse Change:** between the date of this deed and the Delivery Time, none of the following occurs:
  - (i) an event, change, circumstance, condition, matter or thing occurs;
  - (ii) information is announced by Fantastic on ASX concerning any event, change, circumstance, condition, matter or thing; or
  - (iii) information concerning any event, change, circumstance, condition, matter or thing becomes known to Bidco,

(each of clauses 3.1(g)(i), 3.1(g)(ii) and 3.1(g)(iii), a **Specified Event**) which, whether individually or when aggregated with all such events, changes, circumstances, conditions, matters or things of a like kind, has had or would reasonably be likely to have the effect of:

- (iv) a diminution in the value of the consolidated earnings before interest and tax of the Fantastic Group by at least \$6 million for the financial year for the Fantastic Group ending 30 June 2017 against what it would reasonably have been expected to have been but for such Specified Event; or
- (v) a diminution in the value of the consolidated net tangible assets of the Fantastic Group, taken as a whole, by at least \$6 million against the last reported amount of \$100.676 million,

other than any such Specified Event:

- (vi) expressly required to be done in order to implement the Scheme in accordance with this deed;
- (vii) which took place with the specific prior written consent of Bidco or the Bidder;
- (viii) which was Fairly Disclosed in an announcement made to the ASX or a document lodged with ASIC prior to the date of this deed;
- (ix) which was Fairly Disclosed in the Disclosure Materials prior to the date of this deed;
- (x) which is or arises from:
  - (A) changes in general economic or business conditions applicable to the industry in which the Fantastic Group operates (including interest rates and currency exchange rates);
  - (B) any change in or interpretation of law, regulation or other policy of a Governmental Agency (including changes to taxation rates, laws and policies from those in place at the date of this deed); or
  - (C) any change in accounting policy required by law,

but excluding any such event, change, circumstance, occurrence, matter or thing which has a disproportionate effect on the Fantastic Group, taken as a whole, as compared to other participants in the industries in which the Fantastic Group operates.

For the avoidance of doubt, a fall in Fantastic's share price will not of itself constitute a Fantastic Material Adverse Change;

- (h) **Fantastic Options:** before the Delivery Time, Fantastic has taken all necessary steps to ensure that the Fantastic Options are dealt with in the manner that Bidco and Fantastic agree;
- (i) **Fantastic Representations and Warranties:** the Fantastic Representations and Warranties being true and correct on the date of this deed and at the Delivery Time; and
- (j) **No change of Board recommendation or Voting intention:** between the date of this deed and the date of the Scheme Meeting, no Fantastic Director has changed, qualifies or withdrawn his or her Recommendation or Voting Intention (if applicable).

### 3.2. Reasonable endeavours

The Bidder, Bidco and Fantastic must use their respective reasonable endeavours to procure that:

- (a) each condition precedent in clause 3.1 is satisfied as soon as possible after the date of this deed and continue to be satisfied at all times until the last time they are to be satisfied (as the case may be); and
- (b) there is no occurrence within the control of each of Bidco, Fantastic or the Bidder (as the context requires) that would prevent any of the conditions precedent in clause 3.1 which such party must use reasonable endeavours to satisfy, being satisfied and continuing to be satisfied at all times until the last time they are to be satisfied.

### 3.3. Waiver of conditions precedent

- (a) The conditions precedent in clauses 3.1(a), 3.1(b), 3.1(c) and 3.1(f)(ii) cannot be waived.
- (b) The conditions precedent in clauses 3.1(f)(i) and 3.1(f)(iii) are for the benefit of Bidco and Fantastic and any breach or non-fulfilment of any such condition precedent may only be waived with the written consent of each of Bidco and Fantastic (each in their absolute discretion).
- (c) The conditions precedent in clauses 3.1(e), 3.1(g), 3.1(h), 3.1(i) and 3.1(j) are for the benefit of Bidco and any breach or non-fulfilment of any such condition precedent may only be waived by Bidco (in its absolute discretion) by notice in writing to Fantastic.
- (d) The condition precedent in clause 3.1(d) is for the benefit of Fantastic and any breach or non-fulfilment of that condition precedent may only be waived by Fantastic (in its absolute discretion) by notice in writing to Bidco.
- (e) Any waiver of a condition precedent by a party for whose benefit the condition applies must take place on or prior to the Delivery Time.
- (f) If a party waives the breach or non-fulfilment of any of the conditions precedent in clause 3.1, that waiver will not preclude it from suing the other parties for any breach of this deed including without limitation a breach that resulted in the non-fulfilment of the condition precedent that was waived.

### 3.4. Termination on failure of condition precedent

- (a) If any event occurs which would prevent any of the conditions precedent in clause 3.1 being satisfied, or there is an occurrence that will prevent any of the conditions precedent being satisfied by the time and date specified in this deed for its satisfaction or if the Scheme has not become Effective by the End Date, Bidco and Fantastic must consult in good faith to:
  - (i) consider and if agreed determine whether the Transaction may proceed by way of alternative means or methods;

- (ii) consider and if agreed change the date of the application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed to in writing by Bidco and Fantastic (being a date no later than 5 Business Days before the End Date); or
  - (iii) consider and if agreed extend the relevant date or End Date.
- (b) Subject to clause 3.4(d), if Bidco and Fantastic are unable to reach agreement under clause 3.4(a) within 5 Business Days of becoming aware of the relevant occurrence or relevant date or by the End Date, then unless that condition precedent is waived by Bidco or Fantastic as provided in clause 3.3, then either Bidco or Fantastic may terminate this deed by notice in writing to the other party without any liability to any party because of that termination, unless the relevant occurrence or the failure of the condition precedent to be satisfied, or the failure of the Scheme to become Effective, arises out of a breach of clauses 3.2 or 3.5 in which case the party in breach will not be entitled to so terminate (for the avoidance of doubt, in such circumstances, whichever of Fantastic and Bidco is not the party in breach of clauses 3.2 or 3.5 is entitled to terminate this deed).
- (c) Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination (including by virtue of clause 12.4), on termination of this deed, no party shall have any rights against or obligations to any other party under this deed except for those rights and obligations which accrued prior to termination.
- (d) If the condition precedent set out in clause 3.1(a) is not satisfied only because of a failure to obtain the majority required by section 411(4)(a)(ii)(A) of the Corporations Act (**Headcount Test**), then either Bidco or Fantastic may by written notice to the other within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that section, provided the party has in good faith formed the view that the prospect of the Court exercising its discretion in that way is reasonable, in which case:
  - (i) the other party may not terminate this deed until such time as the Court has made a determination not to grant such approval;
  - (ii) Fantastic must apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
  - (iii) each party must make such submissions to the Court and file such evidence as counsel engaged by Fantastic to represent it in Court proceedings related to the Scheme, in consultation with Bidco, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

### 3.5. Certain notices

- (a) If, before the time specified for satisfaction of a condition precedent, an event that will prevent that condition precedent being satisfied occurs, the party with knowledge of that event must immediately give the other parties written notice of that event.
- (b) Bidco, Fantastic or the Bidder (as the case may be) must promptly advise each other orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause:
  - (i) a representation or warranty provided in this deed by a relevant party to be false;
  - (ii) a breach or non-fulfilment of any of the conditions precedent; or
  - (iii) a material breach of this deed by a relevant party.

- (c) Fantastic and Bidco (as the case may be) must promptly notify the other of satisfaction of a condition precedent.
- (d) Upon receipt by a party of a notice given under clause 3.5(b), that party must give written notice to the other parties as soon as possible (and in any event before the Delivery Time) as to whether or not it waives (if entitled to do so) the breach or non-fulfilment of any condition precedent resulting from the occurrence of that change or event, specifying the condition precedent in question.

### **3.6. Certificates**

On or before the Delivery Time:

- (a) Bidco and Fantastic will provide a joint certificate to the Court confirming whether or not the conditions precedent set out in clauses 3.1(c) (No restraints) and 3.1(f) (Regulatory approvals) have been satisfied or waived in accordance with the terms of this deed; and
- (b) Fantastic will provide a certificate to the Court confirming whether or not the conditions precedent set out in clauses 3.1(d) (Independent Expert), 3.1(e) (No Fantastic Prescribed Occurrences), 3.1(g) (No Fantastic Material Adverse Change), 3.1(h) (Fantastic Options), 3.1(i) (Fantastic Representations and Warranties) and 3.1(j) (No Change of Board Recommendation or Voting Intention) have been satisfied or waived in accordance with the terms of this deed.

### **3.7. Interpretation**

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

- (a) in the case of the condition precedent set out in 3.1(f) (Regulatory approvals), the relevant Government Agency makes or has made a final adverse determination in writing to the effect that it will not provide the required approval or consent; and
- (b) in respect of each other condition precedent, there is an act, failure to act or occurrence that will prevent the condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

## **4. Transaction steps**

### **4.1. Scheme**

Subject to clause 3.1, on the Implementation Date all of the Scheme Shares will be transferred to Bidco and the Scheme Shareholders will be entitled to receive the Scheme Consideration in accordance with the terms of the Scheme.

### **4.2. No amendment to the Scheme without consent**

Fantastic 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 Bidco or counsel acting for Bidco.

### **4.3. Scheme Consideration**

- (a) If the Scheme becomes Effective:
  - (i) each Scheme Shareholder will be entitled to be paid the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder at the Scheme Record Date; and

- (ii) all of the Scheme Shares held by a Scheme Shareholder will be transferred to Bidco, subject to and in accordance with the terms of the Scheme.
- (b) In consideration of the transfer to Bidco of each Scheme Share under the terms of the Scheme:
  - (i) on the Implementation Date, Bidco will accept that transfer; and
  - (ii) by no later than the Business Day before the Implementation Date, Bidco will pay, or procure the payment, into a trust account operated by Fantastic (on behalf of each Scheme Shareholder) an amount in cleared funds equal to the aggregate amount the Scheme Consideration for each Scheme Share,

in each case in accordance with the terms of the Scheme, and in accordance with the terms of the Deed Poll.
- (c) Subject to the Scheme becoming Effective, the transactions which form part of the Scheme will be implemented in the following sequence:
  - (i) Bidco will pay, or procure the payment, an amount equal to the aggregate amount of the Scheme Consideration for each Scheme Share in accordance with clause 4.3(b)(ii);
  - (ii) all Scheme Shares will be transferred to Bidco; and
  - (iii) in exchange, each Scheme Shareholder will receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder at the Scheme Record Date, which Fantastic will procure is paid to each such Scheme Shareholder from the trust account referred to in clause 4.3(b).

#### 4.4. Interim Dividend

Subject to the Board declaring, determining as payable, paying or distributing any distribution amount in respect of, or in connection with, the Interim Dividend in accordance with clause 5.7, the parties acknowledge and agree that:

- (a) Fantastic may pay the Interim Dividend; and
- (b) the Scheme Consideration will not be reduced by the amount of the Interim Dividend.

## 5. Implementation

### 5.1. Fantastic's obligations

Fantastic must take all necessary steps to implement the Scheme as soon as is reasonably practicable and without limiting the foregoing use reasonable endeavours to ensure that each step in the Timetable is met by the relevant date set out in the Timetable beside that step (and must consult with Bidco on a regular basis about its progress in that regard), including doing any acts it is authorised and able to do, on behalf of Fantastic Shareholders, and must do each of the following:

- (a) **preparation of Scheme Booklet:** subject to clause 5.1(w), prepare the Scheme Booklet in accordance with all applicable laws and in particular with the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules;
- (b) **approval of Regulator's Draft:** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet which Bidco considers is suitable for review by ASIC as the 'Regulator's Draft', procure that a meeting of the Board, or of a committee of the Board appointed for the purpose, is held to consider approving that draft as being the 'Regulator's Draft' in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;

- (c) **lodgement of Regulator's Draft:** as soon as reasonably practicable after the date of this deed, and in accordance with the Timetable:
  - (i) provide the Regulator's Draft to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
  - (ii) liaise with ASIC during the period of its consideration of the Regulator's Draft and keep Bidco reasonably informed of any matters raised by ASIC in relation to the Regulator's Draft and use reasonable endeavours, in consultation with Bidco, to resolve any such matters;
- (d) **Further Fantastic Information:** disclose to Bidco and Fantastic Shareholders such further or new Fantastic Information as may arise after the Scheme Booklet has been sent to Fantastic Shareholders until the date of the Scheme Meeting:
  - (i) as may be necessary to ensure that the Fantastic Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission); or
  - (ii) that is required to be disclosed to Fantastic Shareholders under any applicable law or RG 60, but was not included in the Scheme Booklet,
- (e) **Board approval of Scheme Booklet:** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Board, or of a committee of the Board appointed for the purpose, is held to consider approving the Scheme Booklet for despatch to the Fantastic Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (f) **Board's recommendation:** include in the Scheme Booklet and the Announcement each of the statements with respect to a Fantastic Director's Recommendation and Voting Intention as contemplated under clause 5.9, subject only to the qualifications specifically contemplated under clause 5.9.
- (g) **section 411(17)(b) statement:** apply to ASIC for the production of:
  - (i) an indication of intent letter stating that ASIC does not intend to appear before the Court on the First Court Date; and
  - (ii) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (h) **Court direction:** apply to the Court for orders pursuant to section 411(1) of the Corporations Act directing Fantastic to convene the Scheme Meeting;
- (i) **Scheme Booklet information:** take reasonable steps to ensure that the Fantastic Information is accurate and is not false or misleading in a material particular, including by omission;
- (j) **Registration of explanatory statement:** request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (k) **Send Scheme Booklet:** send the Scheme Booklet to Fantastic Shareholders as soon as practicable after the Court orders Fantastic to convene the Scheme Meeting;
- (l) **Scheme Meeting:** convene the Scheme Meeting to agree to the Scheme in accordance with the orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (m) **Court documents:** consult with Bidco in relation to the content of the documents required for the purpose of each of the Court hearing held for the purpose of sections 411(1) and 411(4)(b)

of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith, for the purpose of amending drafts of those documents, comments from Bidco and its Representatives on those documents;

- (n) **Court approval:** (subject to all conditions precedent in clause 3.1, other than the condition in clause 3.1(b) being satisfied or waived in accordance with this deed) apply to the Court for orders approving the Scheme as agreed to by the Fantastic Shareholders at the Scheme Meeting;
- (o) **Certificate:** at the hearing on the Second Court Date provide to the Court the certificates required to be provided by Fantastic under clauses 3.6(a) and 3.6(b). A draft of each certificate must be provided by Fantastic to Bidco by 5.00pm on the Business Day prior to the Second Court Date;
- (p) **Bidco representation at Court hearing:** allow, and not oppose, any application by Bidco for leave of the Court to be represented by counsel at a hearing of the Court;
- (q) **lodge copy of Court order:** lodge with ASIC an office copy of the Court order in accordance with section 411(10) of the Corporations Act approving the Scheme as soon as possible after the Court approves the Scheme, and in any event by 5.00pm on the first Business Day after the day on which the Court approves the Scheme;
- (r) **Bidder Information:** without the prior written consent of the Bidder and Bidco, not use the Bidder Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (s) **Fantastic Shareholder support:** use reasonable efforts to support the Bidder and Bidco in promoting to Fantastic Shareholders the merits of the Scheme (including supporting the efforts of the Bidder to solicit proxy votes in favour of the Scheme);
- (t) **Registry information:** provide:
  - (i) to the Bidder and Bidco, prior to 5pm on the first Business Day of each week during the period between the date of this deed and the date of the Scheme Meeting, a copy of the Share Register as at the close of trading on the preceding Business Day; and
  - (ii) to the Bidder and Bidco, all necessary information about the Fantastic Shareholders which the Bidder and Bidco may reasonably require in order to assist the Bidder and Bidco to solicit votes at the Scheme Meeting (including, at the reasonable request of the Bidder, issuing tracing notices pursuant to Section 672A of the Corporations Act to Fantastic Shareholders identified by the Bidder);
- (u) **Scheme Consideration:** close the Share Register as at the Scheme Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme and the Deed Poll;
- (v) **registration:** subject to Bidco having provided the Scheme Consideration in accordance with the Scheme and Deed Poll, executing instruments of transfer in favour of, and giving effect to and registering in the name of, Bidco all transfers of Fantastic Shares held by Scheme Shareholders on the Implementation Date;
- (w) **consultation with Bidco:** consult with Bidco as to the content and presentation of the Scheme Booklet including:
  - (i) providing to Bidco drafts of the Scheme Booklet for the purpose of enabling Bidco to review and comment on those draft documents;
  - (ii) taking all comments made by Bidco into account in good faith when producing a revised draft of the Scheme Booklet;



- (iii) providing to Bidco a revised draft of the Scheme Booklet within a reasonable time before the Regulator's Draft is finalised;
- (iv) implement such changes to those parts of the Scheme Booklet relating to Bidco which are provided in accordance with clauses 5.1(w)(i) to 5.1(w)(iii) as reasonably requested by Bidco and prior to finalising the Regulator's Draft; and
- (v) obtaining written approval from Bidco for the form and content in which the Bidder Information appears in the Scheme Booklet, and Fantastic will not register the Scheme Booklet with ASIC until such approval is obtained from Bidco;
- (x) **information:** provide all information, or procure that the Fantastic Registry provides all information, in each case in a form reasonably requested by Bidco, about the Scheme, the Scheme Shareholders, the Fantastic Shareholders and the Share Register (including any sub register) to Bidco and its Representatives which Bidco reasonably requests in order to solicit votes at the Scheme Meeting and facilitate the provision by, or on behalf of, Bidco of the Scheme Consideration;
- (y) **ASIC and ASX review:** during the Regulatory Review Period, promptly provide to Bidco, and include in the Scheme Booklet, any new information not included in the Regulator's Draft which is required by the Corporations Act, Corporations Regulations, RG 60 or the Listing Rules to be included and keep Bidco informed of any material matters raised by ASIC or ASX in relation to the Scheme Booklet or the Transaction, and use reasonable endeavours to take into consideration in resolving such matters any issues raised by Bidco;
- (z) **Independent Expert:** promptly appoint the Independent Expert and provide 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;
- (aa) **Provide a copy of the report:** promptly provide Bidco with a copy of the final report received from the Independent Expert;
- (bb) **compliance with laws:** do everything reasonably within its power to ensure that the tasks or obligations required to be performed by Fantastic in relation to the Transaction are effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (cc) **listing:** to take all reasonable steps to maintain Fantastic's listing on the ASX notwithstanding any suspension of the quotation of Fantastic Shares up to and including the Implementation Date, including making appropriate applications to ASX unless Bidco has agreed in writing;
- (dd) **No denigration:** from the date of this deed until the date the Independent Expert's Report is received, Fantastic must not, and must ensure that each other Fantastic Group Member or Representative of the Fantastic Group, does not, publicly (or otherwise to third parties) deliberately denigrate the Transaction or any Bidder Group Member; and
- (ee) **information:** prepare and promptly provide to Bidco any information regarding the Fantastic Group that the Bidder reasonably requires to prepare the Bidder Information for inclusion in the Scheme Booklet.

## 5.2. Bidder and Bidco's obligations

The Bidder and Bidco each must take all necessary steps to implement the Scheme as soon as is reasonably practicable and without limiting the foregoing use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and consult with Fantastic on a regular basis about its progress in that regard), including doing each of the following:

- (a) **Bidder Information:** prepare and promptly provide to Fantastic a draft of the Bidder Information for inclusion in the Scheme Booklet as required by all applicable Australian laws, and in particular by the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules;

- (b) **Further Bidder Information:** disclose to Fantastic such further or new Bidder Information (other than any information provided by Fantastic to Bidco or obtained from Fantastic public filings on ASX regarding the Fantastic Group contained in, or used in the preparation of, the Bidder Information) as may arise after the Scheme Booklet has been sent until the date of the Scheme Meeting as may be necessary to ensure that the Bidder Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission);
- (c) **review of Scheme Booklet:** review the drafts of the Scheme Booklet prepared by Fantastic and provide comments, if any, as soon as practicable;
  - (i) review the drafts of the Scheme Booklet, including the Fantastic Information, and confirm to Fantastic whether or not, so far as they are aware, the Scheme Booklet is false, misleading or deceptive in any material respect (including because of any material omission); and
  - (ii) provide to Fantastic, as soon as possible, any material new information that they become aware of as may arise after the Scheme Booklet has been sent to Fantastic Shareholders;
- (d) **Independent Expert's Report:** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report to be included in the Scheme Booklet;
- (e) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which through their respective counsel, the Bidder and Bidco will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (f) **Deed Poll:** by not later than the Business Day prior to the First Court Date, enter into the Deed Poll in favour of the Scheme Shareholders to perform their obligations under the Scheme;
- (g) **accuracy of the Bidder Information:** ensure the Bidder Information in the Scheme Booklet is not misleading or deceptive in any material respect (whether by omission or otherwise) (other than any information provided by Fantastic to Bidco or obtained from Fantastic public filings on ASX regarding the Fantastic Group contained in, or used in the preparation of, the Bidder Information);
- (h) **Registry information:** only use information provided to Bidco or Bidder pursuant to clause 5.1(t) for the purposes of the Transaction and as permitted by law;
- (i) **Share transfer:** if the Scheme becomes Effective, Bidco shall accept a transfer of the Scheme Shares as contemplated by clause 4.3(b)(i) and execute instruments of transfer in respect of the Scheme Shares; and
- (j) **compliance with laws:** do everything reasonably within its power to ensure that the tasks or obligations required to be performed by it in relation to the Transaction are effected in accordance with all laws and regulations applicable in relation to the Transaction.

### 5.3. Scheme Booklet

If Fantastic and Bidco disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after reasonable consultation, then:

- (a) if the disagreement relates to the form or content of any information appearing in the Scheme Booklet other than the Bidder Information or the Independent Expert's Report, the Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet; and

- (b) if the disagreement relates to the form or content of the Bidder Information, Fantastic will make such amendments to the form or content of the disputed part of the Bidder Information as Bidco reasonably requires.

#### **5.4. Conduct of business**

- (a) Subject to clauses 5.4(c) and 5.4(d), from the date of this deed up to and including the Implementation Date, and without limiting any other obligations of Fantastic under this deed, Fantastic must:
  - (i) ensure that the business of the Fantastic Group is conducted:
    - (A) in the usual, ordinary and proper course of business of the Fantastic Group;
    - (B) in a matter generally consistent with the manner in which each such business has been conducted in the 12 month period prior to the date of this deed; and
    - (C) in accordance with all applicable laws in all material respects;
  - (ii) not, and must ensure that each other Fantastic Group Member and each Fantastic Director does not, other than in the ordinary course of business of the Fantastic Group, do, authorise, agree, commit to or cause to be done, or fail to do or cause not to be done, anything that would or may result in the Scheme not being implemented or being implemented otherwise than in accordance with the Timetable and the terms of this deed;
  - (iii) use all reasonable efforts to maintain and preserve, and ensure that each other Fantastic Group Member use all reasonable efforts to maintain and preserve, its relationships with customers, suppliers, joint venturers, Government Agencies, licensors, licensees, landlords and others having business dealings with any Fantastic Group Member;
  - (iv) not do or cause to be done, or fail to do or cause not to be done, anything that would, or that may reasonably be expected to, result in the occurrence of a Fantastic Prescribed Occurrence; and
  - (v) not agree to do any act, matter or thing that is inconsistent with any of the matters set out in clauses 5.4(a)(i) to 5.4(a)(iv) (inclusive).
- (b) Subject to clauses 5.4(c) and 5.4(d), from the date of this deed up to and including the Implementation Date, and without limiting any other obligations of Fantastic under this deed, Fantastic must not, and must procure that each other Fantastic Group Member does not:
  - (i) other than the Interim Dividend (if applicable in accordance with this deed), declare, determine as payable, pay or distribute any distribution, special dividend, bonus or other extraordinary share of its profits or assets or returning any capital to its members (whether in cash or in specie);
  - (ii) dispose of the whole, or a substantial part, of its business or property, whether by any single transaction or series of related or similar transactions;
  - (iii) amend, vary, modify, repeal, replace or make any change to its constituent document;
  - (iv) enter into a contract (other than for stock purchased in the ordinary course of business in accordance with the disclosed budget) which is material to the conduct of the Fantastic Group's business, involves aggregate expenditure greater than \$6 million, involves annual revenue greater than \$2 million, or has a committed term which is greater than 12 months with annual expenditure of more than \$1,000,000, or terminate or amend the terms of any such contract;

- (v) acquire, lease or dispose of or offer, propose or announce any bid or tender to acquire, lease or dispose of any business, asset, security, entity or undertaking, the value of which exceeds \$6 million (individually or in aggregate);
- (vi) incur any capital expenditure exceeding \$1 million individually or \$10 million in aggregate;
- (vii) other than financial indebtedness incurred in the ordinary course of business in relation to inventory purchase or foreign currency hedging activities undertaken in accordance with the Fantastic Group's policy for hedging foreign currency exposure to inventory purchases, incur or commit to any Financial Indebtedness (including investments, borrowings, loans and advances or the issue of debt securities or hybrid securities) for one or more related items exceeding \$2 million (individually or in aggregate);
- (viii) materially alter, vary or amend the terms of any franchising agreements or arrangements, or otherwise in respect of any agreement or arrangements relating to any franchised stores, in respect of the Fantastic Group;
- (ix) guarantee or indemnify the obligations of any person other than a Fantastic Group Member, other than in the usual and ordinary course of business of the Fantastic Group and consistent with past practice;
- (x) other than a transaction relating to the remuneration of an officer of a Fantastic Group Member, enter into a transaction or arrangement with any related party of any Fantastic Group Member (other than another Fantastic Group Member) as defined in section 228 of the Corporations Act;
- (xi) commence, settle or admit to fault or liability in respect of any legal proceedings, claim, investigation, arbitration or other like proceeding where the aggregate amount claimed by or against a Fantastic Group Member exceeds \$500,000;
- (xii) in respect of any officer, director, other executive or employee of any Fantastic Group Member:
  - (A) pay any such person a bonus, retention, severance or termination payment;
  - (B) enter into or materially alter, vary or amend any employment, consulting, severance or similar agreement or arrangement with any such person; or
  - (C) accelerate or materially increase compensation or benefits in respect of any such person,
 other than:
  - (D) remuneration by way of fees or additional fees paid or payable to a director of a Fantastic Group Member;
  - (E) remuneration by way of bonus including any retention payment or deferred bonus paid or payable to an officer or Senior Manager of a Fantastic Group Member;
  - (F) remuneration by way of vesting or exercise of any short term incentive, long term incentive or Fantastic Option; or
  - (G) remuneration in the form of sales commission or similar cash incentives payable to retail staff of a Fantastic Group Member in the ordinary course of business,

which has been adopted, agreed or resolved by a Fantastic Group Member (or the board of directors of a Fantastic Group Member) before the date this deed is executed;

- (xiii) in respect of any officer, director, other executive or employee of any Fantastic Group Member, enter into a contract of employment which contains an obligation to pay any such person a bonus, retention, severance or termination payment which would be triggered by a change in control of Fantastic or the Scheme or vary any contract of employment so that any such amount is paid or payable;
- (xiv) modify the rules of any Fantastic Option Plan or establish a new incentive scheme, whether cash-based, securities-based or derivatives-based (or a combination thereof) or issue any offers to participate in any existing share based incentive plan or scheme, including any Fantastic Option Plan;
- (xv) employ, or offer to employ, an individual who is not an employee as at the time of signing this deed where:
  - (A) the total remuneration payable to that individual would exceed \$300,000 in any 12 month period; or
  - (B) that individual will, or is intended to, report directly to the Chairman, Chief Executive Officer or Chief Financial Officer of the Fantastic Group or any of their respective direct reports (other than as a direct replacement or as provided in the disclosed budget); or
- (xvi) enter into any enterprise bargaining agreement or any other form of collective agreement concerning the terms of employment of employees of the Fantastic Group; or
- (xvii) agree or otherwise commit to do any of the things set out in clauses 5.4(b)(i) to 5.4(b)(xvi).
- (c) Nothing in clauses 5.4(a) or 5.4(b) restricts the ability of the Board or Fantastic to take any action (or refrain from taking action) which:
  - (i) expressly required to be done in order to implement the Scheme in accordance with this deed;
  - (ii) which took place with the prior written consent of Bidco or the Bidder;
  - (iii) which was Fairly Disclosed in an announcement made to the ASX or a document lodged with ASIC prior to the date of this deed;
  - (iv) which was Fairly Disclosed in the Disclosure Letter prior to the execution of this deed; or
  - (v) which relates to an event, change, circumstance, occurrence, matter or thing that was within the actual knowledge prior to the date of this deed of any director, secretary or employee of a Bidder Group Member who prior to the date of this deed was involved in the assessment and/or negotiation of the Transaction on behalf of a Fantastic Group Member.
- (d) For the avoidance of doubt, nothing in this clause 5.4 restricts the ability of Fantastic to respond to a Competing Proposal in accordance with clause 10.

## **5.5. Access to information**

- (a) From the date of this deed until the Implementation Date, the parties agree to work in a collaborative manner to, where reasonable, assist the Bidder and Bidco to prepare for the

implementation of the Transaction and to allow the Bidder and Bidco to develop and prepare for the implementation of transition plans for the Fantastic Group following implementation of the Transaction.

- (b) For the avoidance of doubt, nothing in clause 5.5(a) requires Fantastic to take any action which would involve Fantastic refreshing or updating the Disclosure Material or to provide access to any person or premises.
- (c) Fantastic will be permitted to redact from any document provided to the Bidder or Bidco pursuant to clause 5.5(a) any non-public information which Fantastic considers (acting reasonably) to be of a commercially sensitive nature.

## 5.6. Change of control rights

- (a) As soon as practicable after the date of this deed, Fantastic and Bidco must seek to identify any change of control or similar provisions in leases and material contracts to which Fantastic or another Fantastic Group Member is a party which may be triggered by the implementation of, or in connection with, the Transaction (**Change of Control Contract**).
- (b) In respect of each Change of Control Contract, the parties agree as follows:
  - (i) Fantastic and Bidco will:
    - (A) agree a proposed course of action with respect to obtaining from each counterparty to the Change of Control Contract the consents and approvals required under the Change of Control Contract to the Implementation of the Transaction (**Counterparty Consent**); and
    - (B) jointly initiate contact with the relevant counterparties to the Change of Control Contract and request that each such counterparty provide the required Counterparty Consent to the implementation of the Transaction. The Bidder, Bidco and their respective Representatives may not contact any relevant counterparty to a Change of Control Contract without Fantastic's prior approval; and
  - (ii) Fantastic must cooperate with, and provide reasonable assistance to, Bidco to obtain any required Counterparty Consent as expeditiously as possible, including by:
    - (A) promptly providing any information reasonably required by any counterparty to a Change of Control Contract; and
    - (B) making available any Representative of a Fantastic Group Member, where necessary, to meet with any counterparty to a Change of Control Contract to deal with issues arising in relation to the change of control of Fantastic, the implementation of the Transaction and obtaining any required Counterparty Consent.

## 5.7. Payment of Interim Dividend

- (a) Subject to clause 5.7(c), but otherwise despite any other provision of this deed, if the Implementation Date has not occurred before 31 December 2016, Fantastic may, in its sole discretion, pay (with or without declaration) a dividend per Fantastic Share of not more than 60% of the net profit after tax of the Fantastic Group for the period commencing 1 July 2016 and ending on 31 December 2016 divided by the number of Fantastic Shares on issue as at the record date for that dividend per Fantastic Share (**Interim Dividend**) to Fantastic Shareholders, provided that:
  - (i) the Interim Dividend is to be declared or authorised prior to the Effective Date, and in any event by no later than the last date permitted by the Listing Rules to declare or

authorise that dividend such that the record date for that dividend is no later than the Record Date; and

- (ii) to the extent that the Interim Dividend is to be franked, the Interim Dividend may be franked to the maximum extent possible, subject to the franking account of Fantastic not being in deficit after the payment of the Interim Dividend.
- (b) Subject to clause 5.7(c), but otherwise despite any other provision of this deed, Fantastic may make and cause to be made any intra-group distributions and payments between Fantastic Group Members, in order to be able to declare or authorise and pay any Interim Dividend in accordance with clause 5.7(a).
- (c) Fantastic must not declare, determine as payable, pay or distribute any amount in connection with any Interim Dividend per Fantastic Share pursuant to clause 5.7(a) unless and until Fantastic has provided the Bidder and Bidco with a certificate confirming that Fantastic has not taken, or omitted to take, any action to cause any step in the Timetable not to be met by the relevant date set out in the Timetable beside that step with the intention of causing Fantastic to become entitled to pay any Interim Dividend pursuant to clause 5.7(a).

## 5.8. Appointment of directors

Fantastic must, as soon as practicable:

- (a) after the Scheme becomes Effective, take all actions necessary to cause the appointment of Timothy William Schaafsma, Michael Jonathan Gordon and another person nominated in writing by the Bidder at least 10 Business Days prior to the Effective Date, being the nominees of Bidco, to the Board; and
- (b) after the Scheme has been implemented, ensure that all directors on the Board, other than the Bidco nominees appointed pursuant to clause 5.8(a), resign by delivering to Fantastic written notices of resignation to the effect that the outgoing directors have no claim outstanding against any Fantastic Group Member.

## 5.9. Board recommendation

- (a) Subject to clause 5.9(b), Fantastic represents and warrants to Bidco that each Fantastic Director has confirmed (by way of unanimous resolution of the Board), and Fantastic must use its best endeavours to ensure in respect of each Fantastic Director, that:
  - (i) his or her recommendation in respect of the Scheme is that Fantastic Shareholders vote in favour of the Scheme at the Scheme Meeting (**Recommendation**); and
  - (ii) that he or she intends to vote, or cause to be voted, all Fantastic Shares in which he or she has a Relevant Interest in favour of the Scheme at the Scheme Meeting (**Voting Intention**),

in each case the Recommendation and the Voting Intention qualified only by words to the effect of 'in the absence of a Superior Proposal' and 'subject to the Independent Expert concluding in the Independent Expert's Report that the Scheme is in the best interests of Fantastic Shareholders'.

- (b) Fantastic represents and warrants to Bidco that each Fantastic Director has confirmed (by way of unanimous resolution of the Board), and Fantastic must use its best endeavours to ensure, that each Fantastic Director will not change, withdraw or modify his or her Recommendation or Voting Intention unless either:
  - (i) the Independent Expert concludes in the Independent Expert's Report (either initially or in any updated report) that the Scheme is not in the best interests of Fantastic Shareholders; or

- (ii) Fantastic has received a Competing Proposal and the Board determines, after all of Bidco's rights under clause 10.6 have been exhausted and otherwise other than as a result of a breach by Fantastic of clause 10, that the Competing Proposal constitutes a Superior Proposal.
- (c) Subject to a Fantastic Director withdrawing or changing a Recommendation or Voting Intention following the occurrence of one of the events referred to in clause 5.9(b), Fantastic must not make a public announcement, and must use best endeavours to ensure that no public statement is made by that Fantastic Director, which is inconsistent with that Fantastic Director giving the Recommendation and having the Voting Intention.
- (d) During the Exclusivity Period, Fantastic must use reasonable endeavours to procure that the Directors and the senior executives of the Fantastic Group work in a collaborative manner with the Bidder, Bidco and their respective Representative in promoting the merits of the Scheme and in communications with key Fantastic Shareholders (being those Fantastic Shareholders notified to Fantastic by the Bidder or Bidco), employees, customers and suppliers of each Fantastic Group Member. Nothing in this clause will require Fantastic to take any action which is contrary to the best interests of the Fantastic Group.

#### **5.10. Conduct of Court proceedings**

- (a) The Bidder and Fantastic are entitled to separate representation at all Court proceedings affecting the Transaction.
- (b) This deed does not give:
  - (i) the Bidder or Bidco any right or power to give undertakings to the Court for or on behalf of Fantastic; or
  - (ii) Fantastic any right or power to give undertakings to the Court for or on behalf of the Bidder or Bidco,

in each case, without the relevant party's written consent.
- (c) The Bidder, Bidco and Fantastic must give all undertakings to the Court in all Court proceedings which are reasonably required to satisfy the condition precedent in clause 3.1(b).
- (d) If the Court refuses to make orders convening the Scheme Meeting or approving the Scheme, the Bidder, Bidco and Fantastic must appeal the Court's decision, except to the extent that:
  - (i) the parties agree otherwise; or
  - (ii) Queen's Counsel or Senior Counsel representing that party in relation to the Scheme indicates that, in their opinion, an appeal would not have a reasonable prospect of success,

in which case either Bidco or Fantastic may terminate this deed in accordance with clause 12.1(b).
- (e) Each of the Bidder, Bidco and Fantastic must defend, or must cause to be defended, any Takeovers Panel proceeding brought against it (or any members of its respective group) challenging this deed or the completion of the Transaction.
- (f) For the avoidance of doubt, each party will be responsible for their own costs that are incurred as a result of the operation of this clause 5.10.



### **5.11. Responsibility statement**

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

- (a) Bidco is responsible for the Bidder Information; and
- (b) Fantastic is responsible for the Fantastic Information.

## **6. Representations and warranties**

### **6.1. Bidder representations**

Each of the Bidder and Bidco represents and warrants to Fantastic (in its own right and separately as trustee or nominee for each of the other Fantastic Indemnified Parties) that each of the Bidder Representations and Warranties is true and correct in all material respects, provided that, in respect of any Bidder Representations and Warranties that are, by their terms, qualified by materiality, those Bidder Representations and Warranties are represented and warranted to be true and correct to the extent only of any such qualification.

### **6.2. Bidder indemnity**

The Bidder and Bidco agrees with Fantastic (in its own right and separately as trustee or nominee for each of the other Fantastic Indemnified Parties) to indemnify Fantastic and the Fantastic Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which Fantastic or any of the other Fantastic Indemnified Parties suffers, incurs or is liable for arising out of any Bidder Representation and Warranty being untrue or incorrect.

### **6.3. Fantastic's representations**

Fantastic represents and warrants to the Bidder and Bidco (in their own right and separately as trustee or nominee for each of the other Bidder Indemnified Parties) that each of the Fantastic Representations and Warranties is true and correct in all material respects, provided that, in respect of any Fantastic Representations and Warranties that are, by their terms, qualified by materiality, those Fantastic Representations and Warranties are represented and warranted to be true and correct to the extent only of any such qualification.

### **6.4. Fantastic's indemnity**

Fantastic agrees with the Bidder and Bidco (in their own right and separately as trustee or nominee for each Bidder Indemnified Party) to indemnify the Bidder and Bidco and each of the other Bidder Indemnified Parties from any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which the Bidder, Bidco or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any Fantastic Representation and Warranty being untrue or incorrect.

### **6.5. Qualifications on Fantastic warranties**

The Fantastic Representations and Warranties under clause 6.3 and indemnity under clause 6.4, are given subject to any matter:

- (a) expressly required to be done in order to implement the Scheme in accordance with this deed;
- (b) which took place with the prior written consent of Bidco or the Bidder;
- (c) which was Fairly Disclosed in an announcement made to the ASX or a document lodged with ASIC prior to the date of this deed;
- (d) which was Fairly Disclosed in the Disclosure Letter prior to the date of this deed;

- (e) which relates to an event, change, circumstance, matter, thing or occurrence was within the actual knowledge prior to the date of this deed of any director, secretary or employee of a Bidder Group Member who prior to the date of this deed was involved in the assessment and/or negotiation of the Transaction on behalf of the a Fantastic Group Member.

#### **6.6. Survival of representations**

Each representation and warranty referred to in clauses 6.1 and 6.3:

- (a) is severable; and
- (b) survives the termination of this deed but no representation or warranty survives the implementation of the Scheme.

#### **6.7. Survival of indemnities**

Each indemnity in this deed (including those in clauses 6.2 and 6.4):

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

#### **6.8. Timing of warranties**

Each representation and warranty made or given under clauses 6.1 or 6.3 is given:

- (a) at the date of this deed and again at the Delivery Time; or
- (b) where expressed to be given only as at a particular time, at that time.

### **7. Releases**

#### **7.1. Fantastic directors and officers**

- (a) Subject to clauses 7.1(a) and 7.1(c), each of the Bidder and Bidco releases, and shall procure that each member of the Bidder Group releases and discharges, its rights, and agrees with Fantastic that it will not make a claim, action, demand, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunction, specific performance or any other remedy, that either Bidco, the Bidder or any other Bidder Group Member has or may have against any person who is a Fantastic Indemnified Party (including, for the avoidance of doubt, each member of the Board) in connection with or in respect of:
  - (i) any breach of any representations and warranties of Fantastic or any other Fantastic Group Member in this deed;
  - (ii) any disclosure made by a Fantastic Indemnified Party containing any statement which is false or misleading, whether in content or by omission; or
  - (iii) the Board's consideration and conduct of the Transaction;

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Fantastic Indemnified Party has engaged in fraud, wilful misconduct or wilful concealment.

- (b) Nothing in clause 7.1(a) releases or discharges any of Bidder's and Bidco's rights, or prevents Bidder and Bidco from making a claim, action, demand, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunction, specific performance or any other remedy, that either Bidco, the Bidder or any other Bidder Group Member has or may have against any person who is a Fantastic Indemnified Party (including, for the avoidance of doubt, each member of the Board) in connection with or in respect of any action or inaction by that Fantastic Indemnified Party solely in their capacity as a Fantastic Shareholder.
- (c) Clause 7.1(a) is subject to any Corporations Act restriction and will be read down accordingly. Fantastic receives and holds the benefit of this clause to the extent it relates to each person who is a Fantastic Indemnified Party (including, for the avoidance of doubt, each member of the Board) as trustee for each of them.

## **7.2. Bidco directors and officers**

- (a) Fantastic releases, and shall procure that each Fantastic Group Member releases and discharges, its rights, and agrees with Bidco and the Bidder that it will not make a claim, action, demand, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunction, specific performance or any other remedy, that either Fantastic or any other Fantastic Group Member has or may have against any person who is a Bidder Indemnified Party in connection with or in respect of:

- (i) any breach of any representations and warranties by the Bidder or Bidco or any other Fantastic Group Member in this deed;
- (ii) any disclosure made by a Fantastic Indemnified Party containing any statement which is false or misleading, whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Bidder Indemnified Party has engaged in fraud, wilful misconduct or wilful concealment.

- (b) This clause is subject to any Corporations Act restriction and will be read down accordingly. The Bidder each receive and hold the benefit of this clause to the extent it relates each other person who is a Bidder Indemnified Party as trustee for each of them.
- (c) The Bidder, Bidco and Fantastic agree that, in addition to the force that this clause 7 has by virtue of this deed, clauses 7.1 and 7.2 also operate as a deed poll.

## **7.3. Deeds of indemnity and insurance**

- (a) Subject to the Scheme becoming Effective, Bidco and the Bidder undertake in favour of Fantastic and each other Fantastic Group Party that they will:
  - (i) for a period of not less than 7 years from the Implementation Date, ensure that the constitution of each Fantastic Group Member continue to contain such rules as are contained in those constitutions at the date of this deed which provide to the extent permitted by law for each Fantastic Group Member to indemnify each of its directors and officers against any liability incurred by that director or officer in his capacity as a director or officer of the Fantastic Group Member to any person other than a Fantastic Group Member; and
  - (ii) procure to the extent permitted by law that each Fantastic Group Member complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained for a period of not less than 7 years from the retirement date of each director and officer so long as it is available on commercially reasonable terms and the costs of such policies are no more than the amount agreed by Fantastic, the Bidder and Bidco in writing before the execution of this deed.

- (b) The undertakings contained in clause 7.3(a) are subject to any restriction under any relevant law and will be read down accordingly. Fantastic receives and holds the benefit of clause 7.3(a), to the extent it relates to the directors and officers of Fantastic and other members of the Fantastic Group, as trustee for them.
- (c) The Bidder, Bidco and Fantastic agree that, in addition to the force that this clause 7 has by virtue of this deed, clause 7.3 also operates as a deed poll.
- (d) The undertakings contained in clause 7.3(a) are given:
  - (i) in respect of clause 7.3(a)(i), until the earlier of 7 years from the Implementation Date or the date that the relevant Fantastic Group Member ceases to be part of the Bidder Group; and
  - (ii) in respect of a Fantastic Group Member's obligation under clause 7.3(a)(ii) to comply with any deeds of access, indemnity and insurance made by the Fantastic Group Member in favour of a relevant director or officer, until the earlier of 7 years from the retirement of each relevant director and officer or the date that the relevant Fantastic Group Member in respect of which the director or officer was acting as a director or officer (as the case may be) ceases to be part of the Bidder Group,

provided in each case that if the relevant Fantastic Group Member ceases to be part of the Bidder Group during the 7 year period referred to in clause 7.3(d)(i) or 7.3(d)(ii) (as the case may be), the Bidder and Bidco must use reasonable endeavours to procure that the person that Controls the Fantastic Group Member immediately after the Fantastic Group Member ceases to be part of the Bidder Group will comply with the undertakings given in clause 7.3(a)(i) or clause 7.3(a)(ii) to the extent required for compliance by that Fantastic Group Member with any deeds of access, indemnity and insurance made by the Fantastic Group Member in favour of a relevant director or officer (as applicable).

## **8. Public announcement**

### **8.1. Announcement of transaction**

Immediately after the execution of this deed, Fantastic and the Bidder must issue the Announcement.

### **8.2. Public announcements**

Subject to clause 8.3, no public announcement or disclosure regarding the Transaction may be made other than in a form approved by each party (acting reasonably), but each party must use all reasonable endeavours to provide such approval as soon as practicable.

### **8.3. Required disclosure**

Where a party is required by applicable law or the Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this deed or the Scheme, it must use reasonable endeavours, to the extent practicable and lawful to consult with the other party prior to making the relevant disclosure.

## **9. Confidentiality**

### **9.1. Confidentiality Deed**

Fantastic and the Bidder acknowledge and agree that they continue to be bound by the Confidentiality Deed before and after the date of this deed.

## 9.2. Survival of obligations

Subject to clause 10.6(d), the rights and obligations of the parties under the Confidentiality Deed survive termination of this deed.

## 10. No-talk and no-shop obligations

### 10.1. Existing discussions

- (a) Fantastic represents and warrants to the Bidder and Bidco that, as at the date of this deed, each Fantastic Group Member and its Representatives:
  - (i) is not a party to any agreement or arrangement with a Third Party entered into for the purpose of facilitating a Competing Proposal;
  - (ii) is not, directly or indirectly, participating in any discussions or negotiations with a Third Party that concern, or that could reasonably be expected to lead to, a Competing Proposal;
  - (iii) has ceased any existing discussions or negotiations with a Third Party that concern, or that could reasonably be expected to lead to, a Competing Proposal; and
  - (iv) has requested the return of the Fantastic Group's confidential information in accordance with the terms of any relevant confidentiality agreement from each Third Party conducting due diligence investigations in respect of the Fantastic Group prior to the date of this deed.
- (b) On the date of this deed, Fantastic must, and must procure the other Fantastic Group Members and the Representatives of the Fantastic Group Members:
  - (i) cease any discussions with any Third Party that concern, or that could reasonably be expected to lead to, a Competing Proposal;
  - (ii) cease the provision of any due diligence access, cease to respond or answer due diligence questions and cease the making available of any non-public information in relation to any Fantastic Group Member or any business or operation of the Fantastic Group (**Non-Public Information**) to any Third Party, where the due diligence access and provision of Non-public Information was for a purpose that concerns, or that could reasonably be expected to lead to, a Competing Proposal; and
  - (iii) request the return of the Fantastic Group's confidential information (including any Non-Public Information) in accordance with the terms of any relevant confidentiality agreement from each Third Party conducting due diligence investigations in respect of the Fantastic Group prior to the date of this deed.

### 10.2. Prohibition - no shop and no talk arrangements

During the Exclusivity Period, Fantastic must not, and must ensure that each other Fantastic Group Member and each Representative of each Fantastic Group Member does not, directly or indirectly:

- (a) **(no shop)**
  - (i) solicit, invite, encourage, facilitate or initiate (including by the provision of Non-Public Information), or negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding, any inquiry, expression of interest, offer, proposal or discussion by any Third Party in relation to, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Proposal; or

- (ii) communicate to any person an intention to do anything referred to in clause 10.2(a)(i); or
- (b) **(no talk)** subject to clause 10.5:
  - (i) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any Third Party to make or which would reasonably be expected to encourage or lead to the making of an actual, proposed or potential Competing Proposal;
  - (ii) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Proposal;
  - (iii) disclose any Non-Public Information about the business or affairs of the Fantastic Group to a Third Party (other than a Government Agency) with a view to obtaining or which would reasonably be expected to encourage or lead to receipt of an actual, proposed or potential Competing Proposal; or
  - (iv) communicate to any person an intention to do anything referred to in this clause 10.2(b) even if:
    - (v) any such actual, proposed or potential Competing Proposal was not, directly or indirectly, solicited, invited, facilitated, encouraged or initiated by a Fantastic Group Member or any of its Representatives (other than any employee of the Fantastic Group who is not a Senior Manager); or
    - (vi) the relevant Third Party has publicly announced such actual, proposed or potential Competing Proposal.

### 10.3. No due diligence

- (a) During the Exclusivity Period, Fantastic must not directly or indirectly:
  - (i) solicit, invite, initiate, or encourage, or (subject to clause 10.5) facilitate or permit, any Third Party to undertake due diligence investigations in respect of any Fantastic Group Member, or any business or operation of a Fantastic Group Member, in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
  - (ii) subject to clause 10.5, make available to any Third Party or permit any Third Party to receive, other than in the ordinary course of business of the Fantastic Group or as required by law or the rules of any prescribed financial market, any Non-Public Information with a view to obtaining, or which may reasonably be expected to lead to, a Competing Proposal.
- (b) If Fantastic proposes that any Non-Public Information be provided to a Third Party (other than in the ordinary course of business of the Fantastic Group or as required by law or the rules of any prescribed financial market), then:
  - (i) before Fantastic provides such Non-Public Information, the Third Party must enter into a confidentiality agreement which contains obligations on the recipient of that information which are no less onerous in any material respect than the confidentiality obligations of Fantastic and the Bidder under the Confidentiality Deed and this deed; and
  - (ii) any Non-Public Information provided to that Third Party must also be provided to the Bidder and Bidco (unless such Non-Public Information has already been provided to the Bidder and Bidco).

#### 10.4. Notification obligation

- (a) Subject to clause 10.5, during the Exclusivity Period, Fantastic must promptly notify the Bidder and Bidco in writing if any Fantastic Group Member or any of its Representatives receives:
  - (i) any approach, inquiry or proposal made by any Third Party, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Competing Proposal; or
  - (ii) any request made by any Third Party for any Non-Public Information in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.
- (b) Each notice required to be given by Fantastic under clause 10.4(a) must set out the price, timing considerations, conditions precedent, any break fee and any minimum acceptance condition (if any) contemplated by the Competing Proposal received by Fantastic or any approach, inquiry or proposal made by any Third Party that could reasonably be expected to lead to a Competing Proposal.

#### 10.5. Fiduciary exception to no talk arrangements

Clauses 10.2(b) and 10.4 and, where stated, clause 10.3(a) do not apply to the extent they restrict the Fantastic Directors from taking, or refusing to take, any action with respect to a Competing Proposal (in relation to which there has been no contravention of this clause 10), provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the Board considers is of reputable commercial standing; and
- (b) the Board has determined in good faith after consultation with, and after receiving written advice from, Fantastic's:
  - (i) Financial Advisers, that the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal;
  - (ii) external Australian legal advisers practising in the area of corporate law, that failing to take the action or refusing to take the action (as the case may be) with respect to the Competing Proposal would be likely to constitute, a breach of any of the fiduciary or statutory duties of the Fantastic Directors.

#### 10.6. Matching Right

- (a) During the Exclusivity Period, Fantastic must:
  - (i) not enter into any legally binding agreement, arrangement or understanding to implement a Competing Proposal; and
  - (ii) use its best endeavours to procure that none of the Fantastic Directors change his or her Recommendation or Voting Intention in favour of the Scheme to publicly recommend or support a Competing Proposal (or recommend against, or cease supporting, the Scheme),

unless:

  - (iii) the Competing Proposal is a Superior Proposal;
  - (iv) Fantastic has provided the Bidder and Bidco with a notice specifying the material terms and conditions of the Competing Proposal, including the identity of each Third Party making or involved in the Competing Proposal and the price, timing considerations,

conditions precedent, financial matters, relevant regulatory considerations and any break fee contemplated by the Competing Proposal;

- (v) Fantastic has given Bidco at least 5 Business Days after provision of all of the information referred to in clause 10.6(a)(iv) (**Bidder Proposal Period**) to provide a proposal that is superior to the Competing Proposal (**Bidder Proposal**); and
  - (vi) Bidco has not provided a Bidder Proposal which the Board, acting in good faith, after consulting with its financial and legal advisers, determines would provide an outcome that is more favourable to Fantastic Shareholders as a whole than the relevant Competing Proposal (having regard to matters including consideration, conditionality, funding, certainty and timing) by the expiry of the Bidder Proposal Period.
- (b) Where Bidco has made a Bidder Proposal, this clause 10.6 has repeating applications so that if any further proposal which constitutes a Competing Proposal is made after Bidco has made a Bidder Proposal (**Further Competing Proposal**), Fantastic must comply with clauses 10.6(a)(i) and 10.6(a)(ii) in respect of the Further Competing Proposal unless clauses 10.6(a)(iii) to 10.6(a)(vi) (inclusive) apply. For the purposes of this clause 10.6(b), each successive material modification of a Third Party's expression of interest, offer or proposal in relation to a Competing Proposal will constitute a Further Competing Proposal.
- (c) The Board must consider each Bidder Proposal and if it determines, acting in good faith, that the Bidder Proposal would provide an outcome that is more favourable to Fantastic Shareholders as a whole than the relevant Competing Proposal (having regard to matters including consideration, conditionality, funding, certainty and timing), then as soon as reasonably practicable, Fantastic, the Bidder and Bidco must use their best endeavours to:
- (i) agree any amendments to this deed and the contents of the Scheme Booklet which are reasonably necessary to reflect the Bidder Proposal; and
  - (ii) enter into an appropriate amending deed to give effect to those amendments and to implement the Bidder Proposal.
- (d) The parties agree that any undertakings made by the Bidder under the Confidentiality Deed with respect to the securities of a Fantastic Group Member immediately cease to apply upon the first to occur, after the date of this deed, of:
- (i) Fantastic delivering a notice described in clause 10.6(a)(iv) to the Bidder and Bidco;
  - (ii) a Third Party acquiring a Relevant Interest or voting power in 5% or more of the Fantastic Shares; or
  - (iii) a Third Party publicly announces a Competing Proposal.

#### **10.7. Fantastic's Representatives**

Fantastic undertakes and warrants that, on or about the date of this deed, it will obtain written undertakings and assurances from each Director, Senior Manager and Financial Adviser to the effect that:

- (a) it is not aware of, it has not invited and is not involved in any discussions of the kind referred to in clause 10.1; and
- (b) without limiting the foregoing, they will comply with this clause 10 for the period of this deed.



**10.8. Compliance with law**

- (a) If it is finally determined by a Court, or the Takeovers Panel, that the agreement by Fantastic under this clause 10 or any part of it:
- (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Board;
  - (ii) constituted, or constitutes, or would constitute, unacceptable circumstances within the meaning of the Corporations Act; or
  - (iii) was, or is, or would be, unlawful for any other reason,
- then, to that extent (and only to that extent) Fantastic will not be obliged to comply with that provision of this clause 10.
- (b) The parties must not make, or cause or permit to be made, any action that would trigger the application of clause 10.8(a), including any application to a Court or the Takeovers Panel for, or in relation to, a determination referred to in clause 10.8(a).

**10.9. Legal advice**

Fantastic, Bidder and Bidco acknowledge that they each have received legal advice on this deed and the operation of this clause 10.

**11. Fantastic Break Fee****11.1. Background**

- (a) Fantastic and Bidco acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, Bidco will incur significant costs including those described in clause 11.2.
- (b) In the circumstances referred to in clause 11.1(a), Bidco has requested that provision be made for the payments outlined in clause 11.3, without which Bidco would not have entered into this deed.
- (c) Fantastic acknowledges and confirms to Bidco that the Board is of the opinion that the Scheme will provide benefit to Fantastic and Fantastic Shareholders and that it is appropriate for Fantastic to agree to the payments referred to in this clause 11 in order to secure Bidco's participation in the Transaction.

**11.2. Costs incurred by Bidco**

- (a) The fee payable under clause 11.3 has been calculated to reimburse Bidco for the following:
- (i) fees for legal and financial advice in planning and implementing the Transaction;
  - (ii) reasonable opportunity costs incurred in engaging in the Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
  - (iii) costs of management and directors' time in planning and implementing the Transaction;
  - (iv) out of pocket expenses incurred in planning and implementing the Transaction;
  - (v) costs associated with the financing arrangements in respect of the Transaction; and

- (vi) any damage to the reputation of any Bidder Group Member associated with a failed transaction and the implications of those damages if any Bidder Group Member seeks to execute alternative acquisitions in the future,

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

- (b) The parties acknowledge that:

- (i) the amount of fees, costs and losses referred to in this clause 11.2 is inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained; and
- (ii) the amount of the costs payable under clause 11.3 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

### 11.3. Payment of Fantastic Break Fee

- (a) Fantastic agrees to pay to Bidco \$3.6 million (exclusive of GST) (**Fantastic Break Fee**) if:

- (i) a Competing Proposal is publicly announced or made at any time prior to the End Date and, within 12 months from the date of the public announcement of the Competing Proposal that Competing Proposal is (or becomes) free from any defeating conditions (or if the Competing Proposal is a scheme of arrangement, the scheme becomes effective);
- (ii) at any time prior to the End Date, any Fantastic Director:
  - (A) fails to make a Recommendation or give a Voting Intention (as applicable) as contemplated under clause 5.9;
  - (B) withdraws, changes or adversely modifies his or her support of the Scheme or his or her Recommendation or Voting Intention (as applicable);
  - (C) makes a public statement indicating that is inconsistent with his or her Recommendation or Voting Intention (as applicable); or
  - (D) recommends, endorses or supports a Competing Proposal,

in each case other than as a direct or indirect result of or following the Independent Expert opining in the Independent Expert's Report that the Scheme is not in the best interest of Fantastic Shareholders, but except where the sole or dominant reason for such opinion of the Independent Expert in the Independent Expert's Report being the existence of a Superior Proposal or that the Independent Expert supports a Competing Proposal;

- (iii) a general meeting of Fantastic is convened to consider and, if thought fit, approve the implementation or taking, or not taking, of any step that prevents a condition precedent being satisfied or results in a condition precedent not being satisfied, and any of the Fantastic Directors recommend that Fantastic Shareholders vote in favour of implementing or taking, or not taking, that step;
- (iv) Bidco terminates this deed under clause 12.1(c)(i) and the relevant material breach of this deed by Fantastic is material in the context of the Scheme taken as a whole;
- (v) the Bidder or Bidco terminates this deed under clause 12.1(c)(iii), other than in circumstances where the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report other than where such update or

variation is wholly or in part, the result of the making or existence of a Competing Proposal) that the Transaction is not in the best interests of Fantastic Shareholders; or

- (vi) the Bidder or Bidco terminates this deed under clause 12.1(c)(iv).
- (b) Fantastic must pay Bidco the Fantastic Break Fee within 5 Business Days of receipt by Fantastic of a demand for payment from Bidco made after the occurrence of an event referred to in clause 11.3(a).
- (c) The Fantastic Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (d) The Fantastic Break Fee is only payable once and the maximum amount payable by Fantastic under this clause 11.3 is \$3.6 million (exclusive of GST).
- (e) The maximum aggregate amount which Fantastic is required to pay in relation to a breach of this deed (including in respect of a breach of a representation and warranty) is an amount equal to the Fantastic Break Fee and in no event will the aggregate liability of Fantastic under or in connection with a breach of this deed exceed an amount equal to the Fantastic Break Fee.
- (f) Subject to clause 11.3(e), but notwithstanding any other provision under this deed, where the Fantastic Break Fee becomes payable to Bidder under this deed and is actually paid to Bidco, the Bidder cannot make any claim against Fantastic in relation to any breach referred to in clause 12.1(c) or 12.2.

#### **11.4. Compliance with law**

- (a) If it is finally determined by a Court, or the Takeovers Panel, that the agreement by Fantastic under this clause 11 or any part of it:
  - (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Board;
  - (ii) constituted, or constitutes, or would constitute, unacceptable circumstances within the meaning of the Corporations Act; or
  - (iii) was, or is, or would be, unlawful for any other reason,
 then, to that extent (and only to that extent) Fantastic will not be obliged to comply with that provision of this clause 11.
- (b) The parties must not make, or cause or permit to be made, any action that would trigger the application of clause 11.4(a), including any application to a Court or the Takeovers Panel for, or in relation to, a determination referred to in clause 11.4(a).

## **12. Termination**

### **12.1. Termination**

- (a) **Termination by Fantastic:** Without prejudice to any other rights of termination under this deed, Fantastic may terminate this deed by written notice to Bidco at any time before the Delivery Time:
  - (i) other than in respect of a breach of a Bidder Representation and Warranty (which are addressed in clause 12.2), if either Bidder or Bidco is in breach of a material obligation of Bidder or Bidco (as the case may be) under this deed and Bidder or Bidco (as the case may be) has failed to remedy that breach by the earlier of the Delivery Time and the date being 5 Business Days of receipt by the Bidder or Bidco (as the case may be)

of a written notice setting out full details of the relevant circumstances and requesting that the Bidder or Bidco (as the case may be) remedy the breach;

- (ii) if either Bidder or Bidco becomes Insolvent;
  - (iii) if the Board by such number of Fantastic Directors as constitutes a majority of the Board recommend a Superior Proposal, and do not, within 5 Business Days of such recommendation relating to the Superior Proposal, reinstate its recommendation of the Transaction or recommend a Bidder Proposal, provided that Fantastic has complied with its obligations under clause 10.
- (b) **Termination by either Bidco or Fantastic:** Without prejudice to any other rights of termination under this deed, Bidco or Fantastic may terminate this deed by written notice to the other and the Bidder in the circumstances set out in, and in accordance with, clause 3.4.
- (c) **Termination by Bidco:** Without prejudice to any other rights of termination under this deed, Bidco may terminate this deed by written notice to Fantastic at any time before the Delivery Time:
- (i) other than in respect of a breach of a Fantastic Representation and Warranty (which are addressed in clause 12.2) and in respect of any facts, matters or circumstances contemplated under clauses 12.1(c)(ii) or 12.1(c)(iv), if Fantastic is in breach of a material obligation of Fantastic under this deed (including, for the avoidance of doubt, any obligation of Fantastic under clauses 3.2, 3.6, 4.1, 5.1, 5.4, 5.9, 10 and 11) and such breach is either incapable of remedy or Fantastic has failed to remedy that breach by the earlier of the Delivery Time and the date being 5 Business Days of receipt by Fantastic of a written notice setting out full details of the relevant circumstances and stating an intention to terminate this deed, and the relevant circumstances and requesting that Fantastic remedy the breach; or
  - (ii) if Fantastic is, or becomes, Insolvent;
  - (iii) if in any circumstance (including where clause 5.9(a) applies), a Fantastic Director:
    - (A) does not make a Recommendation or Voting Intention (if applicable) in respect of that Fantastic Director as contemplated under clause 5.9 (subject only to the qualifications specifically contemplated under clause 5.9);
    - (B) has changed, withdrawn or modified, or otherwise makes a public statement that is inconsistent with, that Fantastic Director's Recommendation or Voting Intention (if applicable); or
    - (C) recommends, endorses or supports any Competing Proposal; or
  - (iv) in any circumstances, Fantastic voluntarily enters into any agreement or arrangement in relation to the implementation of any Competing Proposal.

## 12.2. Breach of representations and warranties

Without prejudice to any other rights of termination under this deed, at any time before the Delivery Time:

- (a) Bidco may terminate this deed by written notice to Fantastic if, as at the time that the Fantastic Representations and Warranties are deemed to be made under this deed, a Fantastic Representation and Warranty is not true and accurate, provided that:
  - (i) Bidco has given written notice to Fantastic setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;

- (ii) the relevant circumstances continue to exist as at the earlier of the Delivery Time and the date being 5 Business Days from the time the notice is given by Bidco under clause 12.2(a)(i); and
  - (iii) the loss to the Bidder Group together with the loss to the Fantastic Group (in each case assuming that the Scheme were to become Effective) that would reasonably be expected to follow from the Fantastic Representation and Warranty being untrue or inaccurate would exceed \$10 million in aggregate or otherwise is material in the context of the Scheme taken as a whole.
- (b) Fantastic may terminate this deed by written notice to Bidco if, as at the time that the Bidder Representations and Warranties are deemed to be made under this deed, a Bidder Representation and Warranty is not true and accurate, provided that:
- (i) Fantastic has given written notice to the Bidder and Bidco setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
  - (ii) the relevant circumstances continue to exist as at the earlier of the Delivery Time and the date being 5 Business Days from the time the notice is given by Fantastic under clause 12.2(b)(i); and
  - (iii) the loss to the Fantastic Group that would reasonably be expected to follow from the Bidder Representation and Warranty being untrue or inaccurate would exceed \$10 million in aggregate or is otherwise is material in the context of the Scheme taken as a whole.

### **12.3. Effect of termination**

If this deed is terminated by either Bidco or Fantastic under clauses 3.4(b), 12.1 or 12.2, except to the extent that the termination results from a breach by either such party of its obligations under this deed, this deed will become void and have no further force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued prior to termination and other than in relation to the provisions of this clause 12 and of clauses 6.6 to 6.8, 9, 10, 11, 13, 15, 16.2, 16.4 and 16.6, which will remain in force after termination.

### **12.4. Termination**

Where Bidco or Fantastic has a right to terminate this deed, that right for all purposes will be validly exercised only if Bidco or Fantastic (as the case may be) delivers a notice in writing to Fantastic or Bidco (as the case may be) stating that it terminates this deed and the provision under which it is terminating the deed.

### **12.5. Terminable in writing**

This deed is terminable if agreed to in writing by Fantastic and Bidco.

## **13. Guarantee by Bidder**

### **13.1. Guarantee**

The Bidder:

- (a) unconditionally and irrevocably guarantees to Fantastic (in its own right and separately as trustee or nominee for each of the other Fantastic Indemnified Parties) on demand, the due and punctual performance of Bidco's obligations under this deed; and
- (b) indemnifies the Fantastic Indemnified Parties against all loss, actions, proceedings and judgments of any nature, incurred by, brought, made or recovered against Fantastic arising

from any default or delay in the due and punctual performance by Bidco of Bidco's obligations under this deed.

### **13.2. Extent of guarantee and indemnity**

The liability of the Bidder under this clause 13 is not affected by anything which, but for this clause 13 might operate to release or exonerate the Bidder in whole or in part from its obligations including any of the following, whether with or without the consent of the Bidder:

- (a) the grant to Bidco, the Bidder or any other person of any time, waiver or other indulgence, or the discharge or release of Bidco, the Bidder or any other person from any liability or obligation;
- (b) any transaction or arrangement that may take place between Bidco, the Bidder, Fantastic or any other person;
- (c) Fantastic exercising or refraining from exercising its rights under any security or any other rights, powers or remedies against Bidco, the Bidder or any other person;
- (d) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part and either with or without consideration, of any security now or in the future held by Fantastic from Bidco, the Bidder or any other person or by the taking of or failure to take any security; or
- (e) any legal limitation, disability, incapacity or other circumstances related to Bidco, the Bidder or any other person.

### **13.3. Principal and independent obligation**

This clause 13 is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation and extends to cover this deed as amended, varied, supplemented, renewed or replaced.

### **13.4. Continuing guarantee**

This clause 13 is a continuing obligation of the Bidder and remains in full force and effect for so long as Bidco has any liability or obligation to Fantastic under this deed and until all of those liabilities or obligations have been fully discharged.

### **13.5. No withholdings**

- (a) The Bidder must make all payments that become due under this clause 13, free and clear and without deduction of all present and future withholdings (including taxes, duties, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- (b) If Bidco or the Bidder is compelled by law to deduct any withholding, then in addition to any payment due under this clause 13, it must pay to Fantastic such amount as is necessary to ensure that the net amount received by Fantastic after withholding equals the amount Fantastic would otherwise been entitled to if not for the withholding.

### **13.6. Currency**

The Bidder must pay all moneys that it becomes liable to pay under this clause 13 in the currency in which they are payable under this deed and free of any commissions and expenses relating to foreign currency conversion or any other charges or expenses.

### **13.7. No set off**

The Bidder will have no right to set off, deduct or withhold any moneys that it may be or become liable to pay under this clause 13, against any moneys that Fantastic may be, or become, liable to pay to the Bidder whether under this deed or otherwise.

### 13.8. Bidder Liability

The Bidder's liability in respect of any claim shall not exceed Bidco's liability in respect of that claim.

## 14. Duty, costs and expenses

### 14.1. Stamp duty

Bidco must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme.

### 14.2. Costs and expenses

Except as otherwise provided in this deed or the Exclusivity and Process Letter, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of this deed and the Transaction.

## 15. GST

- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 15(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 15(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 15(b):
  - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
  - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this deed:
  - (i) if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred; and

- (ii) no Additional Amount is payable under clause 15(b) in respect of a Supply to which s 84-5 of the GST Law applies.
- (f) Any reference in this clause 15 to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term starting with a capital letter in this clause 15 that is not defined in this deed has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

## **16. General**

### **16.1. No representation or reliance**

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed 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 deed, the circumstances surrounding the parties' entry into this deed and the transactions contemplated by this deed are expressly excluded.
- (b) Each party acknowledges that it has performed its own searches, enquiries, investigations and evaluations prior to entering into this deed and has formed its own views on the Transaction, with no targets, projections, forecasts or other forward looking statements having been relied on by that party.
- (c) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed.

### **16.2. No merger**

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

### **16.3. Consents**

Any consent referred to in, or required under, this deed from any party may be given in that party's absolute discretion (even if unreasonably withheld), unless this deed expressly provides for that consent to not be unreasonably withheld.

### **16.4. Notices**

A notice or other communication including, but not limited to, a request, demand, consent or approval, to or by a party to this deed:

- (a) must be in legible writing and in English;
- (b) may be delivered personally to the addressee, or left or sent by prepaid post to the addressee's address, or faxed to the addressee's fax number, or emailed to the addressee's email address given below:



(i) **if to Fantastic:**

Address: 62 Hume Highway  
Chullora, NSW 2190

---

Attention: Brian Cassell

---

Fax: +61 2 8717 2660

---

Email: BCassell@Fantasticholdings.com.au

---

With a copy to Watson Mangioni Lawyers Pty Ltd:

Address: Level 23, 85 Castlereagh Street  
Sydney NSW 2000

---

Attention: Michael Beaumont

---

Fax: +61 2 9262 6666

---

Email: mbeaumont@wmlaw.com.au

---

(ii) **if to the Bidder or Bidco:**

Address: Level 4, 1 Epping Road, North Ryde, NSW 2113

---

Attention: Tim Schaafsma

---

Fax: + 61 2 9882 9078

---

Email: tim\_schaafsma@steinhoff.com.au

---

With a copy to MinterEllison:

Address:	Level 39, Governor Macquarie Tower, 1 Farrer Place Sydney NSW 2000
Attention:	Con Boulougouris
Fax:	+61 2 9921 8368
Email:	c.boulougouris@minterellison.com

or as specified to the sender by the other party by notice;

- (c) must, if the sender is a company, be signed by an authorised signatory or legal adviser;
- (d) is regarded as being given by the sender and received by the addressee if delivered in person, when delivered to the addressee but if the delivery or receipt is on a day which is not a Business Day or is after 5.00pm (addressee's time), it is regarded as received at 9.00am on the next Business Day;
- (e) if sent by prepaid ordinary post (airmail if appropriate), is regarded as being sent by the sender and received by the addressee when sent by the sender to the addressee's address set out in clause 16.4(b) three days after posting (or seven days after posting if sent from one country to another) but if the delivery or receipt is on a day which is not a Business Day or is after 5.00pm (addressee's time), it is regarded as received at 9.00am on the next Business Day;
- (f) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire notice unless, within two business hours after the transmission, the recipient informs the sender that it has not received the entire notice, but if the delivery or receipt is on a day which is not a Business Day or is after 5.00pm (addressee's time), it is regarded as received at 9.00am on the next Business Day; and
- (g) if sent by email, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee, but if the delivery or receipt is on a day which is not a Business Day or is after 5.00pm (addressee's time), it is regarded as received at 9.00am on the next Business Day.

#### **16.5. Service of process**

- (a) Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under clause 16.4.
- (b) Bidder and Bidco irrevocably appoint MinterEllison, at the address specified in clause 16.4 as its agent for the service of process in Australia in relation to any matter arising out of this deed. If MinterEllison ceases to be able to act as such or have an address in Australia, the Bidder and Bidco agree to appoint a new process agent in Australia and deliver to Fantastic within 5 Business Days a copy of a written acceptance of appointment by the process agent, upon receipt of which the new appointment becomes effective for the purpose of this deed. The Bidder and Bidco must inform Fantastic in writing of any change in the address of its process agent within 5 Business Days of the change.

**16.6. Governing law and jurisdiction**

- (a) This deed is governed by the laws of New South Wales, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts.

**16.7. Waivers**

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

**16.8. Variation**

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

**16.9. Assignment**

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

**16.10. Acknowledgement**

Each party acknowledges that the remedy of damages may be inadequate to protect the interests of the parties for a breach of any provision of this deed and that:

- (a) the Bidder or Bidco (as the case may be) is entitled to seek and obtain without limitation injunctive relief if Fantastic breaches any provision of this deed; and
- (b) Fantastic is entitled to seek and obtain without limitation injunctive relief if Bidco or any of the Bidder breaches any provision of this deed.

**16.11. No third party beneficiary**

This deed shall be binding on and inure solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed, express or implied, is intended to or shall confer on any other person, other than the Indemnified Parties and the Fantastic Indemnified Parties (including, for the avoidance of doubt, each member of the Board), to the extent set forth in clause 6 and clause 7.

**16.12. Further action**

Each party will do all things and execute all further documents necessary to give full effect to this deed.

**16.13. Entire agreement**

This deed supersedes all previous agreements, understandings, negotiations or deeds (other than the Confidentiality Deed and the Exclusivity and Process Letter) in respect of its subject matter and embodies the entire agreement between the parties.

**16.14. Counterparts**

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart.

## Schedule 1

### Bidder Representations and Warranties

Each of the Bidder and Bidco represents and warrants to Fantastic (in its own right and separately as trustee or nominee for each of the other Fantastic Indemnified Parties) that:

- (a) **Bidder Information:** the Bidder Information:
  - (i) will be prepared and included in the Scheme Booklet in good faith; and
  - (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, Listing Rules and relevant ASIC regulatory guides;
- (b) **Information provided to the Independent Expert:** all information provided by either of the Bidder or Bidco to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- (c) **Scheme Booklet:** the Bidder Information, as at the date of the Scheme Booklet, will not contain any statement which is materially misleading or deceptive, including by way of omission from that statement;
- (d) **Pre Bid shareholding:** as at the date of this deed, neither the Bidder nor any Associate of the Bidder has a Relevant Interest in any Fantastic Shares;
- (e) **New information:** it will, as a continuing obligation, provide to Fantastic all further or new information which arises after the date of the Scheme Booklet until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive in any material respect (including because of any material omission);
- (f) **Validly existing:** it is, a validly existing corporation registered under the laws of its place of incorporation;
- (g) **Bidco:** Bidco is owned by the Bidder and has the corporate power to carry out the Transaction;
- (h) **Authority:** the execution and delivery of this deed has been properly authorised by all necessary corporate action of the Bidder and Bidco;
- (i) **Scheme Consideration:** as at the date of this deed it has a reasonable basis to expect that Bidco will by the Business Day prior to the Implementation Date have funds on the Business Day prior to the Implementation Date sufficient to perform its obligation, if the Scheme becomes Effective, to satisfy their payment obligations under the Scheme and the Deed Poll;
- (j) **Power:** it has full corporate power and lawful authority to execute, deliver and perform this deed and to consummate and perform or cause to be performed its obligations under this deed in accordance with its terms;
- (k) **Binding obligations:** (subject to laws generally affecting creditors' rights and the principles of equity) this deed constitutes legal, valid and binding obligations on it; and
- (l) **No default:** this deed does not conflict with or result in the breach of or a default under any provision of its constitution or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound.

## Schedule 2

### Fantastic Representations and Warranties

Fantastic represents and warrants to Bidco (in its own right and separately as trustee or nominee for each of the other Bidder Indemnified Parties) that:

- (a) **Information in Scheme Booklet:** the information contained in the Scheme Booklet and any supplementary disclosure made to Fantastic Shareholders pursuant to this deed (in all cases, other than the Bidder Information and the Independent Expert's Report):
  - (i) will be prepared and included in the Scheme Booklet in good faith and on the understanding that the Bidder, Bidco and each other Bidder Indemnified Party will rely on that information for the purpose of determining to proceed with the Transaction;
  - (ii) will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise; and
  - (iii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, Listing Rules and ASIC Regulatory Guide 60;
- (b) **Information provided to the Independent Expert:** all information provided by Fantastic to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing its report for inclusion in the Scheme Booklet;
- (c) **Scheme Booklet:** no information (other than the Bidder Information and the Independent Expert's Report) contained in the Scheme Booklet, as at the date of the Scheme Booklet, will contain any statement which is misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission from that statement;
- (d) **New information:** it will, as a continuing obligation, ensure that the Scheme Booklet (but in respect of the Bidder Information, subject to Bidco complying with its obligations to update the Bidder Information) will be updated by all further or new information which may arise after the date of the Scheme Booklet until the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission) and will provide Bidco with all such information;
- (e) **Continuous disclosure:** Fantastic is not in breach of its continuous disclosure obligations under Listing Rule 3.1 and, other than in connection with this Transaction (including the Announcement), it is not relying on the carve-out in Listing Rule 3.1A to withhold any information from public disclosure;
- (f) **Disclosure Materials and Disclosure Letter:**
  - (i) the Disclosure Materials and the Disclosure Letter were prepared, and made available to the Bidder, Bidco and their respective Representatives in good faith; and
  - (ii) so far as the Board and each of the Senior Managers are aware, after diligent enquiry, Fantastic has not knowingly:
    - (A) included anything in any information provided in response to any requests for information made by the Bidder, Bidco or their respective Representatives (each a **Request**) that is materially false or misleading or omitted anything from any information provided in response to any Requests that would cause that information to be materially false or misleading;
    - (B) included anything materially false or misleading in the Disclosure Materials; or
    - (C) included anything in any information in the Disclosure Letter that is materially false or misleading or omitted anything from that information that would cause that information in the Disclosure Letter to be materially false or misleading.

- (g) **Not Insolvent:** no Fantastic Group Member is Insolvent nor, so far as Fantastic is aware, has any regulatory action of any nature been taken that would prevent or restrict Fantastic's ability to fulfil its obligations under this deed;
- (h) **Change of control:** so far as the Board and each of the Senior Managers is aware, after due and diligent inquiry, there are no material agreements (other than leases or licences of real property) to which any Fantastic Group Member is a party which contain any change of control provisions that may be triggered by implementation of the Transaction;
- (i) **Change of control leases:** so far as the Board and each of the Senior Managers is aware, after due and diligent inquiry, there are no leases or licences of real property to which any Fantastic Group Member is a party which contain any change of control provision that may be triggered by implementation of the Transaction which are materially less favourable to a Fantastic Group Member to those disclosed;
- (j) **Judgements:** there is no judgment, injunction, order or decree binding on any Fantastic Group Member that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of the Fantastic Group as it is conducted as at the date of this deed;
- (k) **Certain payments:** no Fantastic Group Member, nor, so far as the Board and any senior management of any Fantastic Group Member is aware after due and diligent inquiry, any officer, director, employee, agent or representative of any Fantastic Group Member has, directly or indirectly, in connection with the business of the Fantastic Group:
  - (i) made, offered or promised to make or offer any unlawful payment, loan or transfer of anything of value to or for the benefit of any government official, candidate for public office, political party or political campaign;
  - (ii) paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
  - (iii) made, offered or promised to make or offer any unlawful contributions, gifts, entertainment or other unlawful expenditures;
  - (iv) established or maintained any unlawful fund of corporate monies or other properties;
  - (v) created or caused the creation of any false or inaccurate books and records of any Fantastic Group Member in relation to any of the matters set out in paragraphs (i) to (iv) above; or
  - (vi) otherwise violated any provision of the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-1, et seq., the UK Bribery Act of 2010 or any other applicable anti-corruption or anti-bribery law;
- (l) **Validly existing:** it is a validly existing corporation registered under the laws of its place of incorporation;
- (m) **Authority:** the execution and delivery of this deed has been properly authorised by all necessary corporate action of Fantastic;
- (n) **Power:** Fantastic has full corporate power and lawful authority to execute and deliver this deed and to consummate and perform or cause to be performed its obligations under this deed in accordance with its terms;
- (o) **Binding obligations:** (subject to laws generally affecting creditors' rights and the principles of equity) this deed constitutes legal, valid and binding obligations on it;
- (p) **Capital structure:** its capital structure (including all issued securities) as at the date of this deed, is as set out in Schedule 3 and, as at the date of this deed, it has not issued or agreed to issue any other securities, options, performance rights or instruments which are still outstanding or which may convert into Fantastic Shares;

- (q) **No default:** this deed does not conflict with or result in the breach of or default under any provision of Fantastic's constitution or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound; and
- (r) **Compliance:** each Fantastic Group Member has complied in all material respects with all Australian and foreign laws and regulations applicable to the Fantastic Group Member and orders of Government Agencies having jurisdiction over them.

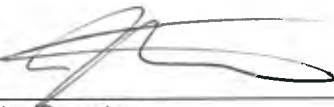


**Schedule 3**  
**Fantastic capital structure**

103,257,398 fully paid ordinary shares

Executed as a deed and delivered on the date shown on the first page:

SIGNED by )  
Fantastic Holdings Limited )  
(ABN 19 004 000 775) )  
in accordance with section 127 of the )  
Corporations Act: )


  
\_\_\_\_\_  
Director/Secretary

JULIAN TERTINI  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Director

PETER BROWNAN  
\_\_\_\_\_  
Name (please print)

SIGNED by )  
Steinhoff Asia Pacific Group Holdings )  
Pty Limited (ABN 21 612 890 874) in )  
accordance with section 127 of the )  
Corporations Act: )

  
\_\_\_\_\_  
Director

MICHAEL JONATHAN GORDON  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Director

TIMOTHY WILLIAM SCHAAFSMA  
\_\_\_\_\_  
Name (please print)

SIGNED by )  
Steinhoff Asia Pacific Holdings Pty )  
Limited (ABN 44 105 828 957) )  
in accordance with section 127 of the )  
Corporations Act: )

  
\_\_\_\_\_  
Director/Secretary

MICHAEL JONATHAN GORDON  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Director

TIMOTHY WILLIAM SCHAAFSMA  
\_\_\_\_\_  
Name (please print)

## **Annexure A**

### **Indicative Timetable**

<b>Event</b>	<b>Target date</b>
Announcement	Friday, 14 October 2016
Completion of due diligence investigations by the Bidder and Bidco	Friday, 14 October 2016
First complete draft of Scheme Booklet (including expert's report)	Friday, 14 October 2016
Scheme Booklet complete and provided to ASIC	Friday, 14 October 2016
First Court hearing	Wednesday, 2 November 2016
Mailing of Scheme Booklet complete	Monday, 7 November 2016
Scheme Meeting	Wednesday, 7 December 2016
Second Court hearing	Monday, 12 December 2016
Effective Date	Monday, 12 December 2016
Scheme Record Date	Wednesday, 14 December 2016
Implementation Date	Wednesday, 21 December 2016

## **Annexure B**

### **Scheme of Arrangement**



## **Share scheme of arrangement**

**Fantastic Holdings Limited**  
(ABN 19 004 000 775)

## **Scheme Shareholders**

**Watson Mangioni Lawyers Pty Limited**  
Corporate and Commercial Lawyers  
Level 23, 85 Castlereagh Street  
SYDNEY NSW 2000  
Tel: (02) 9262 6666  
Fax: (02) 9262 2626  
Email:  
Ref: MGB 216 6109

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

## **Parties:**

1. **Fantastic Holdings Limited** (ABN 19 004 000 775) of 62 Hume Highway, Chullora NSW 2190 (**Fantastic**);
2. The Scheme Shareholders.

## **1. Definitions and Interpretation**

### **1.1. Definitions**

In this Scheme:

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

**ASX** means, as the context requires, ASX Limited (ACN 008 624 691) or the securities market conducted by it.

**Bidco** means Steinhoff Asia Pacific Holdings Pty Limited (ABN 44 105 828 957) of Level 4, 1 Epping Road, North Ryde, NSW 2113.

**Bidder** means Steinhoff Asia Pacific Group Holdings Pty Ltd (ABN 21 612 890 874) Level 4, 1 Epping Road, North Ryde, NSW 2113.

**Business Day** means a business day as defined in the Listing Rules.

**CHESS** means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.

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

**Court** means a court of competent jurisdiction under the Corporations Act agreed to in writing by Fantastic and Bidco.

**Deed Poll** means a deed poll substantially in the form of Annexure A under which the Bidder and Bidco covenant in favour of the Scheme Shareholders to perform the obligations attributed to them under this Scheme.

**Delivery Time** means, in relation to the Second Court Date, the time being 2 hours before the commencement of the hearing of the Court on the Second Court Date.

**Effective** means, when used in relation to this Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to this Scheme.

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

**End Date** means 10 March 2017 or such other date as is agreed in writing between Bidco and Fantastic.

**Fantastic Registry** means Computershare Investor Services Pty Limited (ACN 078 279 277).

**Fantastic Share** means a fully paid ordinary share in the capital of Fantastic.

**Fantastic Shareholder** means each person who is registered in the Share Register as the holder of Fantastic Shares.

**Government Agency** means any government or any governmental, semi-governmental, statutory or judicial entity, agency or authority, whether in Australia, or elsewhere, including any self-regulatory



organisation established under statute or otherwise discharging substantially public or regulatory functions, and the ASX or any other stock exchange.

**Implementation Deed** means the scheme implementation deed dated 13 October 2016 between Fantastic, the Bidder and Bidco relating to the implementation of this Scheme.

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other date as agreed in writing by Bidco and Fantastic.

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

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

**Related Bodies Corporate** means has the meaning given in section 9 of the Corporations Act and includes any body corporate that would be a related body corporate for the purposes of the Corporations Act if section 48(2) of the Corporations Act was omitted.

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Fantastic and the Scheme Shareholders subject to any alterations or conditions:

- (a) agreed to in writing by the Bidder, Bidco and Fantastic and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by the Bidder, Bidco and Fantastic.

**Scheme Consideration** means the cash consideration to be provided to each Scheme Shareholder for the transfer to Bidco of each Scheme Share, being the amount of \$3.50 for each Scheme Share held by each Scheme Shareholder, in accordance with clause 4.3 of the Implementation Deed and the terms of this Scheme.

**Scheme Meeting** means the meeting of Fantastic Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act at which Fantastic Shareholders will vote on this Scheme.

**Scheme Record Date** means 7.00pm on the fifth Business Day after the Effective Date or such other date as agreed in writing by Bidco and Fantastic.

**Scheme Share** means a Fantastic Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholder** means Fantastic Shareholders as at the Scheme Record Date.

**Scheme Transfer** means a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidco as transferee, which may be a master transfer of all or part of the Scheme Shares.

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

**Share Register** means the register of members of Fantastic maintained in accordance with the Corporations Act.

**Subsidiary** means has the meaning given in Division 6 of Part 1.2 of the Corporations Act.

## 1.2. Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is a reference to that time in Sydney, Australia;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

## 1.3. Interpretation of inclusive expressions

Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

#### **1.4. Business Day**

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

#### **1.5. Scheme components**

This Scheme includes any schedule to it.

### **2. Preliminary matters**

- (a) Fantastic is a public company limited by shares incorporated in Australia and registered in New South Wales, Australia, and has been admitted to the official list of the ASX. Fantastic Shares are quoted for trading on the ASX.
- (b) As at the Second Court Date 103,257,398 Fantastic Shares were on issue.
- (c) The Bidder is a proprietary company limited by shares incorporated in Australia and registered in Victoria, Australia.
- (d) Bidco is a proprietary company limited by shares, incorporated in Australia and registered in Victoria, Australia.
- (e) If this Scheme becomes Effective:
  - (i) in consideration of the transfer of the Scheme Shares, Bidco will, and the Bidder unconditionally and irrevocably guarantees the obligation of Bidco to, provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with the terms of this Scheme and the Deed Poll;
  - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Bidco; and
  - (iii) Fantastic will enter the name of Bidco in the Share Register in respect of the Scheme Shares.
- (f) Fantastic, the Bidder and Bidco have agreed, by executing the Implementation Deed, to implement this Scheme.
- (g) This Scheme attributes actions to the Bidder and Bidco but does not itself impose an obligation on them to perform those actions. The Bidder and Bidco have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the providing or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

### **3. Conditions**

#### **3.1. Conditions precedent**

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

- (a) all the conditions precedent in clause 3.1 of the Implementation Deed (other than the condition precedent in clause 3.1(b) of the Implementation Deed relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Implementation Deed by the Delivery Time;
- (b) neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before the Delivery Time;

- (c) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act and agreed to by the Bidder, Bidco and Fantastic;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme and agreed to by the Bidder, Bidco and Fantastic; and
- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date Bidco and Fantastic agree).

### **3.2. Certificate**

- (a) Fantastic and Bidco will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent are satisfied, waived or taken to be waived.

## **4. Implementation of this Scheme**

### **4.1. Lodgement of Court orders with ASIC**

Fantastic will lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible and in any event by 5.00pm on the first Business Day after the day on which the Court approves this Scheme.

### **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 5, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Bidco, without the need for any further act by any Scheme Shareholder (other than acts performed by Fantastic as attorney and agent for Scheme Shareholders under clause 8.5), by:
  - (i) Fantastic delivering to Bidco a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Fantastic, for registration; and
  - (ii) Bidco duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Fantastic for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(ii), Fantastic must enter, or procure the entry of, the name of Bidco in the Share Register in respect of all the Scheme Shares transferred to Bidco in accordance with this Scheme.

## **5. Scheme Consideration**

### **5.1. Provision of Scheme Consideration**

- (a) Bidco must, the Bidder unconditionally and irrevocably guarantees the obligation of Bidco to, and Fantastic must, use best endeavours to procure that Bidco shall, by no later than the Business Day before the Implementation Date, deposit in cleared funds an amount equal to the aggregate amount of the Scheme Consideration payable to each Scheme Shareholder, in an Australian dollar denominated trust account operated by Fantastic as trustee for the Scheme Shareholders and for the purposes of sending the aggregate Scheme Consideration to Scheme

Shareholders (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidco's account).

- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.1(a), Fantastic must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the trust account referred to in clause 5.1(a).
- (c) The obligations of Fantastic under clause 5.1(b) will be satisfied by Fantastic (in its absolute discretion):
  - (i) where a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Fantastic Registry to receive dividend payments from Fantastic by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (ii) otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 5.1(c)(i), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme 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 5.2).
- (d) To the extent that, following satisfaction of Fantastic's obligations under clause 5.1(b), there is a surplus in the amount held by Fantastic as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus may be paid by Fantastic to Bidco.

## 5.2. Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.1(c), the Scheme Consideration is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Share Register as at the Scheme Record Date; and
- (b) any other document required to be sent under this Scheme, will be forwarded to the holder whose name appears first in the Share Register as at the Scheme Record Date.

## 5.3. Unclaimed monies

Fantastic may cancel a cheque issued and despatched under this clause 5 if the cheque (**Unclaimed Consideration**):

- (a) is returned to Fantastic; or
- (b) has not been presented for payment within six months after the date on which the cheque was sent,

and in each case:

- (c) Fantastic must deal with the Unclaimed Consideration in accordance with any applicable unclaimed moneys legislation; and
- (d) subject to Fantastic complying with its obligations under clause 5.3(c), Fantastic is discharged from liability to any Scheme Shareholder on respect of the Unclaimed Consideration.

#### **5.4. Orders of a court**

If at any time prior to the Implementation Date:

- (a) written notice is given to Fantastic (or the Fantastic Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Fantastic in accordance with this clause 5, then Fantastic shall be entitled to procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to Fantastic (or the Fantastic Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that prevents Fantastic from making a payment by Fantastic to any particular Scheme Shareholder in accordance with clause 5.1(c), or such payment is otherwise prohibited by applicable law, Fantastic shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 5 is permitted by that order or direction or otherwise by law.

### **6. Dealings in Fantastic Shares**

#### **6.1. Determination of Scheme Shareholders**

To establish the identity of the Scheme Shareholders, dealings in Fantastic Shares or other alterations to the Share Register will only be recognised if:

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

and Fantastic will not accept for registration, nor recognise for any purpose (except a transfer to Bidco pursuant to this Scheme and any subsequent transfer by Bidco or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

#### **6.2. Register**

- (a) Fantastic must register registrable transmission applications or transfers of the Scheme Shares in accordance with clause 6.1(b) on or before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires Fantastic to register a transfer that would result in a Fantastic Shareholder holding a parcel of Fantastic Shares that is less than a 'marketable parcel' (for the purposes of this clause 6.2(a) 'marketable parcel' has the meaning given in the Operating Rules of the ASX).
- (b) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport or agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Fantastic shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Fantastic must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

- (d) All statements of holding for Fantastic Shares will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from the Scheme Record Date, each entry current as at the Scheme Record Date on the Share Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Fantastic Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, Fantastic will ensure that a copy of the Share Register as at the Scheme Record Date, including details of the names, Registered Addresses and holdings of Fantastic Shares for each Scheme Shareholder as shown in the Share Register, are available to Bidco and the Bidder in the form Bidco and the Bidder reasonably require.

## **7. Quotation of Fantastic Shares**

- (a) Fantastic will apply to ASX to suspend trading on the ASX in Fantastic Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidco, Fantastic will apply:
  - (i) for termination of the official quotation of Fantastic Shares on the ASX; and
  - (ii) to have itself removed from the official list of the ASX.

## **8. General Scheme provisions**

### **8.1. Consent to amendments to this Scheme**

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Fantastic may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidco has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which counsel for Fantastic has consented to and to which the Bidder and Bidco have agreed to.

### **8.2. Scheme Shareholders' agreements and warranties**

- (a) Each Scheme Shareholder:
  - (i) agrees to the transfer of their Fantastic Shares together with all rights and entitlements attaching to those Fantastic Shares in accordance with this Scheme;
  - (ii) agrees to the variation, cancellation or modification of the rights attached to their Fantastic Shares constituted by or resulting from this Scheme; and
  - (iii) agrees and acknowledges that this Scheme binds Fantastic and all Scheme Shareholders (including those who do not attend the Scheme Meeting or those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Fantastic and Bidco, and appointed and authorised Fantastic as its attorney and agent to warrant to Bidco, that:
  - (i) all their Fantastic Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, whether legal or equitable;

- (ii) it has no existing right to be issued any Fantastic Shares, securities convertible into Fantastic Shares or which carry a right to be issued or transferred any Fantastic Shares, any convertible notes issued by Fantastic or any other Fantastic securities; and
  - (iii) that they have full power and capacity to sell and transfer their Fantastic Shares to Bidco together with any rights attaching to those shares.
- (c) Fantastic undertakes that it will provide each warranty in clause 8.2(b) to Bidco as agent and attorney of each Scheme Shareholder.

### **8.3. Title to and rights in Scheme Shares**

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidco will, at the time of transfer of them to Bidco, vest in Bidco free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 5, Bidco will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Fantastic of Bidco in the Share Register as the holder of the Scheme Shares.

### **8.4. Appointment of sole proxy**

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 5, and until Fantastic registers Bidco as the holder of all Scheme Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have appointed Bidco as attorney and agent (and directed Bidco in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidco as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
- (b) 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 8.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidco reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.4(a), Bidco and any director, officer, secretary or agent nominated by Bidco under clause 8.4(a) may act in the best interests of Bidco as the intended registered holder of the Scheme Shares.

### **8.5. Authority given to Fantastic**

Each Scheme Shareholder, without the need for any further act:

- (a) on the Scheme becoming Effective, irrevocably appoints Fantastic and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against the Bidder and Bidco, and Fantastic undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against the Bidder and Bidco on behalf of and as agent and attorney for Scheme Shareholders; and
- (b) on the Scheme becoming Effective, irrevocably appoints Fantastic and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act, necessary, desirable or



expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer,

and Fantastic accepts each such appointment. Fantastic as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

#### **8.6. Binding effect of Scheme**

This Scheme binds Fantastic and all of the Scheme Shareholders (including those who did not attend the meeting of Fantastic Shareholders to vote on this Scheme, did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of Fantastic.

### **9. General**

#### **9.1. Stamp duty**

Bidco will (and the Bidder will procure that Bidco will):

- (a) pay all stamp duty (if any) and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with this Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1.

#### **9.2. Consent**

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

#### **9.3. Notices**

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

#### **9.4. Governing law**

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

#### **9.5. Further action**

Fantastic must do all things and execute all documents necessary or expedient to give full effect to this Scheme and the transactions contemplated by it.

**9.6. No liability when acting in good faith**

Neither Fantastic, the Bidder nor Bidco nor any director, officer or secretary of Fantastic, the Bidder or Bidco will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

## **Annexure A Deed Poll**

## **Annexure B**

### **Deed Poll**



## **Deed Poll**

### **Steinhoff Asia Pacific Group Holdings Pty Limited**

(ABN 22 612 890 874)

### **Steinhoff Asia Pacific Holdings Pty Limited**

(ABN 44 105 828 957)

#### **Watson Mangioni Lawyers Pty Limited**

Corporate and Commercial Lawyers  
Level 23, 85 Castlereagh Street  
SYDNEY NSW 2000  
Tel: (02) 9262 6666  
Fax: (02) 9262 2626  
Email:  
Ref: MGB 216 6109

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## Made By

1. **Steinhoff Asia Pacific Group Holdings Pty Ltd** (ABN 21 612 890 874) of Level 4, 1 Epping Road, North Ryde, NSW 2113 (**Bidder**);
2. **Steinhoff Asia Pacific Holdings Pty Limited** (ABN 44 105 828 957) of Level 4, 1 Epping Road, North Ryde, NSW 2113 (**Bidco**).

**In favour of** each person registered as a holder of one or more Scheme Shares (**Scheme Shareholders**).

## Recitals:

- A. Fantastic, the Bidder and Bidco entered into the Implementation Deed.
- B. In the Implementation Deed, the Bidder and Bidco agreed to enter into this deed poll.
- C. The Bidder and Bidco are entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform their respective obligations under the Scheme.
- D. The effect of the Scheme will be that the Scheme Shares, together with all rights and entitlements attached to them, will be transferred to Bidco in exchange for the Scheme Consideration.

## 1. Definitions and Interpretation

### 1.1. Definitions

In this deed poll:

**Fantastic** means Fantastic Holdings Limited (ABN 19 004 000 775) of 62 Hume Highway, Chullora NSW 2190.

**First Court Date** means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Fantastic to convene the Scheme Meeting to consider the Scheme is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard).

**Implementation Deed** means the scheme implementation deed dated 13 October 2016 between Fantastic, the Bidder and Bidco relating to the implementation of the Scheme.

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Fantastic and the Scheme Shareholders, substantially in the form of Schedule 1, subject to any alterations or conditions:

- (a) agreed to in writing by the Bidder, Bidco and Fantastic and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by Bidco, the Bidder and Fantastic.

Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

### 1.2. Interpretation

Clauses 1.2, 1.3, 1.4 and 1.5 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' in those clauses are to be read as references to 'this deed poll'.



### **1.3. Nature of deed poll**

The Bidder and Bidco acknowledge 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 Fantastic and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing this deed poll against the Bidder and Bidco.

## **2. Conditions to obligations**

### **2.1. Conditions**

This deed poll and the obligations of the Bidder and Bidco under this deed poll are subject to the Scheme becoming Effective.

### **2.2. Termination**

This deed poll and the obligations of the Bidder and Bidco under this deed poll will automatically terminate and this deed poll will be of no force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date or any later date as the Court, with the consent of Fantastic, the Bidder and Bidco, may order.

### **2.3. Consequences of termination**

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

- (a) the Bidder and Bidco are released from their obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against the Bidder and Bidco in respect of any breach of this deed poll which occurred before it was terminated.

## **3. Scheme obligations**

### **3.1. Undertaking to pay Scheme Consideration**

Subject to clause 2, Bidco undertakes in favour of each Scheme Shareholder, and the Bidder undertakes in favour of each Scheme Shareholder unconditionally and irrevocably to guarantee the undertakings and obligations of Bidco, to:

- (a) by no later than the Business Day before the Implementation Date, deposit, or procure the deposit of, in cleared funds, an amount equal to the aggregate amount of the Scheme Consideration payable to each Scheme Shareholder, into an Australian dollar denominated trust account operated by Fantastic as trustee for the Scheme Shareholders and for the purposes of sending the aggregate Scheme Consideration to Scheme Shareholders (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidco's account); and
- (b) undertake all other actions attributed to it under the Scheme,

subject to and in accordance with the provisions of the Scheme.

## 4. Warranties

Each of the Bidder and Bidco represents and warrants, in respect of itself only, that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) 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) 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) this deed poll is valid and binding on it and enforceable against it in accordance with the terms of this deed poll; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

## 5. Continuing obligations

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

- (a) the Bidder and Bidco have fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.

## 6. Notices

### 6.1. Form of Notice

A notice or other communication in respect of this deed poll (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to the Bidder and Bidco in accordance with the details set out below (or any alternative details nominated by the Bidder or Bidco by Notice).

(i) **if to Fantastic:**

Address:	62 Hume Highway Chullora, NSW 2190
Attention:	Brian Cassell
Fax:	+61 2 8717 2660
Email:	bcassell@fantasticholdings.com.au

With a copy to Watson Mangioni Lawyers Pty Ltd:

Address:	Level 23, 85 Castlereagh Street Sydney NSW 2000
Attention:	Michael Beaumont
Fax:	+61 2 9262 6666
Email:	mbeaumont@wmlaw.com.au

(ii) **if to the Bidder or Bidco:**

Address:	Level 4, 1 Epping Road, North Ryde, NSW 2113
Attention:	Mr Tim Schaafsma
Fax:	+ 61 2 9882 9078
Email:	tim_schaafsma@steinhoff.com.au.

With a copy to MinterEllison:

Address:	Level 39, Governor Macquarie Tower, 1 Farrer Place Sydney NSW 2000
Attention:	Con Boulougouris
Fax:	+61 2 9921 8368
Email:	c.boulougouris@minterellison.com

or as specified to the sender by the other party by notice;

**6.2. How Notice must be given and when Notice is received**

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the times set out in the table below.
- (c) However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting

<b>Method of giving Notice</b>	<b>When Notice is regarded as given and received</b>
By fax to the nominated fax number	At the time indicated by the sending party's transmission equipment as at the time that the fax was sent in its entirety. However, if the recipient party informs the sending party within 4 hours after that time that the fax transmission was illegible or incomplete, then the Notice will not be regarded as given or received. When calculating this 4 hour period, only time within a business hours period is to be included.
By email to the nominated email address	When sent by the sending party to the recipient party's email address (unless the sending party receives a delivery failure notification indicating that the email has not been delivered to the recipient party).

## **7. General**

### **7.1. Stamp duty**

Bidco will (and the Bidder will procure that Bidco will):

- (a) pay all stamp duty (if any) and any related fines and penalties in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under or in connection with the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

### **7.2. Governing law and jurisdiction**

- (a) This deed poll is governed by the laws in force in New South Wales, Australia.
- (b) The Bidder and Bidco irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. The Bidder and Bidco irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

### **7.3. Waiver**

- (a) The Bidder and Bidco may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of the Bidder or Bidco as a waiver of any right unless the waiver is in writing and signed by the Bidder and Bidco.
- (c) The meanings of the terms used in this clause 7.3 are set out below.

<b>Term</b>	<b>Meaning</b>
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this deed and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

**7.4. Variation**

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

- (a) if before the Second Court Date, the variation is agreed to by Fantastic; or
- (b) if on or after the Second Court Date, the variation is agreed to by Fantastic and is approved by the Court,

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

**7.5. Cumulative rights**

The rights, powers and remedies of the Bidder, Bidco and the Scheme Shareholders under this deed poll are cumulative with, and do not exclude, any other rights, powers or remedies provided by law independently of this deed poll.

**7.6. Assignment**

- (a) The rights created by this deed poll are personal to the Bidder, Bidco and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of the Bidder and Bidco.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

**7.7. Joint and several obligations**

The Bidder and Bidco are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

**7.8. Further action**

The Bidder and Bidco must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

# **Schedule 1**

## **Scheme of Arrangement**

**Executed as a Deed Poll on the date shown on the first page.**

**SIGNED** by )  
**Steinhoff Asia Pacific Group Holdings** )  
**Pty Ltd** (ABN21 612 890 874) )  
in accordance with section 127 of the )  
Corporations Act: )

\_\_\_\_\_  
Director/Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

**SIGNED** by )  
**Steinhoff Asia Pacific Holdings Pty** )  
**Limited** (ABN 44 105 828 957) )  
in accordance with section 127 of the )  
Corporations Act: )

\_\_\_\_\_  
Director/Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

13 October 2016

Fantastic Holdings Limited  
62 Hume Highway  
Chullora NSW 2190

Dear Directors,

**Statement of intentions by Bytenew Pty. Limited ACN 052 315 830 in its capacity as trustee for the Tertini Family Settlement No. 2 regarding the proposed acquisition of Fantastic Holdings Limited by scheme of arrangement (Scheme)**

**1. Introduction**

- 1.1 Bytenew Pty. Limited ACN 052 315 830 in its capacity as trustee for the Tertini Family Settlement No. 2 (**Shareholder**) refers to the Scheme Implementation Deed (**SID**) between Fantastic Holdings Limited (**Fantastic**), Steinhoff Asia Pacific Group Holdings Pty Ltd (**Bidder**) and Steinhoff Asia Pacific Holdings Pty Limited (**BidCo**), and the announcement by Fantastic that it has entered into the SID, in each case dated 13 October 2016.
- 1.2 Shareholder holds 30,842,074 Fantastic Shares representing 29.87% of all Fantastic Shares.
- 1.3 In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

**2. Statement of intention regarding Scheme**

- 2.1 Shareholder confirms that, based solely on the information provided by Fantastic as at the date of this letter in relation to the Scheme (including the terms of the SID and the announcement), it intends to vote all Fantastic Shares held or controlled by the Shareholder in favour of the Scheme at the Scheme Meeting subject to:
  - (a) there not being any Competing Proposal involving the sale of all Fantastic Shares which Shareholder determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Shareholder than the Transaction;
  - (b) the Board of Fantastic recommending that Fantastic Shareholders vote in favour of the Scheme; and
  - (c) the Independent Expert concluding that the Scheme is in the best interests of Fantastic Shareholders.

**3. Announcement**

- 3.1 This letter is provided to Fantastic. Shareholder acknowledges and agrees that Fantastic will make an announcement to the ASX stating the contents of this letter and consents to Fantastic doing so. This letter is provided to Fantastic on the condition that, until such announcement is made, Shareholder and Fantastic will keep the contents of this letter confidential, except to the extent required by law.



#### **4. General**

- 4.1 This letter is not intended to give rise to, nor does it give rise to, the Bidder or its associates acquiring any relevant interest in the Fantastic Shares held or controlled by the Shareholder nor the Shareholder or the Bidder becoming associated in any way for the purposes of Chapter 6 of the Corporations Act
- 4.2 This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.



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Signed by Julian Tertini for and on behalf of  
Bytenew Pty. Limited ACN 052 315 830 in its capacity as  
trustee for the Tertini Family Settlement No. 2

13 October 2016

Fantastic Holdings Limited  
62 Hume Highway  
Chullora NSW 2190

Dear Directors,

**Statement of intentions by Lawncat Pty. Limited ACN 052 316 257 regarding the proposed acquisition of Fantastic Holdings Limited by scheme of arrangement (Scheme)**

**1. Introduction**

- 1.1 Lawncat Pty. Limited ACN 052 316 257 (**Shareholder**) refers to the Scheme Implementation Deed (**SID**) between Fantastic Holdings Limited (**Fantastic**), Steinhoff Asia Pacific Group Holdings Pty Ltd (**Bidder**) and Steinhoff Asia Pacific Holdings Pty Limited (**BidCo**), and the announcement by Fantastic that it has entered into the SID, in each case dated 13 October 2016.
- 1.2 Shareholder holds 934,137 Fantastic Shares representing 0.90% of all Fantastic Shares.
- 1.3 In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

**2. Statement of intention regarding Scheme**


- 2.1 Shareholder confirms that, based solely on the information provided by Fantastic as at the date of this letter in relation to the Scheme (including the terms of the SID and the announcement), it intends to vote all Fantastic Shares held or controlled by the Shareholder in favour of the Scheme at the Scheme Meeting subject to:
  - (a) there not being any Competing Proposal involving the sale of all Fantastic Shares which Shareholder determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Shareholder than the Transaction;
  - (b) the Board of Fantastic recommending that Fantastic Shareholders vote in favour of the Scheme; and
  - (c) the Independent Expert concluding that the Scheme is in the best interests of Fantastic Shareholders.

**3. Announcement**

- 3.1 This letter is provided to Fantastic. Shareholder acknowledges and agrees that Fantastic will make an announcement to the ASX stating the contents of this letter and consents to Fantastic doing so. This letter is provided to Fantastic on the condition that, until such announcement is made, Shareholder and Fantastic will keep the contents of this letter confidential, except to the extent required by law.

**4. General**

- 4.1 This letter is not intended to give rise to, nor does it give rise to, the Bidder or its associates acquiring any relevant interest in the Fantastic Shares held or controlled by the Shareholder nor the Shareholder or the Bidder becoming associated in any way for the purposes of Chapter 6 of the Corporations Act
- 4.2 This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.



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Signed by Julian Tertini, Director, for and on behalf of  
Lawncat Pty. Limited ACN 052 316 257

13 October 2016

Fantastic Holdings Limited  
62 Hume Highway  
Chullora NSW 2190

Dear Directors,

**Statement of intentions by Yaquina Pty. Limited ACN 151 689 486 regarding the proposed acquisition of Fantastic Holdings Limited by scheme of arrangement (Scheme)**

**1. Introduction**

- 1.1 Yaquina Pty. Limited ACN 151 689 486 (**Shareholder**) refers to the Scheme Implementation Deed (**SID**) between Fantastic Holdings Limited (**Fantastic**), Steinhoff Asia Pacific Group Holdings Pty Ltd (**Bidder**) and Steinhoff Asia Pacific Holdings Pty Limited (**BidCo**), and the announcement by Fantastic that it has entered into the SID, in each case dated 13 October 2016.
- 1.2 Shareholder holds 10,000,000 Fantastic Shares representing 9.68% of all Fantastic Shares.
- 1.3 In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

**2. Statement of intention regarding Scheme**

- 2.1 Shareholder confirms that, based solely on the information provided by Fantastic as at the date of this letter in relation to the Scheme (including the terms of the SID and the announcement), it intends to vote all Fantastic Shares held or controlled by the Shareholder in favour of the Scheme at the Scheme Meeting subject to:
  - (a) there not being any Competing Proposal involving the sale of all Fantastic Shares which Shareholder determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Shareholder than the Transaction;
  - (b) the Board of Fantastic recommending that Fantastic Shareholders vote in favour of the Scheme; and
  - (c) the Independent Expert concluding that the Scheme is in the best interests of Fantastic Shareholders.

**3. Announcement**

- 3.1 This letter is provided to Fantastic. Shareholder acknowledges and agrees that Fantastic will make an announcement to the ASX stating the contents of this letter and consents to Fantastic doing so. This letter is provided to Fantastic on the condition that, until such announcement is made, Shareholder and Fantastic will keep the contents of this letter confidential, except to the extent required by law.

**4. General**

- 4.1 This letter is not intended to give rise to, nor does it give rise to, the Bidder or its associates acquiring any relevant interest in the Fantastic Shares held or controlled by the Shareholder nor the Shareholder or the Bidder becoming associated in any way for the purposes of Chapter 6 of the Corporations Act.
- 4.2 This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.



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Signed by Brendan Tertini for and on behalf of  
Yaquina Pty. Limited ACN 151 689 486

13 October 2016

Fantastic Holdings Limited  
62 Hume Highway  
Chullora NSW 2190

Dear Directors,

**Statement of intentions by Peter Brennan regarding the proposed acquisition of Fantastic Holdings Limited by scheme of arrangement (Scheme)**

**1. Introduction**

- 1.1 Peter Brennan (**Shareholder**) refers to the Scheme Implementation Deed (**SID**) between Fantastic Holdings Limited (**Fantastic**), Steinhoff Asia Pacific Group Holdings Pty Ltd (**Bidder**) and Steinhoff Asia Pacific Holdings Pty Limited (**BidCo**), and the announcement by Fantastic that it has entered into the SID, in each case dated 13 October 2016.
- 1.2 Shareholder holds 2,813,427 Fantastic Shares representing 2.72% of all Fantastic Shares.
- 1.3 In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

**2. Statement of intention regarding Scheme**

- 2.1 Shareholder confirms that, based solely on the information provided by Fantastic as at the date of this letter in relation to the Scheme (including the terms of the SID and the announcement), it intends to vote all Fantastic Shares held or controlled by the Shareholder in favour of the Scheme at the Scheme Meeting subject to:
  - (a) there not being any Competing Proposal involving the sale of all Fantastic Shares which Shareholder determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Shareholder than the Transaction;
  - (b) the Board of Fantastic recommending that Fantastic Shareholders vote in favour of the Scheme; and
  - (c) the Independent Expert concluding that the Scheme is in the best interests of Fantastic Shareholders.

**3. Announcement**

- 3.1 This letter is provided to Fantastic. Shareholder acknowledges and agrees that Fantastic will make an announcement to the ASX stating the contents of this letter and consents to Fantastic doing so. This letter is provided to Fantastic on the condition that, until such announcement is made, Shareholder and Fantastic will keep the contents of this letter confidential, except to the extent required by law.

**4. General**

- 4.1 This letter is not intended to give rise to, nor does it give rise to, the Bidder or its associates acquiring any relevant interest in the Fantastic Shares held or controlled by the Shareholder nor the Shareholder or the Bidder becoming associated in any way for the purposes of Chapter 6 of the Corporations Act
- 4.2 This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.

  
\_\_\_\_\_  
Peter Brennan

13 October 2016

Fantastic Holdings Limited  
62 Hume Highway  
Chullora NSW 2190

Dear Directors,

**Statement of intentions by Patricia Brennan regarding the proposed acquisition of Fantastic Holdings Limited by scheme of arrangement (Scheme)**

**1. Introduction**

- 1.1 Patricia Brennan (**Shareholder**) refers to the Scheme Implementation Deed (**SID**) between Fantastic Holdings Limited (**Fantastic**), Steinhoff Asia Pacific Group Holdings Pty Ltd (**Bidder**) and Steinhoff Asia Pacific Holdings Pty Limited (**BidCo**), and the announcement by Fantastic that it has entered into the SID, in each case dated 13 October 2016.
- 1.2 Shareholder holds 3,989,965 Fantastic Shares representing 3.86% of all Fantastic Shares.
- 1.3 In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

**2. Statement of intention regarding Scheme**

- 2.1 Shareholder confirms that, based solely on the information provided by Fantastic as at the date of this letter in relation to the Scheme (including the terms of the SID and the announcement), it intends to vote all Fantastic Shares held or controlled by the Shareholder in favour of the Scheme at the Scheme Meeting subject to:
  - (a) there not being any Competing Proposal involving the sale of all Fantastic Shares which Shareholder determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Shareholder than the Transaction;
  - (b) the Board of Fantastic recommending that Fantastic Shareholders vote in favour of the Scheme; and
  - (c) the Independent Expert concluding that the Scheme is in the best interests of Fantastic Shareholders.

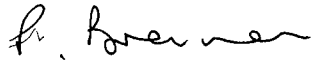
**3. Announcement**

- 3.1 This letter is provided to Fantastic. Shareholder acknowledges and agrees that Fantastic will make an announcement to the ASX stating the contents of this letter and consents to Fantastic doing so. This letter is provided to Fantastic on the condition that, until such announcement is made, Shareholder and Fantastic will keep the contents of this letter confidential, except to the extent required by law.



**4. General**

- 4.1 This letter is not intended to give rise to, nor does it give rise to, the Bidder or its associates acquiring any relevant interest in the Fantastic Shares held or controlled by the Shareholder nor the Shareholder or the Bidder becoming associated in any way for the purposes of Chapter 6 of the Corporations Act.
- 4.2 This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.



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Patricia Brennan

13 October 2016

Fantastic Holdings Limited  
62 Hume Highway  
Chullora NSW 2190

Dear Directors,

**Statement of intentions by Nonad Financial Services Pty. Limited ACN 073 810 830 in its capacity as trustee of the Peter & Patricia Brennan Super Fund ABN 60 751 550 527 regarding the proposed acquisition of Fantastic Holdings Limited by scheme of arrangement (Scheme)**

## **1. Introduction**

- 1.1 Nonad Financial Services Pty. Limited ACN 073 810 830 in its capacity as trustee of the Peter & Patricia Brennan Super Fund ABN 60 751 550 527 (**Shareholder**) refers to the Scheme Implementation Deed (**SID**) between Fantastic Holdings Limited (**Fantastic**), Steinhoff Asia Pacific Group Holdings Pty Ltd (**Bidder**) and Steinhoff Asia Pacific Holdings Pty Limited (**BidCo**), and the announcement by Fantastic that it has entered into the SID, in each case dated 13 October 2016.
- 1.2 Shareholder holds 3,894,624 Fantastic Shares representing 3.77% of all Fantastic Shares.
- 1.3 In this letter capitalised terms that are not otherwise defined have the meaning given in the SID.

## **2. Statement of intention regarding Scheme**

- 2.1 Shareholder confirms that, based solely on the information provided by Fantastic as at the date of this letter in relation to the Scheme (including the terms of the SID and the announcement), it intends to vote all Fantastic Shares held or controlled by the Shareholder in favour of the Scheme at the Scheme Meeting subject to:
  - (a) there not being any Competing Proposal involving the sale of all Fantastic Shares which Shareholder determines in its sole discretion would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Shareholder than the Transaction;
  - (b) the Board of Fantastic recommending that Fantastic Shareholders vote in favour of the Scheme; and
  - (c) the Independent Expert concluding that the Scheme is in the best interests of Fantastic Shareholders.

## **3. Announcement**

- 3.1 This letter is provided to Fantastic. Shareholder acknowledges and agrees that Fantastic will make an announcement to the ASX stating the contents of this letter and consents to Fantastic doing so. This letter is provided to Fantastic on the condition that, until such announcement is made, Shareholder and Fantastic will keep the contents of this letter confidential, except to the extent required by law.

#### **4. General**

- 4.1 This letter is not intended to give rise to, nor does it give rise to, the Bidder or its associates acquiring any relevant interest in the Fantastic Shares held or controlled by the Shareholder nor the Shareholder or the Bidder becoming associated in any way for the purposes of Chapter 6 of the Corporations Act.
- 4.2 This letter and any dispute or difference arising out of it shall be governed by and construed in accordance with the laws of New South Wales.



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Signed by Peter Brennan for and on behalf of  
Nonad Financial Services Pty. Limited ACN 073 810 830 in its capacity  
as trustee of the Peter & Patricia Brennan Super Fund ABN 60 751 550 527