

QUANTIFY TECHNOLOGY LTD  
ACN 160 392 898  
(Quantify)

and

WHL ENERGY LIMITED  
ACN 113 326 524  
(WHL)

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MERGER IMPLEMENTATION AGREEMENT

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**BETWEEN**

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**QUANTIFY TECHNOLOGY LTD** (ACN 160 392 898) of Suite 1, No 4 Sarich Way, Technology Park, Bentley, Western Australia 6102 (**Quantify**);

AND

**WHL ENERGY LIMITED** (ACN 113 326 524) of Ground Floor, 22 Delhi Street, West Perth, Western Australia 6005 (**WHL**).

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**RECITALS**

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- A. The Parties have been negotiating regarding the possibility of entering into a transaction whereby WHL will acquire 100% of the issued capital in Quantify resulting in the business of Quantify becoming listed on the ASX (**Transaction**) on a fully diluted basis.
- B. Quantify is an unlisted public company with over 50 members holding issued voting shares. As a result, the acquisition by WHL of a shareholding in Quantify of issued voting shares of more than 20% from its current ownership level of 0% needs to comply with Chapter 6 of the Corporations Act. The Parties have agreed that this occur by means of a takeover offer to each existing Quantify Ordinary Shareholder (**WHL Share Offer**). A separate takeover offer will also be made for the Quantify Ordinary Options (**WHL Option Offer**).
- C. The securities currently on issue in Quantify and WHL are set out in Schedule 1.
- D. WHL warrants that, as at the Effective Date, the cash held by WHL will be at least A\$2,000,000 (less any amounts advanced by WHL to Quantify and costs reasonably incurred in implementing the transactions envisaged by this agreement and agreed by the parties, acting reasonably).
- E. The Parties now wish to formalise the terms of the Transaction on the terms set out in this binding agreement.

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**1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

The meanings of the terms used in this agreement are set out below.

**Announcement Date** means the date of issue by WHL of its announcement in relation to the WHL Offers in accordance with this agreement.

**AS/NZS4268 Standards** means the Joint Australian/New Zealand Standard prepared by Joint Technical Committee RC-006 in relation to "Radio equipment and systems—Short-range devices—Limits and methods of measurement".

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

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

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

**Australian Standards** means standards issued and approved by Standards Australia.

**Bidder's Statement** means a bidder's statement for the acquisition of Quantify Ordinary Shares via the WHL Share Offer and Quantify Ordinary Options via the WHL Option Offer which complies with Chapter 6 of the Corporations Act.

**Board** means the board of directors of WHL or Quantify, as the context requires.

**Broker** has the meaning given in clause 6.1(b).

**Broker Options** has the meaning given in clause 7(b)(ii).

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

**CISPR15 Standards** means the Joint Australian/New Zealand Standard prepared by Joint Technical Committee TE-003, Electromagnetic Interference, in relation to "Limits and methods of measurement of radio disturbance characteristics of electrical lighting and similar equipment".

**Committed Orders** means any of the following in respect of Quantify hardware, software or services:

- (a) the price specified in firm, legally binding purchase orders for supply of Quantify hardware, software or services;
- (b) the anticipated total price (determined by the Company acting reasonably) for Quantify hardware, software or services to be supplied to a construction project where:
  - (i) Quantify has entered into a binding contract for the supply of Quantify hardware, software or services to that project; and
  - (ii) the project has funding in place to enable completion; and
  - (iii) the value of Quantify hardware, software or services to be supplied can be estimated with a high degree of certainty;
- (c) the revenue anticipated (determined by the Company acting reasonably) in the first three years from any licensing or services agreement relating to Quantify Intellectual Property that Quantify has entered into, where the agreement is unconditional and the licensee has binding obligations with third parties to use the Quantify services or install products which utilise the Quantify Intellectual Property.

**Compliance Capital Raising** has the meaning given in clause 6.1 and **Compliance Capital Raise** has a corresponding meaning.

**Condition End Date** means 16 December 2016 or such other date agreed by the parties.

**Conditions** means the Share Offer Conditions or the Option Offer Conditions, as the context requires, as set out in Schedule 2.

**Confidential Information** has the meaning given in clause 14.

**Consideration Shares** has the meaning given in clause 2.2.

**Consolidation** means the consolidation of the WHL securities on the basis of the Consolidation Ratio, and the adjustment of the terms and conditions of any then existing WHL Options in accordance with ASX Listing Rule 7.22.1.

**Consolidation Ratio** means if at the date of the Consolidation WHL has on issue 5,564,983,246 WHL Shares (being the number on issue as at the date of this agreement) the conversion of every 83 existing WHL Shares into one (1) WHL Share.

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

**Directors** mean the directors of WHL or Quantify, as the context requires.

**Effective Date** means the date on which the Transaction is completed, being 5 Business Days after all Conditions are satisfied or waived and the Offer Periods have closed, or such other date as agreed by the parties.

**Essential Conditions** means Conditions 1, 2, 3 and 4 in Part A of Schedule 2.

**Essential WHL Shareholder Resolutions** means the resolutions listed in clauses 5.1(a)(i), (ii) and (iii)(A) – (J) inclusive.

**Major Shareholder** means Lapins Holdings Pty Ltd (ACN 067 117 506) ATF Lapins Family Account.

**Managing Director** means Mr Mark Lapins.

**Name Change** has the meaning given in clause 10.4.

**Offer Period** means the period for which the WHL Share Offer or the WHL Option Offer (as applicable) is open for acceptance.

**Option Offer Conditions** means the Conditions set out in Part B of Schedule 2.

**Party** means a party to this agreement and “**Parties**” has a corresponding meaning.

**Prospectus** means the prospectus to be issued by WHL in respect of:

- (a) the Compliance Capital Raise;
- (b) the WHL Shares to be issued in accordance with clause 3.2 (in respect of the Quantify Shares (Class C));
- (c) the WHL EOP Options Offer;
- (d) the Quantify Advisor Options and Broker Options; and
- (e) the WHL Founder Performance Shares.

**Quantify** means Quantify Technology Pty Ltd (ACN 160 392 898).

**Quantify Advisor Options** has the meaning given in clause 7(b)(i).

**Quantify Class A Performance Shares** means the shares of that name in Quantify described in Schedule 1.

**Quantify Class B Performance Shares** means the shares of that name in Quantify described in Schedule 1.

**Quantify Class C Shareholders** means a holder of a Quantify Share (Class C).

**Quantify Convertible Loans** has the meaning given in clause 6.3.

**Quantify EOP Options** means 6,750,000 Quantify Options granted under the Quantify EOP.

**Quantify EOP** means the Employee Option Plan of Quantify dated 25<sup>th</sup> April 2016.

**Quantify EOP Optionholder** means the holder of a Quantify EOP Option.

**Quantify ESS** means the Employee Share Plan of Quantify dated 25<sup>th</sup> April 2016.

**Quantify ESS Shares** means 15,500,000 Quantify Ordinary Shares granted under the Quantify ESS.

**Quantify ESS Shareholder** means the holder of a Quantify ESS Share.

**Quantify Intellectual Property** – means the business names, copyrights, patents, trademarks, trade names, designs and similar industrial, commercial and intellectual property belong to Quantify as summarised in Schedule 6.

**Quantify Material Adverse Change** means any act, omission, event, change, matter or circumstance occurring, or being discovered or becoming public (either individually or aggregated with other acts, omissions, events, changes, matters or circumstances) which has or could reasonably be expected to have a materially adverse effect on the assets, liabilities, financial position, performance, profitability or prospects of Quantify but does not include:

- (a) those events or circumstances required or permitted to be done or procured by Quantify under this agreement; or
- (b) anything which has arisen solely as a result of any actions taken by Quantify in the ordinary course of its business; or
- (c) an event, circumstance, matter or information that is fairly disclosed in information provided by Quantify to WHL or its representatives, or is otherwise known to WHL or its representatives, on or prior to the date of this agreement or otherwise disclosed in public filings by Quantify with ASIC on or prior to the date of this agreement.

**Quantify Option** means an option to be issued a Quantify Ordinary Share.

**Quantify Optionholder** means a holder of a Quantify Option.

**Quantify Ordinary Options** means 61,150,000 Quantify Options as set out in Schedule 1, which for the avoidance of doubt does not include Quantify EOP Options.

**Quantify Ordinary Optionholder** means a holder of a Quantify Ordinary Option.

**Quantify Ordinary Shares** means fully paid ordinary shares in Quantify and, for the avoidance of doubt excludes Quantify Class A Performance Shares, Quantify Class B Performance Shares and Quantify Shares (Class C), but includes Quantify ESS Shares.

**Quantify Ordinary Shareholder** means a holder of Quantify Ordinary Shares.

**Quantify Performance Shares** means Quantify Class A Performance Shares and Quantify Class B Performance Shares.

**Quantify Prescribed Occurrence** means:

- (a) **(Conversion)**: Quantify converts all or any of its shares into a larger or smaller number of shares;
- (b) **(Reduction of share capital)**: Quantify resolves to reduce its share capital in any way or reclassifies, combines, splits or redeems or repurchases directly or indirectly any of its shares;
- (c) **(Buy-back)**: Quantify:
  - (i) enters into a buy-back agreement; or
  - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(Distribution)**: Quantify makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie);
- (e) **(Issuing or granting shares or options)**: Quantify:
  - (i) issues shares;
  - (ii) grants an option over its shares; or
  - (iii) agrees to make such an issue or grant such an option, other than the issue of Quantify Shares (Class C) as contemplated by this agreement, and any agreement to enter into Quantify Convertible Loans;
- (f) **(Securities or other rights)**: Quantify issues or agrees to issue securities or other instruments or rights convertible into Quantify Shares or debt securities other than Quantify Convertible Loans;
- (g) **(Disposals)**: Quantify disposes, or agrees to dispose of the whole or a substantial part of Quantify's business or property;
- (h) **(Financial Indebtedness)**: Quantify incurs any financial indebtedness or issues any debt securities, or guarantees, indemnifies or provides security for the obligations of any person or entity, other than in the ordinary course of business or under Quantify Convertible Loans;
- (i) **(Acquisitions)**: Quantify acquires or agrees to acquire any business, assets, entity or undertaking the value of which exceeds \$1,000,000;
- (j) **(Encumbrances)**: other than in the ordinary course of business and consistent with past practice, or to secure a Quantify Convertible Loan provided by WHL, Quantify creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or property;
- (k) **(Constitution)**: Quantify amends or proposes to amend its constitution; or



- (l) **(Insolvency)**: Quantify becomes Insolvent, but does not include any matter:
- (i) required or permitted to be done or procured by Quantify under this agreement; or
  - (ii) required to be done as a result of a WHL Offer;
  - (iii) required to be done by the Quantify Board in order to comply with the fiduciary or statutory duties of its Directors; or
  - (iv) directly resulting from any actions taken (or omitted to be taken) following a written request from WHL or with WHL's prior written consent.

**Quantify Shareholder** means a shareholder in Quantify.

**Quantify Share** means a share in Quantify.

**Quantify Shares (Class C)** means shares having the same rights as Quantify Ordinary Shares other than they are subject to forfeiture if the Transaction is not successfully completed within six (6) months of the date of the subscription agreement for the Quantify Shares (Class C).

**Quotation Date** means the date that WHL Shares are quoted on the ASX following the Effective Date.

**Register** means the share register, performance share register and option register of Quantify (as appropriate) and Registry has a corresponding meaning.

**Retrofit Switch** means Quantify's retrofittable wall switch and power outlet.

**Share Offer Conditions** means the conditions set out in Part A of Schedule 2.

**Target's Statement** means the target's statement to be issued by Quantify in accordance with Chapter 6 of the Corporations Act in relation to the WHL Offers.

**Timetable** means the indicative timetable set out in Schedule 3.

**Transaction** has the meaning given in Recital A.

**TUV Rheinland Australia** means TUV Rheinland Australia Pty Limited (ACN 124 175 953).

**Unconditional** means WHL issuing notices in accordance with section 630(3) of the Corporations Act, declaring that the WHL Offers are free or freed (as the case may be) from all Conditions.

**VWAP** or the **volume weighted average market price** has the meaning given in the ASX Listing Rules.

**WHL** means WHL Energy Ltd (ACN 113 326 524).

**WHL Bid Options** means WHL Options offered under the WHL Option Offer on the terms set out in Schedule 5.

**WHL EOP** means an EOP to be implemented by WHL which mirrors the terms of the Quantify EOP.

**WHL EOP Option** means a WHL Option granted to a Quantify EOP Optionholder in accordance with the WHL EOP Options Offer, exercisable at \$0.075 each (on a post Consolidation basis) and expiring 30 September 2019.

**WHL EOP Options Offer** means the offer by WHL by way of private treaty to purchase Quantify EOP Options in consideration for the grant of WHL EOP Options in accordance with clause 3.1.

**WHL ESS** means an ESS to be implemented by WHL which mirrors the terms of the Quantify ESS.

**WHL Existing Options** means WHL Options on issue as at the date of this agreement, being those set out in item 4 of Schedule 1.

**WHL Founder Performance Shares** means performance shares in the capital of WHL on the terms set out in Part B of Schedule 4.

**WHL Material Adverse Change** means any act, omission, event, change, matter or circumstance occurring, or being discovered or becoming public (either individually or aggregated with other acts, omissions, events, changes, matters or circumstances) before the date the Prospectus is lodged with ASIC which:

- (a) has diminished, or could reasonably be expected to diminish the net assets of WHL by \$500,000 or more; or
- (b) has or could reasonably be expected to have a materially adverse effect on the assets, liabilities, financial position, performance, profitability or prospects of WHL;

but does not include:

- (c) those events or circumstances required or permitted to be done or procured by WHL under this agreement; or
- (d) anything which has arisen solely as a result of any actions taken by WHL in the ordinary course of its business; or
- (e) an event, circumstance, matter or information that is fairly disclosed in information provided by WHL to Quantify or its representatives, or is otherwise known to Quantify or its representatives, on or prior to the date of this agreement or otherwise disclosed in public filings by WHL with ASIC or ASX on or prior to the date of this agreement.

**WHL Offers** means the WHL Share Offer and the WHL Option Offer.

**WHL Option** means an option to be issued a WHL Share.

**WHL Option Offer** means the off-market takeover offer by WHL to purchase all Quantify Ordinary Options held by Quantify Ordinary Optionholders in accordance with Chapter 6 of the Corporations Act subject to the Option Offer Conditions (and no other defeating conditions) and otherwise in accordance with the terms of this agreement.

**WHL Performance Shares** means performance shares in the capital of WHL on the terms set out in Part A of Schedule 4.

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

**WHL Share Offer** means the off market takeover offer by WHL to purchase all Quantify Ordinary Shares in accordance with Chapter 6 of the Corporations Act subject to the Share Offer Conditions (and no other defeating conditions) and otherwise in accordance with the terms of this agreement.

**WHL Shareholder** means a holder of WHL Shares.

**WHL Shareholder Meeting** means a meeting of WHL Shareholders to consider and (if thought fit) approve, amongst other things, the Essential WHL Shareholder Resolutions.

**Zigbee Standard** means the set of standards published by the "Zigbee Alliance" based on the IEEE 802.15.4 specification.

## 1.2 Interpretation

In this agreement unless the context other requires:

- (a) headings are for convenience only and do not affect its interpretation;
- (b) an obligation or liability assumed by, or a right conferred on, 2 or more Parties binds or benefits all of them jointly and each of them severally;
- (c) the expression "person" includes an individual, the estate of an individual, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to any party includes that party's executors, administrators, successors and permitted assigns, including any person taking by way of novation;
- (e) a reference to any document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
- (g) words importing the singular include the plural (and vice versa) and words indicating a gender include every other gender;
- (h) reference to parties, clauses, schedules, exhibits or annexures are references to parties, clauses, schedules, exhibits and annexures to or of this agreement and a reference to this agreement includes any schedule, exhibit or annexure to this agreement;
- (i) where a word phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
- (j) a reference to **\$** or **dollar** is to Australia currency.

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## 2. WHL OFFERS

### 2.1 WHL Offers

- (a) WHL agrees to make:
  - (i) the WHL Share Offer to all Quantify Ordinary Shareholders in respect of all of their Quantify Ordinary Shares; and
  - (ii) the WHL Option Offer to all Quantify Ordinary Optionholders in respect of all of their Quantify Ordinary Options,in accordance with the terms and conditions of this agreement.
- (b) WHL will:
  - (i) announce the WHL Offers no later than the time provided in the Timetable or such other time as agreed by the parties in writing; and
  - (ii) use its best endeavours to lodge its Bidder's Statement with ASIC and provide a copy of the lodged Bidder's Statement to Quantify in accordance with the Timetable or such other time as agreed by the parties in writing.
- (c) The WHL Share Offer will apply to all Quantify Ordinary Shares which are on issue prior to the close of the Offer Period including, for the avoidance of doubt, all Quantify Ordinary Shares issued during the Offer Period, whether as a result of the conversion of securities convertible into Quantify Ordinary Shares, the exercise of any right to be issued with Quantify Ordinary Shares, or otherwise.
- (d) The WHL Option Offer will apply to all Quantify Ordinary Options which are on issue prior to the close of the Offer Period including, for the avoidance of doubt, all Quantify Ordinary Options issued during the Offer Period.

### 2.2 WHL Share Offer consideration

The WHL Share Offer consideration is, assuming 100% acceptance of the WHL Share Offer and Quantify having a total of 245,364,169 Quantify Ordinary Shares on issue on completion of the Transaction, a sum of \$22,200,000 to be satisfied through the issue to Quantify Ordinary Shareholders of a total of 250,000,000 WHL Shares (calculated on a post-Consolidation basis) (**Consideration Shares**) and 120,000,000 WHL Performance Shares (calculated on a post-Consolidation basis) to be issued to each Quantify Ordinary Shareholder who accepts the WHL Share Offer as follows:

- (a) 1.0189 WHL Shares (on a post-Share Consolidation basis) for each Quantify Ordinary Share held; and
- (b) 0.4891 WHL Performance Share (on a post-Share Consolidation basis) for each Quantify Ordinary Share held.

## 2.3 Quantify ESS Shares

- (a) On or before lodgement of the Bidder's Statement with ASIC, Quantify shall:
  - (i) give all Quantify ESS Shareholders notice that any transfer restrictions applicable to the Quantify ESS Shares have been waived in order to allow the Quantify ESS Shareholders to accept the Offer; and
  - (ii) enter into arrangements with each of the Quantify ESS Shareholders under which Quantify ESS Shareholders agree to accept the WHL Share Offer and that any WHL Shares and WHL Performance Shares (including WHL Shares issued upon conversion of the WHL Performance Shares) issued to them as consideration under the WHL Share Offer shall be subject to the same vesting conditions (if any) as apply to their Quantify ESS Shares and subject to the terms of the WHL ESS.
- (b) If required, in respect of Unvested Quantify ESS Shares, WHL will seek a modification of section 617 (which requires that an off-market bid must relate to all securities in a class that exist) or section 619 (which requires that all the offers made under an off-market bid must be the same) of the Corporations Act so that Unvested Quantify ESS Shares will receive the same consideration as other Quantify Shareholders other than their Quantify ESS Shares will continue to be subject to similar vesting requirements that apply to them at the Effective Date.
- (c) On or before the Effective Date, WHL will adopt the WHL ESS on materially the same terms as the Quantify ESS (subject to compliance with the ASX Listing Rules) to allow WHL Shares and WHL Performance Shares issued to Quantify ESS Shareholders in respect of their Quantify ESS Shares to be on materially the same terms and vesting conditions as under the Quantify ESS.

## 2.4 WHL Option Offer consideration

The WHL Option Offer consideration is, assuming 100% acceptance of the WHL Option Offer and Quantify having a total of 61,150,000 Quantify Ordinary Options on issue on completion of the Transaction, a total of 62,604,402 WHL Bid Options (calculated on a post-Consolidation basis) to be issued to each Quantify Ordinary Optionholder who accepts the WHL Option Offer on the basis of 1.0238 WHL Bid Options (on a post-Share Consolidation basis) for each Quantify Ordinary Option held.

## 2.5 Fractional entitlements

- (a) If the number of WHL Shares held by a Quantify Ordinary Shareholder means that their aggregate entitlement to WHL Shares under the WHL Offer is not a whole number, then any fractional entitlement will be rounded up to the nearest whole number.
- (b) If the number of WHL Options to be issued to a Quantify Optionholder means that their aggregate entitlement to WHL Options under the WHL Option Offer or the WHL EOP Options Offer is not a whole number, then any fractional entitlement will be rounded up to the nearest whole number.

## **2.6 Conditions of the WHL Offers**

- (a) The WHL Share Offer and any contract which results from its acceptance will be subject to the Share Offer Conditions.
- (b) The WHL Option Offer and any contract which results from its acceptance will be subject to the Option Offer Conditions.
- (c) Each party must use all reasonable endeavours to satisfy the Conditions as soon as practicable after the date of this agreement.
- (d) To the extent that it is within its power to do so, each party must use reasonable endeavours to procure that nothing occurs that will, or is likely to, cause any Condition to be breached or will or is likely to prevent a Condition from being satisfied.
- (e) If a fact, matter or circumstance occurs or arises of which either party is or becomes aware and which will or is likely to cause any Condition to be breached, or will or is likely to prevent any Condition from being satisfied or unreasonably delayed, that party must promptly provide written notice to the other party of that fact, matter or circumstance. Each party must, on request from the other party, advise of its progress to satisfy any Condition.
- (f) Subject to clause 2.6(g) and without prejudice to the termination rights of Quantify set out in clause 11.3(b), WHL may at any time (but is not obliged to) vary or waive any of Conditions of the WHL Offers in any manner permitted by the Corporations Act.
- (g) WHL may only waive or vary an Essential Condition with the prior written consent of Quantify and provided that WHL may waive Condition 2 of Part A of Schedule 2 without the Quantify's consent if WHL has a voting power in Quantify Ordinary Shares, as a result of receiving acceptances under the WHL Share Offer, of at least 80%.

## **2.7 Offer Period**

The parties intend that the Offer Period will be one month and one day, but acknowledge and agree that the Offer Period may be extended by WHL at its discretion or automatically, in each case in accordance with the Corporations Act.

## **2.8 Variation**

WHL may vary the WHL Offers in accordance with Section 650D of the Corporations Act.

## **2.9 Standard vendor warranty**

Acceptance of the WHL Offer by each Quantify Ordinary Shareholder or Quantify Ordinary Optionholder, as applicable, will require written confirmation that the holder has good title to the Quantify Ordinary Shares or Quantify Ordinary Options, as applicable, being transferred, and that the Quantify Ordinary Shares or Quantify Ordinary Options, as applicable, are free from encumbrances and other third party rights (including pre-emptive rights, which are to be expressly waived).

## **2.10 Compliance with Timetable**

- (a) Each party agrees to use reasonable endeavours to do all acts and things within its power as may be reasonably necessary for the implementation and performance of the WHL Offers in accordance with the Timetable.
- (b) The parties acknowledge and agree that it is the intention of the parties to lodge the Bidder's Statement and Target's Statement with ASIC and (if applicable) ASX on the same day.

## **2.11 Bidder's Statement**

WHL must, within a reasonable time (and in any event no later than 5 Business Days) prior to lodgement of the Bidder's Statement with ASIC, provide an advanced and reasonably complete draft of the Bidder's Statement to Quantify for review and consider in good faith the comments of Quantify when finalising the Bidder's Statement.

## **2.12 Quantify Assistance**

Quantify must provide on a timely basis any assistance and information that is reasonably requested by WHL to enable WHL to prepare and finalise the Bidder's Statement.

## **2.13 Target's Statement**

Quantify must within a reasonable time (and in any event no later than 5 Business Days) prior to lodgement of the Target's Statement with ASIC, provide an advanced and reasonably complete draft of the Target's Statement to WHL for review and consider in good faith the comments of WHL when finalising the Target's Statement.

## **2.14 WHL Assistance**

WHL must provide on a timely basis any assistance and information that is reasonably requested by Quantify to enable Target to prepare and finalise the Target's Statement.

## **2.15 Dispatch of Bidder's Statement and Target's Statement**

- (a) To the extent permitted under the Corporations Act, each of the parties agrees that it will take prompt action to ensure that the Bidder's Statement and Target's Statement can be mailed together to Quantify Shareholders in accordance with the Timetable.
- (b) The parties agree that the Bidder's Statement and any accompanying documents may be sent to Target Shareholders earlier than the time period set out in section 633(6) of the Corporations Act.

## **2.16 Supplementary Bidder's Statement and Supplementary Target's Statement**

Each of parties covenants to comply with Division 4 of Part 6.5 and Chapter 6B of the Corporations Act.

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### 3. OTHER SECURITIES

#### 3.1 Quantify EOP Options

- (a) On or before lodgement of the Bidder's Statement with ASIC, WHL and Quantify shall enter into arrangements with each of the Quantify EOP Optionholders under which:
  - (i) Quantify EOP Optionholders agree to the transfer of their Quantify EOP Options to WHL on the Effective Date in consideration for the issue of WHL EOP Options on materially the same terms and vesting conditions (if any), and subject to the terms of the WHL EOP;
  - (ii) a total of 6,910,543 WHL EOP Options will be issued to purchase 100% of the 6,750,000 Quantify EOP Options on issue, allocated on a pro rata basis to Quantify EOP Optionholders; and
  - (iii) Quantify EOP Optionholders agree not to exercise their Quantify EOP Options during the Offer Period and to execute a restriction agreement in respect of their WHL EOP Options if required by the ASX.
- (b) On or before the Effective Date, WHL will adopt the WHL EOP on materially the same terms as the Quantify EOP (subject to compliance with the ASX Listing Rules) to allow WHL to grant WHL EOP Options to holders of Quantify EOP Options in respect of their Quantify EOP Options on materially the same terms.

#### 3.2 Quantify Shares (Class C)

- (a) Before the date the Bidder's Statement is lodged with ASIC, Quantify may (subject to any necessary shareholder approval) issue 11,607,480 Quantify Shares (Class C) to certain advisers in respect of the Transaction in lieu of payment for facilitation and introduction services in the proportions set out in Section 2 of Schedule 1.
- (b) Quantify and WHL must enter into private agreements with the parties to which these Quantify Shares (Class C) are to be issued (**Quantify Class C Shareholders**), before they are issued, under which the Quantify Class C Shareholders agree, subject to WHL Shareholder approval:
  - (i) to transfer their Quantify Shares (Class C) to WHL on the Effective Date in consideration for the issue of 11,826,787 WHL Shares (on a post Consolidation basis) in the proportions set out in Section 3 of Schedule 1. For the avoidance of doubt, the WHL Share Offer will not extend to the Quantify Shares (Class C) as they are in a different class from Quantify Ordinary Shares. The Quantify Shares (Class C) will be subject to forfeiture if the transaction contemplated by this agreement do not successfully complete within 6 months of the date of the subscription agreement for Quantify Shares (Class C);
  - (i) to grant a power of attorney to Quantify over their Quantify Shares (Class C) to allow Quantify to do all things necessary to effect the Transaction; and



- (ii) to enter into restriction agreements with WHL on terms required by the ASX for any WHL Shares issued to them pursuant to this clause, which may be for up to 24 months from the Quotation Date.

### **3.3 WHL Founder Performance Shares**

On or before lodgement of the Bidder's Statement with ASIC, WHL and Quantify must enter into an arrangement with the Major Shareholder under which, subject to WHL Shareholder approval, the Major Shareholder agrees to the transfer to WHL of all Quantify Class A Performance Shares and Quantify Class B Performance Shares held by the Major Shareholder, as set out in Schedule 1, in consideration for WHL issuing the Major Shareholder 30,000,000 WHL Founder Performance Shares (on a post Consolidation basis) on the Effective Date.

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## **4. ESCROW**

Quantify acknowledges and agrees that some or all of the Consideration Shares, WHL Performance Shares, WHL Bid Options, WHL EOP Options, Quantify Advisor Options and WHL Founder Performance Shares (and WHL Shares issued on exercise of WHL Performance Shares, WHL Bid Options, WHL EOP Options, Quantify Advisor Options and WHL Founder Performance Shares) to be issued to the Quantify Shareholders, Quantify ESS Shareholders, Quantify EOP Optionholders, Quantify corporate advisors, Quantify Class C Shareholders and Major Shareholder (as applicable), may be the subject of escrow restrictions imposed by the ASX. Quantify agrees to use its reasonable endeavours to procure execution of all necessary ASX escrow agreements within 5 Business Days of the WHL Share Offer becoming or being declared Unconditional.

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## **5. ACTIONS OF WHL AND QUANTIFY**

### **5.1 Specific actions of WHL**

WHL shall undertake the following steps to implement the Transaction (as far as reasonably practicable in accordance with the Timetable):

- (a) call and hold the WHL Shareholders' Meeting to approve:
  - (i) the change to the nature and/or scale of WHL's activities as a result of the Transaction, for the purposes of ASX Listing Rule 11.1.2;
  - (ii) the Consolidation;
  - (iii) with effect on and from the Effective Date:
    - (A) the issue of up to 83,333,333 WHL Shares (on a post Consolidation basis) through the Compliance Capital Raise under the Prospectus;
    - (B) the grant of 6,910,543 WHL EOP Options (on a post Consolidation basis) to Quantify EOP Optionholders in consideration for the transfer to WHL of all 6,750,000 Quantify EOP Options in accordance with the WHL EOP Option Offer;

- (C) the issue of the WHL Performance Shares and the WHL Founder Performance Shares as new classes of share capital of WHL;
  - (D) the issue of 11,826,787 WHL Shares (on a post Consolidation basis) in consideration for the acquisition of 11,607,480 Quantify Shares (Class C);
  - (E) the issue of 30,000,000 WHL Founder Performance Shares (on a post Consolidation basis) in consideration for the acquisition of all Quantify Performance Shares from the Major Shareholder;
  - (F) the election of three nominees of Quantify to the WHL Board;
  - (G) the Name Change;
  - (H) adoption of the WHL ESS and WHL EOP (which may be combined if agreed);
  - (I) the grant of WHL Shares (or rights or interests in or options to acquire WHL Shares) (on a post Consolidation basis) to Directors of the WHL Board as contemplated by clause 8;
  - (J) the issue of up to 10,833,333 WHL Shares (on a post Consolidation basis) in conversion of Quantify Convertible Loans, plus WHL Shares in satisfaction of interest payment, as envisaged by clause 6.3;
  - (K) the issue of up to 8,747,626 WHL Options to Quantify's corporate advisors (on a post Consolidation basis) as envisaged by clause 7(b)(i);
  - (L) the issue of up to 5,000,000 WHL Options to brokers for services in relation to the Compliance Capital Raise (on a post Consolidation basis) as envisaged by clause 7(b)(ii); and
  - (M) any other necessary resolutions;
- (b) issue the Prospectus;
  - (c) issue the Bidder's Statement; and
  - (d) use its best endeavours to re-comply with Chapters 1 and 2 of the ASX Listing Rules.

## 5.2 Specific actions of Quantify

Quantify shall, as far as reasonably practicable in accordance with the Timetable:

- (a) call a meeting of Quantify Shareholders to:
  - (i) approve the issue of the Quantify Shares (Class C ) as a new class of shares; and

- (ii) change the name of Quantify to enable the Name Change; and
- (b) issue the Target's Statement.

### 5.3 Assistance by Quantify to WHL

Quantify shall provide all reasonable assistance including the preparation of the sections of the notice of meeting for the Shareholder Meeting and Prospectus concerning its business, and providing input into all required documentation.

### 5.4 General obligations

The parties must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers); and
- (b) procure that its representatives work in good faith and in a timely and co-operative fashion with the other party (including by attending meetings and by providing such records and information as the other party reasonably requires),

to implement the Transaction.

### 5.5 Statements of intention

On or before the Announcement Date, Quantify agrees to procure that:

- (a) Quantify Shareholders holding an aggregate of at least 60% of Quantify Ordinary Shares on issue as at the Announcement Date make public statements of intention that they intend to accept the WHL Share Offer; and
- (b) Quantify Ordinary Optionholders holding an aggregate of at least 50% of Quantify Ordinary Options on issue as at the Announcement Date make public statements of intention that they intend to accept the WHL Option Offer,

in each case in the absence of a superior proposal and in the absence of a variation or waiver of an Essential Condition by WHL otherwise than in accordance with this agreement.

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## 6. CAPITAL RAISINGS

### 6.1 Compliance Capital Raising

WHL must:

- (a) as far as reasonably practicable in accordance with the Timetable, use its best endeavours to raise a minimum of \$3.5 million (or such increased amount as is required to satisfy ASX requirements) and a maximum of \$5 million at an issue price of \$0.06 per WHL Share (post-Consolidation basis) (**Compliance Capital Raising**); and
- (b) appoint Westar Capital Limited (ABN 28 009 372 838) (**Broker**) as lead manager to the Compliance Capital Raising for a fee of 2% of the gross funds raised and 4% of the funds raised by the Broker.

## 6.2 Mutual assistance

Quantify will provide all reasonable assistance to enable WHL and the Broker to complete the Compliance Capital Raising. Through the Compliance Capital Raising process the Parties will work together with a view to ensuring ASX shareholder spread requirements are satisfied.

## 6.3 Raisings by Quantify

- (a) Prior to the Quotation Date, Quantify will need to raise additional working capital. It is agreed that these funds will be raised by way of convertible loan (**Quantify Convertible Loans**) unless WHL agrees otherwise, such consent not to be unreasonably withheld.
- (b) Subject to Quantify being in compliance with this agreement and this agreement being in effect, WHL is given the first right to, and agrees to, fund Quantify by way of Quantify Convertible Loans at any time from dispatch of the notice of meeting for the WHL Shareholder Meeting, up to an amount of \$850,000. The Quantify Convertible Loans:
  - (i) must be convertible into Quantify Ordinary Shares, at the holder's election, only after this agreement terminates at a deemed conversion price of \$0.06;
  - (ii) will accrue interest at a rate of 10% per annum on the outstanding sum, payable monthly in arrears or convertible, at WHL's election, into Quantify Shares at a deemed conversion price of \$0.06 per Quantify Ordinary Share; and
  - (iii) if this agreement is terminated by either Party, any Quantify Convertible Loans owed to WHL must be repaid by no later than 6 months days following the date of termination of the agreement.
- (c) If Quantify, acting reasonably, requires more than \$850,000 in funding before the Quotation Date, WHL is granted the first right of refusal to fund additional Quantify Convertible Loans. If WHL elects not to provide additional funding, Quantify may enter into Quantify Convertible Loans with third parties on materially the same terms provided that:
  - (i) any Quantify Convertible Loans with third parties (including any accrued interest) must be automatically converted into WHL Shares on the Effective Date at a deemed conversion price of \$0.06 per WHL Share (on a post Consolidation basis); and
  - (ii) the total loan amount of all Quantify Convertible Loans, including any Quantify Convertible Loans provided by WHL, but excluding interest payments), must not exceed \$1,500,000 without WHL's prior written consent.

## 6.4 WHL raising to maintain cash balance

In order to maintain a cash balance of no less than \$2,000,000 (less any amounts advanced by WHL to Quantify, and costs reasonably incurred by WHL in implementing the transactions envisaged by this agreement and agreed by the parties, acting reasonably), WHL may raise funds by issuing WHL Shares provided that:

- (a) such issue occurs before the Consolidation takes effect; and
- (b) Quantify approves the issue (such approval not to be unreasonably withheld).

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## 7. FINAL SECURITY STRUCTURE

- (a) The anticipated security structure of WHL following the Transaction is set out in Section 5 of Schedule 1.
- (b) WHL may also issue the following securities as part of the Transaction:
  - (i) 8,747,626 WHL Options to be issued by WHL to Quantify's corporate advisors at an issue price of \$0.001 (i.e. 0.1 cents) each, exercisable at \$0.09 each (on a post Consolidation basis), and otherwise on terms and conditions to be agreed (**Quantify Advisor Options**). These WHL Options will not be listed and the total price payable will be paid in accordance with the terms set out in the Compliance Capital Raising; and
  - (ii) between 3,500,000 and 5,000,000 WHL Options (on a post Consolidation basis), to be issued by WHL to brokers in consideration for services performed in connection with the Compliance Capital Raising (**Broker Options**). These WHL Options will be issued on the same terms and conditions as WHL Bid Options issued to Quantify Ordinary Optionholders.

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## 8. BOARD & MANAGEMENT

### 8.1 Board re-composition

At the Effective Date, all of the then directors of WHL shall resign and three new directors nominated by Quantify, one of whom being Mr Mark Lapins (Managing Director), will be appointed (subject to their consent) to the Board. Mr Aidan Montague will be proposed as director and chairman of WHL.

### 8.2 Managing Director employment terms

On and from the Effective Date, WHL agrees to enter into an executive services agreement with Mr Mark Lapins under which he will be engaged as Managing Director of WHL on the following terms:

- (a) base salary of \$365,000 per annum, to be reviewed after 6 months;
- (b) fixed term contract for 3 years with a 6 month notice period;
- (c) subject to necessary shareholder approval, the issue of WHL Shares (or rights or interests in or options to acquire WHL Shares) under a tax-deferred employee incentive plan with the effect that:
  - (i) if the 20 day VWAP WHL Share price increases by 100% from the Compliance Capital Raising price (i.e it reaches \$0.12) (as adjusted for any consolidation or reconstruction of WHL's capital) within 24 months of the Quotation Date, \$500,000 worth of WHL Shares will be issued based on the 20 day VWAP WHL Share price; and

- (ii) if the 20 day VWAP WHL Share price increases by an additional 100% from above (i.e. it reaches \$0.24) (as adjusted for any consolidation or reconstruction of WHL's capital) within 36 months of the Quotation Date, \$500,000 worth of WHL Shares will be issued based on the 20 day VWAP WHL Share price; and
- (d) the full terms of the proposed contract between WHL and Mark Lapins are to be agreed prior to lodgement of the Bidder's Statement with ASIC.

### 8.3 Chairman's service contract

On and from the Effective Date, WHL agrees to enter into an executive services agreement with Mr Aidan Montague under which he will be engaged as a Director and Chairman of WHL on the following terms:

- (a) base salary of \$260,000 per annum, to be reviewed after 6 months;
- (b) fixed term contract for 3 years with a 6 month notice period;
- (c) subject to necessary shareholder approval, participation in the WHL ESS and WHL EOP, as and when approved, at prevailing public company benchmark rates, taking into account his position and the stage of development of WHL;
- (d) subject to necessary WHL Shareholder approval, the issue of WHL Shares (or rights or interests in or options to acquire WHL Shares) under a tax-deferred employee incentive plan with the effect that:
  - (i) if the 20 day VWAP WHL Share price increases by 100% from the Compliance Capital Raising price (i.e it reaches \$0.12) (as adjusted for any consolidation or reconstruction of WHL's capital) within 24 months of the Quotation Date, \$500,000 worth of WHL Shares will be issued based on the 20 day VWAP WHL Share price; and
  - (ii) if the 20 day VWAP share price increases by an additional 100% from above (i.e. it reaches \$0.24) (as adjusted for any consolidation or reconstruction of WHL's capital) within 36 months of the Quotation Date, \$500,000 worth of WHL Shares will be issued based on the 20 day VWAP WHL Share price; and
- (e) the full terms of the proposed contract between WHL and Aidan Montague are to be agreed prior to lodgement of the Bidder's Statement with ASIC.

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## 9. CONDUCT OF BUSINESS PENDING EFFECTIVE DATE

WHL and Quantify agree to conduct their businesses up until the earlier of the Quotation Date and the Condition End Date as follows:

- (a) no announcement concerning the potential Transaction will be made by any Party without the consent of the other Party subject always to WHL's obligations under the ASX Listing Rules and the Corporations Act or if required by law or regulatory authority;
- (b) no transactions outside the ordinary course of business, including disposal of assets or creation of encumbrances, other than as contemplated in

this agreement or with the prior written consent of the other party, such consent not to be unreasonably withheld;

- (c) each Party will manage and conduct their businesses in accordance with prudent practice including complying with all material contracts;
- (d) each Party will consult the other in relation to material expenditure and/or unusual issues that may arise;
- (e) WHL will keep Quantify informed as to its expenditure and cash balance until the Effective Date;
- (f) Quantify will keep WHL informed as to its expenditure and cash balance until the Effective Date; and
- (g) no issues of, or agreement to issue of, shares or other securities, other than as contemplated in this agreement, or (in the case of WHL) from conversion of existing convertible securities.

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## **10. BOARD RECOMMENDATION**

### **10.1 Recommendation to WHL shareholders**

Subject to fiduciary carve-outs and there being no breach of this agreement by Quantify, the directors of WHL will recommend that WHL Shareholders vote in favour of all resolutions at the WHL Shareholder Meeting and will confirm their present intention to vote their own WHL Shares in favour of all resolutions.

### **10.2 Recommendation to Quantify security holders**

Subject to fiduciary carve-outs and there being no breach of this agreement by WHL, Quantify will:

- (a) at any general meeting of Quantify Shareholders necessary to give effect to this agreement, recommend that Quantify Shareholders vote in favour of all resolutions at the general meeting and will confirm their present intention to vote their own Quantify Shares in favour of all resolutions; and
- (b) recommend that Quantify securityholders accept the offers from WHL envisaged by this agreement.

### **10.3 Quantify Directors' recommendation**

Quantify represents and warrants to WHL that each Quantify Director has informed Quantify prior to its entry into this agreement that:

- (a) he or she supports the Transaction;
- (b) he or she will publicly recommend that Quantify Shareholders accept the WHL Share Offer in respect of all of their respective Quantify Ordinary Shares;
- (c) he or she will publicly recommend that Quantify Ordinary Optionholders accept the WHL Option Offer in respect of all of their respective Quantify Ordinary Options;
- (d) he or she will not change his or her public recommendation; and

- (e) the relevant Quantify Director and each person and entity Controlled by that Quantify Director (collectively, **Controlled Entities**) intends to accept the WHL Offers in respect of all of the Quantify Ordinary Shares and Quantify Ordinary Options that they respectively hold (if any),

in each case, in the absence of a superior proposal and in the absence of a variation or waiver of an Essential Condition by WHL otherwise than in accordance with this agreement.

#### 10.4 Name Change

At the Effective Date, WHL shall (subject to shareholder approval) change its name to "Quantify Technology Holdings Limited" (**Name Change**). A resolution to achieve this will be put to members of WHL.

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### 11. TERMINATION

#### 11.1 Termination Rights

This agreement may be terminated by a party by notice to the other party:

- (a) if the other party is in material breach of this agreement and that breach is not remedied by that other party within 5 Business Days of it receiving notice from the first party of the details of the breach and the first party's intention to terminate;
- (b) if WHL withdraws a WHL Offer as permitted by the Corporations Act for any reason including non-satisfaction of a Condition;
- (c) if there is a material breach of a representation or warranty contained in this agreement by the other party;
- (d) if a court or other regulatory authority has issued a final and non-appealable order, decree or ruling or taken other action which permanently restrains or prohibits a WHL Offer; or
- (e) if the other party or any of their related bodies corporate becomes Insolvent.

#### 11.2 Termination by WHL

This agreement may be terminated by WHL by notice in writing to Quantify if:

- (a) any director of Quantify does not recommend the WHL Offers be accepted by Quantify Shareholders and Quantify Ordinary Optionholders (as applicable) or, having recommended the WHL Offers, withdraws or adversely modifies his or her recommendation of a WHL Offer;
- (b) a person (other than WHL or its associates) has a relevant interest in more than 20% of the Quantify Ordinary Shares on issue (other than existing Quantify Shareholders who at the date of this agreement hold a relevant interest in more than 20% of the Quantify Ordinary Shares on issue); or
- (c) a Quantify Material Adverse Change or a Quantify Prescribed Occurrence occurs.



### 11.3 Termination by Quantify

This agreement may be terminated by Quantify by notice in writing to WHL if:

- (a) at any time prior to lodgement of the Prospectus with ASIC, a WHL Material Adverse Change occurs;
- (b) the Conditions are not satisfied or waived by the Condition End Date (except where non satisfaction is directly due to the acts or omissions of Quantify or its associates); or
- (c) Quantify, acting reasonably, determines that WHL will not have a cash balance at the Effective Date of \$2,000,000 (less any amounts advanced by WHL to Quantify, and in costs reasonably incurred by WHL in implementing the transactions envisaged by this agreement and agreed by the parties, acting reasonably).

### 11.4 Effect of termination

If this agreement is terminated under this clause:

- (a) each party will be released from its obligations under this agreement except its obligations under clauses 14 and 16;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement; and
- (c) in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect.

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## 12. TIMETABLE

An indicative timetable for the Transaction is set out in Schedule 3 that the parties must use their best endeavours to comply with. The Timetable may be amended with the agreement of WHL and Quantify. Other than the Condition End Date, where a date has been assigned to a particular action, that date is indicative only and if other parts of the Timetable move, then any specified date may also move accordingly.

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## 13. COSTS AND PAYMENTS

- (a) Each Party will bear its own legal costs in relation to the preparation of the agreements for the implementation of the Transaction.
- (b) All other costs shall be borne by the Party incurring the relevant cost, unless otherwise agreed in writing.
- (c) WHL agrees to pay to Quantify \$100,000 on signing this agreement as a contribution towards the costs of Quantify in conducting due diligence on WHL. This amount is non-refundable.
- (d) Subject to the production of documentary evidence to the satisfaction of WHL acting reasonably and any necessary shareholder or regulatory approvals, WHL agrees to reimburse Cuda Development Corporation Pty Ltd, a company associated with Mark Lapins, the amount of \$500,000 in past expenditure incurred in developing the Quantify Intellectual

Property. WHL agrees to pay the amount of \$500,000 to Cuda Development Corporation Pty Ltd as follows:

- (i) \$166,666 on WHL being reinstated to official quotation on ASX;
- (ii) \$166,667 on the date that is 6 months after the date that WHL is reinstated to official quotation on ASX; and
- (iii) \$166,667 on the date that is 12 months after the date that WHL is reinstated to official quotation on ASX.

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#### **14. CONFIDENTIALITY**

This agreement and all other information disclosed by the Parties to each other (**Confidential Information**) is confidential and each Party shall ensure that the Confidential Information remains confidential, except:

- (a) that the Parties may make disclosure to their relevant advisors;
- (b) where requested or required by any court of competent jurisdiction or any competent judicial, government or regulatory body;
- (c) where required by the ASX Listing Rules, Corporations Act or any other the laws or regulations;
- (d) to any persons, with the disclosing Party's written consent; and
- (e) as expressly contemplated by this agreement.

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#### **15. LEGAL STATUS OF THIS AGREEMENT**

This agreement is binding on the Parties. WHL shall make an ASX announcement immediately upon execution. The Parties may enter into more detailed agreements relating to any part of this agreement.

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#### **16. GENERAL**

- (a) The provisions of this agreement shall be governed by and construed in accordance with the laws of Western Australia. The Parties agree to submit to the non-exclusive jurisdiction of the courts of Western Australia and the courts which hear appeals from those courts.
- (b) Each Party must do all things, including executing any documents, necessary to give full effect to this agreement and the transactions contemplated by this agreement.
- (c) This agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.
- (d) Each Party signing this document has taken all necessary action to authorise the execution, delivery and performance of this agreement in accordance with its terms, and has full power to enter into this agreement.
- (e) The rights and remedies in this agreement are in addition to other rights and remedies given by law independently of this agreement.

- (f) A provision of this agreement or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.
- (g) A party may not assign or otherwise deal with its rights under this agreement or allow any interest in them to arise or be varied in each case, without the prior written consent of the other party.
- (h) The warranties and undertakings in this agreement do not merge on completion of any transaction contemplated by this agreement.

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## **17. WARRANTIES**

### **17.1 WHL warranties**

In addition to and despite all other warranties contained in this agreement, express or implied, WHL represents and warrants to Quantify that as at the date of this agreement and on the Effective Date:

- (a) WHL has taken all corporate action necessary to render this agreement legally enforceable in accordance with its terms;
- (b) subject to satisfaction of the Conditions, WHL has lawfully obtained all authorisations and consents, including by any Governmental Agency (whether in Australia or not), that are required or will be required to execute and perform its obligations under this agreement;
- (c) WHL does not breach its constitution, any agreement binding on it or any applicable laws by executing this agreement or, subject to satisfaction (or waiver if permitted) of the Conditions, performing its obligations under this agreement;
- (d) there is no litigation, arbitration, mediation or administrative proceedings taking place, pending or threatened, to which WHL is a party or to which WHL is reasonably likely to be a party;
- (e) it has disclosed any and all information concerning it which could reasonably be regarded as affecting the decision of Quantify to enter into this agreement;
- (f) all information in the due diligence materials is, in all material respects, true and accurate and not misleading or deceptive;
- (g) no statement made by it leading up to the date of this agreement has been misleading or deceptive in any respect;
- (h) all obligations contained in this agreement will be performed and discharged accordingly with due care, skill, diligence and expertise.
- (i) WHL is not in breach of any security interest over any part of the business of WHL and that entry into and performance of this agreement does not and will not result in the creation of any security interest or restriction of any nature over any part of the business of WHL or the acceleration of the date of payment of any obligation existing under any security interest or other document which is binding on it, unless otherwise expressly stated in this agreement;

- (j) WHL is not the subject of, or involved in, and there are no facts and circumstances which may give rise to, any prosecution, enforcement action (including the issue of an infringement notice), legal proceedings, arbitration, mediation or other dispute resolution procedure;
- (k) there is no outstanding claim against WHL and there are no facts or circumstances which may result in any claim being made against WHL; and
- (l) WHL is not the subject of an unsatisfied judgment, order, award or decision handed down in legal proceedings, arbitration, mediation or other dispute resolution procedure, nor is party to any undertaking or assurance given to any court, arbitrator, tribunal or other Governmental Agency which is still in force.

Each warranty is given to the best of WHL's knowledge and no claim for breach of warranties can be made to the extent that there has been fair disclosure of the relevant matter prior to the date of this agreement.

## 17.2 Quantify warranties

In addition to and despite all other warranties contained in this agreement Quantify represents and warrants to WHL that as at the date of this agreement and on the Effective Date:

- (a) Quantify has full power and lawful authority to execute and deliver this agreement and subject to satisfaction (or waiver if permitted) of the Conditions, to observe and perform or cause to be observed and performed all of its obligations in and under this agreement;
- (b) the execution and delivery of this agreement has been duly and validly authorised by all necessary corporate action on behalf of Quantify;
- (c) Quantify has or will have the Quantify Ordinary Shares, Quantify Shares (Class C), Quantify Class A Performance Shares, Quantify Class B Performance Shares, Quantify Options as set out in Schedule 1 and no other convertible securities on issue;
- (d) the Quantify Shareholders are the legal and beneficial owners of the number of Quantify Ordinary Shares ;
- (e) no person has any outstanding option, contract, call, first refusal, commitment, right or demand of any kind relating to the unissued capital of the Quantify;
- (f) Quantify is not, except as contemplated by this agreement, under any obligation to issue any equity securities to any person or persons, or otherwise to alter the structure of any part of its unissued share capital, and Quantify will not be under any obligation to give any option over any part of its unissued share capital nor has Quantify offered to do any of the matters stated in this paragraph; and
- (g) no event of insolvency has occurred in relation to Quantify nor is there any act which has occurred or any omission made which may result in an event of insolvency occurring in relation to Quantify.

## SCHEDULE 1 - SECURITIES ON ISSUE PRE AND POST TRANSACTION

### 1. Quantify existing securities

As at the date of this agreement, Quantify has on issue:

- (a) 245,365,169 Quantify Ordinary Shares (including 15,500,000 Quantify Ordinary Shares issued under the Quantify ESS (**Quantify ESS Shares**);
- (b) 1,000 Class A Performance Shares and 1000 Class B Performance Shares each entitling the holder to receive 40,000 Quantify Ordinary Shares if certain performance hurdles are met, held by the Major Shareholder;
- (c) 61,150,000 Quantify Ordinary Options exercisable at \$0.075 each, expiring 31 May 2017; and
- (d) 6,750,000 Quantify EOP Options granted pursuant to the terms of the Quantify EOP exercisable at \$0.075 each, expiring 31 May 2017.

### 2. Quantify additional proposed securities

Quantify proposes to issue a total of 11,607,480 Quantify Shares (Class C) before the Offer Period commences, comprising 3,869,160 Quantify Shares (Class C) to each of Accelerated Investment Group Pty Ltd <Accelerated Investment A/C>, Mintaka Nominees Pty Ltd and J Stimpson Pty Ltd <Hoek A/C> or their nominees.

### 3. WHL securities offered

WHL proposes to offer the following securities to holders of the above existing and proposed Quantify securities.

Quantify Securities	Number	WHL Securities	Number (post Consolidation)
Quantify Ordinary Shares	245,364,169	WHL Shares WHL Performance Shares	250,000,000 120,000,000
Quantify Shares (Class C)	11,607,480	WHL Shares	11,826,787
Quantify Class A Performance Shares	1,000	WHL Founder Performance Shares	15,000,000
Quantify Class B Performance Shares	1,000	WHL Founder Performance Shares	15,000,000
Quantify Ordinary Options	61,150,000	WHL Bid Options	62,604,402
Quantify EOP Options	6,750,000	WHL EOP Options	6,910,543

### 4. Existing Securities of WHL

As at the date of this agreement, WHL has on issue:

(a) 5,564,983,246 WHL Shares; and

(b) 981,299,836 WHL Existing Options comprising:

Type	Number of Options	Exercise Price	Expiry
Listed Options (WHNO)	3,638,715	\$0.18	30/11/2016
Listed Options (WHNOA)	608,361,121	\$0.002	30/06/2018
Unlisted Options	19,300,000	\$0.14	03/12/2017
Unlisted Options	350,000,000	\$0.004	31/07/2018
<b>Total</b>	<b>981,299,836</b>		

## 5. Post Transaction Securities of WHL

Ordinary Shares	\$3.5m raise	%	\$5m raise	%
Currently on issue	5,564,983,246		5,564,983,246	
Consolidation 1:83	67,047,991	16.8%	67,047,991	15.8%
Takeover Offer	250,000,000	62.8%	250,000,000	59.1%
Compliance Capital Raising	58,333,333	14.7%	83,333,333	19.7%
Acquisition of Quantify Shares (Class C)	11,826,787	3.0%	11,826,787	2.8%
Conversion of Quantify Convertible Loans (\$0.65m@6c)	10,833,333	2.7%	10,833,333	2.6%
<b>TOTAL (UNDILUTED)</b>	<b>398,041,444</b>	<b>100.00%</b>	<b>423,041,444</b>	<b>100.00%</b>

Options	Number	Exercise Price	Expiry
Existing Options	981,299,836	Various	Various
Post Consolidation			
Listed Options (WHNO)	43,840	\$14.94	30/11/2016
Listed Options (WHNOA)	7,329,652	\$0.17	30/06/2018
Unlisted Options	232,530	\$11.62	03/12/2017
Unlisted Options	4,216,867	\$0.33	31/07/2018
WHL Bid Options	62,604,402	\$0.075	30/09/2019
WHL EOP Options	6,910,543	\$0.075	30/09/2019
Quantify Advisor Options	8,747,626	\$0.09	30/09/2019
Broker Options	5,000,000	\$0.075	30/09/2019
<b>Total</b>	<b>95,085,460</b>		

<b>Performance Shares</b>	
Existing Performance Shares	Nil
WHL Performance Shares	120,000,000
WHL Founder Performance Shares	30,000,000
<b>Total</b>	<b>150,000,000</b>

In addition, WHL intends to enter into executive service agreements with Mr Lapins and Mr Montague under which WHL will, subject to necessary WHL shareholder approval, issue WHL Shares (or rights or interests in or options to acquire WHL Shares) under a tax-deferred employee incentive plan to Mr Lapins and Mr Montague with the effect that:

- (a) if the 20 day VWAP WHL Share price increases by 100% from the Compliance Capital Raising price (i.e. it reaches \$0.12) (as adjusted for any consolidation or reconstruction of WHL's capital) within 24 months of the Quotation Date, \$500,000 worth of WHL Shares will be issued to each of Mr Lapins and Mr Montague based on the 20 day VWAP Share price; and
- (b) if the 20 day VWAP share price increases by an additional 100% from above (i.e. it reaches \$0.24) (as adjusted for any consolidation or reconstruction of WHL's capital) within 36 months of the Quotation Date, \$500,000 worth of WHL Shares will be issued to each of Mr Lapins and Mr Montague based on the 20 day VWAP Share price.

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## SCHEDULE 2 – CONDITIONS

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### Part A - WHL Share Offer

The WHL Share Offer, and any contract resulting from the acceptance of the WHL Share Offer, are subject to the following conditions (**Share Offer Conditions**):

**1. Approval of Essential WHL Shareholder Resolutions**

WHL Shareholders approve the Essential WHL Shareholder Resolutions, in accordance with the Corporations Act and ASX Listing Rules.

**2. Minimum Acceptance Condition**

WHL acquires a Relevant Interest in more than 90% (by number) of all of Quantify Ordinary Shares on issue.

**3. Compliance Capital Raising Condition**

WHL receives or becomes entitled to receive, in immediately available funds, gross proceeds of no less than \$3.5 million as a result of subscriptions made under the Compliance Capital Raise.

**4. ASX conditional consent to re-admission**

WHL receives from ASX written confirmation that ASX will re-admit WHL to the official list of ASX and terminate the suspension from official quotation of WHL Shares, subject to the satisfaction of such terms and conditions (if any) as are prescribed by ASX or the ASX Listing Rules.

**5. Other Quantify Securities**

By the end of the Offer Period:

- (a) all Quantify Ordinary Options become subject to the WHL Option Offer;
- (b) all Quantify EOP Options become subject to the WHL EOP Option Offer;
- (c) the Class C Shareholders enter into private agreements with WHL under which the Class C Shareholders will be issued, on the Effective Date, 11,826,788 WHL Shares in consideration for the transfer to WHL of all 11,607,480 Quantify Shares (Class C);
- (d) the Major Shareholder enters into a private agreement with WHL under which the Major Shareholder will be granted, on the Effective Date, 30,000,000 WHL Founder Performance Shares in consideration for the transfer to WHL of all 2,000 Quantify Performance Shares; and
- (e) Quantify has no more than 245,364,169 Quantify Ordinary Shares on issue.

**6. No Quantify Material Adverse Change**

During the period from the Announcement Date to the end of the Offer Period (inclusive), no Quantify Material Adverse Change occurs, is announced or becomes known to WHL (whether or not it becomes public).



**7. No Quantify Prescribed Occurrence**

During the period from the Announcement Date to the end of the Offer Period (inclusive), no Quantify Prescribed Occurrence occurs.

**8. No regulatory intervention**

During the period from the Announcement Date to the end of the Offer Period (inclusive):

- (a) there is not in effect any preliminary or final decision, order or decree issued by an Authority; and
- (b) no application is made to any Authority (other than by WHL or a subsidiary of WHL), or action or investigation is announced, threatened or commenced by an Authority,

in consequence of, or in connection with, the WHL Share Offer (other than an application to or a determination by ASIC or the Takeovers Panel in the exercise of the powers and discretions conferred by the Corporations Act), which restrains, impedes or prohibits (or if granted could restrain, impede or prohibit), or otherwise materially adversely impacts upon, the making of the WHL Share Offer or any transaction contemplated by this agreement, the WHL Share Offer or the rights of WHL in respect of Quantify or the Quantify Ordinary Shares to be acquired under the WHL Share Offer, or requires the divestiture by WHL or WHL's Shareholders of any Quantify Ordinary Shares or the divestiture of any assets of Quantify, WHL or otherwise.

**Part B - WHL Option Offer**

The WHL Option Offer, and any contract resulting from the acceptance of the WHL Option Offer, are subject to the following conditions (**Option Offer Conditions**):

**1. WHL Share Offer unconditional**

Before the end of the Offer Period, the WHL Share Offer is, or has been declared, unconditional in all respects.

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### SCHEDULE 3 - INDICATIVE TIMETABLE

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Set out below is an indicative timetable for the Transaction.

Event	Date
Announcement Date	12 September 2016
Draft Notice of WHL Shareholder Meeting lodged with ASX	16 September 2016
Draft Notice of WHL Shareholder Meeting lodged with ASIC	7 October 2016
Notice of WHL Shareholder Meeting sent to WHL Shareholders	21 October 2016
Bidder's Statement lodged with ASIC and served on Quantify and ASX	26 October 2016
Target's Statement lodged with ASIC and served on WHL and ASX	26 October 2016
Bidder's Statement and Target's Statement sent to Quantify Shareholders and Quantify Ordinary Optionholders	28 October 2016
WHL Offers Open	4 November 2016
Prospectus lodged with ASIC and ASX	4 November 2016
WHL Shareholder Meeting	21 November 2016
Prospectus Offers close	28 November 2016
WHL Offers Close	30 November 2016
Effective Date (completion of Acquisition and Prospectus Raise)	7 December 2016
Re-instatement to trading on ASX	21 December 2016

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## SCHEDULE 4 – PERFORMANCE SHARE TERMS AND CONDITIONS

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### Part A – WHL Performance Shares

#### WHL Energy Limited (ACN 113 326 524)

#### Terms and Conditions of Performance Shares

Performance Shares are to be issued by WHL Energy Limited (ACN 113 326 524) ("**Company**") in connection with the acquisition of Quantify Technology Limited (ACN 160 392 898).

A "**Performance Share**" is a share in the capital of the Company which will convert into a fully paid, ordinary share ("**Share**") in accordance with these terms and conditions.

#### 1. Rights attaching to the Performance Shares

- (a) (**General meetings**) The Performance Shares shall confer on the holder ("**Holder**") the right to receive notices of general meetings and financial reports and accounts of the Company that are circulated to holders of Shares ("**Shareholders**"). Holders have the right to attend general meetings of Shareholders of the Company.
- (b) (**No voting rights**) The Performance Shares do not entitle the Holder to vote on any resolutions proposed at a general meeting of Shareholders of the Company, subject to any voting rights under the Corporations Act or the ASX Listing Rules where such rights cannot be excluded by these terms.
- (c) (**No dividend rights**) The Performance Shares do not entitle the Holder to any dividends.
- (d) (**No rights to return of capital**) The Performance Shares do not entitle the Holder to a return of capital, whether in a winding up, upon a reduction of capital or otherwise.
- (e) (**Rights on winding up**) Upon the winding up of the Company, the Performance Shares may not participate in the surplus profits or assets of the Company.
- (f) (**Transfer of Performance Shares**) The Performance Shares are not transferable.
- (g) (**Reorganisation of capital**) In the event that issued capital of the Company is reconstructed, all rights of a Holder will be changed to the extent necessary to comply with the ASX Listing Rules at the time of reorganisation.
- (h) (**No quotation**) The Performance Shares will not be quoted on ASX. However if the Company is listed on the ASX, at the time of conversion of the Performance Shares into Shares in accordance with these terms, the Company will within seven (7) days after the later of conversion and any escrow period ending, apply for the official quotation of the Shares arising from the conversion on ASX.
- (i) (**Participation in entitlements and bonus issues**) Holders of Performance Shares will not be entitled (in their capacity as a Holder of a Performance

Share) to participate in new issues of capital offered to holders of the Shares such as bonus issues and entitlement issues.

- (j) **(No other rights)** The Performance Shares give the Holders no rights other than those expressly provided by these terms and those provided at law where such rights at law cannot be excluded by these terms.

## 2. Conversion of the Performance Shares – performance hurdles

Each Performance Share in the relevant Tranche will convert into one (1) Share in the Company ("**Share**") upon achievement of the following performance hurdles:

- (a) **Tranche A:** one-quarter of the Performance Shares initially issued to a Holder will be convertible into Shares upon:
  - (i) certification by a recognised and accredited Australian testing facility (such as TUV Rheinland Australia) of Quantify's retrofittable wall switch and power outlet known as the "Retrofit Switch" which is, as a minimum, able to switch 220-230V AC Power where such certification is:
    - (A) for installation in an applicable Australian Standards based wall box powered by the wiring in place; and
    - (B) to CISPR15 Standards; and
  - (ii) Quantify receiving Committed Orders for \$3 million within 18 months of the Quotation Date;
- (b) **Tranche B:** one-quarter of the Performance Shares initially issued to a Holder will be convertible into Shares upon:
  - (i) certification by a recognised and accredited Australian testing facility, (such as TUV Rheinland Australia) for the wireless communication module installed in Quantify's retrofittable wall switch and power outlet known as the "Wireless Card", which wireless module is capable of providing wireless communication based on the 802.11 wireless standard or the 802.15 Zigbee Standard, where such certification is to AS/NZS4268 Standards, and
  - (ii) Quantify receiving Committed Orders for \$5 million (in total) within 30 months of the Quotation Date;
- (c) **Tranche C:** one-quarter of the Performance Shares initially issued to a Holder will be convertible into Shares upon Quantify receiving Committed Orders for \$10 million (in total) within 42 months of the Quotation Date, at which time the resulting Shares will be placed in voluntary escrow with release from escrow pro rata for every \$1 million of revenue received in respect of the first \$5 million of Committed Orders received; and
- (d) **Tranche D:** one-quarter of the Performance Shares initially issued to a Holder will be convertible into Shares upon Quantify receiving Committed Orders for \$15 million (in total) within 54 months of the Quotation Date at which time the resulting Shares must be placed in voluntary escrow with release from escrow pro rata for every \$1 million of revenue received in respect of the first \$10 million of Committed Orders received.

### 3. Conversion – other matters

- (a) **(Redemption)** Performance Shares in a particular tranche will be redeemed for 0.00001 cents per Performance Share if the performance hurdle for that tranche is not met, or not met by any relevant date for satisfaction of that performance hurdle. Performance Shares will not be redeemed if a failure to meet the relevant performance hurdle was only due to a shortfall of Committed Orders, and the level of Committed Orders in respect of Tranche D was subsequently satisfied by the time specified in Tranche D. If the performance hurdle regarding Committed Orders is satisfied in respect of Tranche D, all earlier Performance Rights which failed to convert because of a shortfall of Committed Orders will be convertible into Shares (subject in the case of Tranche C to escrow requirements), regardless as to whether the earlier performance hurdle regarding Committed Orders was satisfied. Failure to satisfy the performance hurdle in respect of one tranche of Performance Shares does not prejudice subsequent conversion of other tranches.
- (b) **(Cancellation)** The Company and the Holder will take such steps as are necessary to cancel any Shares that are still the subject of voluntary escrow 6 years after the Quotation Date.
- (c) **(Takeover Provisions)** If the conversion of Performance Shares would result in any person being in contravention of section 606(1) of the Corporations Act, then the conversion of each Performance Share that would cause the contravention shall be deferred until such time or times thereafter that the conversion would not result in a contravention of section 606(1).
- (d) **(Notice by Performance Shareholders)** Holders of Performance Shares must give notification to the Company in writing if they consider that the conversion of Performance Shares may result in the contravention of section 606(1), failing which the Company shall assume that the conversion of Performance Shares will not result in any person being in contravention of section 606(1).
- (e) **(After conversion)** The Shares issued on conversion of the Performance Shares will, as and from 5.00 pm (WST) on the date of allotment, rank equally with and confer rights identical with all other Shares then on issue and application will be made by the Company to ASX for official quotation of the Shares issued upon conversion.
- (f) **(Conversion procedure)** The Company will issue the Holder with a new holding statement for the Shares as soon as practicable following the conversion of the Performance Shares into the Shares.
- (g) **(Ranking of Shares)** The Shares into which the Performance Shares will convert will rank pari passu in all respects with the Shares on issue at the date of conversion.

### 4. Definitions

**CISPR15 Standards** means the Joint Australian/New Zealand Standard prepared by Joint Technical Committee TE-003, Electromagnetic Interference, in relation to “Limits and methods of measurement of radio disturbance characteristics of electrical lighting and similar equipment”.

**Committed Orders** means any of the following in respect of Quantify hardware, software or services:

- (a) the price specified in firm, legally binding purchase orders for supply of Quantify hardware, software or services;
- (b) the anticipated total price (determined by the Company acting reasonably) for Quantify hardware, software or services to be supplied to a construction project where:
  - (i) Quantify has entered into a binding contract for the supply of Quantify hardware, software or services to that project; and
  - (ii) the project has funding in place to enable completion; and
  - (iii) the value of Quantify hardware, software or services to be supplied can be estimated with a high degree of certainty; and
- (c) the revenue anticipated (determined by the Company acting reasonably) in the first three years from any licensing or services agreement relating to Quantify Intellectual Property that Quantify has entered into, where the agreement is unconditional and the licensee has binding obligations with third parties to use the Quantify services or install products which utilise the Quantify Intellectual Property.

**Quantify Intellectual Property** means the business names, copyrights, patents, trademarks, trade names, designs and similar industrial, commercial and intellectual property belong to Quantify.

**TUV Rheinland Australia** means TUV Rheinland Australia Pty Limited (ACN 124 175 953).

**Zigbee Standard** means the set of standards published by the "Zigbee Alliance" based on the IEEE 02.15.4 specification.

## Part B – WHL Founder Performance Shares

### WHL Energy Limited (ACN 113 326 524)

#### Terms and Conditions of Founder Performance Shares

Founder Performance Shares are to be issued by WHL Energy Limited (ACN 113 326 524) ("**Company**") in connection with the acquisition of Quantify Technology Limited (ACN 160 392 898).

A "**Founder Performance Share**" is a share in the capital of the Company which will convert into a fully paid, ordinary share ("**Share**") in accordance with these terms and conditions.

#### 1. Rights attaching to the Founder Performance Shares

- (a) (**General meetings**) The Founder Performance Shares shall confer on the holder ("**Holder**") the right to receive notices of general meetings and financial reports and accounts of the Company that are circulated to holders of Shares ("**Shareholders**"). Holders have the right to attend general meetings of Shareholders of the Company.
- (d) (**No voting rights**) The Founder Performance Shares do not entitle the Holder to vote on any resolutions proposed at a general meeting of Shareholders of the Company, subject to any voting rights under the Corporations Act or the ASX Listing Rules where such rights cannot be excluded by these terms.
- (e) (**No dividend rights**) The Founder Performance Shares do not entitle the Holder to any dividends.
- (f) (**No rights to return of capital**) The Founder Performance Shares do not entitle the Holder to a return of capital, whether in a winding up, upon a reduction of capital or otherwise.
- (g) (**Rights on winding up**) Upon the winding up of the Company, the Founder Performance Shares may not participate in the surplus profits or assets of the Company.
- (h) (**Transfer of Founder Performance Shares**) The Founder Performance Shares are not transferable.
- (i) (**Reorganisation of capital**) In the event that issued capital of the Company is reconstructed, all rights of a Holder will be changed to the extent necessary to comply with the ASX Listing Rules at the time of reorganisation.
- (j) (**No quotation**) The Founder Performance Shares will not be quoted on ASX. However if the Company is listed on the ASX, at the time of conversion of the Founder Performance Shares into Shares in accordance with these terms, the Company will within seven (7) days after the later of conversion and any escrow period ending, apply for the official quotation of the Shares arising from the conversion on ASX.
- (k) (**Participation in entitlements and bonus issues**) Holders of Founder Performance Shares will not be entitled (in their capacity as a Holder of a Performance Share) to participate in new issues of capital offered to holders of the Shares such as bonus issues and entitlement issues.

- (l) **(No other rights)** The Founder Performance Shares give the Holders no rights other than those expressly provided by these terms and those provided at law where such rights at law cannot be excluded by these terms.

## 2. Conversion of the Founder Performance Shares – performance hurdles

Each Performance Share in the relevant Tranche will convert into one (1) Share in the Company ("**Share**") upon achievement of the following performance hurdles:

- (a) **Tranche A:** one half of the Founder Performance Shares initially issued to a Holder will be convertible into Shares upon certification by a recognised and accredited Australian testing facility (such as TUV Rheinland Australia) of Quantify's retrofittable wall switch and power outlet known as the "Retrofit Switch" which is, as a minimum, able to switch 220-230V AC Power where such certification is:
  - (i) for installation in an applicable Australian Standards based wall box powered by the wiring in place; and
  - (ii) to CISPR15 Standards.
- (b) **Tranche B:** one half of the Founder Performance Shares initially issued to a Holder will be convertible into Shares upon certification by a recognised and accredited Australian testing facility, (such as TUV Rheinland Australia) for the wireless communication module installed in Quantify's retrofittable wall switch and power outlet known as the "Wireless Card", which wireless module is capable of providing wireless communication based on the 802.11 wireless standard or the 802.15 Zigbee Standard, where such certification is to AS/NZS4268 Standards.

## 3. Conversion – other matters

- (a) **(Redemption)** Founder Performance Shares in a particular tranche will be redeemed for 0.00001 cents per Performance Share if the performance hurdle for that tranche is not met, or not met by any relevant date for satisfaction of that performance hurdle. Failure to satisfy the performance hurdle in respect of one tranche of Founder Performance Shares does not prejudice subsequent conversion of other tranches.
- (b) **(Cancellation)** The Company will take such steps as are necessary to cancel any Shares that are still the subject of escrow 6 years after the Quotation Date.
- (c) **(Takeover Provisions)** If the conversion of Founder Performance Shares would result in any person being in contravention of section 606(1) of the Corporations Act, then the conversion of each Performance Share that would cause the contravention shall be deferred until such time or times thereafter that the conversion would not result in a contravention of section 606(1).
- (d) **(Notice by Performance Shareholders)** Holders of Founder Performance Shares must give notification to the Company in writing if they consider that the conversion of Founder Performance Shares may result in the contravention of section 606(1), failing which the Company shall assume that the conversion of Founder Performance Shares will not result in any person being in contravention of section 606(1).



- (e) **(After conversion)** The Shares issued on conversion of the Founder Performance Shares will, as and from 5.00 pm (WST) on the date of allotment, rank equally with and confer rights identical with all other Shares then on issue and application will be made by the Company to ASX for official quotation of the Shares issued upon conversion.
- (f) **(Conversion procedure)** The Company will issue the Holder with a new holding statement for the Shares as soon as practicable following the conversion of the Founder Performance Shares into the Shares.
- (g) **(Ranking of Shares)** The Shares into which the Founder Performance Shares will convert will rank pari passu in all respects with the Shares on issue at the date of conversion.

#### 4. Definitions

**CISPR15 Standards** means the Joint Australian/New Zealand Standard prepared by Joint Technical Committee TE-003, Electromagnetic Interference, in relation to "Limits and methods of measurement of radio disturbance characteristics of electrical lighting and similar equipment".

**TUV Rheinland Australia** means TUV Rheinland Australia Pty Limited (ACN 124 175 953).

**Zigbee Standard** means the set of standards published by the "Zigbee Alliance" based on the IEEE 02.15.4 specification.

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## SCHEDULE 5 – WHL BID OPTION TERMS

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The WHL Bid Options entitle the holder to subscribe for WHL Shares on the following terms and conditions:

- (a) Each Option gives the Optionholder the right to subscribe for one WHL Share upon exercise of the Option.
- (b) Each Option will expire at 5.00pm (WST) on 30 September 2019 (**Expiry Date**). An Option not exercised before the Expiry Date will automatically lapse on the Expiry Date.
- (c) Subject to paragraph (k), the amount payable upon exercise of each Option will be \$0.075 (**Exercise Price**).
- (d) The Options held by each Optionholder may be exercised in whole or in part, and if exercised in part, multiples of 1,000 must be exercised on each occasion.
- (e) An Optionholder may exercise their Options by lodging with the Company, before the Expiry Date:
  - (i) a written notice of exercise of Options specifying the number of Options being exercised; and
  - (ii) cash, a bank cheque or telegraphic or other electronic means of transfer of cleared funds for the Exercise Price for the number of Options being exercised;

**(Exercise Notice).**

- (f) An Exercise Notice is only effective when the Company has received the full amount of the Exercise Price in cleared funds.
- (g) Within 10 Business Days of receipt of the Exercise Notice accompanied by the Exercise Price, the Company will allot the number of Shares required under these terms and conditions in respect of the number of Options specified in the Exercise Notice.
- (h) The Options are transferable subject to any restriction or escrow arrangements imposed by ASX or under applicable Australian securities laws.
- (i) All Shares allotted upon the exercise of Options will upon allotment rank pari passu in all respects with other Shares.
- (j) The Company will apply for quotation of the Options on ASX. If admitted to the official list of ASX at the time, application will be made by the Company to ASX for quotation of the Shares issued upon the exercise of the Options.
- (k) If at any time the issued capital of the Company is reorganised or reconstructed, all rights of an Optionholder are to be changed in a manner consistent with the Corporations Act and the ASX Listing Rules at the time of the reorganisation or reconstruction.
- (l) There are no participating rights or entitlements inherent in the Options. The Optionholder cannot participate in any new issues of the Company without exercising the Option.

- (m) An Option does not confer the right to a change in Exercise Price or a change in the number of underlying securities over which the Option can be exercised.

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## SCHEDULE 6 – QUANTIFY INTELLECTUAL PROPERTY

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The Company's unregistered IP includes:

- (a) software, including without limitation data, know-how, formulae, processes, designs, photographs, drawings, ideas, specifications, written word, software programs and samples, and any other material bearing or incorporating any information relating to that software;
- (b) hardware, including without limitation data, know-how, formulae, processes, designs, photographs, drawings, ideas, specifications, written word, embedded software programs and samples and any other material bearing or incorporating any information relating to that hardware; and
- (c) business, including economic, commercial financial and marketing information,

relating to the "retrofit switch" and dimmer encompassing an alternating current module, wireless feature card and control fascia and a power outlet made up of an alternating current module, wireless feature card and control fascia.

IP includes the artistic, literary, computer software and other works set as follows: Drawings, graphics, logos, designs, diagrams, software, databases, source code, object code, binary code, modules, components, link libraries, executable programs, architectural models, process models, object models, database schemas, backups, updates, service packs, patches and hot fixes and accompanying or associated media and any further materials and works within the meaning of "Intellectual Property" in which copyright subsists.

### Registered IP

**Patents** means the patents and the applications, short particulars of which are set out below together with any further national applications, divisional applications, continuations-in-part and the like deriving from said international, regional or national patent application(s) in any country in the world.

**Trade Marks** means the registered trade marks, short particulars of which are set out below and any unregistered trade marks.

### Schedule 1– Patents




Application No.	Publication No.	Title	Country	Status	Date Filed
2012903669	-	Device, System and Method for Controlling an Operation	Australia	Provisional	24 August 2012
2013204864	-	Device, System and Method for Controlling an Operation	Australia	Granted	12 April 2013
PCT/AU/2013/000924	-	Device, System and Method for Controlling an Operation	WO	National phase entered	20 August 2013

Application No.	Publication No.	Title	Country	Status	Date Filed
20150032	-	Device, System and Method for Controlling an Operation	Bahrain	Application pending	20 August 2013
BR112015003760-7	-	Device, System and Method for Controlling an Operation	Brazil	Application pending	20 August 2013
2,882,510	-	Device, System and Method for Controlling an Operation	Canada	Application pending	20 August 2013
201380051024.3	-	Device, System and Method for Controlling an Operation	China	Application pending	20 August 2013
284/2015	-	Device, System and Method for Controlling an Operation	Egypt	Application pending	20 August 2013
13831037.0	2888659	Device, System and Method for Controlling an Operation	European Patent Convention	Application pending	20 August 2013
15109258.1	-	Device, System and Method for Controlling an Operation	Hong Kong	Application pending	21 September 2015
1367/DELNP/2015	-	Device, System and Method for Controlling an Operation	India	Application pending	20 August 2013
P00201501129	-	Device, System and Method for Controlling an Operation	Indonesia	Application pending	20 August 2013
237343	-	Device, System and Method for Controlling an Operation	Israel	Application pending	20 August 2013
2015-527739	-	Device, System and Method for Controlling an Operation	Japan	Application pending	20 August 2013
PI 2015000444	-	Device, System and Method for Controlling an Operation	Malaysia	Application pending	20 August 2013

Application No.	Publication No.	Title	Country	Status	Date Filed
MX/A/2015/002434	-	Device, System and Method for Controlling an Operation	Mexico	Application pending	20 August 2013
37864	-	Device, System and Method for Controlling an Operation	Morocco	Application pending	20 August 2013
705286	-	Device, System and Method for Controlling an Operation	New Zealand	Application pending	20 August 2013
OM/P2015/00044	-	Device, System and Method for Controlling an Operation	Oman	Application pending	20 August 2013
1-2015-500380	-	Device, System and Method for Controlling an Operation	Philippines	Application pending	20 August 2013
QA/201502/00058	-	Device, System and Method for Controlling an Operation	Qatar	Application pending	20 August 2013
10-2015-7007052	10-2015-0046211	Device, System and Method for Controlling an Operation	Republic of Korea	Application pending	20 August 2013
11201501262R	-	Device, System and Method for Controlling an Operation	Singapore	Application pending	20 August 2013
2015/01208	-	Device, System and Method for Controlling an Operation	South Africa	Application pending	20 August 2013
1501000984	-	Device, System and Method for Controlling an Operation	Thailand	Application pending	20 August 2013
P246/15	-	Device, System and Method for Controlling an Operation	United Arab Emirates	Application pending	20 August 2013
14/423,655	2015-0220337-A1	Device, System and Method for Controlling an Operation	United States of America	Application pending	20 August 2013

Application No.	Publication No.	Title	Country	Status	Date Filed
1-2015-00980	-	Device, System and Method for Controlling an Operation	Vietnam	Application pending	20 August 2013

#### Trade Marks - Registered trade marks and applications

Country	Mark	Registration No.	Class(es)
Australia	IQ SWITCH	1488785	9
Australia		1488786	9, 38, 42, 45
Australia	AMBIENT COMPANION	1488787	9, 42, 45
Australia		1488789	9, 38, 42, 45
Australia	AMBIENT IQ	1488790	9, 38, 42, 45
Australia	QUANTIFY	1752488	9, 42
Australia	PLATFORM FOR LIFE	1752489	9, 42
Australia	QUANTIFY TRULY INTELLIGENT BUILDINGS	1752490	9, 42
Australia		1752491	9, 42
Australia	QUANTIFY ENERGY SAVER HOME LOAN	1772088	36

Executed by the Parties as an agreement.

**EXECUTED** by **QUANTIFY TECHNOLOGY LTD**

**ACN 160 392 898**

in accordance with section 127 of the Corporations Act 2001 (Cth):

  
\_\_\_\_\_  
Signature of director

Aidan Montague

\_\_\_\_\_  
Name of director

\*please delete as applicable

**EXECUTED** by **WHL ENERGY LIMITED**

**ACN 113 326 524**

in accordance with section 127 of the Corporations Act 2001 (Cth):

  
\_\_\_\_\_  
Signature of director

Gary Castlebrook

\_\_\_\_\_  
Name of director

\*please delete as applicable

  
\_\_\_\_\_  
Signature of director/company secretary\*

Mark Lapins

\_\_\_\_\_  
Name of director/company secretary\*

  
\_\_\_\_\_  
Signature of director/company secretary\*

NEVILLE JOHN BASSETT

\_\_\_\_\_  
Name of director/company secretary\*