



13 February 2017

Market Information
NZX Limited
Level 1, NZX Centre
11 Cable Street
Wellington
New Zealand

Company Announcements Office
ASX Limited
Exchange Centre
Level 6, 20 Bridge Street
Sydney NSW 2000
Australia

Tower releases summary of Key Terms of Scheme Implementation Agreement

Tower attaches a summary of the Scheme Implementation Agreement dated 9 February 2017 between Fairfax Financial Holdings Limited (Fairfax) and Tower Limited (Tower).

Further information about the Fairfax Proposal, including the Scheme Implementation Agreement, is available from www.tower.co.nz/update.

Tower shareholders do not yet need to take any action in response to Fairfax's offer to acquire 100% of Tower shares. In due course, shareholders will receive detailed documentation from Tower outlining the proposed transaction and instructions for voting.

ENDS

TOWER
Michael Stiasny
Chairman
Tower Limited
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Summary of Key Terms of the Scheme Implementation Agreement (SIA)

Parties and Date

The SIA is dated 9 February 2017 and is between Fairfax Financial Holdings Limited (**Fairfax**) and Tower Limited (**Tower**).

Fairfax is incorporated in Canada and is currently listed on the Toronto Stock Exchange.

Tower is incorporated in New Zealand and is currently listed on the NZX Main Board and the official list of the ASX as a Foreign Exempt Entity.

Scheme

Tower has agreed to propose the Scheme to the Tower Shareholders. If the Scheme is implemented, each Tower Shareholder who holds Tower Shares on the Scheme Record Date will be entitled to receive the Scheme Consideration and all of the Tower Shares will be transferred to Fairfax. Further details about the Scheme will be set out in the Scheme Booklet.

Conditions

Implementation of the Scheme is subject to conditions, which must be satisfied or waived (as applicable) prior to the Scheme being implemented. The conditions are:

- receiving relevant regulatory approvals (including approvals required from the New Zealand Overseas Investment Office (**OIO Approval**), the RBNZ and the applicable regulators of Tower's subsidiaries in the Pacific Islands (**RBNZ and Pacific Island Regulatory Approvals**));
- Court approval of the Scheme in accordance with section 236(1) of the Companies Act (**Court Approval**);
- approval of the Scheme by Tower Shareholders by:
 - a majority of 75% of the votes of the shareholders in each interest class entitled to vote and voting on the Scheme resolution; and
 - a simple majority of the votes of all shareholders entitled to vote on the Scheme resolution,

(Shareholder Approval);

- no temporary restraining order, preliminary or permanent injunction or other order being issued by a court in New Zealand in a proceeding brought by a Government Agency preventing or delaying the Transaction and no action (other than action carried out in the ordinary course of business by a tax authority) or investigation in relation to any Tower Group Member being announced or commenced by a Government Agency (**Regulatory Intervention**);
- no Tower Prescribed Occurrence occurring between the date of the SIA and 7.59am on the Implementation Date; and
- A.M. Best Company not (other than as a result of the announcement of the Transaction or the actions of Fairfax), before and as at 7.59am on the Implementation Date, lowering the financial strength rating assigned to Tower Insurance Limited (**TIL**) to any rating lower than A- or imposing conditions (financial

or otherwise) specifically on TIL and its subsidiaries relating to the rating held by TIL at the date of the SIA (**Rating**).

The conditions relating to OIO Approval, RBNZ and Pacific Island Regulatory Approval, Regulatory Intervention (so far as it relates to an action or investigation by a Government Agency into a Tower Group Member or the Scheme), Court Approval and Shareholder Approval cannot be waived. The conditions relating to Regulatory Intervention (so far as it relates to an order or injunction preventing or delaying the Transaction), Tower Prescribed Occurrences and Rating may be waived by Fairfax.

The last date by which the conditions relating to OIO Approval, RBNZ and Pacific Islands Regulatory Approvals, Court Approval and Shareholder Approval must be satisfied or waived (if capable of waiver) is 31 August 2017 or such later date as Fairfax and Tower may agree (the **End Date**).

If any event occurs which would, or in fact does, prevent a condition being satisfied, and the condition is not waived by Tower or Fairfax or both (as applicable), Tower and Fairfax must consult in good faith to:

- determine whether the Transaction may proceed by way of alternative means or methods;
- to change the date of the application made to the Court for an order approving the Scheme (or adjourning that application, as applicable);
- or to extend the End Date by up to one month.

If the parties are unable to reach an agreement as referred to above within five business days of becoming aware of the relevant occurrence or relevant date or by the End Date, then unless the condition is waived by Tower or Fairfax or both, either party may terminate the SIA.

Timing

The parties have agreed to use their best endeavours to implement the Transaction in accordance with the indicative timetable below:

Scheme Booklet despatched	mid-March 2017
Anticipated approval from RBNZ	mid-March 2017
Scheme Meeting held	mid-April 2017
Anticipated approvals from OIO and Pacific Island regulators	by mid-May 2017
Second Court Date	late May 2017
Scheme Record Date	Mid-June 2017 (unless Fairfax agrees to an earlier date)
Implementation Date	30 June 2017 (unless Fairfax agrees to an earlier date)
End Date	31 August 2017 (or such later date as the parties agree)

If a Superior Proposal (**Relevant Superior Proposal**) is received, Tower may postpone the Scheme Meeting to the earlier of:

- the first possible date upon which Tower could reasonably be expected to convene a meeting of shareholders to vote on both the Scheme and the Relevant Superior Proposal and in any event no later than three weeks after the Superior Proposal was announced; or
- the date falling two weeks prior to the End Date.

Implementation of the Scheme

The parties have agreed that they will each carry out certain responsibilities relating to implementation of the Scheme.

In particular, Tower will:

- make a public announcement that the directors of Tower intend to recommend to Tower Shareholders that the Scheme be approved and those directors who hold Tower Shares intend to vote in favour of the Scheme, subject to there being no Superior Proposal;
- appoint the Independent Adviser and provide assistance and information reasonably requested by the Independent Adviser to enable the Independent Adviser to prepare the Independent Adviser's Report;
- prepare the Scheme Booklet in accordance with the applicable laws and regulatory guidance;
- consult with Fairfax as to the content and preparation of the Scheme Booklet (including providing drafts to Fairfax and obtaining the necessary information from Fairfax about Fairfax for inclusion in the Scheme Booklet);
- lodge the draft Scheme Booklet with the Takeovers Panel and NZX for their review;
- apply to the Takeovers Panel for a "no objection" statement in respect of the Scheme;
- consult with Fairfax in relation to the content of the documents required for the Court hearings relating to the Scheme;
- apply to the Court for orders relating to the Scheme Meeting and for orders relating to approval of the Scheme;
- take all reasonably necessary steps after implementation of the Scheme to delist Tower from the NZX and ASX;
- issue supplementary disclosure to Tower Shareholders if Tower becomes aware that any information in the Scheme Booklet is or has become misleading or deceptive in any material respect or there is information that is legally required to be disclosed but was not included in the Scheme Booklet (Tower must consult with Fairfax in good faith in respect of the need for and form of supplementary disclosure);
- convene the Scheme Meeting as soon as reasonably practicable;

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- allow a representative of Fairfax to attend and speak at the Scheme Meeting and Court hearings related to the Scheme;
 - except if a Superior Proposal is made that is not matched by Fairfax, solicit proxies in favour of the Scheme from Tower Shareholders (including permitting Fairfax (at Fairfax's expense), directly or through a nominee, to actively solicit proxies in favour of the Scheme); and
 - determine the entitlements to the Scheme Consideration and carry out lodgments and registrations relating to implementation of the Scheme.

In particular, Fairfax will:

- review drafts of the Scheme Booklet and provide Tower with information about Fairfax as required by applicable laws and regulatory guidance to be contained in the Scheme Booklet;
- if Fairfax becomes aware that any information in the Scheme Booklet is misleading or deceptive in any material respect or there is information that was legally required to be disclosed but was not included in the Scheme Booklet, provide that information to Tower;
- provide assistance and information reasonably requested by the Independent Adviser in connection with preparation of the Independent Adviser's Report; and
- if the Scheme is implemented, accept a transfer of all of the Tower Shares and pay the Scheme Consideration pursuant to the terms of the SIA and the Scheme.

Conduct of Tower's business

Tower has agreed to carry on its business, from the date of the SIA up to and including the Implementation Date, in the ordinary and proper course in substantially the same manner and at the same locations as it was conducted prior to the date of the SIA.

To that end, except with the consent of Fairfax, Tower will not:

- following satisfaction of the Shareholder Approval condition, continue further work on the Separation Proposal (and will use its reasonable endeavours to procure that any work by its advisers and any regulators, reinsurers or rating agency ceases);
- dispose, or agree to dispose of any business, asset, interest in a joint venture, entity or undertaking, the value of which exceeds \$500,000, to any person other than another entity within the Tower Group (excluding investment portfolio dispositions in the ordinary course);
- acquire, or agree to acquire any securities, business, asset, interest in a joint venture, entity or undertaking the price or value of which exceeds \$500,000 in relation to any individual item, from another person other than another entity within the Tower Group (excluding investment portfolio acquisitions in the ordinary course);
- incur financial indebtedness in the nature of borrowings (including by drawing down on any facility) in excess of \$3.5 million in the aggregate except for regulatory solvency purposes and provided that Tower notifies Fairfax of the debt incurrence and makes available to Fairfax certain details and information relating to the indebtedness;

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- do or cause to be done, or fail to do or cause not to be done, anything that would or may result in the Scheme not being implemented or being implemented otherwise than in accordance with the timetable agreed between Fairfax and Tower and the terms of the SIA;
 - do anything which might reasonably be expected to give rise to the occurrence of a Tower Prescribed Occurrence;
 - change its methods of accounting for financial reporting purposes in effect at 30 September 2016, except as may be required by changes in (or, in its reasonable good faith judgment, is advisable under) applicable law or GAAP; or
 - make, change or revoke any material tax election, file any amended tax return, settle any tax claim, audit, action, surrender any right to claim a material tax refund, offset or other reduction in tax liability or change its method of tax accounting (except, with respect to any amended tax return or any change in tax accounting method, as may be required by changes in applicable law or the official interpretation by any relevant tax authority), in each case, if such action would have the effect of increasing any of its tax liabilities by an amount that exceeds \$500,000;
 - undertake any capital expenditure or project expenditure in respect of which the price or value exceeds \$500,000 in relation to any individual project, excluding any such expenditure that:
 - is within, and materially consistent with, Tower's current year's capital expenditure budget disclosed to Fairfax in due diligence materials; or
 - was otherwise approved by the Tower Board prior to the date of the SIA and has been fairly disclosed to Fairfax in due diligence materials prior to the date of the SIA;
 - either:
 - enter into a new employment contract with a potential employee of the Tower Group (other than to replace an employee who has ceased to be an employee of the Tower Group); or
 - enter into a new employment contract or amend (other than as part of any annual salary review conducted in the ordinary course) an employment contract with an existing employee of the Tower Group,

in respect of which the total employment costs payable to that existing or potential employee is in excess of \$225,000 per annum;
 - enter into any collective bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of the SIA;
 - settle or offer to settle any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount exceeds \$200,000 or otherwise require any admission of liability (other than the settlement of ordinary course insurance claims under policies in accordance with policy terms and policy limits not exceeding \$2 million), or which require the imposition of injunctive relief or any restriction on the business of any Tower Group Member. Tower will keep Fairfax fully informed with respect to any such proceedings not within these limits;
 - enter into a joint venture or strategic partnership with any person where the contractually committed investment by the Tower Group exceeds \$500,000;

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- alter or amend, in any material respect, the Tower Risk Policy or any existing underwriting, claim handling, loss control, calculation of loss reserves or expenses, actuarial, financial reporting or accounting or compliance practices, guidelines, policies or interpretations or any material assumption underlying an actuarial practice or policy, except as may be required by (or, in its reasonable good faith judgment, is advisable under) law or GAAP;
 - enter into, modify or amend (in any material respect) or terminate any reinsurance agreement or waive, release or assign any material rights or claims thereunder, other than in the ordinary course of business consistent with past practices;
 - voluntarily forfeit, abandon, modify, waive, terminate or otherwise change any of its material licences except as may be required by any Governmental Agency or law;
 - enter, to the extent material, any new lines of business, or markets which Tower and its Related Companies do not materially operate in as of the date of this SIA; or
 - authorise, commit or agree to do any of the matters set out above.

Exclusivity

The SIA contains certain exclusivity arrangements in favour of Fairfax. These arrangements apply from the date of SIA until the earlier of termination of the SIA or the time that a Superior Proposal is not matched by a counter proposal from Fairfax (the **Restricted Period**).

No Talk: During the Restricted Period, Tower will not, and will ensure that none of its Related Companies and none of their representatives (including Financial Advisers) will:

- solicit, invite, encourage or initiate any Competing Transaction;
- directly or indirectly participate in or continue or respond to any discussions or negotiations (including responding to any inquiry, proposal or offer);
- provide or make available any information (including by way of providing information and access to perform due diligence);
- enter into any agreement, arrangement or understanding, or
- communicate any intention to do any of those things,

in relation to, or which may reasonably be expected to lead to or encourage, a Competing Transaction.

No Shop: Tower will not, and will ensure that none of its representatives, Related Companies and none of their representatives (including Financial Advisers) will:

- solicit or invite or permit enquiries, discussions or proposals in relation to, or which may reasonably be expected to lead to or encourage, a Competing Transaction; or
- communicate to any person an intention to do any of the things referred to in the No Talk provision.

Nothing in the exclusivity arrangements prevents Tower, its Related Companies and representatives, prior to satisfaction of the Shareholder Approval Condition, from making disclosures or public notifications if a failure to make that disclosure would constitute a

material breach of the provisions of the Financial Markets Conduct Act 2013 relating to insider trading, market manipulation and continuous disclosure or the Takeovers Code. In making such a disclosure, Tower must act in good faith, only disclose the information that is legally required, notify Fairfax in advance of the disclosure, and ensure that the recommendation in favour of the Scheme is not changed.

Tower, its Related Companies or any of their representatives must notify Fairfax if they become aware of any inquiry, proposal or offer made to the Tower Group or its representatives relating to a Competing Transaction or a proposed or potential Competing Transaction, whether unsolicited or otherwise, or if they provide any information relating to Tower's businesses or operations to any person in connection with or for the purposes of any actual or potential, current or future Competing Transaction.

Matching Right: if there is a Competing Transaction for Tower which is determined to be a Superior Proposal, Fairfax has the right to make a matching or superior proposal (**Fairfax Counter Proposal**), and Tower must use its reasonable endeavours to ensure that its directors do not publicly recommend the Competing Transaction until Fairfax makes such a proposal (Fairfax must exercise its matching right within 10 business days of being notified of the Competing Transaction). Tower will use its best endeavours to procure that its directors, within two business days of receiving the Fairfax Counter Proposal, consider the proposal in good faith. If the directors determine that Fairfax Counter Proposal is no less favourable to the relevant Competing Transaction, Tower and Fairfax will implement the Fairfax Counter Proposal as soon as reasonably practicable. In this case, Tower will make a public statement recommending, and use its best endeavours to procure that each of its directors recommends, the Fairfax Counter Proposal. If Fairfax does not make a counter proposal (or fails to do so with the 10 business days after being notified about the Competing Transaction), Tower is not required to comply with its obligations under the matching right provision.

Break Fee

Tower has agreed to pay Fairfax a break fee of NZ\$1,973,350 (excluding GST) if:

- prior to the date the Scheme comes into effect or the End Date, whichever is earlier, the Tower board (or any board member) fails to recommend the Scheme or withdraws or adversely modifies his or her support for the Scheme or fails to vote their shares as required by the SIA, except as a result of Tower being entitled to terminate the SIA or as a result of a failure of the conditions precedent relating to OIO Approval, RBNZ and Pacific Islands Regulatory Approval, Regulatory Intervention, Court Approval or the Shareholder Approval condition (other than as a result of a breach by Tower of its obligation to use best endeavours to fulfill the conditions);
- a Competing Transaction is announced prior to the Second Court Date (or the End Date if the Second Court Date has not been set) and, within 12 months of that announcement, the person announcing or making the Competing Transaction (or their Related Companies or associates) acquires 20% or more of the Tower Shares, or has a right to acquire or economic interest in all or a substantial part of Tower's business, or otherwise acquires control of the Tower Group;
- the Court does not approve the Scheme as a result of a material breach by Tower of its obligations under the SIA;
- Fairfax terminates the SIA for breach of a fundamental warranty by Tower, a material breach of any other warranty, or because a Tower director withdraws or adversely modifies his or her recommendation to vote in favour of the Scheme or recommends a Competing Transaction; or

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- a Tower Prescribed Occurrence occurs.

The purpose of the break fee is to compensate Fairfax for advisory costs, its management and directors' time, out-of-pocket expenses and opportunity costs in pursuing the Scheme in place of other initiatives if the Scheme does not proceed.

Reimbursement of costs

Tower has also agreed to reimburse Fairfax's reasonably incurred costs (capped at \$400,000 excluding GST) if:

- subject to the break fee provision not applying, the conditions relating to OIO Approval, RBNZ and Pacific Island Regulatory Approvals, Regulatory Intervention, Court Approval, Shareholder Approval, and Rating are not satisfied or waived; or
- Fairfax terminates the SIA by reason of a Material Adverse Change.

The purpose of this payment is to compensate Fairfax for its advisory costs and expenses.

Termination Rights

Tower may terminate the SIA if, at any time before 8.00am on the Implementation Date, Fairfax is in breach of the SIA (including Fairfax's representations and warranties) and:

- the breach is material in the context of the Scheme and the Tower Group taken as a whole;
- Tower has notified Fairfax of the breach; and
- Fairfax has failed to remedy the breach to Tower's reasonable satisfaction within five business days (or any shorter period ending on the Implementation Date) of receiving that notice.

Fairfax may terminate the SIA if:

- Tower is in breach of certain "fundamental" warranties (these relate to Tower's legal power to enter the SIA, Tower's capital and corporate structure and Tower's solvency);
- there is a Material Adverse Change;
- Tower is in breach of the SIA (including Tower's representations and warranties that are not "fundamental") and:
 - that breach is material (which means material in the context of the Scheme or the Tower Group taken as a whole or the loss suffered as a result of the relevant breach (when aggregated with the loss suffered as a result of any other breach of a relevant warranty) exceeds \$5 million in aggregate);
 - Fairfax has notified Tower of the breach; and
 - Tower has failed to remedy the breach to Fairfax's reasonable satisfaction within five business days (or any shorter period ending on the Implementation Date) of receiving that notice; or

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- A Tower director withdraws or adversely modifies his or her recommendation that Tower Shareholders vote in favour of the Scheme or recommends a Competing Transaction.

Representations and warranties

Tower and Fairfax have each given representations and warranties to the other which are customary for an agreement such as the SIA. The warranties are given at the date of the SIA, the date the Scheme Booklet is despatched to Tower Shareholders, immediately prior to the Court hearing on the Second Court Date, immediately prior to the implementation of the Scheme, and, where expressed to be given at a particular time, at that time.

Other than for warranties identified as fundamental, the representations and warranties given by Tower are each subject to matters that have been fairly disclosed through the NZX markets announcement platform after 1 October 2015 or to Fairfax through due diligence.

Broadly speaking, the representations and warranties given by Tower relate to:

- the information in the Scheme Booklet relating to Tower (i.e., excluding information from Fairfax, the Independent Adviser's Report and other third party information) being prepared in good faith and complying in all material respects with applicable laws and regulatory guidance, and that such information is not materially misleading or deceptive;
- Tower's compliance in all material respects with its continuous disclosure obligations under the NZX Listing Rules and that the due diligence materials it provided to Fairfax being materially true and accurate;
- Tower's capacity and authority to enter into and perform its obligations under the SIA and the Scheme;
- Tower's entry into and performance of its obligations under the SIA not conflicting with or resulting in a breach of or a default under Tower's constitution or any legal order or law to which Tower is bound;
- certain details about Tower's capital and corporate structure;
- confirmations that no members of the Tower Group are insolvent or subject to regulatory action that would limit their ability to perform their obligations under the SIA;
- that no dividends will be paid by Tower before the Implementation Date;
- confirmations relating to disclosure of material business contracts and arrangements, including Tower not being in breach of those contracts or that entry by Tower into the SIA will not entitle any person to cancel, terminate or adversely modify or acquire, or require a Tower Group Member to dispose of, an asset, and Tower holding the appropriate intellectual property rights;
- that all regulatory licences and approvals are in place enabling Tower to properly carry on its business including that there are no agreements, undertakings or commitments to any Government Agency that affect the conduct of the Tower business);
- confirmation that reinsurance contracts are in place and enforceable;

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- confirmations relating to the due diligence materials provided to Fairfax in respect of Tower's risk policies, investments and derivatives being true, complete and current (as at the date of the SIA);
 - Tower's Statement of Solvency Capital prepared in accordance with "Solvency Standard for Non-Life Insurance Business 2014" made by the Reserve Bank of New Zealand under the applicable legislation being, in all material respects, accurate;
 - that A.M. Best Company, as at the date of the SIA, has assigned an A- rating to TIL and that a BBB- rating was in place for Tower when it had listed debt securities;
 - there being no Material Adverse Change;
 - Tower's compliance with all material applicable laws in all material respects;
 - confirmation that Tower is not aware of any current or pending legal proceedings against members of the Tower Group (other than insurance and reinsurance claims and litigation or arbitration arising in the ordinary course of business);
 - Tower's bonus plans and programmes with employees being disclosed in the due diligence materials; and
 - Tower's tax liabilities, including that all taxes which a Tower Group Member is liable to pay on or before the Implementation Date having been paid or will be paid by the due date for payment.

Broadly speaking, the undertakings given by Fairfax relate to:

- the information relating to Fairfax in the Scheme Booklet being prepared in good faith and complying in all material respects with the applicable laws and regulatory guidance, and that such information is not materially misleading or deceptive;
- all information provided by Fairfax to the Independent Adviser being provided in good faith and on the understanding that the Independent Adviser would rely on it in preparing the Independent Adviser's Report;
- Fairfax's capacity and authority to enter into and perform its obligations under the SIA and the Scheme;
- Fairfax's entry into and performance of its obligations under the SIA not conflicting with or resulting in a breach of or a default under Fairfax's constitution or any legal order or law to which Fairfax is bound;
- confirmations that Fairfax is not insolvent or subject to regulatory action that would limit its ability to perform its obligations under the SIA;
- confirmations of Fairfax not having any dealings with Tower Shareholders under which those shareholders would be entitled to receive consideration for their shares that was different from the Scheme Consideration;
- confirmation of Fairfax having a reasonable basis to expect it would have sufficient cash amounts available to it to satisfy its obligations to pay the Scheme Consideration; and

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- confirmation that by 8.00am on the Implementation Date, Fairfax having available to it on an unconditional basis sufficient cash reserves to pay the Scheme consideration.

Glossary

In this summary, capitalised terms used but not otherwise defined have the following meanings:

Companies Act means the Companies Act 1993 (NZ);

Competing Transaction means a proposal, transaction or arrangement from or with any third party or third parties, relating to:

- (a) any acquisition (whether directly or indirectly) of an interest in, or the right to acquire or have an economic interest in, directly or indirectly, more than 20% of the Tower Shares (other than Custodial Shares);
- (b) any acquisition (whether directly or indirectly) of, or the right to acquire or have an economic interest in, directly or indirectly, a material part of the business of the Tower Group;
- (c) an transfer of control of Tower or a material part of the business or Tower Group; or
- (d) otherwise an acquisition of, or merger with, Tower,

whether by takeover offer, scheme of arrangement, acquisition, capital reduction or buy-back, sale or purchase of shares or assets, share issue or other recapitalisation, joint venture, insolvency proceeding, dual-listed company structure (or other synthetic merger), or other transaction or arrangement.

For the purpose of paragraph (c) above, the acquisition of an interest in a material part of the business of the Tower Group will be material if the acquisition entitles the acquirer to share in:

- (a) 20% or more of the consolidated net profit after tax of Tower Group; or
- (b) 20% or more of the total consolidated assets of Tower Group;

Court means the High Court of New Zealand;

Effective means when used in relation to the Scheme, the coming into effect, under section 236(3) of the Companies Act, of the order of the Court made under section 236(1) in relation to the Scheme;

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

Financial Adviser means any financial adviser retained by Tower in relation to the Scheme or a Competing Transaction from time to time acting in its capacity as such, and includes Goldman Sachs;

Government Agency means any foreign or New Zealand government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any governmental minister;

Implementation Date means 30 June 2017, or such other date as agreed in writing by Tower and Fairfax;

Independent Adviser means the independent adviser appointed by Tower in respect of the Scheme;

Independent Adviser's Report means the report from the Independent Adviser to accompany the Scheme Booklet, including any update or supplementary report, stating its opinion on the merits of the Transaction;

Material Adverse Change means a significant adverse event or circumstance:

- (a) in the nature of an earthquake, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, or adverse weather conditions; or
- (b) the imposition by any Government Agency of onerous new regulatory or operating restrictions,

that occurs, or is announced, after the date of the SIA which has, or is reasonably likely to have either individually, or when aggregated with any other matters, events or circumstances of a similar kind or category, the effect of:

- (a) diminishing the consolidated net assets of the Tower Group taken as a whole by at least \$22.5 million (which is 10% of the last reported figure); or
- (b) diminishing the consolidated on-going underlying profitability by more than \$5 million (excluding the impact of any CEQ reserve strengthening); or
- (c) causing any Tower Group Member to breach any regulatory capital requirement to which it is subject,

in each case other than matters, events or circumstances:

- (d) required or specifically permitted by the SIA or the Scheme;
- (e) resulting from changes in general economic or political conditions, the securities market in general or law;
- (f) done or not done at the written request or with the written approval of Fairfax, including any reasonably foreseeable consequences arising as a result of such matters;
- (g) resulting from the actual or anticipated change of control of Tower contemplated by the Transaction;
- (h) resulting from changes in generally accepted accounting principles or the judicial interpretation of them,

provided however, that with respect to clauses (e) to (h), such matter does not have a materially disproportionate effect on the Tower Group;

Related Company has the meaning set out in section 2(3) the Companies Act read as if a reference to a company was a reference to any company or body corporate wherever incorporated;

Scheme Booklet means the information to be approved by the Court and despatched to the Tower Shareholders and which will include the notice of meeting and proxy form, an explanatory statement, the Scheme and the Deed Poll, but for the purpose of this definition excludes the Independent Adviser's report or any summary of such report;

Scheme Consideration means the consideration to be provided by Fairfax in consideration for the transfer of the Tower Shares held by a Scheme Shareholder to Fairfax, being, in respect of each Scheme Share, \$1.17 cash and otherwise subject to the terms of this Scheme;

Scheme Record Date means 7.00pm (New Zealand time) on the fifth business day after the Effective Date, or such other date as agreed in writing by Tower and Fairfax;

Scheme Meeting means any meeting of Tower Shareholders for the purposes of section 236(1) of the Companies Act ordered by the Court to be convened under section 236(2)(b) of the Companies Act (and includes any adjourned meeting);

Scheme Share means a Tower Share held by a Scheme Shareholder;

Scheme Shareholder means a Tower Shareholder as at the Scheme Record Date;

Second Court Date means the first day on which an application made to the Court for an order under section 236(1) of the Companies Act approving the Scheme is heard, or if the application is adjourned for any reason, the first day on which the adjourned application is heard;

Separation Proposal means:

- (a) the proposal Tower announced to the market on 29 November 2016, comprising a proposal to transfer its non-Christchurch earthquake related insurance policies and liabilities from Tower Insurance Limited (**RunOffCo**) to another Tower Group member (**New Tower**), and for the shares in RunOffCo to be (indirectly) transferred to Tower's shareholders under a scheme of arrangement; or
- (b) any proposed transaction similar to the above;

SIA means the Scheme Implementation Agreement entered into by Tower and Fairfax on 9 February 2017.

Superior Proposal means an unsolicited bona fide written Competing Transaction for 100% of the Tower Shares which the Tower Board reasonably determines, in good faith, taken as a whole, after consultation with its financial advisers and external counsel, is superior from a financial point of view and otherwise (taken as a whole) superior to the Scheme, taking into consideration:

- (a) the conditions precedent of the Competing Transaction relative to those of the Scheme (taken as a whole);
- (b) the likely timing of implementation of the Competing Transaction, relative to the Scheme;

provided that a Competing Transaction will be deemed not to be a Superior Proposal if:

- (c) it requires Tower or any other person to seek to interfere with the attempted successful completion of the Scheme (including requiring Tower to delay, adjourn, postpone or cancel the Scheme Meeting) or provides for the payment of any break, termination or other fee or expense (excluding a bona fide agreement for reimbursement of reasonable costs incurred) or confers any rights or options to acquire assets or securities of any Tower Group Member to any person in the event that Tower completes the Scheme or any other similar transaction with Fairfax agreed to prior to the termination of the SIA; or

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- (d) it is subject to a financing condition (it being acknowledged that any requirement to obtain the approval of Tower Shareholders to a scrip component will not amount to a financing condition); or
 - (e) it resulted from a breach of the exclusivity provisions of the SIA.

Tower Board means the board of directors of Tower;

Tower Group means Tower and each of its Related Companies and a reference to a **Tower Group Member** or a Tower Group Member is to Tower or any of its Related Companies;

Tower Prescribed Occurrence means, other than:

- (a) as expressly required or permitted by the SIA or the Scheme;
- (b) with the written consent of Fairfax, not to be unreasonably withheld,

the occurrence of any of the following between the date of the SIA and 8.00am on the Implementation Date:

- (a) Tower converting all or any of its shares into a larger or smaller number of shares;
- (b) Tower reducing its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) Tower agreeing to buy-back any Tower Shares or resolving to approve the terms of a buy-back of Tower Shares under the Companies Act;
- (d) a Tower Group Member issuing shares, or granting a right or an option over an unissued share, or agreeing to make such an issue or grant such a right or an option;
- (e) a Tower Group Member issuing, or agreeing to issue, securities convertible into shares, or debt securities, other than any issue (or agreement to issue) by a subsidiary of Tower to that subsidiary's direct parent company for the purpose of continuing to meet any solvency requirements imposed by a regulatory in the jurisdiction where that subsidiary operates;
- (f) Tower declaring, paying or making any dividend or distribution;
- (g) a Tower Group Member acquiring, or agreeing to acquire, any material business or assets valued at more than \$2 million other than the writing of new insurance business and acquisition of financial assets for the investment portfolio of the Tower Group (each in the ordinary course);
- (h) a Tower Group Member disposing, or agreeing to dispose, of any material part of the Tower Group's business or property;
- (i) a Tower Group Member charging, or agreeing to charge, of any material substantial part, of the Tower Group's business or property;
- (j) a Tower Group Member making any change to its constitution;
- (k) a Tower Group Member resolving that it be wound up;

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- (l) a liquidator or provisional liquidator of a Tower Group Member being appointed;
 - (m) a court making an order for the winding up of a Tower Group Member;
 - (n) an administrator of a Tower Group Member being appointed under the Companies Act;
 - (o) a Tower Group Member executing a deed of company arrangement; or
 - (p) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of the Tower Group.

Tower Risk Policies means the risk management policies and practices applicable to the insurance business of the Tower Group;

Tower Share means a fully paid ordinary share of Tower;

Tower Shareholder means each person who is registered as the holder of a Tower Share from time to time; and

Transaction means the acquisition of Tower by Fairfax through implementation of the Scheme.