

## Bid Implementation Agreement

**Centuria Platform Investments Pty Limited (ACN 633 214 892)**

**Centuria Funds Management Ltd (ACN 607 153 588)** as  
responsible entity of Centuria Capital Fund ARSN 613 856 358

**Centuria Capital Limited (ACN 095 454 336)**

**and**

**Augusta Capital Limited (NZ company number 1873288)**

### **Warning Statement regarding CNI Securities**

This agreement refers to the potential offer of CNI Securities as consideration under the Offer. For the avoidance of doubt: no money is currently being sought; the CNI securities cannot currently be applied for or acquired as consideration under the Offer or intended Offer; and if the offer of CNI Securities is made in New Zealand, the offer will be made in accordance with the Financial Markets Conduct Act 2013 (NZ) (or any applicable exemption from that Act).

## Table of contents

<b>1.</b>	<b>Definitions and Interpretation</b>	<b>1</b>
1.1	Definitions	1
1.2	Interpretation	13
1.3	Use of Nominee	13
<b>2.</b>	<b>Agreed Announcements</b>	<b>14</b>
2.1	Agreed Announcements	14
2.2	Subsequent announcements and disclosure	14
<b>3.</b>	<b>Takeover Offer</b>	<b>14</b>
3.1	Making of Offer	14
3.2	Agreed Offer Terms	14
3.3	Offer Conditions not met	15
3.4	Variation of Agreed Offer Terms	15
3.5	Target's assessment of the Offer	15
3.6	Ineligible Overseas Target Shareholders	16
3.7	Ranking of CNI Securities	16
<b>4.</b>	<b>Facilitation of the Offer</b>	<b>16</b>
4.1	Timing	16
4.2	No alternative offer	16
4.3	Reasonable assistance	17
4.4	Offer Document and Target Company Statement	17
4.5	Target's obligations	17
4.6	Change of control provisions	18
4.7	Offer Conditions	19
4.8	Regulatory matters	19
4.9	Provision of undertakings	19
4.10	Obligations to satisfy OIO consent condition	19
4.11	OIO Lakeview site	20
<b>5.</b>	<b>Disclosure Document</b>	<b>21</b>
5.1	Preparation	21
5.2	Content of Disclosure Document	21
5.3	Target Information	21
5.4	Misleading or deceptive information	21

<b>6.</b>	<b>Conduct of business</b>	<b>21</b>
6.1	Conduct of the Target's business	21
6.2	Permitted acts	21
6.3	D&O insurance and PI insurance	22
6.4	Augusta Property Fund	22
<b>7.</b>	<b>Exclusivity</b>	<b>22</b>
7.1	No existing discussions	22
7.2	No shop and no talk restriction	22
7.3	Fiduciary exception	23
7.4	Notification of approaches	24
7.5	Matching right for Superior Proposals	24
7.6	Successive amendments	25
7.7	Freedom to progress Unmatched Superior Proposal	25
7.8	Exception for competing takeover offer	26
<b>8.</b>	<b>Reimbursement of Costs</b>	<b>26</b>
8.1	Background and acknowledgments	26
8.2	Target Costs	27
8.3	Break Fee	27
8.4	Sole and exclusive remedy	28
<b>9.</b>	<b>Warranties</b>	<b>28</b>
9.1	General	28
9.2	Target warranties	29
9.3	Offeror warranties	29
9.4	Notifications	30
9.5	Status of representations and warranties	30
<b>10.</b>	<b>Termination</b>	<b>30</b>
10.1	Termination rights	30
10.2	Manner of termination	31
10.3	Effect of termination	31
10.4	Effect of termination of agreement on Offer	31
<b>11.</b>	<b>CNI Fund RE limitation provision</b>	<b>31</b>
<b>12.</b>	<b>GST</b>	<b>32</b>
12.1	Interpretation	32

12.2	Consideration exclusive of GST	32
12.3	Payment of GST	32
12.4	Tax invoice	32
12.5	Adjustments	32
12.6	Input tax credits	33
<b>13.</b>	<b>Notices</b>	<b>33</b>
13.1	Method of giving notices	33
13.2	Time of receipt	33
13.3	Address of parties	33
<b>14.</b>	<b>General</b>	<b>34</b>
14.1	Costs and expenses	34
14.2	Stamp duty	34
14.3	Amendment	34
14.4	Waiver	34
14.5	Entire Agreement	34
14.6	Severance	35
14.7	Further assurance	35
14.8	Assignment	35
14.9	Counterparts	35
14.10	Governing law and jurisdiction	35
14.11	Prohibition and enforceability	35
<b>Schedule 1</b>	<b>Agreed Offer Terms</b>	<b>36</b>
<b>Schedule 2</b>	<b>Prescribed Occurrences</b>	<b>41</b>
<b>Schedule 3</b>	<b>Indicative Timetable</b>	<b>44</b>

## Bid Implementation Agreement

Date **29** January 2020

**Parties** **Centuria Platform Investments Pty Limited (ACN 633 214 892)** of Level 41, Chifley Tower, Chifley Place, Sydney, NSW, Australia  
(Offeror)

**Centuria Capital Limited** ACN 095 454 336 of Level 41, Chifley Tower, Chifley Place, Sydney, NSW, Australia (**CCL**)

and

**Centuria Funds Management Ltd** ACN 607 153 588 as responsible entity of Centuria Capital Fund ARSN 613 856 358 (**CNI Fund**) of Level 41, Chifley Tower, Chifley Place, Sydney, NSW, Australia (**CNI Fund RE**)

(together **CNI**)

**Augusta Capital Limited (NZ company number 1873288)** of Level 2, 30 Gaunt Street, Wynyard Quarter, Auckland, New Zealand

(Target)

- |                 |  |
|-----------------|--|
| <b>Recitals</b> | <p>A. The Offeror is a wholly owned subsidiary of CNI.</p> <p>B. The Offeror is proposing to make the Offer to acquire all of the Target Shares for a consideration of cash or fully paid CNI Securities or a combination of both.</p> <p>C. CNI guarantees to the Target that the Offeror will comply with its obligations under this agreement.</p> <p>D. The Target Independent Directors are proposing to recommend the Offer in the absence of an Unmatched Superior Proposal.</p> <p>E. It is a pre-requisite to the Offeror making the Offer and the Target Independent Directors making the recommendation that the parties enter into this agreement.</p> |
|-----------------|--|

The parties agree, in consideration of, among other things, the mutual promises contained in this agreement as follows:

## 1. Definitions and Interpretation

### 1.1 Definitions

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

**Adviser** means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant who provides advisory

services in a professional capacity to the market in general and who has been engaged by that entity in connection with the Offer.

<b>Agreed Announcements</b>	means the announcements agreed between the parties in the form initialled by the parties on or about the date of this agreement.
<b>Agreed Offer Terms</b>	means the terms and conditions of the Offer, which must comply with clause 3.2, subject to variation in accordance with clause 3.4.
<b>Announcement Date</b>	means the date on which the Agreed Announcements are made.
<b>Approval</b>	means any consent, approval, clearance or authorisation.
<b>Associate</b>	has the meaning given in Rule 4 of the Takeovers Code.
<b>ASX</b>	means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it.
<b>Break Fee</b>	means a break fee of \$2,000,000.
<b>Business Day</b>	means a day that is a working day as defined in section 2(1) of the Companies Act.
<b>Cash Consideration</b>	means the cash component of the Consideration.
<b>Centuria Capital Group</b>	means the ASX stapled listed entity comprised of CCL and the CNI Fund.
<b>Claim</b>	means any allegation, cause of action, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, for restitution, under statute or otherwise.
<b>CNI Security</b>	means a fully paid ordinary stapled security in the Centuria Capital Group comprising a fully paid ordinary share in CCL stapled to a fully paid ordinary unit in the CNI Fund.
<b>Companies Act</b>	means the <i>Companies Act 1993</i> (NZ).
<b>Competing Proposal</b>	means any expression of interest, proposal, offer, transaction or arrangement (other than any transaction that may be made and implemented in accordance with this agreement) by or with any person or persons not associated with or acting in concert with the Offeror relating to: <ul style="list-style-type: none"> <li>(a) any acquisition (whether directly or indirectly) of an interest in, or the right to acquire or have an economic interest and/or a voting interest in, directly or indirectly, more than 20% of the Target Shares (other than the acquisition of only</li> </ul>

the legal title of Custodial Target Shares by a person as bare trustee);

- (b) any acquisition (whether directly or indirectly) of, or the right to acquire or have an economic interest in, directly or indirectly, all or a material part of the business and/or assets of the Target Group;
- (c) a transfer of Control of the Target, or a material part of the business of the Target Group; or
- (d) otherwise an acquisition of, or merger with, the Target,

whether by way of takeover offer, scheme of arrangement, member approved acquisition, capital reduction, security buy-back or repurchase, sale or purchase of shares or assets, share issue (or issue or grant of options, convertible securities or other rights or entitlements to shares) or other recapitalisation, joint venture, insolvency proceedings, reverse takeover, establishment of a new holding company, dual-listed company structure (or other synthetic merger) or any other transaction or arrangements.

For the purposes of paragraphs (b) and (c) above, the acquisition of an interest or right to acquire a part of the business or assets of the Target Group will be material if the acquisition entitles, or the right when exercised would entitle, the acquirer (and its related entities) to share (directly or indirectly) in:

- (e) 20% or more of the consolidated net profit after tax of the Target Group; or
- (f) 20% or more of the total consolidated assets of the Target Group.

**Confidentiality Agreement**

means the confidentiality agreement made between Centuria Funds Management Limited and the Target dated 20 June 2018.

**Consideration**

means the consideration to be provided to Target Shareholders under the terms of the Offer for the transfer to the Offeror of the Target Shares as stated in the Agreed Offer Terms and comprising:

- (a) Cash Consideration or Scrip Consideration or both, in such combination as the Target Shareholder may elect, provided that the default position in the absence of any such election, and the default consideration for the purposes of Rule 56A(3) of the Takeovers Code, will be 100% Scrip Consideration; or
- (b) if the Offeror elects, may be 100% Cash Consideration.

**Control**

has the meaning given in section 3(1) of the Takeovers Code.

<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth of Australia).
<b>Custodial Target Shares</b>	means Target Shares held by a person as bare trustee where the person does not have a beneficial interest in the Target Shares or the right to exercise or control the exercise of votes attaching to the Target Shares (other than on the instructions of the beneficial owner of the Target Shares).
<b>Data Room</b>	means the contents of the electronic data room established by the Target and to which it gave Offeror access as at 11am on the date 2 Business Days before the date of this agreement.
<b>Disclosure Document</b>	means, as applicable: <ul style="list-style-type: none"> <li>(a) any continuous disclosure documents lodged by CNI with the ASX for publication on its company announcements platform;</li> <li>(b) any: <ul style="list-style-type: none"> <li>(i) product disclosure statement and register entry; or</li> <li>(ii) other offer or disclosure document, prepared by the Offeror under the FMCA, Listing Rules or Corporations Act to permit the offer of CNI Securities as Consideration under the Offer in New Zealand and/or Australia; and</li> </ul> </li> <li>(c) any statement prepared by the Offeror for release to ASX and/or NZX to comply with any exemption from the FMCA in connection with the offer of CNI Securities as Consideration under the Offer in New Zealand and/or Australia.</li> </ul>
<b>Exclusivity Period</b>	means the period from and including the date of this agreement to the earliest of: <ul style="list-style-type: none"> <li>(a) the termination of this agreement in accordance with its terms; and</li> <li>(b) the Offer Closing Date.</li> </ul>
<b>Executive</b>	means each of Mark Francis and Bryce Barnett.
<b>Executive Shareholders</b>	means the Executives and Target Shareholders controlled by them.
<b>FMA</b>	means the New Zealand Financial Markets Authority established under section 6 of the <i>Financial Markets Authority Act 2011</i> (NZ).
<b>FMCA</b>	means the <i>Financial Markets Conduct Act 2013</i> (NZ).
<b>Government Agency</b>	means any foreign, Australian or New Zealand government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or



	entity or any minister of the Crown in right of Australian or New Zealand (including for the avoidance of doubt, the Australian Commonwealth Treasurer) and any regulatory organisation established under statute or any stock exchange.
<b>GST</b>	means goods and services tax charged or levied under the GST Act in both New Zealand and Australia, and includes any GST Default Amounts.
<b>GST Act</b>	means the <i>Goods and Services Tax Act 1985</i> (as amended) in respect to New Zealand and the <i>A New Tax System (Goods and Services Tax) Act 1999</i> in respect to Australia.
<b>GST Default Amounts</b>	means any penalties, additional tax or interest payable in respect of GST
<b>GST Exclusive Consideration</b>	has the meaning given in clause 12.2.
<b>Independent Adviser</b>	means the independent adviser being the person approved by the Takeovers Panel and appointed by the Target as independent adviser to prepare the Independent Adviser's Report.
<b>Independent Adviser's Report</b>	means the Independent Adviser's report prepared under Rule 21 of the Takeovers Code in relation to the merits of the Offer, as amended or updated from time to time and including any supplementary or replacement report.
<b>Ineligible Overseas Target Shareholder</b>	means a Target Shareholder whose address as shown in the Register on the Record Date is a place outside New Zealand unless the Offeror determines that it is lawful and not unduly onerous or impracticable to issue that Target Shareholder with CNI Securities in accordance with this agreement under the Offer.
<b>Insolvency Event</b>	means in relation to a party: <ul style="list-style-type: none"> <li>(a) the party is or becomes unable to pay its debts as and when they fall due or is otherwise presumed to be insolvent under the insolvency laws applying to that party;</li> <li>(b) the party suspends or threatens to suspend payment of its debts generally;</li> <li>(c) the calling of a meeting to consider a resolution to wind up the party (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the party) or the making of an application or the making of any order, or the passing of any resolution, for the winding up or liquidation of the party other than where the application or order (as the case may be) is set aside within 7 days;</li> </ul>

- (d) the appointment of a provisional liquidator, liquidator, receiver or a receiver and manager or other insolvency official to the party or to the whole or a substantial part of the property or assets of the party;
- (e) the appointment of an administrator to the party;
- (f) the entry by a party into any compromise or arrangement with creditors;
- (g) anything analogous to anything referred to in paragraphs (a) to (f) (inclusive) of this definition or which has a substantially similar effect, occurs with respect to a person under any law of any jurisdiction; or
- (h) in the case of a trust, the trustee's right of indemnity out of the assets of the trust is not sufficient to meet the liabilities of the trust when they fall due.

**Listing Rules**

means the listing rules of NZX or ASX, as applicable.

**Lock-Up Agreements**

means the lock-up agreements (in a form acceptable to the Offeror) in relation to the Offer pursuant to which the Locked-Up Shareholders will agree to accept the Offer in return for Scrip Consideration and/or Cash Consideration in respect of some or all of their Target Shares.

**Locked-Up Shareholders**

means the Executives, the Executive Shareholders and Target Shareholders with respect to a minimum percentage of the Target Shares acceptable to the Offeror in order to proceed with the Offer.

**Matched Superior Proposal**

has the meaning given in clause 7.5(b)(ii).

**Material Adverse Change**

means any matter, event or circumstance that occurs on or after the date of this agreement, which individually, or when aggregated with any other matters, events or circumstances of a like kind, has resulted in or could reasonably be expected to result in a material adverse effect on the financial position or performance, trading operations or prospects or assets of the Target as compared with the position immediately prior to the date of this agreement, (including the Target being unable to carry on its business in substantially the same manner as carried out before the date of this agreement), other than any matter, event or circumstance that arises from any change occurring (directly or indirectly) as a result of any matter, event or circumstance required or expressly permitted by this agreement, the Offer or the transactions contemplated by them, including any cost or expense associated with them.

**MIS Licence**

means the licence granted by the FMA to Augusta Funds Management Limited to manage managed investment

	schemes, on the terms and conditions fairly disclosed to the Offeror before the date of this agreement.
<b>Nominee</b>	means a nominee appointed by CNI for the purposes of clause 1.3.
<b>Notice Date</b>	means the date on which the Offeror gives the Takeover Notice under clause 3.1(a).
<b>NZX</b>	means the main board financial market operated by NZX Limited or, as applicable, NZX Limited itself.
<b>Offer</b>	means the full offer under Rule 8 of the Takeovers Code and on the Agreed Offer Terms, to be made by the Offeror to purchase 100% of the Target Shares that are not already held or controlled by the Offeror and that remain on issue.
<b>Offer Closing Date</b>	means the date upon which Target Shares are transferred to the Offeror pursuant to the Agreed Offer Terms.
<b>Offer Condition Date</b>	means the date that is 20 Business Days after the end of the Offer Period.
<b>Offer Conditions</b>	means the conditions of the Offer described in clause 3 of Schedule 1.
<b>Offer Document</b>	means the Offer and all accompanying information to be prepared by the Offeror in compliance with Rule 44 of the Takeovers Code.
<b>Offer Period</b>	means the period that the Offer is open for acceptance, as determined by the Offeror in accordance with the Takeovers Code.
<b>Offeror Counter Proposal</b>	has the meaning given in clause 7.5(b)(i).
<b>Offeror Group</b>	means the Offeror and each of its Related Companies and a reference to an <b>Offeror Group Member</b> is to the Offeror or any of its Related Companies.
<b>OIO</b>	means the New Zealand Overseas Investment Office.
<b>OIO Condition</b>	means the Offer Condition requiring OIO Consent.
<b>OIO Consent</b>	means all necessary consents or exemptions under the <i>Overseas Investment Act 2005</i> (NZ) and <i>Overseas Investment Regulations 2005</i> (NZ) to permit the Offeror to acquire all of the Target Shares under the Offer and Part 7 of the Takeovers Code.
<b>OIO Consent Application</b>	has the meaning given in clause 4.10(a)(i).

**Performance Rights** means share rights, being a conditional entitlement to a Target Share, granted by the Target under the Augusta Capital Long-Term Incentive Plan Rules dated July 2015 disclosed to the Offeror prior to the date of this agreement.

**Performance Rights Vesting Arrangements** has the meaning given in clause 9.2(c).

**Permitted Activities** means any of the following:

- (a) the investment of up to \$8,000,000 in Asset Plus' capital raising (including voting in favour of all resolutions associated with such capital raising and the development of the Munroe Lane, Albany property) and doing everything else necessary for the Target to complete such investment and to allow Asset Plus to complete such capital raising and associated shareholder approval);
- (b) entry into development/sale and purchase agreements with the Augusta Tourism Fund on materially the same terms as disclosed in the term sheets in the Data Room;
- (c) underwriting up to \$11,000,000 in the Augusta Property Fund and investing an additional \$9,000,000 in that fund;
- (d) underwriting up to \$16,000,000 in the Augusta Tourism Fund and investing an additional \$7,500,000 in that fund;
- (e) entering into underwriting agreements with third parties in relation to the Augusta Tourism Fund for an aggregate amount of up to \$37,500,000 of equity raised (under which a fee of up to 3% of the amount underwritten will be payable);
- (f) obtaining development facilities and a \$1,000,000 overdraft from ASB on terms disclosed to the Offeror prior to the date of this agreement;
- (g) increasing the "Investment Facility" with ASB by up to \$2,250,000 (and drawing down up to \$2,250,000) at the same time as acquiring units in the Augusta Property Fund;
- (h) fully repaying of the "Warehouse Facility" (approximately \$6,000,000) on or around the establishment of the Augusta Tourism Fund
- (i) carrying out and giving effect to annual salary reviews, and payment of short term incentives, in May 2020 in accordance with the Target Group's usual practice;

- (j) extending the term of fixed term employees or entering into permanent employment agreements with such employees;
- (k) extending the Augusta offices substantially in accordance with the plans/terms disclosed in the Data Room prior to the date of this agreement;
- (l) drawing down on any existing debt facilities;
- (m) paying up capital called by the Lakeview/Queenstown Partnership in accordance with the partnership agreement disclosed in the Data Room;
- (n) registering a Product Disclosure Statement for the Augusta Property Fund
- (o) distributing an Information Memorandum for the Augusta Tourism Fund to wholesale investors;
- (p) completing the Target Group's insurance renewal programme as at 31 March 2020 in accordance with usual practice;
- (q) taking out PDS liability insurance policies from time to time, including in respect of the Product Disclosure Statements for the Augusta Property Fund and the Augusta Tourism Fund;
- (r) the acquisition of any additional assets for any existing funds (for the avoidance of doubt, other than any interests in "sensitive land" (as defined in the Overseas Investment Act 2005 (NZ) and Overseas Investment Regulations 2005 (NZ)); and
- (s) the authorisation, announcement and payment of the Permitted Dividend, provided that this occurs after the date of this Agreement and on or before 31 March 2020.

**Permitted Dividend**

means a cash dividend for the calendar quarter ending 31 December 2019 of 1.625 cents per Target Share fully imputed with imputation credits of 0.632 cents per Target Share attached, as well as a supplementary dividend of 0.2868 cents per Target Share for non-resident Target Shareholders.

**Prescribed Occurrence**

means the occurrence of any of the events listed in Schedule 2 but excludes:

- (a) the Permitted Activities;
- (b) a matter required to be done or procured by the Target pursuant to, or which is otherwise contemplated by, this agreement or the Offer; or
- (c) a matter the undertaking of which has been approved by the Offeror in writing.

**Properties**

means any real property owned by the Target or a Target Group Member or the Offeror or an Offeror Group Member (as applicable) or in which the Target or a

	Target Group Member or the Offeror or an Offeror Group Member (as applicable) has an interest (directly or indirectly).
<b>Proposed Transaction</b>	means the acquisition of the Target Shares by the Offeror as set out in Schedule 1.
<b>Record Date</b>	has the meaning given to that term in Rule 3(1) of the Takeovers Code.
<b>Register</b>	means the share register of the Target.
<b>Regulatory Approval</b>	means any Approval of a Government Agency to the Offer or any aspect of it which is necessary or desirable to implement the Offer and Proposed Transaction.
<b>Regulatory Modifications</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the FMA has granted the Offeror an exemption from the FMCA exempting the Offeror from Part 3 of the FMCA in connection with the offer of CNI Securities as Consideration under the Offer in New Zealand, on terms and conditions materially consistent with the applicable provisions of the <i>Financial Markets Conduct (Antipodes Gold Limited) Exemption Notice 2016</i> (NZ) and otherwise on terms and conditions acceptable to the Offer (acting reasonably);</li> <li>(b) the Takeovers Panel has granted the Offeror (i) the exemption contemplated by clause 3.6; and (ii) an exemption from Rule 56 of the Takeovers Code in respect of the allotment of CNI Securities on compulsory acquisition under Part 7 of the Takeovers Code, in each case on terms and conditions acceptable to the Offeror (acting reasonably);</li> <li>(c) ASX has granted the Offeror a waiver of Listing Rules 7.1 and 10.11 allowing for the issue of CNI Securities under the Offer without obtaining the approval of CNI's members; and</li> <li>(d) ASX has confirmed to CNI that CNI does not require the approval of CNI's members for the purposes of Listing Rule 11.1.</li> </ul>
<b>Related Company</b>	has the meaning given to that term in section 2(3) of the Companies Act provided that a reference to a company in that section will refer to any company or body corporate, notwithstanding the jurisdiction of incorporation of the relevant company or body corporate, and, in respect of the Offeror, also means any other person which is directly or indirectly controlled by the Offeror or any person under common control with the Offeror.

<b>Relevant Target Individuals</b>	means Mark Francis, Bryce Barnett, Simon Woollams, Joel Lindsey, Louise Connell, Mark Madigan, Ben Harding, Stephen Brown-Thomas, Adelle McBeth, Luke Fitzgibbon and Will Ellison.
<b>Representative</b>	means, in respect of a party, its Related Companies and each director, officer, employee, Advisor, agent or representative of that party and its Related Companies.
<b>Sale Nominee</b>	has the meaning given in clause 3.6.
<b>Scrip Consideration</b>	means the scrip component of the Consideration being the CNI Securities to be issued as part of the Consideration as set out in the Agreed Offer Terms.
<b>Superior Proposal</b>	<p>means a bona fide Competing Proposal (and not resulting from a breach by the Target of its obligations under clause 7, it being understood that any actions by the Representatives of the Target in breach of clause 7 shall be deemed to be a breach by the Target for the purposes hereof) that the Target Independent Directors, acting in good faith, and after receiving written legal advice from its legal adviser (who must be a reputable legal adviser experienced in transactions in the nature of the transactions contemplated by this agreement) and written advice from its financial advisor in order to satisfy what the Target Independent Directors consider to be their fiduciary or statutory duties, determine:</p> <ul style="list-style-type: none"> <li>(a) is capable of being valued and completed, taking into account all aspects of the Competing Proposal, including any timing considerations, its conditions precedent and the identity of the proponent; and</li> <li>(b) would, if completed substantially in accordance with its terms, be more favourable to the Target Shareholders (as a whole) than the Offer, taking into account all the terms and conditions of the Competing Proposal and all aspects of the Offer, including consideration, conditionality, funding, certainty and timing.</li> </ul>
<b>Superior Proposal Notice</b>	has the meaning given in clause 7.5(a)(i)(A).
<b>Takeover Notice</b>	means a takeover notice to be sent by the Offeror to the Target in compliance with Rule 41 of the Takeovers Code, and having attached to it the Agreed Offer Terms and the other information required by the Takeovers Code.
<b>Takeovers Act</b>	means the <i>Takeovers Act 1993</i> (NZ).
<b>Takeovers Code</b>	means the takeovers code approved in the <i>Takeovers Regulations 2000</i> and includes any applicable exemption from those regulations.

<b>Takeovers Panel</b>	means the panel established under Part 1 of the Takeovers Act to administer and enforce the Takeovers Code.
<b>Target Board</b>	means the board of directors of the Target.
<b>Target Company Statement</b>	means the statement to be prepared by the Target and sent to every offeree of the Offer, in compliance with Rule 46 of the Takeovers Code, containing the information required by the Takeovers Code.
<b>Target Constitution</b>	means the constitution of the Target, as amended from time to time.
<b>Target Costs</b>	means all actual costs or out of pocket expenses payable by the Target in connection with the Offer incurred on and from the date of this agreement except in respect of the OIO research report, in relation to which Target Costs are to include only half of the actual third party costs of the OIO research report, and includes fees payable to Cameron Partners Limited as disclosed to the Offeror prior to the date of this agreement.
<b>Target Director</b>	means a director of the Target.
<b>Target Group</b>	means the Target and each of its Related Companies and a reference to a <b>Target Group Member</b> is to the Target or any of its Related Companies.
<b>Target Independent Director</b>	means an independent director of the Target.
<b>Target Information</b>	means the information provided by the Target to the Offeror or CNI for inclusion in the Offer Document or any Disclosure Document.
<b>Target Share</b>	means a fully paid ordinary share in the capital of the Target.
<b>Target Shareholder</b>	means a registered holder of one or more Target Shares.
<b>Timetable</b>	means the indicative timetable in relation to the Offer, as set out in Schedule 3, or such other indicative timetable as the parties agree in writing.
<b>Unmatched Superior Proposal</b>	means a Superior Proposal in respect of which: <ul style="list-style-type: none"> <li>(a) the Offeror does not provide an Offeror Counter Proposal under, and within the timeframe contemplated by, clause 7.5(a)(ii); or</li> <li>(b) the Offeror provides an Offeror Counter Proposal under, and within the timeframe contemplated by, clause 7.5(a)(ii), but which is not a Matched Superior Proposal.</li> </ul>



## 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this agreement.
- (f) A reference to an agreement or document (including a reference to this agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this agreement or that other agreement or document.
- (g) A reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to \$ is to the lawful currency of New Zealand.
- (j) Words and phrases not specifically defined in this agreement have the same meanings (if any) given to them in the Companies Act.
- (k) A reference to time is a reference to time in New Zealand.
- (l) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.
- (m) The meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions.
- (n) A reference to a party using its best endeavours or reasonable endeavours does not include a reference to that party paying money or providing other valuable consideration to or for the benefit of any person (and an obligation on a party to use its best or reasonable endeavours does not oblige that party to pay money or provide other valuable consideration to or for the benefit of any person) or agreeing to commercially onerous or unreasonable conditions.
- (o) A reference to a fact, matter, circumstance or thing being fairly disclosed to a person means disclosed in writing to any of that person or any of that person's advisers in good faith and in sufficient detail so as to reasonably apprise a person (or one of its advisers) as to the nature and scope of the relevant fact, matter, circumstance or thing.

## 1.3 Use of Nominee

CNI may, by notice to the Target, nominate another person which is ultimately wholly owned by CNI (**Nominee**) to make the Offer and to comply with the Offeror's other obligations under this agreement. If CNI makes, and the Nominee accepts in writing, such a nomination, then from the date of that nomination:

- (a) the Nominee must comply with the Offeror's obligations, and will be entitled to the Offeror's rights and entitlements, under this agreement, as if the Nominee had entered into this agreement as the Offeror;
- (b) to the extent applicable in the circumstances, references in this agreement to the Offeror will be references to the Nominee;
- (c) the Offeror will have no obligations or liabilities under this agreement (except for liabilities that accrued prior to the nomination of the Nominee); and
- (d) CNI guarantees to the Target the due and punctual performance of the Offeror's and Nominee's obligations and discharge of their liabilities under this agreement.

## 2. Agreed Announcements

---

### 2.1 Agreed Announcements

- (a) On signing this agreement, the parties will make the Agreed Announcements.
- (b) The Target's announcement must include a unanimous recommendation by the Target Independent Directors that, in the absence of a Superior Proposal and subject to the Consideration being within the Independent Adviser's valuation range for the Target Shares, Target Shareholders accept the Offer and that, subject to the same qualifications, a statement that the Target Independent Directors will accept the Offer in respect of 100% of the Target Shares that they own or control.

### 2.2 Subsequent announcements and disclosure

Without limiting clause 5, where a party proposes to make any public announcement in connection with the Offer or the Proposed Transaction, it must to the extent practicable and lawful to do so, consult with the other parties prior to making the relevant disclosure and take account of any reasonable comments received from the other parties in relation to the form and content of the announcement or disclosure.

## 3. Takeover Offer

---

### 3.1 Making of Offer

The Offeror must:

- (a) send the Takeover Notice to the Target in accordance with Rule 41 of the Takeovers Code, and the Offeror will use its best endeavours to do so in accordance with the Timetable; and
- (b) make the Offer (by sending the Offer Document to the Target Shareholders) as soon as reasonably practicable and, in any event, not earlier than 10 Business Days and not later than 20 Business Days after sending the Takeover Notice to the Target.

### 3.2 Agreed Offer Terms

- (a) The Offer will be made on:
  - (i) the terms set out in Schedule 1; and

- (ii) such other terms as are reasonably determined by the Offeror, provided that such terms are not inconsistent with the terms set out in Schedule 1.
- (b) The Offer will be conditional only on the Offer Conditions. The Offeror may, in preparing the Takeover Notice and the Offer Document, amend the language of the Offer Conditions as it considers appropriate, provided that such amendments do not materially change the scope or nature of any Offer Condition.
- (c) Without limiting sub-clause (a)(ii), the Offeror may include customary terms in the Takeover Notice and the Offer to adjust the Offer consideration for any change to the capital structure of the Target (other than in respect of Target Shares which are issued in respect of the Performance Rights that vest in accordance with the Performance Rights Vesting Arrangements).
- (d) Each Offer Condition will be a separate and independent condition of the Offer. To the extent permitted by law, the Offeror may waive any or all of the Offer Conditions, in whole or in part, in the Offeror's discretion.
- (e) Before the Offeror makes the Offer, the Offeror may amend the Offer Terms with the Target's prior consent, and each reference to Agreed Offer Terms in this agreement will be a reference to such terms as amended with the Target's consent.
- (f) For the avoidance of doubt, the Offeror is entitled to complete the Offer Document by inserting all necessary dates, and to include the information required by schedule 1 of the Takeovers Code.

### 3.3 Offer Conditions not met

If any of the Offer Conditions are not satisfied or waived:

- (a) before the Offeror makes the Offer; or
  - (b) after the Offeror makes the Offer and by the Offer Condition Date,
- then the Offeror and CNL may terminate this agreement by written notice to the Target.

### 3.4 Variation of Agreed Offer Terms

The Offeror will be entitled to:

- (a) make any changes to the Agreed Offer Terms as are required by the Takeovers Panel to comply with the Takeovers Code;
- (b) make any changes to the Agreed Offer Terms permitted by Rule 44 of the Takeovers Code or any exemption from the Takeovers Code; and
- (c) vary of the Offer in accordance with the Takeovers Code.

### 3.5 Target's assessment of the Offer

The Target represents and warrants that:

- (a) the Target Board has met and considered the possibility of the Offeror agreeing to make the Offer; and
- (b) the Target Independent Directors have informed the Target that, if the Offeror complies with clause 3.1, they will unanimously:
  - (i) recommend that Target Shareholders accept the Offer; and

- (ii) accept the Offer in respect of 100% of the Target Shares that they own or control,

subject in each case only to:

- (iii) there being no Superior Proposal; and
- (iv) the Independent Adviser's Report concluding, and continuing to conclude, that the Consideration is within or above the Independent Adviser's valuation range for the Target Shares.

### 3.6 Ineligible Overseas Target Shareholders

The Offeror will, as soon as reasonably practicable after the date of this agreement, apply to the Takeovers Panel for an exemption from Rule 20 of the Takeovers Code to facilitate the following:

- (a) the Offeror will appoint a person acceptable to the Takeovers Panel as a nominee for the purposes of this clause 3.6 (**Sale Nominee**);
- (b) CNI will be under no obligation under the Offer to issue, and will not issue, any CNI Securities to any Ineligible Overseas Target Shareholder, and instead will issue the CNI Securities to which that Ineligible Overseas Target Shareholder would otherwise have been entitled to the Sale Nominee; and
- (c) CNI will use its best endeavours to ensure that, as soon as reasonably practicable, the Sale Nominee sells the CNI Securities issued to the Sale Nominee and pays to each Ineligible Overseas Target Shareholder the relevant share of the proceeds of sale (less applicable brokerage costs and taxes) to which the Ineligible Overseas Shareholder is entitled.

### 3.7 Ranking of CNI Securities

The CNI Securities issued as Scrip Consideration must, on their issue, rank equally in all respects with all other CNI Securities then on issue.

## 4. Facilitation of the Offer

---

### 4.1 Timing

- (a) The Offeror and the Target agree that the Offer Document and the Target Company Statement will be sent to Target Shareholders in the same envelope.
- (b) The Offeror and the Target will co-operate with each other, and work together, in good faith to ensure compliance with clause 4.1(a).
- (c) Without limiting clause 4.1(b), the Target will deliver printed Target Company Statements to the share registrar and mailing house appointed by the Offeror to send the Offer to the Target Shareholders in Auckland by 5:00pm on the date that is eight Business Days prior to the date on which the Offeror proposes to despatch the Offer (as notified by the Offeror to the Target not fewer than 15 Business Days before the date on which the Offeror proposes to despatch the Offer).

### 4.2 No alternative offer

CNI must not, and must procure that none of its related bodies corporate (as defined in the Corporations Act), make an offer to acquire all of the Target Shares other than in accordance with this agreement before 30 April 2020, without the consent of the Target Independent Directors.

#### 4.3 Reasonable assistance

The Target and the Offeror will use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers) to:

- (a) provide reasonable assistance to each other to complete the disclosures required by schedule 1 to the Takeovers Code (in respect of the Takeover Notice and the Offer Document) and schedule 2 to the Takeovers Code (in respect of the Target Company Statement); and
- (b) implement the Proposed Transaction in accordance with the Timetable (it being acknowledged that the Timetable is indicative only),

subject to compliance with their respective obligations, powers and duties under this agreement and all applicable laws and the Listing Rules and the proper performance by the directors of each of the Offeror and the Target of their duties.

#### 4.4 Offer Document and Target Company Statement

- (a) The Offeror will, to the extent practicable, give the Target a reasonable opportunity to review an advanced draft of the Offer Document, and will consult in good faith with the Target with respect to any comments the Target may have.
- (b) The Target will, to the extent practicable, give the Offeror a reasonable opportunity to review an advanced draft of the Target Company Statement and will consult in good faith with the Offeror with respect to any comments the Offeror may have.
- (c) The Offeror must prepare the Takeover Notice and Offer Document in accordance with all laws, including the Takeovers Code.
- (d) The Target must prepare the Target Company Statement in accordance with all laws, including the Takeovers Code.

#### 4.5 Target's obligations

The Target must:

- (a) include in the Target Company Statement a statement by:
  - (i) the Target Independent Directors unanimously recommending that Target Shareholders accept the Offer; and
  - (ii) the Target Directors that each of them will accept the Offer in respect of 100% of the Target Shares that they own or control within 2 Business Days after the Offeror makes the Offer pursuant to clause 3.1(b),
 subject to no changes having been made to the terms of the Offer in breach of this agreement and the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Target Shares and there being no Unmatched Superior Proposal;
- (b) promptly provide any assistance or information reasonably requested by the Offeror in connection with the preparation of the Offer Document and any Disclosure Document;
- (c) promptly provide to the Offeror any further new information which may arise after the date of the Offer Document or any Disclosure Document which is necessary to ensure that the Offer Document or any Disclosure Document (insofar as it discloses information relating to the Target) does not contain any

material statement that is false or misleading in any material respect and is not misleading or deceptive in any material respect (whether by omission or otherwise) provided that in providing any such new information the Target gives no warranty in respect of such information including as to its accuracy or completeness;

- (d) provide the Offeror and its Representatives reasonable access to such documents, records and other information (subject to existing confidentiality obligations owed to third parties), premises, personnel and Advisers of the Target and such reasonable co-operation as the Offeror requires for the purposes of the Offer provided that nothing in this clause 4.5(d) requires the Target to provide the Offeror information concerning the Target's consideration of the Offer;
- (e) upon the successful completion of the Offer, procure that Target Directors and senior management of the Target shall do all such things as are reasonably necessary to deliver effective control of the Target to the Offeror, including but not limited to:
  - (i) appointment of Offeror representatives as directors of the Target;
  - (ii) transfer of all authorities to operate bank accounts held by the Target as nominated by the Offeror; and
  - (iii) provision of the company records of the Target to the Offeror; and
- (f) do everything reasonably within its power to ensure the Proposed Transaction is effected in accordance with all applicable laws and regulations.

#### 4.6 **Change of control provisions**

- (a) As soon as practicable after the date of this agreement, the parties must seek to identify any change of control or unilateral termination rights in any material contracts (in addition to those referred to in paragraph 3(i) of Schedule 1) to which the Target or a Target Group Member is party which may be triggered by or exercised in response to the implementation of the Proposed Transaction and in respect of which, if a consent, confirmation, waiver or release were not obtained from the relevant counterparty, the Proposed Transaction would not be able to be completed or the failure to obtain it would or may result in a Material Adverse Change.
- (b) In respect of such contracts:
  - (i) the parties will agree a proposed course of action and then the Target will initiate contact, including joint discussions, if required, with the relevant counterparties and request that they provide any consents, confirmations, waivers or releases (as applicable) required or appropriate; and
  - (ii) the Target must take all reasonable action necessary to obtain such consents, confirmations, waivers or releases (as applicable) as expeditiously as possible, including by promptly providing any information reasonably required by counterparties. The Target must not incur any obligations or liabilities or provide any consideration (other than nominal consideration) in relation to such consents and confirmations without the Offeror's prior written consent (not to be unreasonably withheld or delayed).

#### 4.7 Offer Conditions

- (a) Subject to clause 4.7(b), the Target agrees not to do (or omit to do) anything which will, or is likely to, result in any of the Offer Conditions being breached, or not being, or not being capable of being, satisfied.
- (b) Nothing in this clause prevents the Target or the Target Board from taking, or failing to take, action where to do otherwise would, in the reasonable opinion of the Target Board, constitute a breach of any of the duties of the Target Directors provided that such act or omission does breach Rule 38 of the Takeovers Code. The reasonable opinion of the Target Board must be based on specific written legal, and any other appropriate advice.
- (c) The Target agrees to use, and to procure that each of its directors uses, all reasonable endeavours and cooperate with any reasonable request of the Offeror to ensure the satisfaction of the Offer Conditions.
- (d) Each party must immediately notify the other if it becomes aware that an Offer Condition has been or is likely to be breached or become incapable of satisfaction.

#### 4.8 Regulatory matters

Without limiting clause 4.10, but subject to clause 4.9, each of the Target and the Offeror must promptly apply for all relevant Regulatory Approvals and Regulatory Modifications (as applicable) and take all steps it is responsible for as part of the approval process, including responding to requests for information at the earliest practicable time.

#### 4.9 Provision of undertakings

Notwithstanding any other provision of this agreement, for the purposes of satisfying any Regulatory Approval or Regulatory Modification, no party is required to agree to any adverse conditions or to provide or to agree to provide any adverse written undertakings to a Government Agency which are not acceptable to that party.

#### 4.10 Obligations to satisfy OIO consent condition

- (a) **Offeror consent obligations:** The Offeror must:
  - (i) file an application with the OIO for OIO Consent (**OIO Consent Application**), and must use its best endeavours to do so in accordance with the Timetable;
  - (ii) provide the Target with a reasonable opportunity to review and comment on the OIO Consent Application prior to filing with the OIO (provided that any commercially sensitive information in such, application will be provided only to Target's legal counsel on a counsel-only basis);
  - (iii) obtain the prior written approval (such approval not to be unreasonably withheld or delayed) of the Target with respect to any post-filing modifications to be made to the OIO Consent Application or other filing with the Offer;
  - (iv) consult with, and provide information to, the Target concerning any proposed material submission or response by the Offeror to the OIO or any material correspondence with the OIO;



- (v) promptly provide the Target with copies of all material documents in connection with the OIO Consent Application and all related material correspondence with the OIO, provided that any commercially sensitive information in each such notice, application and other document will be provided only to Target's legal counsel on a counsel-only basis;
  - (vi) diligently progress its applications (including by responding to the OIO in a fulsome and timely manner, and where reasonably applicable in compliance with prescribed timeframes, in respect of all its reasonable questions and other correspondence so as to expedite satisfaction of the OIO Condition;
  - (vii) keep the Target fully informed as to progress in procuring the satisfaction of the OIO Condition; and
  - (viii) other than on termination of this agreement or the Offer, not withdraw or procure the withdrawal of the OIO Consent Application.
- (b) **Terms of consent:** The Offeror may not withhold its approval to the terms of any consent or conditions of consent granted by the OIO if the terms or conditions imposed are the standard terms or conditions of consent available on the OIO website as at the date of this agreement.
  - (c) **Extension of Offer:** The Offeror will extend the Offer Period one or more times in compliance with the Takeovers Code, up to the maximum period permitted by the Takeovers Code, until the OIO Condition is satisfied.
  - (d) **Vendor Information Form:** The Target must provide a vendor information form to the OIO, in the form prescribed by the OIO, within 5 Business Days after the Offeror has filed the OIO Consent Application with the OIO. The Target must provide a draft of the vendor information form a reasonable time prior to filing the form with the OIO and must take into account the Offeror's reasonable comments on the draft.

#### 4.11 OIO Lakeview site

- (a) The Target, acting reasonably, will consult in good faith with the Offeror regarding the Overseas Investment Office consent application in respect of the Lakeview site in Queenstown and any potential variation to that consent application in connection with, or as a result of, the Offer.
- (b) The Target will use its reasonable endeavours to ensure that:
  - (i) the Offeror is provided with an opportunity to review any draft variation to that consent application, and that the Offeror's reasonable comments on that draft variation are taken into account, before the variation is submitted to the Overseas Investment Office;
  - (ii) the Offeror is promptly provided with all material correspondence with the Overseas Investment Office regarding the consent application;
  - (iii) the Offeror is kept updated in respect of the progress of the consent application; and
  - (iv) the Offeror's reasonable comments on matters which may affect the Augusta Group after completion of the Offer are taken into account in respect of the consent application.



## 5. Disclosure Document

---

### 5.1 Preparation

Without limiting clause 4.5, CNI is responsible for the preparation of any Disclosure Document.

### 5.2 Content of Disclosure Document

The Offeror must obtain approval from the Target for the form and context in which any Target Information appears in a Disclosure Document and is stated in it to be sourced from the Target, which approval must not be unreasonably delayed or withheld.

### 5.3 Target Information

The Target:

- (a) must consult with the Offeror and CNI as to the content of the Target Information; and
- (b) must not unreasonably delay or withhold their consent to the inclusion of the Target Information in the form, content and context included by the Offeror in a Disclosure Document.

### 5.4 Misleading or deceptive information

Until the Offer Closing Date, each party must promptly inform the other if it becomes aware that any information in a Disclosure Document, in the form and context in which it appears in the Disclosure Document, is or has become untrue or incorrect or misleading or deceptive in any material respect (whether by omission or otherwise) having regard to applicable disclosure requirements and provide to the other party any information that is required to ensure that the information in the Disclosure Document can be updated so that it is no longer misleading or deceptive.

## 6. Conduct of business

---

### 6.1 Conduct of the Target's business

From the Notice Date until the Offer Closing Date, the Target must, unless the Offeror otherwise consents in writing (such consent not to be unreasonably withheld):

- (a) conduct its business and operations, and must cause each Target Group Member to conduct its respective business and operations, in the usual and ordinary course consistent with past practice or as may be required in order to satisfy a specific requirement of a Government Agency; and
- (b) ensure that there is no Prescribed Occurrence.

### 6.2 Permitted acts

Nothing in clause 6.1 restricts a party (for the avoidance of doubt, including any Target Group Member) from doing any of the following permitted actions:

- (a) that is a Permitted Activity;
- (b) that is contemplated by this agreement;
- (c) that is required to give effect to the transactions which are contemplated by the Product Disclosure Statements for the Augusta Property Fund and the Augusta Tourism Fund;

- (d) that is required to reasonably and prudently respond to an emergency or disaster or to address an occupational health and safety risk or issue that directly affects the party's business or the Properties (including a situation giving rise to a risk of personal injury or damage to property);
- (e) that is necessary in order for the party to comply with that party's duties as manager in respect of any fund;
- (f) that is necessary for the party to meet a material contractual obligation or comply with an express statutory provision; or
- (g) that is approved by the other party in writing, such approval not to be unreasonably withheld or delayed.

### 6.3 D&O insurance and PI insurance

The Offeror will procure that:

- (a) directors' and officers' insurance cover for the current directors and officers of the Target will apply (on terms no less favourable to the Target's directors and officers than the directors' and officers' insurance which applies as at the date of this agreement) for a period of 7 years from the Offer Closing Date; and
- (b) the Target Group's existing professional indemnity insurance policies are maintained in effect for a period of at least 7 years from the Offer Closing Date.

### 6.4 Augusta Property Fund

The Offeror warrants and represents to the Target that:

- (a) it has reviewed the draft Product Disclosure Statement relating to the Augusta Property Fund provided to Harmos Horton Lusk on 24 January 2020;]
- (b) none of the statements in that Product Disclosure Statement which relate to the Offeror or its Related Companies is incorrect or misleading (including by omission); and
- (c) if the Offer is successful, the Offeror will procure that the Augusta Property Fund is managed and operated in a manner that is substantially consistent with the strategy set out in that Product Disclosure Statement.

## 7. Exclusivity

---

### 7.1 No existing discussions

The Target represents and warrants that:

- (a) the Target Independent Directors have ceased negotiations and/or discussions including any negotiations and/or discussion with any other person regarding a Competing Proposal; and
- (b) the Target Independent Directors are not currently in negotiations or discussions in respect of any Competing Proposal with any other person.

### 7.2 No shop and no talk restriction

During the Exclusivity Period, the Target must not, and must ensure that each of its Representatives do not, directly or indirectly:

- (a) **No shop:**

- (i) solicit, invite, initiate, encourage or progress the submission of a Competing Proposal or any enquiries, negotiations or discussions, which might reasonably be expected to encourage or lead to obtaining any expression of interest, offer or proposal from any person in relation to an actual, proposed or potential Competing Proposal; or
  - (ii) communicate to any person an intention to do any of the things referred to in clause 7.2(a)(i).
- (b) **No talk:**
- (i) participate in or continue any negotiations or discussions with respect to any enquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Proposal or participate in or continue any negotiations or discussion with respect to any actual, proposed or potential Competing Proposal;
  - (ii) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Proposal;
  - (iii) disclose or otherwise provide any material non-public information about the business or affairs of the Target Group to any person other than the Offeror or CNI (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to encourage or lead to receipt of, an actual, proposed or potential Competing Proposal (including providing such information for the purposes of the conduct of due diligence investigations in respect of the Target); or
  - (iv) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause,
- but nothing in this clause 7.2 prevents the Target from:
- (c) making normal presentations to, or responding to enquiries from, shareholders, brokers, portfolio investors and analysts in the ordinary course of business, providing customary reporting to its bankers or promoting the merits of the Offer; or
  - (d) providing information required by any Government Agency or in order to comply with law (including the Takeovers Code) or the Listing Rules.

### 7.3 Fiduciary exception

- (a) The Target and its Representatives may undertake any action that would otherwise be prohibited by clause 7.2(b), and may enter into confidentiality arrangements to facilitate that provision of information, in relation to a potential or proposed bona fide Competing Proposal which was not solicited by the Target (or its Representative) and was not otherwise brought about as a result of any breach by it of its obligations under clause 7.2, if the Target Independent Directors, acting in good faith, after having obtained and considered written advice from the Target's external legal adviser (who must be a reputable legal adviser experienced in transactions in the nature of the transactions contemplated by this agreement) and, if the Target considers it appropriate, financial advisers, determine that such potential or proposed bona fide Competing Proposal may result in a Superior Proposal.

- (b) Clause 7.3(a) does not limit any other provision of this clause 7, including clauses 7.4 and 7.5.
- (c) For the purposes of this clause 7, a potential bona fide Competing Proposal is "not solicited" only if it did not result, directly or indirectly, from a breach of the Target's undertakings set out in clause 7.2(a).

#### 7.4 Notification of approaches

- (a) **Notification:** If the Target or its Representatives receives:

- (i) a Competing Proposal;
- (ii) any approach, inquiry or proposal made to, and any attempt to initiate negotiations or discussions with, the Target or any of its Representatives with respect to a Competing Proposal; or
- (iii) any request for information relating to any Target Group Member, or any of their businesses, assets or operations, if the Target has reasonable grounds to suspect that it may relate to a Competing Proposal,

whether direct or indirect, whether solicited or unsolicited, and in writing or otherwise, the Target must notify the Offeror in writing of such matter within two Business Days.

- (b) **Notification details:** A notification given under clause 7.4(a) must include the identity of the relevant person, together with details of the relevant consideration and a summary of the material terms and conditions of the relevant Competing Proposal, enquiry, approach, offer, bid, proposal or request.
- (c) **Updates:** If, after giving notice under clause 7.4(a), a third party updates or amends an enquiry, approach, offer, bid, proposal or request in a manner which is material, the Target must notify the Offeror of the update or amendment in accordance with clause 7.4(b) (which will apply with all necessary modifications).
- (d) **New information:** if, to the extent permitted by clause 7.3, the Target or its Representatives provide, in connection with a potential or proposed bona fide Competing Proposal, any relevant third party or the third party's Representatives with any non-public information relating to any Target Group Member, or any of their businesses or operations, which has not been provided to the Offeror or CNI (**New Information**), the Target must promptly provide that information to the Offeror. New Information does not include information which is immaterial or irrelevant in the context of the Offer.

#### 7.5 Matching right for Superior Proposals

- (a) **Receipt of Superior Proposals:** If the Target receives a Competing Proposal which is a Superior Proposal, the Target must within two Business Days after the Target Independent Directors have determined that the Competing Proposal is a Superior Proposal:
  - (i) provide the Offeror with:
    - (A) written notification (**Superior Proposal Notice**) of the material terms and conditions of the Superior Proposal (including price and details of the party making the proposal and such notification must state that it is a "Superior Proposal Notice"); and

- (B) at the same time, any New Information provided to the third party proposing the Superior Proposal (or that third party's Representatives) to the extent not already provided under clause 7.4(d); and
  - (ii) give the Offeror at least five Business Days after the provision of the Superior Proposal Notice to provide an irrevocable offer of a matching or superior proposal to the terms of the relevant Superior Proposal which, if accepted by the Target, will be legally binding on the Offeror.
- (b) **Consideration of Offeror's Counter Proposal**
  - (i) The Target must use its best endeavours to procure that the Target Independent Directors, within two Business Days of receiving from the Offeror an irrevocable offer which the Offeror in good faith considers to be a matching or superior proposal to the terms of the relevant Superior Proposal (**Offeror Counter Proposal**), consider that offer in good faith (including obtaining advice on the Offeror Counter Proposal from the Target's external financial and legal advisers) and determine whether the terms and conditions of the Offeror Counter Proposal, taken as a whole, are no less favourable for the Target Shareholders, as a whole, and notify the Offeror in writing of that determination.
  - (ii) If the Target Independent Directors determine that the terms and conditions of the Offeror Counter Proposal taken as a whole are no less favourable for the Target Shareholders as a whole than those of the relevant Superior Proposal (**Matched Superior Proposal**), then:
    - (A) the Target and the Offeror and, to the extent required, CNI, must each use their best endeavours to agree and enter into such documentation as is reasonably necessary to give effect to and implement the Offeror Counter Proposal as soon as reasonably practicable; and
    - (B) the Target must use its best endeavours to procure that each of the Target Independent Directors makes a public statement recommending the Offeror Counter Proposal to the Target Shareholders, which recommendation may be expressed to be subject to their being no further Unmatched Superior Proposal.
- (c) **Public announcement:** Notwithstanding anything to the contrary in this clause 7, if the Target receives a Superior Proposal Notice in accordance with this clause 7.5, the Target may announce to NZX and ASX, or advise Target Shareholders directly, that the Target has received a Superior Proposal and that it has provided the Offeror with the opportunity to provide a Matched Superior Proposal.

## 7.6 Successive amendments

Each successive amendment to or modification of any Superior Proposal that results in a material change to the Superior Proposal (including an increase in the consideration (or value of such consideration) to be received by the Target Shareholders) will constitute a new Superior Proposal for the purposes of clause 7.5.

## 7.7 Freedom to progress Unmatched Superior Proposal

If:

- (a) the Target Independent Directors determine a Competing Proposal to be a Superior Proposal;
- (b) the Target complies with clause 7.5; and
- (c) either:
  - (i) the Offeror does not provide an Offeror Counter Proposal under, and within the timeframe contemplated by, clause 7.5(a)(ii); or
  - (ii) the Offeror provides an Offeror Counter Proposal under, and within the timeframe contemplated by, clause 7.5(a)(ii), but the Target Independent Directors determine that the Offeror Counter Proposal is not a Matched Superior Proposal,

then:

- (d) the Exclusivity Period will cease, as applicable:
  - (i) on the expiry of the time period contemplated by clause 7.5(a)(ii); or
  - (ii) (if later) at the time at which the Target notifies the Offeror of the determination of the Target Independent Directors under clause 7.5(b)(i) that the Offeror Counter Proposal is not a Matched Superior Proposal; and
- (e) the Offeror and CNL may terminate this agreement by notice to the Target, in which case clause 10.3 will apply.

## 7.8 Exception for competing takeover offer

Nothing in this clause 7 prevents the Target or Target Directors from complying with their respective obligations under the Takeovers Code in response to a competing takeover offer under the Takeovers Code (including any notice of intention to make a competing takeover offer under Rule 41 of the Takeovers Code), provided that the Target must procure that none of the Target Independent Directors recommend acceptance of a competing takeover offer unless the competing takeover offer becomes an Unmatched Superior Proposal. In this clause 7.8, a "competing takeover offer" means a full or partial takeover offer under the Takeovers Code for securities of the Target which is made by any person other than the Offeror.

## 8. Reimbursement of Costs

### 8.1 Background and acknowledgments

- (a) The parties acknowledge that the Target and the Offeror (and their Related Companies) have incurred, and will continue to incur, significant costs and expenses in pursuing the Offer.
- (b) In the circumstances referred to in clause 8.1(a), the parties have negotiated the inclusion of this clause 8, and would not have entered into this agreement without it.
- (c) The Target and the Offeror each acknowledge and agree that:
  - (i) the Offer, if accepted, in the opinion of that party, is likely to provide significant benefits to that party (and its shareholders) such that it is reasonable and appropriate for the parties to agree to the Break Fee and the Target Costs (as applicable) in order to secure the other party's participation in the Offer; and

- (ii) it has received advice from its external legal advisers in relation to the operation of this clause 8.
- (d) The Target and the Offeror each acknowledge that the amount payable by the Target or the Offeror (as applicable) under this clause 8 represents a reasonable amount to compensate the other for the following:
  - (i) advisory costs (including costs of Advisers);
  - (ii) costs of management and directors' time;
  - (iii) out of pocket expenses;
  - (iv) in the case of the Offeror, the reasonable opportunity costs in pursuing the Offer or not pursuing other alternative transactions or strategic initiatives and, should the Offer not be successful, the loss of opportunity; and
  - (v) in the case of the Target, the disruption caused to the Target Group's business as a result of the announcement of the arrangement with the Offeror and the diversion of resources from the Target Group's ordinary operations as a result of pursuing the Offer,

and the parties agree to that to the extent to which the costs and expenses actually incurred by the relevant party and its Related Companies in relation to the Offer cannot be accurately ascertained, the Target Costs and the Break Fee are a genuine and reasonable pre-estimate of those costs.

## 8.2 Target Costs

The Offeror must pay the Target an amount equal to the Target Costs (up to a maximum of \$2,000,000) within five Business Days of the Target providing the Offeror with notice in writing of the Target Costs if:

- (a) the Offeror decides not to proceed with the Offer other than by reason of the Conditions Precedent or the Offer Conditions not being, or becoming incapable of being, satisfied; or
- (b) the Offeror breaches a material provision of this agreement (including a breach of warranty) and, to the extent that the breach is capable of remedy, that breach is not remedied by the Offeror within five Business Days of it receiving notice from the Target of the details of the breach,

provided that:

- (c) the Offeror has not provided a Takeover Notice under clause 3.1(a);
- (d) the Target terminates this agreement; and
- (e) the Offeror is not required to pay any Target Costs under 8.2(b) if the Target (or any Target Group Member) has caused or materially contributed to such breach.

The Target agrees that the Offeror's maximum liability under this clause 8.2 and under section 49 of the Takeovers Act is limited to, and will not exceed, \$2,000,000 in aggregate.

## 8.3 Break Fee

- (a) Subject to clauses 8.3(b) and 8.3(c), the Target must pay to the Offeror the Break Fee, without withholding or set off, within five Business Days of receiving a written demand from the Offeror for payment of the Break Fee if:



- (i) during the Offer Period and up until and including the Offer Condition Date, any Target Independent Director fails to recommend that Target Shareholders accept the Offer, or publicly changes (including by attaching qualifications to) or withdraws (including by abstaining) that recommendation;
  - (ii) a Competing Proposal is announced or made before the Offer Condition Date and is publicly recommended, promoted or otherwise endorsed by the Target Board or by any of the Target Directors;
  - (iii) any Target Director who holds Target Shares or who has control over Target Shares (**Target Director Target Shares**) does not accept the Offer (or procures that any Target Director Target Share is not accepted into the Offer), other than where the Target receives a Competing Proposal and a majority of the Target Board determines that the Competing Proposal constitutes an Unmatched Superior Proposal and, after considering the matter in good faith, recommends that Target Shareholders accept, or vote in favour of, the Competing Proposal;
  - (iv) a Competing Proposal is announced or made before the Offer Condition Date and is completed at any time prior to the first anniversary of the date of this agreement and, as a result, a third party acquires a Relevant Interest and/or economic interest in at least 50% of the Target Shares;
  - (v) the Target breaches a material provision of this agreement (including a breach of warranty) and, to the extent that the breach is capable of remedy, that breach is not remedied by the Target within five Business Days of it receiving notice from Offeror of the details of the breach; or
  - (vi) a Prescribed Occurrence occurs between the date of this agreement and the Offer Closing Date.
- (b) Despite any other term of this agreement, the Target will not be required to pay the Break Fee more than once.
  - (c) Despite any other term of this agreement, the Break Fee will not be payable to the Offeror if the Offer is completed notwithstanding the occurrence of any event in clause 8.3(a) (in which case the Break Fee, if already paid, must be refunded by the Offeror).

#### 8.4 **Sole and exclusive remedy**

The Offeror acknowledges and agrees that payment of the Break Fee is the sole and exclusive remedy available to Offeror in connection with any event or occurrence referred to in clause 8.3(a) and Target is not liable for any loss or damage arising in connection with any such event or occurrence other than for any liability that it may have to pay the Offeror the Break Fee under clause 8.3.

## 9. **Warranties**

### 9.1 **General**

Each party represents and warrants to the other that, at the date of this agreement:

- (a) it is duly incorporated under the laws of the place of its incorporation;
- (b) it has the power and authority to sign this agreement and, subject to the Regulatory Modifications being made, perform and observe all its terms;



- (c) this agreement has been duly executed and, subject to the Regulatory Modifications being made, is a legal, valid and binding agreement, enforceable against it in accordance with its terms;
- (d) it is not bound by any contract which may restrict its right or ability to enter into or perform this agreement;
- (e) no resolutions have been passed and no other step has been taken or legal proceedings commenced or threatened against it for its winding up or deregistration or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets;
- (f) no regulatory action of any nature has been taken, which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this agreement; and
- (g) it is not aware of any act, omission, event or fact that would result in one or more of the Offer Conditions set out in Schedule 1 being triggered, except as disclosed by the party to the other party in writing prior to the date of this agreement.

## 9.2 Target warranties

Target represents and warrants to the Offeror as at the date of this agreement that:

- (a) to the best of the knowledge of the Relevant Target Individuals, the information provided by the Target to the Offeror and CNI in the Data Room other than any forward-looking information is true and correct in all material respects (provided for the avoidance of doubt that nothing in this clause will give rise to any personal liability of the Relevant Target Individuals to the Offeror);
- (b) it and its Associates in aggregate hold or control no more than 20% of the voting rights in any company which is a “code company” for the purposes of the Takeovers Code (including Asset Plus Limited); and
- (c) prior to the date of this agreement it entered into arrangements with the holders of all of the Performance Rights under which the Target agreed to vest all of the Performance Rights prior to the Offeror sending the Takeover Notice to the Target, as disclosed to the Offeror prior to the date of this agreement (**Performance Rights Vesting Arrangements**).

## 9.3 Offeror warranties

The Offeror represents and warrants to the Target that:

- (a) subject to the announcement of the Offer in accordance with this agreement, CNI is not in breach of its continuous disclosure obligations under the Listing Rules;
- (b) neither the Offeror nor CNI is the subject of an Insolvency Event;
- (c) no regulatory action has been taken that would prevent, inhibit or otherwise have any adverse and material effect on the Offeror's ability to fulfil its obligations under this agreement;
- (d) it is not aware of any event or circumstance that would, or would likely, result in any Offer Condition being breached or becoming incapable of satisfaction; and
- (e) the Offeror will have sufficient cash reserves (whether from internal cash reserves or external debt and/or equity funding arrangements) available to it on

an unconditional basis (accepting Offer Conditions under the control of the Offeror) to meet its obligations to pay the Cash Consideration in accordance with its obligations under this agreement and the Offer.

#### 9.4 **Notifications**

Each party will promptly notify the other in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 9.

#### 9.5 **Status of representations and warranties**

Each representation and warranty in this clause 9 is severable, will survive the termination of this agreement and is given with the intent that liability for breach of the representation or warranty will not be confined to breaches that are discovered before the date of termination of this agreement.

## 10. **Termination**

---

### 10.1 **Termination rights**

- (a) Clauses 3.3, 7.7(e), 10.1(b), 10.1(c) and 10.1(b) set out the only rights for the parties to cancel or terminate this agreement. No party has any right to cancel or terminate this agreement on any other basis.
- (b) A party may terminate this agreement by written notice to the other party if at any time before the end of the Offer Condition Date or such other time as specified in this clause 10.1:
  - (i) the other party is in material breach of this agreement and, to the extent that the breach is capable of remedy, 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;
  - (ii) a court or Government Agency has issued an order, decree or ruling, or taken other action, that permanently restrains or prohibits the Offer, and the action is final and cannot be appealed or reviewed or the party, acting reasonably, believes that there is no realistic prospect of a successful appeal or review; or
  - (iii) the Offeror withdraws the Offer in accordance with the Takeovers Code or the Offer lapses for any reason, including non-satisfaction of an Offer Condition.
- (c) The Offeror may terminate this agreement if the Target receives a Superior Proposal and before the Offer becomes unconditional the Target Board or any of the Target Directors publicly recommends, promotes or otherwise endorses the Superior Proposal.
- (a) The Offeror may terminate this agreement if any Regulatory Modifications or any Approvals of a Government Agency which the Offeror considers necessary or desirable to implement the Proposed Transaction, are not obtained within 8 weeks after the date of this agreement or are withdrawn or revoked at any time prior to the Offer Condition Date.
- (b) This agreement automatically terminates on the Offer Closing Date.

## 10.2 Manner of termination

Where a party has a right to terminate this agreement, that right will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates the agreement and the basis on which it terminates this agreement.

## 10.3 Effect of termination

If this agreement is terminated under this clause 10:

- (a) each party will be released from its obligations under this agreement except its obligations under this clause 10 and clauses 1, 8, 9, 12, 13 and 14, which will survive termination;
- (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, including any further obligations in respect of the Offer.

## 10.4 Effect of termination of agreement on Offer

- (a) Subject to clause 10.4(b), if this agreement is terminated after the Offeror has made the Offer, such termination does not affect the Offer or the Offeror's rights or obligations under the Offer.
- (b) Nothing in clause 10.4(a) prevents the Offeror from:
  - (i) invoking an Offer Condition; or
  - (ii) withdrawing the Offer with the consent of the Takeovers Panel,
 in either case in accordance with the Takeovers Code.

## 11. CNI Fund RE limitation provision

---

- (a) The CNI Fund RE enters into this agreement only in its capacity as responsible entity of the CNI Fund only and in no other capacity. A liability arising under or in connection with this agreement is limited to and can be enforced against the CNI Fund RE only to the extent to which it can be satisfied out of the assets of the CNI Fund out of which the CNI Fund RE is actually indemnified for the liability. This limitation of the CNI Fund RE's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of the CNI Fund RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this agreement.
- (b) No party may take any action to seek recourse to any assets held by the CNI Fund RE in any capacity other than as responsible entity of the CNI Fund, including seek the appointment of a receiver (except in relation to assets of the CNI Fund), a liquidator, an administrator or any similar person to the CNI Fund RE or prove in any liquidation, administration or arrangement of or affecting the CNI Fund RE (except in relation to the CNI Fund).
- (c) The provisions of this clause will not apply to any obligation or liability of the CNI Fund RE to the extent that it is not satisfied because:
  - (i) under the constitution establishing the CNI Fund or by operation of law there is a reduction in the extent of the CNI Fund RE's indemnification

- out of the assets of the CNI Fund, as a result of the CNI Fund RE's fraud, negligence or breach of trust; or
- (ii) the CNI Fund RE failed to exercise any right of indemnity it has under the constitution establishing the CNI Fund in respect of that obligation or liability.
  - (d) No act or omission of the CNI Fund RE (including any related failure to satisfy its obligations under this agreement) will be considered fraud, negligence or breach of trust of the CNI Fund RE for the purpose of clause 11(c)(i) to the extent to which the act or omission was caused or contributed to by any failure by any other person to fulfil its obligations relating to the CNI Fund or by any other act or omission of any other person.

## 12. GST

---

### 12.1 Interpretation

Words and expressions that are defined in the GST Act have the same meaning when used in this clause 12. For the purposes of this clause 12, references to GST chargeable and input tax credit entitlements of any entity include GST chargeable against, and the input tax credit entitlements of, the representative member of the GST group of which the entity is a member.

### 12.2 Consideration exclusive of GST

All amounts payable or consideration to be provided under or in connection with this agreement are stated before the addition of GST, if any (**GST Exclusive Consideration**).

### 12.3 Payment of GST

If GST is chargeable on any supply made under or in connection with this agreement the recipient must pay to the party that has made or will make the supply (the **Supplier**), in addition to the GST Exclusive Consideration, an additional amount equal to the GST chargeable on that supply (the **Additional Amount**). The recipient must pay the Additional Amount without set-off, demand or deduction, at the same time and in the same manner as any GST Exclusive Consideration for that supply is required to be paid, except that the recipient is not required:

- (a) to pay the Additional Amount unless and until the Supplier has issued a tax invoice under clause 12.4; or
- (b) to pay any GST Default Amounts included in the Additional Amount if those GST Default Amounts result from the Supplier failing to comply with its obligations under the GST Act.

### 12.4 Tax invoice

For any supply to which clause 12.3 applies, the Supplier must issue a tax invoice which complies with the GST Act.

### 12.5 Adjustments

If an adjustment event occurs in relation to any taxable supply made under or in connection with this Agreement the GST payable on that supply will be recalculated to reflect that adjustment, a debit note or credit note will be issued as required by the GST Act and an appropriate payment will be made between the parties.

## 12.6 Input tax credits

Notwithstanding any other provision of this Agreement, if an amount payable under or in connection with this Agreement is calculated by reference to any loss, damage, cost, expense, charges or other liability incurred or suffered by a party, then the amount payable must be reduced by the amount of any input tax credit or other deduction from output tax to which that entity is entitled in respect of the acquisition of any supply to which the loss, damage, cost, expense, charge or other liability relates.

## 13. Notices

### 13.1 Method of giving notices

A notice required or permitted to be given by one party to another under this agreement must be in writing and is treated as being duly given if it is:

- (a) left at that other party's address;
- (b) sent by pre-paid mail to that other party's address; or
- (c) emailed to the party's current email address.

### 13.2 Time of receipt

A notice given to a party in accordance with clause 13.1 is treated as having been duly given and received:

- (a) when delivered (in the case of it being left at that party's address);
- (b) when posted, on the third business day after posting (in the case of it being sent by pre-paid mail); and
- (c) when sent via email:
  - (i) when the sender receives an automated message confirming delivery; or
  - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,
 whichever happens first.

### 13.3 Address of parties

- (a) The addresses are initially as set out below.

Party	Address	Attention	Email
<b>Offeror</b>	Level 41, Chifley Tower, 2 Chifley Square, NSW 2000	John McBain	John.McBain@centuria.com.au
	copy to: Level 41, Chifley Tower, 2 Chifley Square, NSW 2000	Jason Huljich	Jason.Huljich@centuria.com.au
	and:	Simon Holt	Simon.Holt@centuria.com.au

Level 41, Chifley  
Tower, 2 Chifley  
Square, NSW 2000

<b>Target</b>	Level 2, Bayleys House, 30 Gaunt Street, Wynyard Quarter, Auckland, 1010, New Zealand.	Paul Duffy	paul@hayphilproperty.com  cc: Luke Fitzgibbon (luke@augusta.co.nz)  cc: Simon Woollams (simon@augusta.co.nz)
---------------	---	------------	--

- (b) A party may from time to time change its addresses for service by notice to the other party.

## 14. General

---

### 14.1 Costs and expenses

Each party must pay its own legal costs and expenses in respect of the negotiation, preparation and completion of this agreement.

### 14.2 Stamp duty

The Offeror must pay all stamp duties and related fines and penalties in respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement and must indemnify the Target against any liability arising from any failure to do so.

### 14.3 Amendment

No variation or waiver of, or any consent to any departure by a party from, a provision of this agreement is of any force or effect unless it is confirmed in writing signed by the parties and then that variation, waiver or consent is effective only to the extent for which it is made or given.

### 14.4 Waiver

The failure, delay, relaxation or indulgence on the part of any party in exercising any power or right conferred upon that party by this agreement does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of or the exercise of any other power or right under this agreement.

### 14.5 Entire Agreement

This agreement and the Confidentiality Agreement constitutes the sole and entire agreement between the parties and a warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this agreement is of no force or effect. If there is any consistency between the provisions of this agreement and the provisions of the Confidentiality Agreement, the provisions of this agreement will prevail to the extent to the inconsistency and the provisions of the Confidentiality Agreement will be construed accordingly.

#### 14.6 **Severance**

If any provision of this agreement is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement with regard to the invalid provision are and continue to be valid and enforceable in accordance with their terms.

#### 14.7 **Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, sign, executes and delivers, all deeds, documents, instruments and acts reasonably required of it or them by notice from another party to effectively carry out and give full effect to this agreement and the rights and obligations of the parties under it.

#### 14.8 **Assignment**

Except where expressly stated otherwise, neither party may assign or otherwise transfer any of its rights arising under this agreement without the prior written consent of the other party.

#### 14.9 **Counterparts**

This agreement may be executed by any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

#### 14.10 **Governing law and jurisdiction**

This agreement is governed by, and is to be construed in accordance with New Zealand law and the parties submit to the exclusive jurisdiction of the Courts of New Zealand in respect of all matters relating to this agreement.

#### 14.11 **Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, this agreement or any power which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (c) Where a clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this agreement.

## Schedule 1 Agreed Offer Terms

### 1. Consideration

---

\$2.00 per Target Share in cash or CNI Securities based on:

- (a) the 5 day volume weighted price for the 5 trading day period ending on (and inclusive of) the day before the date of this agreement); and
- (b) the AUD/NZD exchange rate offered by an Australian bank (nominated by the Offeror) as at the end of the day before the date of this agreement,

less the value of any distributions (excluding the Permitted Dividend) paid in respect of Target Shares.

If the number of Target Shares held by a Target Shareholder is such that the aggregate entitlement of the Target Shareholder to Consideration comprising Scrip Consideration is such that a fractional entitlement to a CNI Security arises, then the entitlement of that Target Shareholder must be rounded down to the nearest whole number of CNI Securities.

### 2. Key Dates

---

The Offeror will ensure that the Offer opens and remains open for the duration of the Offer Period, unless withdrawn earlier by the Offeror. The Offeror may extend the Offer Period in accordance with the Takeovers Code.

The last time for satisfaction or waiver of the Offer Conditions is 11.59pm on the Offer Condition Date.

The date for payment of the Consideration will be determined in accordance with Rule 33 of the Takeovers Code and is expected to be 5 Business Days after the Offer becomes unconditional.

### 3. Offer Conditions

---

The Offer is subject to the fulfilment of the following Offer Conditions on or before the Offer Condition Date.

(a) **Minimum acceptance**

By the end of the Offer Period, the Offeror has received acceptances to the Offer that will, on the Offer being declared unconditional and the Target Shares being transferred to the Offeror, result in the Offeror holding or controlling (i) not less than 90% of the voting rights in the Target or (ii) if the Offeror waives the condition in paragraph (i) (which it may do in its discretion), more than 50% of the voting rights in the Target.

(b) **Executive employment agreements**

On or before the date of this agreement:

- (i) each of the Executives enters into a new three year employment agreement with the Target, conditional on this Offer becoming unconditional, on the following basis:



- (A) the new agreement is on terms similar to those of his current employment agreement;
  - (B) each Executive agrees, in respect of any CNI Securities held or controlled by the Executive on the Offer Closing Date (including any CNI Securities issued to the Executive or any person controlled by the Executive as Consideration under the Offer), not to deal in or permit the transfer or control of more than the following maximum percentages of those CNI Securities:
    - (1) 0% during the first 6 months after the date of issue of the CNI Securities (**Issue Date**);
    - (2) 25% during the period between 6 months and one day after and 18 months after the Issue Date;
    - (3) 50% during the period between 18 months and one day after and 36 months after the Issue Date; and
    - (4) 100% after 36 months and one day after the Issue Date; and
  - (C) otherwise on terms reasonably acceptable to the Offeror; and
  - (ii) none of the employment agreements is amended, varied, terminated, rescinded or is or becomes void or voidable before the end of the Offer Condition Date and none of the Executives asserts or states that his employment agreement is or may be terminated, void or voidable.
- (c) **No Prescribed Occurrences**
- No Prescribed Occurrence happens without the prior written consent of the Offeror (which may be withheld in the Offeror's unfettered discretion).
- (d) **Target Board confirmations**
- The Target Directors state, after due enquiry, in the Target Company Statement or in an announcement to NZX before the date of the Target Company Statement, which statement is expressed to be made with the approval of the Target Directors, that:
- (i) it and its Associates in aggregate hold or control no more than 20% of the voting rights in any company which is a "code company" for the purposes of the Takeovers Code (including Asset Plus Limited);
  - (ii) it is not under any actual or contingent obligation to issue and has not offered to issue any Target Shares or securities convertible into Target Shares to any person, including any option, convertible security or other right other than the following issued Target Shares:
  - (iii) the Target is not in breach of its continuous disclosure obligations under the Listing Rules or relying upon any carve-outs in relation to non-disclosure of material price sensitive information;
  - (iv) the Target is not subject to an Insolvency Event;
  - (v) no regulatory action has been taken that would prevent, inhibit or otherwise have any adverse and material effect on the Target's ability to fulfil its obligations under this agreement; and

- (vi) there is no pending or threatened litigation or dispute involving the Target or any Target Group Member.

and each such statement is not varied, revoked or qualified before the end of the Offer Condition Date.

(e) **No Adverse Public Authority Action**

Between the Announcement Date and the Offer Condition Date (each inclusive):

- (i) there is not in effect any preliminary or final decision, order or decree issued by a Government Agency; or
- (ii) no inquiry, action or investigation is instituted, or threatened by an Government Agency,

in consequence of, or in connection with, the Offer, which restrains, prohibits, impedes, or materially adversely impacts (or is reasonably likely to restrain, prohibit, impede or materially adversely impact) the making of Offer (including the offer of CNI Securities as Consideration) or the completion of the Offer or requires (or is reasonably likely to require) the divestiture by the Offeror of any Target Shares, or the divestiture of any material assets of the Target following the close of the Offer.

(f) **No Material Adverse Change**

Between the Announcement Date and the Offer Condition Date (each inclusive), no Target Material Adverse Change has occurred, been announced or otherwise become apparent or known to the Offeror or the Target (whether or not becoming public).

(g) **OIO Consent**

The OIO Consent is granted on usual terms.

(h) **Regulatory intervention**

No Court or Government Agency:

- (i) has issued or taken steps to issue an order, temporary restraining order, preliminary or permanent injunction, decree or ruling or taken any action enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Proposed Transaction and no such order, decree, ruling, other action or refusal is in effect as at the Offer Condition Date; or
- (ii) notifies the Offeror that it considers that:
  - (A) any term of this agreement or any other agreement under which the Offeror has agreed to make the Offer; or
  - (B) any proposed or actual term of the Offer (including an Offer Condition);
  - (C) any conduct of the Target in connection with an Offer Condition; or
  - (D) the offer of Scrip Consideration in the manner in which it is offered by the Offeror,

breaches or may breach any applicable law.

(i) **Material third party consents or approvals**

The Target and the Offeror (as the case may be) having received all consents and approvals of any third party which are necessary to implement the Proposed Transaction without the Target materially breaching its obligations including, without limitation:

- (i) in relation to an agreement with Radisson Hotels Asia Pacific Investments Pte. Ltd or a related entity; and
- (ii) under loan, finance and facility documentation with ASB, BNZ, Westpac and BankWest facility consents.

(j) **No untrue statements**

The Offeror does not become aware that any document filed by or on behalf of the Target, or by or on behalf of any person in relation to the Target, with NZX, the New Zealand Companies Office or anywhere in the public domain contains a statement which is incorrect or misleading in a material particular or from which there is a material omission.

(k) **No legal proceedings**

Between the Announcement Date and the end of the Offer Condition Date (each inclusive), no litigation or arbitration proceedings or other legal proceedings against the Target or any of its Related Companies which are commenced, instituted or threatened to be commenced, other than that which is in the public domain as at the Announcement Date, and which if successful would or would be likely to result in a Material Adverse Change on the Target or any of its Related Companies.

(l) **No Insolvency Event**

The Target or any Target Group Member is not subject to an Insolvency Event.

(m) **Business activities**

The businesses of each Target Group Member are carried on, in all respects which are material to the Target Group taken as a whole, in the usual and ordinary course of business and neither the Target and (subject to the Target Group Members' duties as manager of any fund) and other than in the usual and ordinary course of business no Target Group Member:

- (i) makes or undertakes unusual or abnormal payments, commitments or liabilities (including contingent liabilities) which are material or could be material to the Target Group taken as a whole, are made or incurred (or agreed to be made or incurred) by any of those entities, and no Target Group Member makes any unusual payment of income tax;
- (ii) disposes of, purchases, transfers, leases, grants or permits any encumbrance over, grants an option or legal or equitable interest in respect of, or otherwise deals with a legal or equitable interest in a material asset, business, operation, property or subsidiary (or agrees, including agreeing to materially vary any agreement, to do any of these

things or makes an announcement in respect of any of them), that is material to the Target Group taken as a whole;

- (iii) enters into, materially varies or terminates an onerous, long term or material contract, commitment or arrangement, or any major transaction (as defined in section 129(2) of the *Companies Act 1993* (NZ)) that is materially adverse to the Target Group taken as a whole,

provided for the avoidance of doubt that the Target Group may undertake any of the Permitted Activities.

(n) **No amalgamations or schemes of arrangement**

No resolution is passed for any amalgamation of any member of the Group, and none of them is involved, or seeks any Court orders or shareholder approvals in respect of, in any merger or scheme of arrangement.

## Schedule 2 Prescribed Occurrences

1. All or any of the Target Shares are converted into a larger or smaller number of units, or a resolution is passed to do so.
2. The Target redeems any Target Shares, or resolves to do so.
3. The capital of the Target is reduced in any way (including by way of a capital distribution) or the Target reclassifies, combines, splits, redeems, repurchases or cancels directly or indirectly any securities in the Target or resolves to do any of the preceding.
4. The Target buys back or agrees to buy back any Target Shares.
5. Any dividend or other distribution (whether of capital or otherwise) is paid, announced, authorised or agreed to be paid or made, other than the Permitted Dividend.
6. The Target issues or agrees to issue Target Shares or warrants or options over, or entitlements to, Target Shares or other securities or instruments convertible into Target Shares except for the issue of Target Shares in accordance with the Performance Rights Vesting Arrangement.
7. The Target issues or agrees to issue shares or warrants or options over, or entitlements to, shares or other securities or instruments convertible into shares in any other Target Group Member.
8. Target Shares are issued, or there is an agreement for the Target to issue Target Shares or other instruments convertible into Target Shares or debt securities except for the issue of Target Shares in accordance with the Performance Rights Vesting Arrangements.
9. The rights, benefits or entitlements and restrictions attaching to any Target Shares, Performance Rights or any other financial products issued by any Target Group Member are altered or varied (for the avoidance of doubt, excluding the variations to the Performance Rights set out in the Performance Rights Vesting Arrangements).
10. The Target terminates, amends or waives any provision of any of the Performance Rights Vesting Arrangements.
11. The Target modifies or repeals or replaces the Target Constitution or the constitution of any other Target Group Member or a provision of it or calls a meeting to consider modifying, repealing or replacing the Target Constitution other than as provided for this agreement.
12. The Target creates, or agrees to create, any security interest over the whole or a substantial part of its business or assets.
13. The Target is the subject of an Insolvency Event.
14. The Target making or agreeing to make, any loan or advance, or entering into any financing arrangement, agreement or instrument with a person other than a Related Company, or amending the terms of any existing financing arrangement, agreement or instrument with a person other than a Related Company.
15. Other than as fairly disclosed to the Offeror before the date of this agreement, in respect of any financing arrangement, agreement or instrument the Target has with a person other than a Related Company, the Target:

- (a) breaches any covenant, which is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument; or
  - (b) relies on any waiver or amendment to avoid the potential breach of any covenant unless the waiver or amendment extends for a period of at least, the earlier of the term of the financing arrangement, agreement or instrument and the date which is two months after the Offer Closing Date; or
  - (c) allows an event of default, or potential event of default, to occur, which is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument; or
  - (d) allows an obligation to pay any amount to be accelerated other than to prevent an event referred to in (a) or (b) above from occurring; or
  - (e) permanently reduces the amount of debt ahead of a maturity date.
16. The Target entering into any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this agreement.
  17. Target Shares are delisted or are subject to suspension from quotation for 5 or more trading days, other than due to, or as a result of, an action taken by the Offeror or a Related Company of the Offeror.
  18. The Target Group acquires any interest in, or control over any interest in (including under a management arrangement), "sensitive land" (as defined in the *Overseas Investment Act 2005* (NZ) and *Overseas Investment Regulations 2005* (NZ)).
  19. FMA notifies the Augusta Group or the Offeror that it may terminate or revoke, or impose new or amended conditions on, the MIS Licence in connection with (i) the completion of the Offer; (ii) the Offeror becoming the owner or controller of the Augusta Group; or (iii) any proposed changes to the Augusta Group as a result of the Offer.
  20. The MIS Licence is terminated or revoked, or steps are taken by or on behalf of the FMA to terminate or revoke the MIS Licence.
  21. The terms and conditions of the MIS Licence are amended without the Offeror's prior consent.
  22. Augusta Funds Management Limited breaches any material condition of the MIS Licence.
  23. The FMA notifies Augusta Funds Management Limited of (i) any alleged or potential breach of any condition of the MIS Licence; or (ii) any other matter or circumstance that is likely to result in the MIS Licence being terminated or revoked.
  24. The FMA issues a stop order in respect of any product disclosure statement under which a member of the Target Group is the offeror.
  25. A proceeding is commenced by the FMA alleging that an offer of financial products, in respect of which a member of the Target Group is or was the offeror, breached the FMCA or other applicable law.
  26. FMA notifies the Target Group of an investigation in respect of alleged or potential material non-compliance with the FMCA by a member of the Target Group in respect of:

- (a) the MIS Licence; or
  - (b) an offer of financial products in respect of which a member of the Target Group is or was the offeror.
27. A Target Group member increases its holding or control of voting rights in a company which is a “code company” for the purposes of the Takeovers Code (including Asset Plus Limited) where, after that increase, Target and its Associates in aggregate hold or control more than 20% of the voting rights in that code company.

### Schedule 3 Indicative Timetable

Event	Indicative Date
Offeror files OIO Consent Application with the OIO	no later than 4 weeks after the date of this agreement
Offeror gives Takeover Notice to Target	8 weeks after the date of this agreement
Target sends Target Company Statement and Independent Adviser Report to Offeror	8 Business Days prior to the Offeror dispatching the Offer
Offeror dispatches Offer to Target Shareholders	20 Business Days after Takeover Notice
End of Offer Period	60 Business Days after the date of the Offer
Last date for satisfaction of the Offer Conditions	20 Business Days after the end of the Offer Period
Offer Closing Date	5 Business Days after the satisfaction of the Offer Conditions

The parties agree that the Timetable is indicative only.



**Executed as an agreement**

**Executed by Centuria Platform  
Investments Pty Limited ACN 633 214  
892 in accordance with section 127(1) of  
the Corporations Act 2001 (Cth) by:**



\_\_\_\_\_  
Signature of Director

**Simon Holt**

\_\_\_\_\_  
Full name (print)

**Executed by Centuria Capital Limited  
ACN 095 454 336 in accordance with  
section 127(1) of the Corporations Act  
2001 (Cth) by:**



\_\_\_\_\_  
Signature of Director

**Nicholas Collishaw**

\_\_\_\_\_  
Full name (print)

**Executed by Centuria Funds  
Management Ltd ACN 607 153 588 as  
responsible entity of Centuria Capital Fund  
ARSN 613 856 358 in accordance with  
section 127(1) of the Corporations Act  
2001 (Cth) by:**



\_\_\_\_\_  
Signature of Director

**Nicholas Collishaw**

\_\_\_\_\_  
Full name (print)



\_\_\_\_\_  
Signature of Director/Company Secretary

**Anna Kovarik**

\_\_\_\_\_  
Full name (print)



\_\_\_\_\_  
Signature of Director/Company Secretary

**Anna Kovarik**

\_\_\_\_\_  
Full name (print)

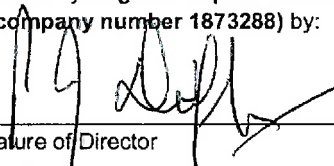



\_\_\_\_\_  
Signature of Director/Company Secretary

**Anna Kovarik**

\_\_\_\_\_  
Full name (print)

Executed by Augusta Capital Limited  
(NZ company number 1873288) by:

  
\_\_\_\_\_  
Signature of Director  
  
P. J. Duffy  
\_\_\_\_\_  
Full name (print)

  
\_\_\_\_\_  
Signature of Director  
  
Robert Mark Petersen  
\_\_\_\_\_  
Full name (print)