

ASX Release

17 February 2021

Asaleo Care recommends improved Essity Proposal

Highlights

- Total value to Asaleo Care shareholders of \$1.45 per share, comprising \$1.40 cash in scheme consideration, plus \$0.05 per share of permitted dividends, expected to be fully franked¹
- Potential value in franking credits of up to \$0.02 per share for shareholders able to realise full benefit
- Total value represents a 44.7% premium to the 1-month VWAP of \$1.00 to 9 December 2020²
- Unanimous Independent Board Committee recommendation
- Acquisition by way of Scheme of Arrangement

Asaleo Care Limited ("Asaleo" or the "Company") and Essity Group Holding BV ("Essity") have entered into a Scheme Implementation Agreement under which it is proposed that Essity (or its nominee) will acquire all outstanding ordinary shares in Asaleo not already owned by the Essity group.

Recommendation

Independent non-Essity directors and the CEO and Managing Director³ unanimously recommend that Asaleo shareholders vote in favour of the Scheme in the absence of a Superior Proposal⁴ and subject to the Independent Expert concluding in its report (and continuing to conclude) that the Scheme is in the best interests of shareholders.

Subject to those same qualifications, the directors of Asaleo who hold shares, intend to vote in favour of the Scheme.

Value to shareholders and dividends

The total value to shareholders of \$1.45¹ per share (before the benefit of franking credits), values Asaleo's equity at approximately \$788m⁵ and represents a 44.7% premium to the 1-month VWAP of \$1.00 to 9 December 2020.

¹ Subject to being a shareholder on the respective ordinary and special dividend record dates and the Asaleo Board determining to pay the special dividend. Franking credits will be subject to a class ruling from the Australian Taxation Office.

² Undisturbed closing share price the day prior to announcement of Essity's initial proposal to acquire Asaleo Care.

³ CEO and Managing Director, Sid Takla. Refer separate announcement today in relation to current employment arrangements for the CEO and Managing Director.

⁴ Superior Proposal has the same meaning as given in the scheme implementation agreement.

⁵ Based on 543,122,491 fully paid ordinary shares as at 16 February 2021.

The Board has today (with the FY20 full year results) declared an ordinary dividend of \$0.03 per share ("Ordinary Dividend"), to be paid on 31 March 2021.

In addition, the Board intends to pay, in its absolute discretion, a special dividend of \$0.02 per share prior to the Scheme Record Date ("Special Dividend").

Asaleo expects that the Ordinary Dividend and Special Dividend will be fully franked, subject to a class ruling from the Australian Taxation Office. There is potential value in the franking credits attached of up to approximately \$0.02 per share (for those shareholders able to realise the full benefit of franking credits).

Transaction highlights

- **Offer premium⁶:** the total value to Asaleo shareholders of \$1.45¹ represents an attractive premium of:
 - 43.6% premium to the undisturbed closing price of \$1.01 on 9 December 2020;
 - 44.7% premium to the 1-month VWAP of \$1.00 to 9 December 2020;
 - 43.7% premium to the 3-month VWAP of \$1.01 to 9 December 2020; and
 - 43.5% premium to the 6-month VWAP of \$1.01 to 9 December 2020.
- **Certainty of value:** the 100% cash consideration provides Asaleo shareholders with certainty of value.
- **Not subject to financing or due diligence:** The Scheme is not subject to financing or due diligence.

The IBC, and CEO and Managing Director, unanimously recommend the Scheme

Asaleo Chairman, Harry Boon, said: "The Scheme is an attractive, all-cash transaction and represents a compelling outcome for our shareholders, customers, suppliers and staff. Essity is a long-term strategic partner for Asaleo and there is a strong commercial logic for this combination. Essity will further enhance our position in the markets in which we operate"

CEO and Managing Director, Sid Takla, said: "The announcement today recognises the strategic value of the Asaleo business and reflects the steps we have undertaken to optimise the portfolio, strengthen the company's balance sheet and set Asaleo on a clear path towards sustainable growth. The value to our shareholders under this proposal is testament to the quality of our products, our people and our recent strong performance."

Essity CEO, Magnus Groth, said: "We are very pleased to welcome Asaleo Care into our global portfolio. We believe this transaction will facilitate the opportunity for continued investment and profitable growth in Australia, New Zealand and the Pacific region."

⁶ VWAPs are subject to rounding.

Details of the scheme implementation agreement

A copy of the Scheme Implementation Agreement is attached to this announcement. Implementation is conditional on, amongst other things, the approval by Asaleo shareholders at a Court-convened meeting and Court approval.

Under the Scheme Implementation Agreement, Asaleo is bound by customary exclusivity provisions including “no shop,” “no talk,” “notification of approaches” and “bidder counter-proposal” obligations. The “no talk” restriction is subject to a customary fiduciary carve-out.

Break fees, equal to approximately 1% of the total Scheme consideration, may apply in certain circumstances.

Indicative timetable and next steps

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

A Scheme Booklet containing information relating to the Scheme, reasons supporting the IBC’s recommendation, an Independent Expert’s report and details of the Scheme meeting, is expected to be sent to shareholders in late April 2021.

Shareholders, other than Essity, will then have the opportunity to vote on the Scheme at a Court-convened shareholder meeting, expected to be held in the first half of June 2021.

Subject to regulatory approvals (FIRB and OIO), shareholder approval being obtained by the requisite majorities, Court approval and other conditions of the Scheme being satisfied, or waived (as applicable), it is expected to be implemented in June 2021.

Advisers

Asaleo is advised by Luminis Partners as financial adviser, and King & Wood Mallesons as legal counsel.

– ENDS –

About Asaleo Care

Asaleo Care is a leading personal care and hygiene company that manufactures, markets, distributes and sells personal care and hygiene products. Our portfolio of market-leading brands includes Libra, TENA, Tork, Viti and Orchid. The Purex, Sorbent and Handee Ultra brands are not owned in Australia. The Company has 14 manufacturing and distribution facilities throughout Australia, New Zealand and the Pacific Islands. Asaleo Care employs about 650 people who work together to offer products and services which provide care, comfort and confidence every day. For more information visit www.asaleocare.com.

About Essity

Essity is a leading global hygiene and health company. We are dedicated to improving well-being through our products and services. Sales are conducted in approximately 150 countries under the leading global brands TENA and Tork, and other strong brands, such as JOBST, Leukoplast, Libero, Libresse, Lotus, Nosotras, Saba, Tempo, Vinda and Zewa. Essity has about 46,000 employees. Net sales in 2020 amounted to approximately SEK 122bn (EUR 11.6bn). The company’s headquarters is located in Stockholm, Sweden, and Essity is listed on Nasdaq Stockholm. Essity breaks barriers to well-being and contributes to a healthy, sustainable and circular society. More information at www.essity.com.

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This release has been approved by the Asaleo IBC.

Scheme Implementation Agreement

Dated 17 February 2021

Essity Group Holding BV ("**Bidder**")

Asaleo Care Limited (ACN 154 461 300) ("**Target**")

King & Wood Mallesons

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Melbourne VIC 3000
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DX 101 Melbourne
www.kwm.com

Scheme Implementation Agreement

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Scheme Implementation Agreement

Details

Parties	Bidder and Target	
Bidder	Name	Essity Group Holding BV
	Formed in	Netherlands
	Address	Postbus 670, 3700AR Zeist Netherlands
	Email	mikael.schmidt@essity.com
	Attention	Mikael Schmidt, SVP and General Counsel With a copy to MinterEllison: Jeremy.Blackshaw@minterellison.com Alberto.Colla@minterellison.com
Target	Name	Asaleo Care Limited
	ACN	154 461 300
	Formed in	Australia
	Address	30-32 Westall Road Springvale VIC 3171 Australia
	Email	James.Orr@asaleocare.com
	Attention	James Orr, General Counsel and Company Secretary With a copy to King & Wood Mallesons: Diana.Nicholson@au.kwm.com
Governing law	Victoria, Australia	
Recitals	A	The Target and the Bidder have agreed to merge by means of a members' scheme of arrangement under Part 5.1 of the Corporations Act.
	B	At the request of the Bidder, the Target intends to propose the Scheme and issue the Scheme Booklet.

- C** The Target and the Bidder have agreed to implement the Scheme on the terms and conditions of this document.

Scheme Implementation Agreement

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

Accounting Standards means:

- (a) the applicable accounting standards made by the relevant regulatory body, and the requirements relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied, except those inconsistent with the standards or requirements referred to in paragraph (a).

Adviser means, in relation to a party, a financial, corporate, legal, accounting adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Scheme by the party.

ASIC means the Australian Securities & Investments Commission.

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

ASX means ASX Limited or the market operated by it, as the context requires.

Authorised Officer means a director or secretary of a party or any other person nominated by a party to act as an Authorised Officer for the purposes of this document.

Bidder Board means the board of directors of the Bidder.

Bidder Group means the Bidder and each of its Related Bodies Corporate.

Bidder Indemnified Parties means the Bidder, its officers, employees, and Advisers and, where relevant, its Related Bodies Corporate and the officers, employees and Advisers of each of its Related Bodies Corporate.

Bidder Information means the information regarding the Bidder as is required to be included in the Scheme Booklet under the Corporations Act, Corporations Regulations or ASIC Regulatory Guide 60. Bidder Information does not include information about the Target Group (except to the extent it relates to any statement of intention relating to the Target Group following the Effective Date).

Bidder Nominee means any wholly-owned Subsidiary of the Bidder nominated by the Bidder to acquire Scheme Shares under the Scheme in accordance with clause 2.3.

Break Fee means \$4,855,967 being 1% of the total Scheme Consideration payable to all Scheme Participants (excluding GST).

Business Day means any day for which banks are open for business in Melbourne, Victoria (not being a Saturday, Sunday or public holiday in such place).

Competing Transaction means a proposal, transaction or arrangement (whether by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale or issue of securities, joint venture or otherwise) which, if completed, would mean a person (other than the Bidder or its Related Bodies Corporate) whether alone or together with its Associates would:

- (a) directly or indirectly, acquire an interest or Relevant Interest in or become the holder of 10% or more of the Target Shares (other than as custodian, nominee or bare trustee);
- (b) acquire control of the Target, within the meaning of section 50AA of the Corporations Act;
- (c) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in all or a substantial part or a material part of the assets of or business conducted by the Target Group; or
- (d) otherwise acquire or merge (including by a reverse takeover bid or dual listed company structure) with the Target.

Conditions Precedent means the conditions precedent set out in clause 3.1.

Confidentiality Agreement means the Confidentiality Agreement between the parties dated 9 February 2021.

Confidential Information has the meaning given to it in the Confidentiality Agreement.

Controller has the meaning it has in the Corporations Act.

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

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

Costs includes costs, charges and expenses, including those incurred in connection with Advisers and any legal costs on a full indemnity basis.

Court means the Federal Court of Australia (Melbourne registry), or such other court of competent jurisdiction under the Corporations Act agreed by the parties.

Data Room means the electronic data room established by the Target in connection with the Scheme, hosted by Ansarada and made available to the Bidder Group and its Representatives.

Deed Poll means a deed poll substantially in the form of Annexure C to this document.

Details means the section of this document headed "Details".

Due Diligence Materials means the written information disclosed by or on behalf of the Target and its Subsidiaries (including management presentations and all written responses provided in response to written questions or requests for information) to the Bidder or any of its Representatives in the Data Room prior to the date of this document, as evidenced by the Ansarada 'Project Tango' electronic archive provided by the Target to the Bidder or one of its Advisers prior to or promptly after the execution of this document (a copy of such archive to be sent by USB to the Bidder's financial Adviser following execution).

Effective, when used in relation to the Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Employee Share Right means a share right issued under the Employee Incentive Plan operated by the Target Group.

End Date means 30 September 2021.

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

- (a) the Effective Date;
- (b) the End Date; and
- (c) the termination of this document in accordance with its terms.

Fairly Disclosed means disclosed:

- (a) by the Target in the Due Diligence Materials;
- (b) in a Transaction Document;
- (c) in any announcement made by the Target on the ASX; or
- (d) in discussions with, or otherwise provided by, any Bidder Group nominee on the Target Board (past or present) to a member of the Bidder Group, within the period from 30 June 2020 to the date of this document,

to a sufficient extent and in sufficient detail so as to enable a reasonable person who is experienced in transactions similar to the Scheme, or experienced in a business similar to the type of business generally conducted by the Target, to identify the nature and scope of the relevant matter, event or circumstance, and having regard to the fact that the Bidder Group is a major supplier to the Target Group, and the Target Group operates under extensive commercial arrangements with the Bidder Group, including as to intellectual property, which necessarily requires the frequent exchange of information in the ordinary course of business.

Financial Indebtedness means any debt or other monetary liability (whether actual or contingent) in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:

- (a) borrowing from any bank or other financial institution;
- (b) bill, bond, debenture, note or similar instrument;
- (c) acceptance, endorsement or discounting arrangement;
- (d) guarantee;
- (e) finance or capital lease;
- (f) agreement for the deferral of a purchase price or other payment in relation to the provision of services other than in the ordinary course of business of the Target Group.

FIRB means the Foreign Investment Review Board.

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

First Court Date means the first day on which an application made to the Court, in accordance with clause 5.2(h), for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

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

Implementation Date means the 5th Business Day following the Scheme Record Date or such other date as the parties agree.

Incoming Directors means the persons nominated in writing by the Bidder to the Target at least 3 Business Days prior to the Implementation Date as new Target directors.

Independent Expert means the independent expert appointed by the Target under clause 5.2(c).

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update or supplementary report, stating whether in the Independent Expert's opinion the Scheme is in the best interests of Target Shareholders (excluding any Bidder Group members).

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or

- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction.

Interested Directors means the following directors of the Target:

- (a) Mats Berencreutz; and
- (b) Marie-Laure Mahé.

Listing Rules means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

Losses means all claims, demands, damages, losses, costs, expenses and liabilities.

Material Adverse Change means:

- (a) an event, change, condition, matter, thing or circumstance that occurs, is announced or becomes known to the Bidder or the Target Board (in each case whether or not it becomes public) after the date of this document which (in each case determined in accordance with Accounting Standards):
 - (i) has or could reasonably be expected to have individually or when aggregated with all such events, changes, conditions, matters, things or circumstances the effect of diminishing the net assets of the Target Group as reported in the Target's financial statements for the full year ended 31 December 2020 by 15% or more; or
 - (ii) has or could reasonably be expected to have individually or when aggregated with all such events, changes, conditions, matters, things or circumstances the result of a diminution in the annual consolidated EBITDA of the Target Group as reported in the Target's financial statements for the full year ended 31 December 2020 of 15% or more,

but excluding any event, change, condition, matter, thing or circumstance:

- (b) required or permitted to be done or procured by the Target under this document or the Scheme, including the declaration and payment of the Permitted Dividends;
- (c) arising from any action taken, or not taken, by a member of the Bidder Group;
- (d) which the Bidder has previously approved in writing;
- (e) to the extent it was Fairly Disclosed or otherwise disclosed in documents that were publicly available in the 12 months prior to the date of this document from filings of the Target with ASX or ASIC;
- (f) that is known to the Bidder Group, including through its business and commercial dealings with the Target Group;
- (g) relating to reasonable costs and expenses incurred by the Target associated with the Scheme process, including all fees payable to Advisers of the Target;
- (h) comprising a change in any applicable law or a change in Accounting Standards or the interpretation of Accounting Standards;

- (i) relating to the COVID-19 global pandemic or any related epidemic or pandemic, including the outbreak, escalation or any impact of, or recovery from, COVID-19 (including any a mutation, variation or derivative of the COVID-19 virus); or
- (j) relating to any material adverse change or major disruption to the existing financial markets, political or economic conditions of Australia or New Zealand, excluding any events, changes, conditions, matters, things or circumstances which have a disproportionate effect on the Target Group as compared to other participants in the industries in which the Target Group operates ("**Excluded Event**"). However, for the purpose of this clause (j), the following will not be an Excluded Event even if they have a disproportionate effect on the Target: (i) changes in foreign exchange rates or interest rates, and (ii) any industry-wide changes relating to any material adverse change or major disruption to commodity markets or prices, including for pulp, transport and energy.

OIO means the NZ Overseas Investment Office.

Ordinary Dividend has the meaning given to it in clause 4.6(a).

Outgoing Directors means the Target directors (if any) notified in writing by Essity to the Target at least 3 Business Days prior to the Implementation Date.

Permitted Dividends means the Ordinary Dividend and Special Dividend.

Register means the share register of the Target.

Regulator's Draft means the draft of the Scheme Booklet in a form acceptable to both parties which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.

Regulatory Approval means any approval of a Regulatory Authority to the Scheme or any aspect of it which is necessary to implement the Scheme.

Regulatory Authority includes:

- (a) ASX, ASIC and the Takeovers Panel;
- (b) a government or governmental, semi-governmental or judicial entity or authority in Australia;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government in Australia; and
- (d) any regulatory organisation in Australia established under statute.

Related Body Corporate has the meaning it has in the Corporations Act.

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

Representative means, in relation to a party:

- (a) a Related Body Corporate;
- (b) a director, officer or employee of the party or any of the party's Related Bodies Corporate; or

- (c) an Adviser to the party or any of the party's Related Bodies Corporate.

Reverse Break Fee means \$4,855,967, being 1% of the total Scheme Consideration payable to all Scheme Participants (excluding GST).

Scheme means the scheme of arrangement under part 5.1 of the Corporations Act under which all the Target Shares other than those held by a Bidder Group member will be transferred to the Bidder substantially in the form of Annexure B or such other form as agreed to in writing by the Target and the Bidder prior to submission of the Regulator's Draft to ASIC, each acting reasonably including having due regard to:

- (a) the Bidder's bona fide structuring requirements and preferences including a potential alternative form of Scheme communicated by the Bidder to the Target prior to the date of this document; and
- (b) the overriding imperative of preserving the economic terms, intended benefit and level of certainty of the Scheme, as publicly announced on execution of this document, for the benefit of Target Shareholders (other than the Bidder or a member of the Bidder Group),

together with any amendment or modification made pursuant to section 411(6) of the Corporations Act.

Scheme Booklet means, in respect of the Scheme, the information booklet to be approved by the Court and despatched to Target Shareholders which includes the Scheme, an explanatory statement complying with the requirements of the Corporations Act and notices of meeting and proxy forms.

Scheme Consideration means the consideration payable by the Bidder for the transfer of Target Shares held by a Scheme Participant to the Bidder, being, in respect of each Target Share, \$1.40.

Scheme Meeting means the meeting to be convened by the Court at which Target Shareholders (other than a Bidder Group member that is a Target Shareholder) will vote on the Scheme.

Scheme Participants means each person who is a Target Shareholder at the Record Date, other than a Bidder Group member.

Scheme Record Date means 5.00pm on the 7th Business Day following the Effective Date or such other time and date as the parties agree in writing.

Scheme Share means a Target Share on issue as at the Scheme Record Date other than any Target Share held at that time by a Bidder Group member.

Second Court Date means the first day on which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard (as agreed between the parties) or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard (as agreed between the parties).

Share Splitting means the splitting by a holder of Target Shares into two or more parcels of Target Shares whether or not it results in any change in beneficial ownership of the Target Shares.

Special Dividend has the meaning given to it in clause 4.6(b).

Subsidiary of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act; and
- (b) is part of a consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares or would be, if the first entity was required to prepare consolidated financial statements.

A trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.

Superior Proposal means a genuine Competing Transaction received in writing (in relation to which there has been no breach of clause 9) which the Target Board (excluding the Interested Directors), acting in good faith in the interests of the Target and its shareholders, after taking written advice from its legal and financial advisers, determines would be:

- (a) reasonably capable of being valued and completed taking into account all aspects of the Competing Transaction, including its conditions, the identity, reputation and financial condition of the person making such proposal, and all relevant legal, regulatory and financial matters; and
- (b) if completed substantially in accordance with its terms, of a higher financial value and is more favourable to Target Shareholders (excluding any Bidder Group members) than the Scheme, taking into account all aspects of the Competing Transaction, including the identity, reputation and financial condition of the person making such proposal, and relevant legal, regulatory and financial matters.

Target Board means the board of directors of the Target.

Target Constitution means the constitution of the Target.

Target Group means the Target and its Subsidiaries.

Target Indemnified Parties means the Target, its officers, employees, and Advisers and its Related Bodies Corporate and the officers, employees and Advisers of each of its Related Bodies Corporate.

Target Information means all information contained in the Scheme Booklet other than the Bidder Information and the Independent Expert's Report.

Target Prescribed Event means, except to the extent contemplated by this document or the Scheme, any of the following events:

- (a) **(conversion)** the Target converts all or any of its shares into a larger or smaller number of shares;
- (b) **(reduction of share capital)** the Target or another member of the Target Group resolves to reduce its share capital in any way;
- (c) **(buy-back)** the Target or another member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;

- (d) **(distribution)** the Target makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction, bonus or other share of its profits, income, capital or assets or otherwise and whether in cash or in specie) except for the Permitted Dividends or as Fairly Disclosed;
- (e) **(issuing or granting shares or options)** any member of the Target Group:
 - (i) issues shares;
 - (ii) grants an option over its shares; or
 - (iii) agrees to make such an issue or grant such an option,
 in each case to a person outside the Target Group other than as Fairly Disclosed;
- (f) **(constitution)** the Target adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (g) **(disposals)** other than as Fairly Disclosed, the Target disposes, or agrees to dispose of the whole or a substantial part of its business or property;
- (h) **(Insolvency)** a member of the Target Group becomes Insolvent;
- (i) **(Cessation of business)** any member of the Target Group permanently ceases, or threatens to permanently cease to, carry on the business conducted as at the date of this document except in circumstances where this could not reasonably be expected to have a material adverse effect on the financial and operational performance or reputation of the Target Group, except as Fairly Disclosed; or
- (j) any member of the Target Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (i) above insofar as it applies to the member of the Target Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that a Target Prescribed Event listed in items (a) to 1.1(b)(j) will not include any matter:

- (k) which the Bidder has previously approved in writing, or where the Target has first consulted with the Bidder in relation to the event and the Bidder has not objected to the proposed event within 2 Business Days of having been so consulted;
- (l) expressly required to be done or procured by the Target Group or permitted to be done by the Target Group under this document or the Scheme;
- (m) required by law or by an order of a court or a Regulatory Authority; or
- (n) to the extent it is Fairly Disclosed as an obligation the Target Group must or may undertake or fulfil between and including the date of this document and the Implementation Date.

Target Share means an ordinary fully paid share in the capital of the Target.

Target Shareholder means each person registered in the Register as a holder of Target Shares.

Target Warranties means the representations and warranties of the Target set out in clause 13.1.

Taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any authority together with any fines, penalties and interest in connection with them.

Timetable means the indicative timetable set out in Schedule 1 subject to any amendments agreed by the parties in writing.

Transaction Document means any of:

- (a) this Scheme Implementation Agreement;
- (b) the Scheme;
- (c) the Deed Poll;
- (d) the Confidentiality Agreement; and
- (e) any other document which the parties agree in writing is a Transaction Document.

Treasurer means the Treasurer of Australia.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Melbourne time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);

- (j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (k) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (l) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually; and
- (m) a reference to any thing (including an amount) is a reference to the whole and each part of it.

1.3 Inconsistent agreements

If a provision of this document is inconsistent with a provision of another Transaction Document the provisions of this document prevail to the extent of the inconsistency.

2 Agreement to propose and implement Scheme

2.1 Target to propose Scheme

The Target agrees to propose the Scheme on and subject to the terms and conditions of this document.

2.2 Agreement to implement Scheme

The parties agree to implement the Scheme on the terms and conditions of this document.

2.3 Bidder may nominate Subsidiary

At any time prior to the Business Day before the First Court Date, the Bidder may nominate any wholly-owned subsidiary of the Bidder to acquire Scheme Shares under the Scheme by providing a written notice which sets out the details of the Bidder Nominee to the Target. If the Bidder decides to nominate a Bidder Nominee to acquire Scheme Shares:

- (a) the parties must procure that the Scheme Shares transferred under the Scheme are transferred to the Bidder Nominee rather than the Bidder;
- (b) the Bidder must procure that the Bidder Nominee complies with all of the relevant obligations of the Bidder under this document and the Deed Poll; and
- (c) any such nomination will not relieve the Bidder of any of its obligations under this document, including the obligation to pay (or procure the payment by the Bidder Nominee of) the Scheme Consideration or the Reverse Break Fee in accordance with the terms of the Scheme.

3 Conditions Precedent

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of the Bidder under clause 4.3 are not binding, until each of the

following Conditions Precedent are satisfied or waived to the extent and in the manner set out in this clause.

Condition Precedent		Party entitled to benefit	Party responsible
(a)	<p>(FIRB approval) before 5.00pm on the Business Day before the Second Court Date either:</p> <p>(i) the Treasurer (or the Treasurer's delegate) has provided a written no objections notification to the Scheme either without conditions or with conditions acceptable to the Bidder, acting reasonably; or</p> <p>(ii) following notice of the proposed Scheme having been given by the Bidder to the Treasurer under the FIRB Act, the Treasurer has ceased to be empowered to make any order under Part 3 of the FIRB Act because the applicable time limit on making orders and decisions under the FIRB Act has expired.</p>	Cannot be waived	Bidder
(b)	<p>(OIO approval) before 5.00pm on the Business Day before the Second Court Date, the Bidder has obtained all consents required under the Overseas Investment Act 2005 (NZ) to the implementation of the Scheme on terms or conditions acceptable to the Bidder acting reasonably.</p>	Cannot be waived	Bidder
(c)	<p>(ASIC and ASX) before 8.00am on the Second Court Date, ASIC and ASX issue or provide any consents, waivers, relief or approvals, or have done any other acts, which the parties agree are reasonably necessary to implement the Scheme, and those consents, waivers, relief or approvals or other acts have not been withdrawn or revoked at that time.</p>	Both	Both
(d)	<p>(Shareholder approval) Target Shareholders approve the Scheme by the requisite majorities in accordance with the Corporations Act.</p>	Cannot be waived	Target
(e)	<p>(Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.</p>	Cannot be waived	Target
(f)	<p>(No Material Adverse Change) no Material Adverse Change occurs between the date of this document and 8.00am on the Second Court Date.</p>	Bidder	Target

Condition Precedent		Party entitled to benefit	Party responsible
(g)	(Regulatory intervention) no Court or Regulatory Authority 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 Scheme and no such order, decree, ruling, other action or refusal is in effect as at 8.00am on the Second Court Date.	Both	Both
(h)	(Independent Expert) the Independent Expert issues a report which concludes that the Scheme is in the best interests of Scheme Participants before the date on which the Scheme Booklet is lodged with ASIC.	Target	Target
(i)	(No Target Prescribed Event) no Target Prescribed Event occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target

3.2 Reasonable endeavours

Each of the Target and the Bidder agrees to use reasonable endeavours to procure that:

- (a) each of the Conditions Precedent for which it is a party responsible (as noted in clause 3.1):
 - (i) is satisfied as soon as practicable after the date of this document; and
 - (ii) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
- (b) there is no occurrence within its control that would prevent the Condition Precedent for which it is a party responsible being satisfied.

3.3 Regulatory matters

Without limiting clause 3.2, each party:

- (a) **(applying for Regulatory Approvals)** must promptly apply for all relevant Regulatory Approvals and provide each other party with a copy of those applications (provided that any commercially sensitive information may be redacted from the copy provided);
- (b) **(Regulatory Approvals process)** must take all steps it is responsible for as part of the Regulatory Approval process, including responding to requests for information at the earliest practicable time and, in the case of the OIO approval process, the Target must submit the vendor information form to the OIO by no later than 21 February 2021;

- (c) **(representation)** has the right to be represented and make submissions at any meeting with any Regulatory Authority relating to a Regulatory Approval;
- (d) **(consultation)** must consult with the other party in advance in relation to all communications (whether written or oral, and whether direct or via a Representative) with any Regulatory Authority relating to any Regulatory Approval and:
 - (i) provide the other party with drafts of any material written communications to be sent to a Regulatory Authority and make any amendments as the other party reasonably requires; and
 - (ii) provide copies of any material written communications sent to or received from a Regulatory Authority to the other party promptly upon despatch or receipt (as the case may be),

in each case to the extent it is reasonable to do so; and
- (e) **(Regulatory Authority)** must promptly offer to the relevant Regulatory Authority, and agree or accept, all undertakings, commitments and conditions necessary or appropriate in order to obtain the approval or consent (as the case may be) as soon as possible, unless it would be unreasonable to do so.

3.4 FIRB and OIO conditions

The parties acknowledge that:

- (a) the standard tax conditions issued by FIRB from time to time are accepted if imposed on the no objections notifications; and
- (b) the standard terms or conditions of consent set out in sections 25B and 25C, as applicable, of the *Overseas Investment Act 2005* (NZ) and those set out on the OIO's website at <https://www.linz.govt.nz/overseas-investment/applying-for-consent-purchase-new-zealand-assets/how-oio-assesses-your-application>, are accepted.

3.5 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by the party or parties entitled to the benefit of that Condition Precedent if so noted in clause 3.1, and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.5 may do so in its absolute discretion.
- (c) If either the Target or the Bidder waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause 3.5, then:
 - (i) subject to clause 3.5(c)(ii), that waiver precludes that party from suing the other for any breach of this document arising as a result of the breach or non-fulfilment of that Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that Condition Precedent; but
 - (ii) if the waiver of the Condition Precedent is itself conditional and the other party:

- (A) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with clause 3.5(c)(i); or
 - (B) does not accept the condition, the Condition Precedent has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
- (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.6 Notices in relation to Conditions Precedent

Each party must:

- (a) **(notice of satisfaction)** promptly notify the other of the satisfaction of a Condition Precedent and must keep the other informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent;
- (b) **(notice of failure)** immediately give written notice to the other of a breach or non-fulfilment of a Condition Precedent, or of any event which will prevent a Condition Precedent being satisfied; and
- (c) **(notice of waiver)** upon receipt of a notice given under clause 3.6(b), the party receiving the notice must give written notice to the first party as soon as possible (and in any event before 5.00pm on the day before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of any Condition Precedent resulting from the occurrence of that event, specifying the Condition Precedent in question.

3.7 Consultation on failure of Condition Precedent

If:

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

the parties must consult in good faith with a view to determine whether:

- (d) the Scheme may proceed by way of alternative means or methods;
- (e) to extend the relevant time for satisfaction of the Condition Precedent or to adjourn or change the date of an application to the Court; or
- (f) to extend the End Date.

3.8 Failure to agree

If the parties are unable to reach agreement under clause 3.7 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):

- (a) subject to clause 3.8(b), either party may terminate this document (and that termination will be in accordance with clause 14.1(e)(i)); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this document (and that termination will be in accordance with clause 14.1(e)(ii)),

in each case before 8.00am on the Second Court Date.

A party will not be entitled to terminate this document under this clause if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of a breach of this document by that party or a deliberate act or omission of that party.

3.9 Scheme voted down because of Headcount Test

If the Scheme is not approved by the Target Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and the Target and the Bidder consider, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied, then the Target must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by the Target to represent it in Court proceedings related to the Scheme, in consultation with the Bidder, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

4 Outline of Scheme

4.1 Scheme

The Target must propose a scheme of arrangement under which:

- (a) all the Target Shares held by Scheme Participants at the Scheme Record Date will be transferred to the Bidder; and
- (b) each Scheme Participant will be entitled to receive the Scheme Consideration,

subject to and in accordance with this document, the Scheme and the Deed Poll.

4.2 Scheme Consideration

Subject to and in accordance with this document and the Scheme, each Scheme Participant is entitled to receive the Scheme Consideration in respect of each Target Share held by that Scheme Participant.

4.3 Payment of Scheme Consideration

Subject to this document and the Scheme, the Bidder undertakes to the Target (in its own right and separately as trustee or nominee of each Scheme Participant) that, in consideration of the transfer to the Bidder of each Target Share held by a Scheme Participant, the Bidder will, on the Implementation Date:

- (a) accept that transfer; and
- (b) pay or procure the payment of the Scheme Consideration in accordance with the Scheme.

Where the calculation of the Scheme Consideration to be provided to a Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up or down (as applicable) to the nearest whole cent.

4.4 Employee incentives

- (a) The Target will ensure that, by no later than the Effective Date, there are no outstanding Employee Share Rights.
- (b) In order to comply with its obligation under clause 4.4(a), the Target will:
 - (i) cause some or all of the outstanding Employee Share Rights to vest and, following such vesting, cause the relevant number of Target Shares to be transferred or issued (as applicable) to the relevant former holders of the relevant Employee Share Rights in sufficient time to allow the relevant former holders of the relevant Employee Share Rights to participate in the Scheme; and
 - (ii) take such action as may be necessary to cancel any outstanding Employee Share Rights which it does not cause to vest in accordance with clause 4.4(b)(i) (if any).

4.5 No amendment to the Scheme without consent

The Target must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of the Bidder (which must not be unreasonably withheld or delayed).

4.6 Permitted Dividends

- (a) Subject to the requirements of this clause 4.6, the Target may declare and pay to Target Shareholders a fully franked ordinary dividend of an amount up to \$0.03 per Target Share, in the ordinary course in respect of the financial year ended 31 December 2020 ("**Ordinary Dividend**"), provided that:
 - (i) the payment of the Ordinary Dividend must comply with the Corporations Act;
 - (ii) the record date and payment date for the Ordinary Dividend must be before the Scheme Record Date.
- (b) Despite any other provision of this document but subject to the requirements of this clause 4.6, the Target may in its absolute discretion declare and pay to Target Shareholders a special dividend of an amount

up to \$0.02 per Target Share, which will be franked to the fullest extent possible ("**Special Dividend**"), provided that:

- (i) the payment of the Special Dividend complies with the Corporations Act;
 - (ii) the record date and payment date for the Special Dividend must be before the Scheme Record Date.
- (c) If the Target announces, declares and pays the Ordinary Dividend and/or the Special Dividend in accordance with clauses 4.6(a) and 4.6(b):
- (i) the Ordinary Dividend and Special Dividend will each be franked to the maximum extent possible, subject to the franking account of the Target not being in deficit as at 31 December 2021;
 - (ii) the Ordinary Dividend and the Special Dividend are each to be paid from accumulated profits, retained earnings or distributable reserves (or a combination of all or some of them) of the Target Group existing immediately prior to the declaration of that dividend;
 - (iii) the Scheme Consideration will not be reduced by the amount of the Ordinary Dividend or the Special Dividend.
- (d) The Target undertakes to use best endeavours so that:
- (i) the Implementation Date occurs after 21 June 2021; and
 - (ii) on the Implementation Date any deficit in the Target's franking account will not exceed \$5,000,000.
- (e) Despite any other provision of this document, the Target may make any intra group distributions and payments between wholly-owned members of the Target Group, in order to be able to declare and pay the Ordinary Dividend in accordance with clause 4.6(a) and the Special Dividend in accordance with clause 4.6(b).
- (f) The provisions of this clause 4.6 do not prevent the declaration or payment of a dividend by the Target if this document is terminated.

4.7 Withholding

The Bidder acknowledges that no withholding, deduction or payment is required to be made to a Tax authority under Subdivision 14-D of Schedule 1 of the *Tax Administration Act 1953* (Cth) in relation to the Scheme Consideration.

5 Implementation

5.1 General obligations

The Target and the Bidder must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of Advisers); and
- (b) procure that its officers (other than the Interested Directors) and its Advisers work in good faith and in a timely and co-operative fashion with

the other party (including by attending meetings and by providing information),

to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

5.2 Target's obligations

The Target must take all reasonable steps to implement the Scheme on a basis consistent with this document as soon as reasonably practicable and must:

- (a) **(announce directors' recommendation)** following execution of this document, announce, in the form contained in Annexure A (on the basis of statements made to the Target by each member of the Target Board, excluding Interested Directors where relevant) that:
 - (i) the Target Board (excluding the Interested Directors) intends to unanimously recommend to the Scheme Participants that the Scheme be approved; and
 - (ii) each Target Board member who holds Target Shares, intends to vote his or her Target Shares in favour of the Scheme,subject to:
 - (iii) the Independent Expert concluding, and continuing to conclude, that the Scheme is in the best interests of Target Shareholders (excluding any Bidder Group member); and
 - (iv) there being no Superior Proposal.
- (b) **(preparation of Scheme Booklet)** subject to clause 5.2(e)(i), as soon as practicable after the date of this document, prepare and despatch the Scheme Booklet:
 - (i) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules; and
 - (ii) which includes a statement:
 - (A) by the Target Board (excluding the Interested Directors) unanimously recommending that Target Shareholders vote in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders (excluding any Bidder Group member) and there being no Superior Proposal; and
 - (B) by each Target Board member who holds Target Shares that they intend to vote their Target Shares in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders (excluding any Bidder Group member) and there being no Superior Proposal;
- (c) **(Independent Expert)** promptly appoint Lonergan Edwards & Associates as the Independent Expert and provide any assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare its report for the Scheme Booklet as soon as practicable;

- (d) **(section 411(17)(b) statement)** apply to ASIC for the production of a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (e) **(consultation with the Bidder)** consult with the Bidder as to the content and presentation of:
 - (i) the Scheme Booklet, which includes:
 - (A) allowing the Bidder a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet (however, any review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to the Bidder);
 - (B) taking any reasonable comments made by the Bidder into account in good faith when producing a revised draft of the Scheme Booklet;
 - (C) providing to the Bidder a revised draft of the Scheme Booklet within a reasonable time before the draft of the Scheme Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised; and
 - (D) obtaining the Bidder's consent to the inclusion of the Bidder Information (including in respect of the form and context in which the Bidder Information appears in the Scheme Booklet); and
 - (ii) documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating processes, affidavits, submissions and draft minutes of Court orders), and consider in good faith any comments on, or suggested amendments to, those documents from the Bidder prior to filing those documents with the Court;
- (f) **(lodgement of Regulator's Draft)**
 - (i) no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet ("**Regulator's Draft**") to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to the Bidder immediately thereafter; and
 - (ii) keep the Bidder reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with the Bidder in good faith prior to taking any steps or actions to address those material issues;
- (g) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, the Target becomes aware:
 - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or

- (ii) of information that is required to be disclosed to Target Shareholders under any applicable law but was not included in the Scheme Booklet,

promptly consult with the Bidder in good faith as to the need for, and the form of, any supplementary disclosure to Target Shareholders, and make any disclosure that the Target considers reasonably necessary in the circumstances, having regard to applicable laws;

- (h) **(Court application)** apply to the Court for an order under section 411(1) of the Corporations Act directing the Target to convene the Scheme Meeting;
- (i) **(send Scheme Booklet)** send the Scheme Booklet to Target Shareholders as soon as practicable after the Court orders the Target to convene the Scheme Meeting;
- (j) **(Scheme Meeting)** convene the Scheme Meeting to agree to the Scheme in accordance with any orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (k) **(director's voting)** use its reasonable endeavours to procure that each member of the Target Board votes any Target Shares in which they have a Relevant Interest in favour of the Scheme;
- (l) **(Court approval)** subject to all Conditions Precedent, other than paragraph (e) in clause 3, being satisfied or waived in accordance with this document, apply to the Court for an order approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (m) **(Conditions Precedent certificate)** at the hearing on the Second Court Date, provide to the Court (through its counsel):
 - (i) a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of matters within the Target's knowledge) whether or not the Conditions Precedent for which it is responsible, as noted in clause 3.1 (other than paragraph (e)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to the Bidder by 5.00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by the Bidder under clause 5.3(h);
- (n) **(lodge copy of Court order)** lodge with ASIC an office copy of the Court order approving the Scheme as approved by the Target Shareholders at the Scheme Meeting in accordance with section 411(10) of the Corporations Act on the day after that office copy is received (or any later date agreed in writing by the Bidder);
- (o) **(Register)** close the Register as at the Scheme Record Date to determine the identity of Scheme Participants and their entitlements to Scheme Consideration;
- (p) **(instruments of transfer)** subject to the Bidder satisfying its obligations under clause 5.3, on the Implementation Date:
 - (i) execute proper instruments of transfer and effect the transfer of the Target Shares held by Scheme Participants to the Bidder in accordance with the Scheme; and

- (ii) register all transfers of the Target Shares held by Scheme Participants to the Bidder;
- (q) **(suspension of trading)** apply to ASX to suspend trading in the Target Shares with effect from the close of trading on the Effective Date; and
- (r) **(other steps)** do all other things necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

5.3 Bidder's obligations

The Bidder must take all reasonable steps to assist the Target to implement the Scheme on a basis consistent with this document and as soon as reasonably practicable, and in particular must:

- (a) **(execute documents and perform acts)** execute all documents and do all acts and things within its power as may be necessary for the implementation and performance of the Scheme in accordance with the Transaction Documents;
- (b) **(Bidder Information)** prepare and promptly provide to the Target for inclusion in the Scheme Booklet the Bidder Information (in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules) and consent to the inclusion of that information in the Scheme Booklet;
- (c) **(further Bidder Information)** promptly provide to the Target any further or new Bidder Information as may arise after the Scheme Booklet has been sent to Target Shareholders and until the date of the Scheme Meeting as may be necessary to ensure that the Bidder Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and to ensure that there would be no breach of clause 13.6(g) if it applied as at the date on which such further or new Bidder Information arose;
- (d) **(supplementary disclosure)** promptly provide to the Target any information and disclosures concerning the Bidder as may arise after the Scheme Booklet has been sent to Target Shareholders and until the date of the Scheme Meeting as is as reasonably requested by the Target for inclusion in any supplementary disclosure to Target Shareholders contemplated in clause 5.2(g);
- (e) **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (f) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its counsel, the Bidder must undertake (if requested by the Court) to do all things and take all steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this document and the Scheme;
- (g) **(Deed Poll)** prior to the Scheme Booklet being sent, sign and deliver the Deed Poll;
- (h) **(Conditions Precedent certificate)** before 8.00am on the Second Court Date, provide to the Target for provision to the Court at the hearing on that date a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of

matters within the Bidder's knowledge) whether or not the Conditions Precedent for which the Bidder is responsible, as noted in clause 3.1 (other than paragraph (e)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to the Target by 5.00pm on the Business Day prior to the Second Court Date;

- (i) **(Share transfer)** if the Scheme becomes Effective, accept a transfer of the Target Shares as contemplated by clause 4.3(a); and
- (j) **(Scheme Consideration)** if the Scheme becomes Effective, pay or procure the payment of the Scheme Consideration in the manner and amount contemplated by clause 4.3(b) and the terms of the Scheme.

5.4 Scheme Booklet responsibility statement

The responsibility statement to appear in the Scheme Booklet, in a form to be agreed by the parties, will contain words to the effect of:

- (a) the Target has prepared, and is responsible for, the content of the Scheme Booklet other than, to the maximum extent permitted by law, the Bidder Information, the Independent Expert's Report or any other report or letter issued to the Target by a third party;
- (b) the Bidder has prepared, and is responsible for, the Bidder Information in the Scheme Booklet (and no other part of the Scheme Booklet); and
- (c) the Target and its directors and officers do not assume any responsibility for the accuracy or completeness of the sections of the Scheme Booklet that the Bidder has prepared and has responsibility for.

5.5 Disagreement on content of Scheme Booklet

- (a) If the Bidder and the Target disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet.
- (b) If complete agreement is not reached after reasonable consultation, then:
 - (i) if the disagreement relates to the form or content of the Bidder Information contained in the Scheme Booklet, the Target will make any amendments as the Bidder reasonably requires (unless the information relates to the Bidder in the Independent Expert's Report, in which case the Target will communicate the request for amendment to the Independent Expert); and
 - (ii) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the Target Board (excluding Interested Directors) will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.

5.6 Verification

Each party must undertake appropriate verification processes for the information supplied by that party in the Scheme Booklet.

5.7 Conduct of Court proceeding

The Target and the Bidder are entitled to separate representation at all Court proceedings relating to the Scheme. This document does not give the Target or the Bidder any right or power to give undertakings to the Court for or on behalf of

the other party without that party's written consent. The Target and the Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this document.

5.8 Appeal process

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

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

in which case either party may terminate this document in accordance with clause 14.1(e)(iii).

5.9 No partnership or joint venture

Subject to this document, nothing in this clause requires either party to act at the direction of the other. The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

6 Recommendation

The Target must use its reasonable endeavours to procure that none of its directors (excluding the Interested Directors) withdraws, or changes their recommendation in favour of the Scheme, unless:

- (a) there is a Superior Proposal; or
- (b) the Independent Expert concludes that the Scheme is not in the best interests of Target Shareholders (excluding any Bidder Group member), or adversely changes its previously given opinion that the Scheme is in the best interests of Target Shareholders (excluding any Bidder Group member); and
- (c) the Target Board (excluding Interested Directors) determines in good faith and acting reasonably, that they must do so because of their fiduciary or statutory duties to Target Shareholders.

7 Releases and other matters

7.1 Release of the Target Indemnified Parties

Subject to the Corporations Act, the Bidder releases its rights, and agrees with the Target that it will not make a claim, against any Target Indemnified Party (other than the Target and its Related Bodies Corporate) as at the date of this document and from time to time in connection with:

- (a) the Target's execution or delivery of a Transaction Document;

- (b) any breach of any representations and warranties of the Target or any other member of the Target Group in this document; or
- (c) the implementation of the Scheme; or
- (d) any disclosures containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.1 limits the Bidder's rights to terminate this document under clause 14.1.

7.2 Benefit for Target Indemnified Parties

- (a) The Target receives and holds the benefit of this clause to the extent it relates to each Target Indemnified Party on behalf of each of them.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.

7.3 Release of the Bidder Indemnified Parties

Subject to the Corporations Act, the Target releases its rights, and agrees with the Bidder that it will not make a claim, against any Bidder Indemnified Party (other than the Bidder and its Related Bodies Corporate) as at the date of this document and from time to time in connection with:

- (a) the Bidder's execution or delivery of a Transaction Document;
- (b) any breach of any representations and warranties of the Bidder or any other member of the Bidder Group in this document;
- (c) the implementation of the Scheme; or
- (d) any disclosures containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.3 limits the Target's rights to terminate this document under clause 14.1.

7.4 Benefit for Bidder Indemnified Parties

- (a) The Bidder receives and holds the benefit of this clause to the extent it relates to each Bidder Indemnified Party on behalf of each of them.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.

7.5 Appointment of Target directors

On the Implementation Date, but subject to the Scheme Consideration having been paid to the Scheme Participants and receipt by the Target of signed consents to act, the Target must use its reasonable endeavours to:

- (a) cause the appointment of each Incoming Director to the Target Board; and

- (b) procure that each of the Outgoing Directors retire from the Target Board, in accordance with the Target Constitution, the Corporations Act and the Listing Rules.

7.6 Directors' and officers' insurance

Subject to the Scheme becoming Effective and subject to applicable laws (including the Corporations Act), the Bidder undertakes in favour of the Target and each other person who is a Target Indemnified Party that it will:

- (a) for a period of 7 years from the Implementation Date, ensure that the constitutions and deeds of indemnity of each Target Group member continue to contain such rules and indemnities as are contained in those constitutions and deeds of indemnity at the date of this document that provide for each Target Group member to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Bidder Group; and
- (b) procure that each Target Group member complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that the directors' and officers' run-off insurance cover for those directors and officers is maintained, subject to clause 7.7, for a period of 7 years from the retirement date of each director and officer.

7.7 Period of undertaking

The undertakings contained in clause 7.6 are given until the earlier of the end of the relevant period specified in that clause or the relevant member of the Target Group ceasing to be part of the Bidder Group.

7.8 Benefit of undertaking for the Target Group

- (a) The Target acknowledges that it receives and holds the benefit of clause 7.6 to the extent it relates to each director and officer of a member of the Target Group on behalf of each of them.
- (b) The undertakings contained in clause 7.6 are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.

8 Conduct of business before the Implementation Date and related matters

8.1 Conduct of business – Target's positive obligations

From the date of this document up to and including the Implementation Date, the Target must, and must procure each member of the Target Group to, conduct its business in the ordinary and usual course and:

- (a) operate those businesses and subsidiaries in a manner substantially consistent with past practice, as altered by measures taken as a result of the impact of the COVID-19 virus, and in accordance with all applicable laws;
- (b) use reasonable endeavours to preserve their relationships with customers, suppliers, joint venture parties, landlords, licensors, licensees

and others having material business dealings with them, and to retain the services of all key employees;

- (c) use reasonable endeavours to comply in all material respects with: (i) all material contracts to which a member of the Target Group is a party; and (ii) all laws, authorisations and licences applicable to each member of the Target Group;
- (d) keep the Bidder reasonably and promptly informed of, and consult the Bidder in good faith in respect of, material developments in the business of the Target Group, including any decision to cease (temporarily or permanently) any material part of the business of the Target Group;
- (e) promptly notify the Bidder in writing of any of the following matters of which the Target becomes aware, and such written notification must include a reasonable summary of the relevant matter (to the extent the Target is aware):
 - (i) events, facts, matters or circumstances which would or would be reasonably be expected to either constitute a Material Adverse Change or have a material adverse effect on the financial or operational performance, or the reputation, of the Target Group or the Target Group's relationships with Regulatory Authorities, financiers or key business partners (including joint venture parties); and
 - (ii) any breach of, or default under, any law, contract, arrangement, permit, license or authorisation that is binding on any member of the Target Group and which the Target is aware is reasonably likely to result in a material liability for the Target Group or any breach, default, event of default, cancellation event or review event under a debt financing agreement to which any member of the Target Group is a party.

8.2 Conduct of business – Target's negative obligations

Without limiting clause 8.1, Target must not, and must procure that its Subsidiaries do not, from the date of this document up to and including the Implementation Date, do any of the following (or agree or offer to do any of the following):

- (a) incur any additional Financial Indebtedness (except for draw-downs on existing banking facilities, or utilising or leveraging of any existing financing or hedging arrangements, or entering into such arrangements in accordance with the Target Group's Treasury policies as at the date of this document) or guarantee or indemnify the obligations of any person other than a member of the Target Group that is directly or indirectly wholly owned by Target, other than in the usual and ordinary course of business and consistent with past practice;
- (b) other than as approved in writing by the Bidder (not to be unreasonably withheld or delayed), amend or take any action that:
 - (i) seeks or causes a financier (or person acting on its behalf) to consent to or waive (whether or not such consent or waiver is conditioned) any provision under; or
 - (ii) would be reasonably likely to give rise to a financier (or person acting on its behalf) being capable of exercising a right that would pose a risk to the continuity of,

any Financial Indebtedness arrangements to which one or more members of the Target Group are a party;

- (c) (except as required by law or as provided in an existing contract in place as at the date of this document) engage any new employee or enter into or make any material change to the terms of employment of any person, including an officer, director, executive or other employee, whose total employment cost exceeds \$300,000 ("**Key Person**");
- (d) amend the terms of any option, performance right, incentive or share plan;
- (e) accelerate the rights of any of their employees to compensation or benefits of any kind (including under any option, performance right, incentive or share plan);
- (f) terminate or encourage the resignation of a Key Person, except, after good faith consultation with the Bidder, in accordance with current personnel practices;
- (g) pay or agree to pay any of its officers, directors, executives or other employees a bonus, severance, termination or retention payment, other than pursuant to existing contractual arrangements in effect on the date of this document and which are Fairly Disclosed in the Due Diligence Materials prior to the date of this document, including the special exertion fees for the members of the IBC and retention bonus arrangements for employees of the Target Group;
- (h) settle or compromise any dispute, audit or inquiry in relation to Tax or duty or amend any tax return, other than in the ordinary course of its business;
- (i) commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding that relates to potential costs or liability of more than \$500,000 (after allowing for insurance recoveries), other than pursuing debts in the ordinary course of business;
- (j) except under contractual arrangements in effect on the date of this document and which are Fairly Disclosed, enter into any enterprise bargaining agreement or similar collective employment agreement;
- (k) in respect of any single transaction or series of related or similar transactions, acquire or dispose of (or agree or commit to or grant a right which would lead to the acquisition or disposal of) any interest in any equity securities, business, real property, entity or undertaking, the value of which exceeds \$1,000,000 when aggregated with all acquisitions or disposals of interests in securities, assets (other than in the ordinary course of business), businesses, real property, entities or undertakings;
- (l) incur, agree to, enter into commitments involving, bring forward the time for incurring or committing to, or grant to another person any right the exercise of which could be reasonably expected to involve or result in any member of the Target Group incurring capital expenditure of more than \$1,000,000;
- (m) enter into, vary or terminate any contract, lease, licence arrangement, distribution arrangement, joint venture, partnership or commitment other than in the ordinary course:
 - (i) that has a term of more than 2 years; and

- (ii) either:
 - (A) results in total expenditure greater than \$2,000,000 in each case;
 - (B) results in total revenue of greater than \$2,000,000 in each case individually; or
 - (C) contains a restrictive covenant or otherwise has the effect of imposing additional restrictions on the future business activities of the Target Group;
- (n) change any accounting policy applied by it to report its financial position other than any change in policy required by a change in Accounting Standards or law; or
- (o) enter into or resolve to enter into a transaction with any related party of Target (other than a related party which is a Target Group member or Bidder Group member) as defined in section 228 of the Corporations Act, other than pursuant to arrangements and on the same terms as the arrangements Fairly Disclosed in the Target's annual report issued for the full year ended 31 December 2019.

8.3 Exceptions

The obligations of Target under this clause 8 do not apply in respect of any matter:

- (a) expressly required to be done or procured by Target or expressly permitted to be done by Target under this document, the Target's FY21 budget or in connection with the Scheme;
- (b) required by law or by an order of a court or Regulatory Authority;
- (c) which, in the reasonable opinion of Target, is required in order to obtain insurances for the Target Group (or any member thereof) or the business conducted by the Target Group (or any member thereof);
- (d) which, in the reasonable opinion of Target, is a necessary and prudent response to any emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property) and it is impractical to seek the approval of the Bidder prior to giving effect to the response;
- (e) which is Fairly Disclosed but excluding for this purpose any acquisition or other equivalent transaction that would fall within clause 8.2(k) even it was Fairly Disclosed;
- (f) otherwise known to the Bidder Group through its business and commercial dealings with the Target Group; or
- (g) the undertaking of which the Bidder has approved prior to the date of this document or otherwise approved in writing (which approval must not be unreasonably withheld or delayed).

8.4 Access

- (a) In the period from the date of this document to the Implementation Date and for so long as the Target Board (excluding the Interested Directors) continues to publicly recommend that Target Shareholders vote in favour of the Scheme, the Target must:

- (i) provide the Bidder and its officers and advisers with reasonable access to the Target's officers and Advisers which the Bidder reasonably requires for the purposes of applying for all relevant Regulatory Approvals;
- (ii) procure that the Target's CEO and CFO (or their nominees) meet with Representatives of the Bidder twice a month for the purpose of or in connection with:
 - (A) planning the transition of the Target Group and other matters relating to the conduct of the Target Group following the Implementation Date; and
 - (B) keeping the Bidder informed of material developments relating to the Target Group.
- (b) Nothing in this clause 8.4 obliges the Target to provide to the Bidder or its Representatives any information:
 - (i) concerning the consideration of the Scheme by the Target Board (excluding the Interested Directors); or
 - (ii) which would breach any applicable law (including privacy laws) or regulation or any obligations of confidentiality owed to any person or result in the loss of legal privilege.
- (c) The Target will provide reasonable assistance to the Bidder for the purpose of satisfying the Target's obligations under this clause 8.4 but nothing in this clause 8.4 requires the Target to provide access to its people or documentation or to take any other action which would unreasonably disrupt the usual and ordinary course of the Target's businesses and operations.

8.5 Change of control provisions

- (a) As soon as practicable after the date of this document, the Target and the Bidder must seek to identify any change of control or unilateral termination rights in material contracts to which the Target or another Target Group member is party which may be triggered by or exercised in response to the implementation of the Scheme.
- (b) In respect of those contracts:
 - (i) the parties will agree a proposed course of action, adopting the reasonable requests of the Bidder, and then the Target will initiate contact, including joint discussions if required, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate, including confirmation that the counterparties will not terminate those contracts because of a change in control in the Target or as a result of the implementation of the Scheme;
 - (ii) the Target must take all reasonable action necessary to obtain such consents or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by counterparties. The Target must use reasonable endeavours to resist any requirements of landlords or contract counterparties that new or increased bank guarantees or security deposits be provided and ensure that no directors or other personal guarantees are offered or agreed to; and

- (iii) the Bidder must cooperate with, and provide all reasonable assistance to, the Target to obtain such consents or confirmations, including by promptly providing any information reasonably required by counterparties,

provided nothing in this clause 8.5 or any other provision of this document requires the Bidder to agree to any new conditions or to provide any new guarantees or security to a contract or lease counterparty which are not reasonably acceptable to the Bidder.

9 Exclusivity

9.1 No-shop

During the Exclusivity Period, the Target must ensure that neither it nor any of its Representatives:

- (a) solicits, invites, encourages, continues or initiates any enquiries, negotiations or discussions with any third party; or
- (b) communicates any intention to do any of these things,

in relation to, or that may reasonably be expected to encourage or lead to, an actual, proposed or potential Competing Transaction or which may otherwise lead to the Scheme not being completed.

9.2 No-talk

Subject to clause 9.4, during the Exclusivity Period, the Target must ensure that neither it nor any of its Representatives:

- (a) negotiates or enters into; or
- (b) participates in negotiations or discussions with any other person regarding,

a Competing Transaction or any agreement, understanding or arrangement that may be reasonably expected to lead to a Competing Transaction, even if that person's Competing Transaction was not directly or indirectly solicited, invited, encouraged or initiated by the Target or any of its Representatives or even if the person has publicly announced the Competing Transaction.

9.3 No due diligence

- (a) During the Exclusivity Period, except with the prior written consent of the Bidder, the Target must not, and must ensure that its Representatives do not, directly or indirectly:
 - (i) solicit, invite, initiate, or encourage, or (subject to clause 9.4) facilitate or permit, any person (other than the Bidder) to undertake due diligence investigations in respect of the Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with or with a view to obtaining or which would reasonably be expected to lead to such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction; or

- (ii) subject to clause 9.4, make available to any person (other than the Bidder) or permit any such person to receive any non-public information relating to the Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with or with a view to obtaining or which would reasonably be expected to lead to such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction.
- (b) If the Target proposes that any non-public information be provided to a third party while validly relying on the exception in clause 9.4, then:
 - (i) before the Target provides such information, the third party must enter into a confidentiality agreement which contains obligations on the recipient of that information which are no less onerous in any material respect than the obligations of the Bidder and the Target under the Confidentiality Agreement; and
 - (ii) any non-public information provided to that third party must also be provided to the Bidder (unless the information has already been provided to the Bidder or its Representatives).

9.4 Exceptions

Clauses 9.2 and 9.3(a)(ii) do not apply to the extent that it restricts the Target or the Target Board from taking or refusing to take any action with respect to a genuine Competing Transaction (which was not solicited, invited, encouraged or initiated by the Target in contravention of clause 9.1) provided that the Target Board (excluding Interested Directors) has determined, in good faith that:

- (a) where there is a written Competing Transaction, after consultation with its financial advisers, that the Competing Transaction is a Superior Proposal or the steps which the Target Board proposes to take may reasonably be expected to lead to a Competing Transaction which is a Superior Proposal; and
- (b) after receiving written legal advice from the Target's external legal advisers experienced in transactions of this nature, that failing to respond to the Competing Transaction may constitute a breach of its fiduciary or statutory duties.

9.5 Further exceptions

Nothing in this document prevents the Target from:

- (a) continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme or its business generally; or
- (b) fulfilling its continuous disclosure requirements.

9.6 Notice of unsolicited approach

- (a) During the Exclusivity Period, the Target must promptly (and in any event, within 48 hours) notify the Bidder in writing if it, or any of its Representatives, receives any unsolicited approach with respect to any inquiry, expression of interest, offer, proposal or discussion that could reasonably be expected to lead to a Competing Transaction and disclose to the Bidder the fact that such an approach has been made.

- (b) A notice under this clause 9.6 must be accompanied by all material details of the approach, including:
 - (i) the material terms and conditions (including price, conditions precedent, timetable and any break fee) of any Competing Transaction or any proposed Competing Transaction (to the extent known); and
 - (ii) the identity of the person who made the approach, inquiry or proposal to initiate discussions or negotiations referred to in clause (a).
- (c) During the Exclusivity Period, the Target must also notify the Bidder in writing as soon as possible after becoming aware of any material developments in relation to any actual, proposed or potential Competing Transaction, including in respect of any of the information previously notified to the Bidder under this clause.

9.7 Bidder counterproposal

- (a) Upon receiving notice under clause 9.6, the Bidder will have the right, but not the obligation, at any time during the 5 Business Days following the receipt of the notice, to put to the Target a new or amended proposal that constitutes a matching or superior proposal to its existing proposal ("**Bidder Counterproposal**").
- (b) The Target will procure that the Target Board (excluding the Interested Directors) considers the Bidder Counterproposal and if the Target Board (excluding the Interested Directors), acting reasonably and in good faith, determines that the Bidder Counterproposal would provide an equivalent or superior outcome for Target Shareholders as a whole compared with the Competing Transaction, taking into account all of the terms and conditions of the Bidder Counterproposal, then:
 - (i) the Target and the Bidder must use their best endeavours to agree the amendments to this document and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable; and
 - (ii) the Target will use its best endeavours to procure that each of the directors of Target (excluding Interested Directors) continues to recommend the Scheme (as modified by the Bidder Counterproposal) to Target Shareholders.
- (c) If the determination is that the Bidder Counterproposal would not provide an equivalent or superior outcome to the Target Shareholders as a whole compared with the Competing Transaction, then the Bidder may take steps to amend the Bidder Counterproposal to address the reasons given within a further period of 5 Business Days. If the Bidder does so to the Target's satisfaction, then the process in clause 9.7(b) applies to that amended Bidder Counterproposal.

10 Break Fee

10.1 Background

This clause has been agreed in circumstances where:

- (a) the Bidder and the Target believe that the Scheme will provide significant benefits to the Bidder, the Target and their respective shareholders, and the Bidder and the Target acknowledge that, if they enter into this document and the Scheme is subsequently not implemented, the Bidder will incur significant costs including those described in clause 10.2 and that while the Bidder is prepared to absorb those costs if the Scheme is implemented because the Bidder will benefit in that scenario, the Bidder will not benefit if the Scheme is not implemented;
- (b) in the circumstances referred to in clause 10.1(a), the Bidder has requested that provision be made for the payment of the Break Fee, without which the Bidder would not have entered into this document;
- (c) the Target Board (excluding the Interested Directors) believe that the Scheme will provide benefit to the Target and Target Shareholders (as a whole) and that it is appropriate for the Target to agree to the payments referred to in this clause to secure the Bidder's participation in the Scheme; and
- (d) both parties have received legal advice on this document and the operation of this clause.

10.2 Nature of payment

- (a) The Break Fee is an amount to compensate the Bidder for:
 - (i) fees for legal, taxation and financial advice in planning and implementing the Scheme;
 - (ii) reasonable opportunity costs incurred in engaging in the Scheme or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Scheme;
 - (iv) out of pocket expenses incurred in planning and implementing the Scheme; and
 - (v) any damage to the Bidder's reputation associated with a failed transaction and the implications of that damage if the Bidder seeks to execute alternative acquisitions in the future,

in each case, incurred by the Bidder directly or indirectly as a result of having entered into this document and pursuing the Scheme.

- (b) The parties acknowledge that:
 - (i) the amount of fees, costs and losses referred to in this clause 10.2 is inherently unascertainable and that, even after termination of this document, the costs will not be able to be accurately quantified; and

- (ii) the amount of the costs payable under clause 10.3 is a genuine and reasonable pre-estimate of those fees, costs and losses and is not a penalty.

10.3 Payment of Break Fee

The Target agrees to pay the Break Fee to the Bidder without withholding or set off if in any of the following circumstances:

- (a) **(Competing Transaction succeeds)** both of the following occur:
 - (i) a Competing Transaction is publicly announced during the period commencing on the date of this document and ending on the End Date; and
 - (ii) within 12 months from the date of the public announcement of such Competing Transaction:
 - (A) the Competing Transaction is implemented or completed substantially on the terms described in the public announcement but for the purposes of this clause 10.3(a)(ii)(A), the reference to “10% or more” in paragraph (a) of the definition of “Competing Transaction” will be deemed to be a reference to “more than 20%”; or
 - (B) without limiting clause 10.3(a)(ii)(A), the proponent of that Competing Transaction acquires a Relevant Interest in, an economic interest in or voting power of at least 50% of the Target Shares or otherwise acquires ‘control’ (as defined in section 50AA of the Corporations Act) of Target and the Competing Transaction is (or becomes) free of any defeating condition; or
- (b) **(Competing Transaction executed)** at any time before termination of this document, Target enters into any agreement with a third party in respect of a Competing Transaction under which that third party and Target agree to undertake or give effect to such Competing Transaction; or
- (c) **(Change of recommendation)** at any time prior to the Second Court Date, any member of the Target Board (excluding the Interested Directors):
 - (i) withdraws or adversely modifies their recommendation of the Scheme or recommends or supports a Competing Transaction;
 - (ii) does not recommend in an ASX announcement announcing the Scheme, or the Scheme Booklet, that the Target Shareholders (other than any Bidder Group member) vote in favour of the Scheme; or
 - (iii) makes any public statement to the effect that the Scheme is not, or is no longer, recommended,

except where that act is as a result of:

 - (iv) the Independent Expert opining (either in its initial report or any updated, revised or supplemental report) that the Scheme is not in the best interest of Target Shareholders (excluding any Bidder Group member) (other than where the reason for that opinion is

a Competing Transaction which the Independent Expert may reasonably regard to be on more favourable terms than the transaction contemplated by this document); or

- (d) **(Material breach)** the Bidder validly terminates this document in accordance with clause 14.1(c).

10.4 Timing of payment

- (a) A demand by the Bidder for payment of the Break Fee under clause 10.3 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of the Bidder into which the Target must pay the Break Fee.
- (b) The Target must pay the Break Fee to the Bidder without withholding or set off within 5 Business Days of receipt by the Bidder of a valid demand for payment from the Target under clause 10.4(a).

The demand may only be made after the occurrence of an event referred to in clause 10.3.

10.5 Other matters

- (a) **(No naked no vote trigger)** For the avoidance of doubt, the Break Fee is not payable by the Target merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (b) **(Not payable if Target validly terminates)** For the avoidance of doubt, the Break Fee is not payable by the Target if it validly terminates this document in accordance with clause 14.1(c).
- (c) **(Only payable once)** The Break Fee is only payable once and the maximum amount payable by the Target is the amount calculated as 1% of the Scheme Consideration at the time the demand is made under clause 10.4(a).
- (d) **(Not payable if Scheme Effective)** The Break Fee is not payable if the Scheme becomes Effective, despite the occurrence of any event in clause 10.3.

10.6 Target's limitation of liability

Notwithstanding any other provision of this document:

- (a) the maximum liability of the Target to the Bidder under or in connection with this document including in respect of any breach of this document but excluding any wilful and intentional breach of clause 9 will be the Break Fee; and
- (b) the payment by the Target of the Break Fee represents the sole and absolute amount of liability of the Target under or in connection with this document and no further damages, fees, expenses or reimbursements of

any kind will be payable by the Target in connection with this document, other than with respect to any wilful and intentional breach of clause 9.

11 Reverse Break Fee

11.1 Background

This clause has been agreed in circumstances where:

- (a) the Bidder and the Target believe that the Scheme will provide significant benefits to the Bidder, the Target and their respective shareholders, and the Bidder and the Target acknowledge that, if they enter into this document and the Scheme is subsequently not implemented, the Target and Target Shareholders will incur significant costs including those set out in clause 11.5;
- (b) in the circumstances referred to in clause 11.1(a), the Target has requested that provision be made for the payment of the Reverse Break Fee, without which the Target would not have entered into this document;
- (c) both the Bidder Board and the Target Board (excluding the Interested Directors) believe that the Scheme will provide benefit to the Target and Target Shareholders (as a whole) and that it is appropriate for both parties to agree to the payment referred to in this clause to secure the Target's participation in the Scheme; and
- (d) both parties have received legal advice on this document and the operation of this clause.

11.2 Payment by the Bidder to the Target

The Bidder agrees to pay the Reverse Break Fee to the Target without withholding or set off if the Scheme does not proceed because:

- (a) **(material breach)** the Target validly terminates this document in accordance with clause 14.1(c); or
- (b) **(failure to pay Scheme Consideration)** the Bidder does not pay the aggregate Scheme Consideration in accordance with the terms and conditions of this document, the Scheme and the Deed Poll.

11.3 Reverse Break Fee not payable in certain circumstances

- (a) Despite the occurrence of any event in clause 11.2, if the Scheme becomes Effective:
 - (i) no amount is payable by the Bidder under clause 11.2; and
 - (ii) if any amount has already been paid under clause 11.2 it must be refunded by the Target.
- (b) For the avoidance of doubt, the Reverse Break Fee is not payable by the Bidder if it validly terminates this document in accordance with clause 14.1(c).
- (c) The Reverse Break Fee is only payable once and the maximum amount payable by the Bidder is the amount calculated as 1% of the Scheme Consideration at the time the demand is made under clause 11.4(a).

11.4 Timing of payment

- (a) A demand by the Target for payment of the Reverse Break Fee under clause 11.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of the Target into which the Bidder must pay the Reverse Break Fee.
- (b) The Bidder must pay the Reverse Break Fee to the Target without withholding or set off within 5 Business Days of receipt by the Bidder of a valid demand for payment from the Target under clause 11.4(a).

The demand may only be made after the occurrence of an event referred to in clause 11.2.

11.5 Nature of payment

The Reverse Break Fee is an amount to compensate the Target for:

- (a) advisory costs including fees for legal, taxation and financial advice in planning and implementing the Scheme;
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of the Target's management from conducting the Target's business as usual caused by pursuing the Scheme;
- (e) reasonable opportunity costs incurred by the Target in pursuing the Scheme or in not pursuing strategic initiatives which the Target could have developed to further its business and objectives; and
- (f) any damage to the Target's reputation associated with a failed transaction and the implications of that damage to the Target's business,

in each case, incurred by the Target directly or indirectly as a result of having entered into this document and pursuing the Scheme.

The parties agree that the costs incurred are of a nature that is inherently unascertainable and that, even after termination of this document, they cannot be accurately quantified and that a genuine pre-estimate of the costs, fees and losses would equal or exceed the amount payable under clause 11.2 and is not a penalty.

11.6 Bidder's limitation of liability

Notwithstanding any other provision of this document:

- (a) the maximum liability of the Bidder to the Target under or in connection with this document including in respect of any breach of this document but excluding the Bidder's obligation to pay the aggregate Scheme Consideration in accordance with the terms and conditions of this

document, the Scheme and the Deed Poll will be the Reverse Break Fee; and

- (b) the payment by the Bidder of the Reverse Break Fee represents the sole and absolute amount of liability of the Bidder under or in connection with this document other than with respect to the Bidder's obligation to pay the aggregate Scheme Consideration in accordance with the terms and conditions of this document, the Scheme and the Deed Poll and no further damages, fees, expenses or reimbursements of any kind will be payable by the Bidder in connection with this document.

12 Modification of Break Fee, Reverse Break Fee or exclusivity arrangements

12.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Regulatory Authority finds that all or any part of the payment required to be made under clauses 10.3 or 11.2 or an exclusivity arrangement under clause 9 is unacceptable or unenforceable; or
- (b) as a result of an application to the Takeovers Panel, the Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the amount of the Break Fee or the Reverse Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 9, it will make a declaration of unacceptable circumstances,

then, subject to clause 20.20:

- (c) the parties must amend clauses 10.3, 11.2 and/or 9 to the extent required to give effect to the requirements of the Regulatory Authority or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 12.1(b) must give the required undertaking(s)); and
- (d) neither the occurrence of any of the events referred to in clause 12.1(a) or 12.1(b) nor the amendment of clauses 10.3, 11.2 and/or 9 will be taken to be a breach of, or permit any party to terminate, this document.

12.2 Conduct during proceedings

- (a) During the course of any Takeovers Panel or court proceedings (including any appeal or review thereof) referred to in clause 12.1, the parties must take all reasonable steps to ensure that any such declaration or determination has the minimum effect possible.
- (b) The parties must not make or cause or permit to be made any application to a court or the Takeovers Panel for or in relation to a determination referred to in clause 12.1.

12.3 No requirement to act unless decision final

The parties are only required to take steps under clause 12.1(c) in relation to any requirement of a Regulatory Authority or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing

review proceedings has expired without an appeal having been lodged or review proceedings commenced; or

- (b) the Bidder and the Target agree in writing not to appeal or seek review of the decision to impose that requirement.

12.4 Appeals and review of regulatory decisions

Nothing in this document requires either party to appeal or seek review of any decision of a Regulatory Authority or the Takeovers Panel referred to in clause 12.1(a) or 12.1(b). If the Bidder or the Target wishes to appeal or seek review of any such decision then the other must make submissions in the course of those proceedings supporting the review made by the first party.

12.5 Determination by Regulatory Authority

If a Regulatory Authority determines that payment of all or any part of the Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the Target Board ("**Impugned Amount**") and either no appeal from that determination is available or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of Target to pay the Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if the Bidder has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the period for lodging has expired, whichever is later.

13 Representations and warranties

13.1 Target's representations and warranties

The Target represents and warrants to the Bidder that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it is a validly existing corporation registered under the law of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** this document constitutes legal, valid and binding obligations on the Target and the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;

- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(Target Information)** the Target Information provided in accordance with this document and included in the Scheme Booklet as at the date of the Scheme Booklet will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (g) **(compliance)** the Target Group has complied in all material respects with all Australian and foreign laws and regulations applicable to it and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licenses and permits necessary for it to conduct its respective businesses as presently being conducted;
- (h) **(provision of information to Independent Expert)** all information provided by or on behalf of the Target to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will use that information for the purpose of preparing the Independent Expert's Report;
- (i) **(securities)** the Target's issued securities as at the date of this document are 543,122,491 ordinary shares, and other than as Fairly Disclosed it has not issued or agreed to issue any other securities or instruments which are still outstanding, and which may convert into Target Shares;
- (j) **(continuous disclosure)** as at the date of this document:
 - (i) Target has complied in all material respects with its continuous disclosure obligations under Listing Rule 3.1; and
 - (ii) except in relation to the Scheme, it is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure;
- (k) **(Due Diligence Materials)** the Due Diligence Materials have been collated and prepared in good faith, and Target is not aware of any information contained in the Due Diligence Materials that was false or misleading in any material respect (including by omission) as at the date of collation or preparation;
- (l) **(No knowledge of Material Adverse Change)** the Target is not aware of any information relating to the Target Group or its respective businesses or operations as at the date of this document that has or could reasonably be expected to give rise to a Material Adverse Change that has not been Fairly Disclosed; and
- (m) **(No Insolvency event)** as at the date of this document, no member of the Target Group is Insolvent or is reasonably likely to become Insolvent in the near term, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict the Target's ability to fulfil its obligations under this document or the Scheme.

13.2 Target's indemnity

The Target agrees with the Bidder (on the Bidder's own behalf and separately as trustee for each of the Bidder Indemnified Parties) to indemnify and keep indemnified the Bidder Indemnified Parties from and against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 13.1 not being true and correct in all material respects.

13.3 Notifications

The Target will promptly advise the Bidder in writing if the Target becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by the Target under this clause 13.

13.4 Target's knowledge or awareness

Where a Target Warranty is given 'to the best of the Target's knowledge', or 'so far as Target is aware' or with a similar qualification as to Target's awareness or knowledge, Target will be deemed to know or be aware of a particular fact, matter or circumstance at a given time only if, at that time, any of Sid Takla, Andrew Leyden or James Orr is aware of that fact, matter or circumstance as at the date the Target Warranty is given.

13.5 Qualifications on Target's representations, warranties and indemnities

The representations and warranties in clause 13.1 and the indemnity in clause 13.2 are each subject to matters which:

- (a) are expressly provided for in this document;
- (b) have been Fairly Disclosed; or
- (c) are within the actual knowledge of the Bidder Group as at the date of this document or otherwise known to the Bidder Group through their business and commercial dealings with the Target Group.

13.6 Bidder's representations and warranties

The Bidder represents and warrants to the Target (on its own behalf and separately as trustee or nominee for each of the Target directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** this document constitutes legal, valid and binding obligations on the Bidder and the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;

- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Bidder Information provided to the Target for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that the Target and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (g) **(Bidder Information)** the Bidder Information provided in accordance with this document and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(compliance)** the Bidder Group has, in the specific context of the Scheme, complied in all material respects with all Australian and foreign laws and regulations applicable to it and orders of Australian and foreign governmental agencies having jurisdiction over it;
- (i) **(no dealing with Target Shareholders)** neither it nor any of its associates has any agreement, arrangement or understanding with any Target Shareholder under which that Target Shareholder (or an associate of that Target Shareholder) would be entitled to receive consideration for their Target Shares different from the Scheme Consideration or under which the Target Shareholder agrees to vote in favour of the Scheme or against any Competing Transaction;
- (j) **(Scheme Consideration)** it has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts to satisfy the Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll;
- (k) **(provision of information to Independent Expert)** all information provided by or on behalf of the Bidder to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will use that information for the purpose of preparing the Independent Expert's Report;
- (l) **(unconditional cash reserves on the Second Court Date and the Implementation Date)** by 8.00am on the Second Court Date and on the Implementation Date, the Bidder will have available to it on an unconditional basis (other than, on the Second Court Date, conditions relating to the approval of the Court and other conditions within the sole control of the Bidder) sufficient cash reserves to satisfy the Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll; and
- (m) **(No knowledge of Material Adverse Change)** the Bidder is not aware of any information relating to the Target Group or its respective businesses or operations as at the date of this document that has or

could reasonably be expected to give rise to a Material Adverse Change;
and

- (n) **(Insolvency event)** as at the date of this document, no member of the Bidder Group is Insolvent or is reasonably likely to become Insolvent in the near term, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict the Bidder's ability to fulfil its obligations under this document or the Scheme.

13.7 Bidder's indemnity

The Bidder agrees with the Target (on the Target's own behalf and separately as trustee for each of the Target Indemnified Parties) to indemnify and keep indemnified the Target Indemnified Parties from and against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 13.6 not being true and correct.

13.8 Notifications

The Bidder will promptly advise the Target in writing if the Bidder becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by the Bidder under this clause 13.

13.9 Survival of representations

Each representation and warranty in clauses 13.1 and 13.6:

- (a) is severable;
- (b) will survive the termination of this document; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this document.

13.10 Survival of indemnities

Each indemnity in this document (including those in clauses 13.2 and 13.7) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this document; and
- (d) survive the termination of this document.

14 Termination

14.1 Termination events

This document may be terminated:

- (a) **(End Date)** by either party, if the Scheme has not become Effective on or before the End Date;

- (b) **(lack of support)** by the Bidder at any time prior to 8.00am on the Second Court Date if the Target Board (excluding Interested Directors) changes its recommendation to the Scheme Participants that they vote in favour of the resolution to approve the Scheme, including any adverse modification to its recommendation, or otherwise makes a public statement indicating that it no longer supports the Scheme or recommends, endorses or supports a Competing Transaction;
- (c) **(material breach)** by either the Bidder or the Target at any time prior to 8.00am on the Second Court Date, if the other is in material breach of a term of this document (including any representation and warranty not being true and correct), taken in the context of the Scheme as a whole, provided that the Bidder or the Target (as the case may be) has, if practicable, given notice to the other setting out the relevant circumstances and the relevant circumstances continue to exist 5 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time such notice is given;
- (d) **(Competing Transaction)** by the Target at any time prior to 8.00 am on the Second Court Date if the Target Board (excluding Interested Directors) determines that a Competing Transaction that was not solicited, invited, encouraged or initiated in breach of clause 9.2 is a Superior Proposal;
- (e) **(consultation or appeal failure)** in accordance with and pursuant to:
 - (i) clause 3.8(a);
 - (ii) clause 3.8(b); or
 - (iii) clause 5.8; or
- (f) **(agreement)** if agreed to in writing by the Bidder and the Target.

14.2 Termination

Where a party has a right to terminate this document, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this document.

14.3 Effect of Termination

If this document is terminated by either party, or if this document otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this document, other than the obligations set out in this clause and in clauses 7.1 to 7.4 (inclusive), 10 to 12 (inclusive), 13.5, 13.9 and 13.10, and 15 to 20 (inclusive) will immediately cease to be of further force and effect without further liability of any party to the other, provided that nothing in this clause releases any party from liability for any pre-termination breach of this document.

14.4 Damages

In addition to the right of termination under clause 14.1 where there is no appropriate remedy for the breach in this document (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this document.

15 Public announcements

15.1 Public announcement of Scheme

Immediately after signing this document, the Target and the Bidder must each issue a public announcement of the proposed Scheme in the respective forms contained in Annexure A.

15.2 Required disclosure

Where a party is required by any applicable law or any Listing Rule to make any announcement or make any disclosure in connection with the Scheme, it must use all reasonable endeavours, to the extent possible, to consult with the other party prior to making the relevant disclosure, and to the extent that the announcement or disclosure would require disclosure of Confidential Information, comply with clause 4.3 of the Confidentiality Agreement.

15.3 Other announcements

Subject to clauses 15.1 and 15.2, no party may make any public announcement or disclosure in connection with the Scheme (including disclosure to a Regulatory Authority) other than in a form approved by each party (acting reasonably). Each party will use all reasonable endeavours to provide such approval as soon as practicable.

16 Confidential Information

16.1 Disclosure of Confidential Information

- (a) Each party acknowledges and agrees that it continues to be bound by the Confidentiality Agreement in respect of all Confidential Information, before or after the date of this document.
- (b) A requirement under this document to provide information to a third party must be read subject to the Confidentiality Agreement (including to the extent that this results in reading down any obligation in this document to provide such information). Any information so provided remains subject to and must be dealt in accordance with the terms of the Confidentiality Agreement.

17 Notices and other communications

17.1 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

17.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details; or
- (b) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

17.3 When effective

Communications take effect from the time they are received or taken to be received under clause 17.4 (whichever happens first) unless a later time is specified in the communication.

17.4 When taken to be received

Communications sent by email are taken to be received:

- (a) when the sender receives an automated message confirming delivery; or
- (b) 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 delivery failed,

whichever happens first.

17.5 Receipt outside business hours

Despite anything else in this clause 17, if communications are received or taken to be received under clause 17.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

18 GST

18.1 Definitions and interpretation

For the purposes of this clause:

- (a) “**GST Act**” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause, unless the contrary intention appears; and
- (c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

18.2 GST exclusive

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

18.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply in connection with this document, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply ("**GST Amount**").
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

18.4 Adjustment events

If an adjustment event arises for a supply made in connection with this document, the GST Amount must be recalculated to reflect that adjustment. The supplier or the recipient (as the case may be) agrees to make any payments necessary to reflect the adjustment and the supplier agrees to issue an adjustment note.

18.5 Reimbursements

Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this document which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled to. If the reduced payment is consideration for a taxable supply, clause 18.3 will apply to the reduced payment.

19 Costs

19.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document, except for amounts covered by clause 19.2.

19.2 Stamp duty and registration fees

The Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnifies the Target against, and agrees to reimburse and compensate it for, any liability in respect of stamp duty under clause 19.2(a).

The Bidder agrees to pay amounts due to the Target under this clause within 3 Business Days of demand from the Target.

20 General

20.1 Variation and waiver

A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

20.2 Consents, approvals or waivers

By giving any approval, consent or waiver a party does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

20.3 Discretion in exercising rights

Unless this document expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

20.4 Partial exercising of rights

Unless this document expressly states otherwise, if a party does not exercise a right, power or remedy in connection with this document fully or at a given time, they may still exercise it later.

20.5 Conflict of interest

Each party may exercise their rights, powers and remedies in connection with this document even if this involves a conflict of duty or they have a personal interest in their exercise.

20.6 Remedies cumulative

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

20.7 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document.

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

20.8 Inconsistent law

To the extent the law permits, this document prevails to the extent it is inconsistent with any law.

20.9 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this document with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

20.10 Counterparts

This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document.

20.11 Electronic exchange of documents

In relation to the electronic exchange of documents:

- (a) parties may exchange executed counterparts of this document, or any other document required to be executed under this document, by delivery from one party to the other party by emailing a pdf (portable document format) copy of the executed counterpart to that other party ("**Electronic Delivery**"); and
- (b) Electronic Delivery of an executed counterpart will be deemed effective delivery of the original executed counterpart, from the date and time of receipt by the other party.

20.12 Entire agreement

This document (together with the Transaction Documents) constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

20.13 Further steps

Each party agrees to execute all documents and do all things necessary to perform its obligations under this document and each other Transaction Document.

20.14 No liability for loss

Unless this document expressly states otherwise, a party is not liable for any loss, liability or costs arising in connection with the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, power or remedy in connection with this document.

20.15 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

20.16 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this document or any part of it.

20.17 Assignment

A party may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of the other party.

20.18 Enforceability

For the purpose of this document, the Target is taken to be acting as agent and trustee on behalf of and for the benefit of all Target Indemnified Parties, and all of those persons are to this extent taken to be parties to this document.

20.19 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document, except for representations or inducements expressly set out in this document; and
- (b) it does not enter into this document in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this document,

20.20 Amendment

This document may be amended only in writing executed by the parties.

21 Governing law

21.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

21.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address for service of notices under clause 17.2 or with its process agent.

21.3 Appointment of process agent

Without preventing any method of service allowed under any relevant law, the Bidder:

- (a) irrevocably appoints Minter Ellison as its process agent to receive any document in an action in connection with this document; and
- (b) agrees that failure by a process agent to notify the Target of any document in an action in connection with this document does not invalidate the action concerned.

If for any reason the Minter Ellison ceases to be able to act as process agent, the Bidder agrees to appoint another person as its process agent in the place referred to in clause 21.1 and ensure that the replacement process agent accepts its appointment and confirms its appointment to the Bidder.

The Bidder agrees that service of documents on its process agent is sufficient service on it.

EXECUTED as an agreement

Scheme Implementation Agreement

Schedule 1 Timetable (clause 5.1)

Event	Date
Lodge Scheme Booklet with ASIC and ASX	Late March 2021
Application in respect of the Court hearing to be held on the First Court Date, filed with the Court, served on ASIC	Late March-early April 2021
First Court Date	Mid-late April 2021
Printing and despatch of Scheme Booklet	Late April 2021
Scheme Meeting held	Early June 2021
Second Court Date	Early-mid June 2021
Lodge Court order with ASIC (Effective Date)	Early-mid June 2021
Scheme Record Date	Late June 2021
Implementation Date	Late June 2021

SIGNED by the following authorised representatives of **ESSITY GROUP HOLDING BV**, who by executing this document each warrant that he/she is duly authorised to execute this document on behalf of ESSITY GROUP HOLDING BV, in the presence of:

Jan Carlsson

.....
Signature of witness

Jan Carlsson

.....
Name of witness (block letters)

Mikael Schmidt

.....
Signature of witness

Mikael Schmidt

.....
Name of witness (block letters)

M.

.....
MUKUNDKUMAR AMIN, DIRECTEUR A

Mats Helge Patrik Beckman

Digitally signed by Mats Helge Patrik Beckman
Date: 2021-02-15 20:14:27+01:00

.....
MATS BECKMAN, DIRECTEUR B

Scheme Implementation Agreement

Annexure A Respective public announcements

ASX Release

17 February 2021

Asaleo Care recommends improved Essity Proposal

Highlights

- Total value to Asaleo Care shareholders of \$1.45 per share, comprising \$1.40 cash in scheme consideration, plus \$0.05 per share of permitted dividends, expected to be fully franked¹
- Potential value in franking credits of up to \$0.02 per share for shareholders able to realise full benefit
- Total value represents a 44.7% premium to the 1-month VWAP of \$1.00 to 9 December 2020²
- Unanimous Independent Board Committee recommendation
- Acquisition by way of Scheme of Arrangement

Asaleo Care Limited ("Asaleo" or the "Company") and Essity Group Holding BV ("Essity") have entered into a Scheme Implementation Agreement under which it is proposed that Essity (or its nominee) will acquire all outstanding ordinary shares in Asaleo not already owned by the Essity group.

Recommendation

Independent non-Essity directors and the CEO and Managing Director³ unanimously recommend that Asaleo shareholders vote in favour of the Scheme in the absence of a Superior Proposal⁴ and subject to the Independent Expert concluding in its report (and continuing to conclude) that the Scheme is in the best interests of shareholders.

Subject to those same qualifications, the directors of Asaleo who hold shares, intend to vote in favour of the Scheme.

Value to shareholders and dividends

The total value to shareholders of \$1.45¹ per share (before the benefit of franking credits), values Asaleo's equity at approximately \$788m⁵ and represents a 44.7% premium to the 1-month VWAP of \$1.00 to 9 December 2020.

¹ Subject to being a shareholder on the respective ordinary and special dividend record dates and the Asaleo Board determining to pay the special dividend. Franking credits will be subject to a class ruling from the Australian Taxation Office.

² Undisturbed closing share price the day prior to announcement of Essity's initial proposal to acquire Asaleo Care.

³ CEO and Managing Director, Sid Takla. Refer separate announcement today in relation to current employment arrangements for the CEO and Managing Director.

⁴ Superior Proposal has the same meaning as given in the scheme implementation agreement.

⁵ Based on 543,122,491 fully paid ordinary shares as at 16 February 2021.

The Board has today (with the FY20 full year results) declared an ordinary dividend of \$0.03 per share ("Ordinary Dividend"), to be paid on 31 March 2021.

In addition, the Board intends to pay, in its absolute discretion, a special dividend of \$0.02 per share prior to the Scheme Record Date ("Special Dividend").

Asaleo expects that the Ordinary Dividend and Special Dividend will be fully franked, subject to a class ruling from the Australian Taxation Office. There is potential value in the franking credits attached of up to approximately \$0.02 per share (for those shareholders able to realise the full benefit of franking credits).

Transaction highlights

- **Offer premium⁶:** the total value to Asaleo shareholders of \$1.45¹ represents an attractive premium of:
 - 43.6% premium to the undisturbed closing price of \$1.01 on 9 December 2020;
 - 44.7% premium to the 1-month VWAP of \$1.00 to 9 December 2020;
 - 43.7% premium to the 3-month VWAP of \$1.01 to 9 December 2020; and
 - 43.5% premium to the 6-month VWAP of \$1.01 to 9 December 2020.
- **Certainty of value:** the 100% cash consideration provides Asaleo shareholders with certainty of value.
- **Not subject to financing or due diligence:** The Scheme is not subject to financing or due diligence.

The IBC, and CEO and Managing Director, unanimously recommend the Scheme

Asaleo Chairman, Harry Boon, said: "The Scheme is an attractive, all-cash transaction and represents a compelling outcome for our shareholders, customers, suppliers and staff. Essity is a long-term strategic partner for Asaleo and there is a strong commercial logic for this combination. Essity will further enhance our position in the markets in which we operate"

CEO and Managing Director, Sid Takla, said: "The announcement today recognises the strategic value of the Asaleo business and reflects the steps we have undertaken to optimise the portfolio, strengthen the company's balance sheet and set Asaleo on a clear path towards sustainable growth. The value to our shareholders under this proposal is testament to the quality of our products, our people and our recent strong performance."

Essity CEO, Magnus Groth, said: "We are very pleased to welcome Asaleo Care into our global portfolio. We believe this transaction will facilitate the opportunity for continued investment and profitable growth in Australia, New Zealand and the Pacific region."

⁶ VWAPs are subject to rounding.

Details of the scheme implementation agreement

A copy of the Scheme Implementation Agreement is attached to this announcement. Implementation is conditional on, amongst other things, the approval by Asaleo shareholders at a Court-convened meeting and Court approval.

Under the Scheme Implementation Agreement, Asaleo is bound by customary exclusivity provisions including “no shop,” “no talk,” “notification of approaches” and “bidder counter-proposal” obligations. The “no talk” restriction is subject to a customary fiduciary carve-out.

Break fees, equal to approximately 1% of the total Scheme consideration, may apply in certain circumstances.

Indicative timetable and next steps

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

A Scheme Booklet containing information relating to the Scheme, reasons supporting the IBC’s recommendation, an Independent Expert’s report and details of the Scheme meeting, is expected to be sent to shareholders in late April 2021.

Shareholders, other than Essity, will then have the opportunity to vote on the Scheme at a Court-convened shareholder meeting, expected to be held in the first half of June 2021.

Subject to regulatory approvals (FIRB and OIO), shareholder approval being obtained by the requisite majorities, Court approval and other conditions of the Scheme being satisfied, or waived (as applicable), it is expected to be implemented in June 2021.

Advisers

Asaleo is advised by Luminis Partners as financial adviser, and King & Wood Mallesons as legal counsel.

– ENDS –

About Asaleo Care

Asaleo Care is a leading personal care and hygiene company that manufactures, markets, distributes and sells personal care and hygiene products. Our portfolio of market-leading brands includes Libra, TENA, Tork, Viti and Orchid. The Purex, Sorbent and Handee Ultra brands are not owned in Australia. The Company has 14 manufacturing and distribution facilities throughout Australia, New Zealand and the Pacific Islands. Asaleo Care employs about 650 people who work together to offer products and services which provide care, comfort and confidence every day. For more information visit www.asaleocare.com.

About Essity

Essity is a leading global hygiene and health company. We are dedicated to improving well-being through our products and services. Sales are conducted in approximately 150 countries under the leading global brands TENA and Tork, and other strong brands, such as JOBST, Leukoplast, Libero, Libresse, Lotus, Nosotras, Saba, Tempo, Vinda and Zewa. Essity has about 46,000 employees. Net sales in 2020 amounted to approximately SEK 122bn (EUR 11.6bn). The company’s headquarters is located in Stockholm, Sweden, and Essity is listed on Nasdaq Stockholm. Essity breaks barriers to well-being and contributes to a healthy, sustainable and circular society. More information at www.essity.com.

Asaleo Contacts:

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This release has been approved by the Asaleo IBC.

Press release

Stockholm, February 16, 2021

Essity enters agreement to acquire Australian hygiene company Asaleo Care

Further to the announcement on December 10, 2020, hygiene and health company Essity has now entered an agreement with hygiene company Asaleo Care to acquire the remaining 63.8% of the shares in the company for AUD 1.40 cash per share. Asaleo Care is listed on the Australian Securities Exchange and Essity is the largest shareholder, currently holding 36.2% of the shares.

The consideration implies an equity value on a 100% basis of approximately AUD 760m (approximately SEK 4.9bn) and an enterprise value of AUD 855m (approximately SEK 5.5bn). This represents an EV/EBITDA multiple of 9.6x based on Asaleo Care's reported underlying EBITDA for 2020 of AUD 89m (approximately SEK 574m). Shareholders in Asaleo Care will receive the AUD 0.03 dividend declared by Asaleo following the announcement of their Full Year 2020 results on February 17, 2021 and, subject to approval of the transaction by shareholders and the Court and at the absolute discretion of the Asaleo Board it is intended that a further special dividend of AUD 0.02 is paid prior to completion of the transaction.

"Following productive discussions with the Asaleo Board of Independent Directors, I am pleased to announce this agreement. The acquisition of Asaleo Care will facilitate the opportunity for profitable growth in Australia, New Zealand and the Pacific region and will further consolidate our position as a leading global health and hygiene company", says Magnus Groth, President and CEO, Essity.

Asaleo Care manufactures and markets Personal Care and Professional Hygiene products in Australia, New Zealand and Fiji and Consumer Tissue in New Zealand and Fiji. The company's portfolio of market-leading brands includes Libra, Handee Ultra, Purex, Sorbent, Deeko, Viti and Orchid, and the global brands TENA and Tork through an exclusive license agreement with Essity.

In 2020, Asaleo Care reported sales of AUD 419m (approximately SEK 2.7bn) and underlying EBITDA of AUD 89m (approximately SEK 574m). Sales growth in 2020 amounted to 2.3%. Asaleo Care has approximately 700 employees and three manufacturing facilities.

The proposal is not subject to financing conditions. Essity will finance the acquisition of shares through own funds.

The agreement is supported by the Independent Directors of Asaleo Care and is expected to be voted on at a meeting of the independent shareholders in Asaleo Care in the second quarter of 2021. Subject to the approval of the agreement at that meeting, subsequent Court and regulatory approvals, the completion of the transaction is expected to be finalized in the second quarter of 2021. The timing is indicative and subject to change.

NB: This information is such that Essity Aktiebolag (publ) is obligated to make public pursuant to the EU Market Abuse Regulation. The information was submitted for publication, through the agency of the contact person set out below, at **xx:xx** CET on February 16, 2021.

Karl Stoltz, Media Relations Manager, +46 8 788 51 55

Essity contacts:

Johan Karlsson, Vice President Investor Relations, +46 8 788 51 30, johan.ir.karlsson@essity.com
Per Lorentz, Vice President Corporate Communications +46 8 788 52 51, per.lorentz@essity.com

About Essity

Essity is a leading global hygiene and health company. We are dedicated to improving well-being through our products and services. Sales are conducted in approximately 150 countries under the leading global brands TENA and Tork, and other strong brands, such as JOBST, Leukoplast, Libero, Libresse, Lotus, Nosotras, Saba, Tempo, Vinda and Zewa. Essity has about 46,000 employees. Net sales in 2020 amounted to approximately SEK 122bn (EUR 11.6bn). The company's headquarters is located in Stockholm, Sweden, and Essity is listed on Nasdaq Stockholm. Essity breaks barriers to well-being and contributes to a healthy, sustainable and circular society. More information at www.essity.com.

Scheme Implementation Agreement

Annexure B Scheme of Arrangement

Scheme of Arrangement

Dated

Asaleo Care Limited (ACN 154 461 300) ("**Target**")

Scheme Participants

King & Wood Mallesons

Level 27
Collins Arch
447 Collins Street
Melbourne VIC 3000
Australia
T +61 3 9643 4000
F +61 3 9643 5999
DX 101 Melbourne
www.kwm.com

Scheme of Arrangement

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Scheme of Arrangement

Details

Parties

Asaleo	Name	Asaleo Care Limited
	ACN	154 461 300
	Formed in	Australia
	Address	30-32 Westall Rd, Springvale, VIC 3171
	Email	James.Orr@asaleocare.com
	Attention	James Orr, General Counsel and Company Secretary
	Copy to	Diana Nicholson, King & Wood Mallesons Diana.Nicholson@au.kwm.com
Scheme Participants	Each person registered as a holder of fully paid ordinary shares in the Target as at 5.00pm on the Record Date, other than an Excluded Shareholder.	
Governing law	Victoria, Australia	

Scheme of Arrangement

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited or the market operated by it, as the context requires.

Bidder means Essity Group Holding BV.

Bidder Nominee means any wholly-owned Subsidiary of the Bidder nominated by the Bidder to acquire Scheme Shares under the Scheme in accordance with clause 2.3 of the Scheme Implementation Agreement.

Business Day means any day for which banks are open for business in Melbourne, Victoria (not being a Saturday, Sunday or public holiday in such place).

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

Court means the Federal Court of Australia (Melbourne registry), or such other court of competent jurisdiction under the Corporations Act agreed by the Bidder and the Target.

Deed Poll means the deed poll dated [●] 2021 executed by the Bidder substantially in the form of Annexure C to the Scheme Implementation Agreement or as otherwise agreed by the Bidder and the Target under which the Bidder covenants in favour of each Scheme Participant to perform the actions attributed to the Bidder under this Scheme.

Details means the section of this Scheme headed “Details”.

Effective, when used in relation to the Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any “security interest” as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

End Date means the 'End Date' determined in accordance with the Scheme Implementation Agreement.

Excluded Shareholder means the Bidder or any of the Bidder's Related Bodies Corporate.

Implementation Date means the 5th Business Day following the Record Date or such other Business Day after the Record Date agreed to in writing between the parties to the Scheme Implementation Agreement.

Record Date means 5.00pm on the 7th Business Day following the Effective Date or such other Business Day after the Effective Date agreed to in writing between the parties to the Scheme Implementation Agreement.

Register means the share register of the Target maintained by it under section 168(1) of the Corporations Act.

Registered Address means, in relation to a Scheme Participant, the address shown in the Register as at the Record Date.

Regulatory Authority means:

- (a) ASX, ASIC and the Takeovers Panel;
- (b) a government or governmental, semi-governmental or judicial entity or authority in Australia;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government in Australia; and
- (d) any regulatory organisation in Australia established under statute.

Related Body Corporate has the meaning it has in the Corporations Act.

Rights means all accretions, rights and benefits attaching to, or arising from, the Target Shares directly or indirectly, including any capital returns, all dividends and all rights to receive them and rights to receive or subscribe for shares, notes, bonds, options or other securities or entitlements declared, paid or issued by the Target.

Scheme means this scheme of arrangement between the Target and Scheme Participants under which all of the Scheme Shares will be transferred to the Bidder under Part 5.1 of the Corporations Act as described in clause 6 of this Scheme, in consideration for the Scheme Consideration, subject to any amendments or conditions that are:

- (a) agreed to in writing by the Target and the Bidder (with any such amendments to be in accordance with the principles in the definition of 'Scheme' in the Scheme Implementation Agreement), and approved by the Court; or
- (b) made or required by the Court pursuant to section 411(6) of the Corporations Act and accepted in writing by the Target and the Bidder.

Scheme Consideration means \$1.40 cash in respect of each Scheme Share to be provided by the Bidder to Scheme Participants under the terms of this Scheme for the transfer to the Bidder of all of their Scheme Shares.

Scheme Implementation Agreement means the scheme implementation agreement dated 17 February 2021 between the Target and the Bidder under which, among other things, the Target has agreed to propose this Scheme to Target Shareholders, and each of the Bidder and the Target has agreed to take certain steps to give effect to this Scheme.

Scheme Meeting means the meeting of Target Shareholders, ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act at which

Target Shareholders will vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Participant means each person who holds one or more Scheme Shares.

Scheme Share means a Target Share on issue as at 5:00pm on the Record Date other than any Target Share then held by an Excluded Shareholder.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard or scheduled to be heard (as agreed by the Target and the Bidder), if the application is adjourned for any reason, means the date on which the adjourned application is heard scheduled to be heard.

Share Scheme Transfer means, for each Scheme Participant, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Participant for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares.

Subsidiary of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act; and
- (b) is part of a consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares or would be, if the first entity was required to prepare consolidated financial statements.

A trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.

Target Registry means Link Market Services Limited or any replacement provider of share registry services to the Target.

Target Share means an issued fully paid ordinary share in the capital of the Target.

Target Shareholder means each person registered in the Register as a holder of Target Shares.

Trust Account means the Australian dollar denominated trust account operated by or on behalf of the Target to hold the Scheme Consideration on trust for the purpose of paying the Scheme Consideration to the Scheme Participants in accordance with clause 6.2 of this Scheme.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this Scheme:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);

- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Melbourne time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (k) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (l) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (m) if a party must do something under this Scheme on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day; and
- (n) if the day on which a party must do something under this Scheme is not a Business Day, the party must do it on the next Business Day.

2 Preliminary

2.1 Target

- (a) The Target is a public company limited by shares, incorporated in Australia, registered in Victoria and admitted to the official list of ASX.
- (b) The Target Shares are officially quoted on ASX. As at the date of the Scheme Implementation Agreement, 543,122,491 Target Shares were on issue which are officially quoted on ASX.

2.2 Bidder

The Bidder is a company registered in the Netherlands. Its registered address is Postbus 670, 3700AR Zeist, Netherlands.

2.3 Scheme Implementation Agreement and Deed Poll

- (a) The Target and the Bidder have agreed by executing the Scheme Implementation Agreement to implement this Scheme subject to the terms and conditions of this Scheme.

- (b) This Scheme attributes actions to the Bidder but does not itself impose an obligation on it to perform those actions, as the Bidder is not a party to this Scheme. The Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme (including the provision of the Scheme Consideration to the Scheme Participants subject to the terms and conditions of this Scheme).

2.4 If Scheme becomes Effective

If this Scheme becomes Effective:

- (a) the Bidder will provide or procure the provision of the Scheme Consideration in accordance with the terms of this Scheme;
- (b) all Scheme Shares will be transferred to the Bidder on the Implementation Date together with all Rights as at that date; and
- (c) the Target will enter the name of the Bidder (or the Bidder Nominee if applicable) in the Register in respect of all of the Scheme Shares transferred to the Bidder in accordance with the terms of this Scheme, with the result that the Target will become a wholly-owned Subsidiary of the Bidder (or the Bidder Nominee if applicable).

3 Conditions precedent

3.1 Conditions precedent to Scheme

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

- (a) as at 8.00am on the Second Court Date, neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms;
- (b) all of the conditions precedent listed in clause 3.1 of the Scheme Implementation Agreement having been satisfied, or waived in accordance with the terms of the Scheme Implementation Agreement (unless they cannot be waived, in which case they must be satisfied);
- (c) the Court having approved this Scheme, with or without any modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, the Target and the Bidder having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act; and
- (d) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme on or before the End Date (or any later date the Target and the Bidder agree in writing in accordance with the Scheme Implementation Agreement).

3.2 Conditions precedent and operation of clause 5

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the operation of clause 5 of this Scheme.

3.3 Certificate in relation to conditions precedent

- (a) The Target and the Bidder must provide to the Court on the Second Court Date (and to each other, in accordance with the Scheme Implementation Agreement) a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent set out in clause 3.1 of this Scheme (other than the conditions precedent in clause 3.1(c) and clause 3.1(d) of this Scheme) have been satisfied or waived as at 8.00am on the Second Court Date.
- (b) The certificate referred to in this clause 3.3 will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 of this Scheme (other than the conditions precedent in clause 3.1(c) and clause 3.1(d) of this Scheme) have been satisfied or waived as at 8.00am on the Second Court Date.

4 Scheme

4.1 Effective Date

Subject to clause 4.2, this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

4.2 End Date

Without limiting any rights under the Scheme Implementation Agreement, this Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Agreement or the Deed Poll is terminated in accordance with its terms,

unless the Target and the Bidder otherwise agree in writing.

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 of this Scheme (other than the condition precedent in clause 3.1(d) of this Scheme) are satisfied, the Target must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as possible, and in any event by no later than 5.00pm on the first Business Day after the day on which the Court approves this Scheme.

5.2 Transfer and registration of Target Shares

On the Implementation Date, but subject to the provision of the Scheme Consideration for the Scheme Shares in accordance with clauses 6.1 to 6.3 of this Scheme and the Bidder having provided the Target with written confirmation of the provision of the Scheme Consideration:

- (a) the Scheme Shares, together with all Rights attaching to them as at the Implementation Date, will be transferred to the Bidder (or the Bidder Nominee if applicable) without the need for any further act by any Scheme Participant (other than acts performed by the Target or its

officers as attorney and agent for Scheme Participants under clause 8 of this Scheme) by:

- (i) the Target delivering to the Bidder a duly completed and executed Share Scheme Transfer executed on behalf of the Scheme Participants; and
 - (ii) the Bidder (or the Bidder Nominee if applicable) duly executing the Share Scheme Transfer, attending to the stamping of the Share Scheme Transfer (if required) and the Bidder delivering it to the Target for registration; and
- (b) as soon as practicable after receipt of the duly executed Share Scheme Transfer, but subject to the stamping of the Share Scheme Transfer (if required), the Target must enter, or procure the entry of, the name of the Bidder (or the Bidder Nominee if applicable) in the Register in respect of all Scheme Shares transferred to the Bidder (or the Bidder Nominee if applicable) in accordance with the terms of this Scheme.

5.3 Entitlement to Scheme Consideration

On the Implementation Date, in consideration for the transfer to the Bidder (or the Bidder Nominee if applicable) of the Scheme Shares, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clause 6 of this Scheme.

5.4 Title and Rights in Target Shares

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 6 of this Scheme, on and from the Implementation Date, the Bidder (or the Bidder Nominee if applicable) will be beneficially entitled to the Scheme Shares transferred to it under this Scheme, pending registration by the Target of the Bidder (or the Bidder Nominee if applicable) in the Register as the holder of the Scheme Shares.

5.5 Scheme Participants' agreements

Under this Scheme, each Scheme Participant agrees to the transfer of their Scheme Shares, together with all Rights attaching to them, in accordance with the terms of this Scheme. In relation to such transfer, each Scheme Participant also provides the authorities and acknowledgements in clause 11.3.

5.6 Warranty by Scheme Participants

Each Scheme Participant warrants to the Bidder and is deemed to have authorised the Target to warrant to the Bidder as agent and attorney for the Scheme Participant by virtue of this clause 5.6, that, on the Implementation Date:

- (a) all of their Scheme Shares (including all Rights attaching to them) transferred to the Bidder under the Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances, or any other third party interest, or restrictions on transfer of any kind;
- (b) all of their Scheme Shares which are transferred to the Bidder (or the Bidder Nominee if applicable) under this Scheme will, on the date on which they are transferred to the Bidder, be fully paid;
- (c) they have full power and capacity to sell and to transfer their Scheme Shares (including all Rights attaching to them) to the Bidder (or the Bidder Nominee if applicable) under the Scheme; and

- (d) they have no existing right to be issued any Target Shares, options exercisable into Target Shares, Target convertible notes or any other Target securities,

and the Target undertakes that it will provide such warranty to the Bidder as agent and attorney of each Scheme Participant.

5.7 Transfer free of Encumbrances

To the extent permitted by law, all Scheme Shares (including all Rights attaching to them) which are transferred to the Bidder (or the Bidder Nominee if applicable) under this Scheme will, at the date of the transfer of them to the Bidder (or the Bidder Nominee if applicable), vest in the Bidder (or the Bidder Nominee if applicable) free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind not referred to in this Scheme.

5.8 Appointment of the Bidder as sole proxy

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clauses 5.2 and 6.3 of this Scheme, on and from the Implementation Date until the Target registers the Bidder (or the Bidder Nominee if applicable) as the holder of all of the Scheme Shares in the Register, each Scheme Participant:

- (a) irrevocably appoints the Target as its attorney and agent (and directs the Target in such capacity) to appoint the Bidder and each of its directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable, corporate representative to attend shareholders' meetings, exercise the votes attaching to Scheme Shares registered in its name and sign any shareholders resolution,
- (b) undertakes not to attend shareholder meetings, exercise the votes attaching to Scheme Shares registered in their names or vote on any resolutions at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.8(b));
- (c) must take all other actions in the capacity of the registered holder of Scheme Shares as the Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 5.8(a), the Bidder and any officer or agent nominated by the Bidder under clause 5.8(a) may act in the best interests of the Bidder as the intended registered holder of the Scheme Shares.

The Target undertakes in favour of each Scheme Participant that it will appoint the Bidder and each of its directors from time to time (jointly and each of them individually) as that Scheme Participant's proxy or, where applicable, corporate representative in accordance with clause 5.8(a) of this Scheme.

5.9 Instructions and elections

Except as prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by a Scheme Participant to the Target binding or deemed binding between the Scheme Participant and the Target relating to the Target or Target Shares (including any email addresses, instructions relating to communications from the Target, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from the Target) will be deemed from the Implementation Date (except to the extent determined

otherwise by the Bidder and in its sole discretion), by reason of this Scheme, to be made by the Scheme Participant to the Bidder (or the Bidder Nominee if applicable), and will be accepted by the Bidder (or the Bidder Nominee if applicable) until that instruction, notification or election is revoked or amended in writing addressed to the Bidder at the relevant registry.

6 Scheme Consideration

6.1 Consideration under the Scheme

- (a) Each Scheme Participant is entitled to receive the Scheme Consideration.
- (b) No later than 5.00pm on the day that is 2 Business Days before the Implementation Date, the Target must procure the Bidder to pay (or procure the payment of), and the Bidder must pay, the Scheme Consideration to the Scheme Participants in accordance with clauses 6.2, 6.3 and 6.4 of this Scheme.

6.2 Satisfaction of obligations

The obligation of the Target to procure payment of, and of the Bidder to pay, the Scheme Consideration pursuant to clause 6.1 of this Scheme will be satisfied by the Target procuring the Bidder, and the Bidder paying, no later than 5.00pm on the day that is 2 Business Days before the Implementation Date to deposit (or procure the deposit) in cleared funds the aggregate amount of the Scheme Consideration payable to all Scheme Participants into the Trust Account (except that the amount of any interest on the amount deposited will accrue to the Bidder).

6.3 Payment of Scheme Consideration

- (a) On the Implementation Date, subject to receipt of the Scheme Consideration from the Bidder in accordance with clause 6.2 of this Scheme, the Target must pay to each Scheme Participant an amount equal to the Scheme Consideration for each Scheme Share transferred to the Bidder (or the Bidder Nominee if applicable) on the Implementation Date by that Scheme Participant.
- (b) The obligations of the Target under clause 6.3(a) will be satisfied by the Target (in its absolute discretion, and despite any election referred to in clause 6.3(b)(i) or authority referred to in clause 6.3(b)(ii) made or given by the Scheme Participant):
 - (i) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Participant, where the Scheme Participant has made a valid election prior to the Record Date in accordance with the requirements of the Register to receive dividend payments from the Target to that bank account;
 - (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Participant by an appropriate authority from the Scheme Participant to Target; or
 - (iii) dispatching, or procuring the dispatch of, a cheque drawn on an Australian bank for the relevant amount in Australian currency to each Scheme Participant by pre-paid ordinary post (or, if the address of the Scheme Participant in the Register is outside

Australia, by pre-paid airmail post) to their address recorded in the Register on the Record Date.

- (c) In the event that:
- (i) a Scheme Participant does not have a Registered Address and no account has been notified in accordance with clause 6.3(b)(ii) or a deposit into such an account is rejected or refunded; or
 - (ii) a cheque issued under this clause 6.3 has been cancelled in accordance with clause 6.4(a),

the Target as the trustee for the Scheme Participants may credit the amount payable to the relevant Scheme Participant to a separate bank account of the Target ("**Separate Account**") to be held until the Scheme Participant claims the amount or the amount is dealt with under the *Unclaimed Money Act 2008* (Vic). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Participant claims the amount or the amount is dealt with under *Unclaimed Money Act 2008* (Vic). Until such time as the amount is dealt with under *Unclaimed Money Act 2008* (Vic), the Target must hold the amount on trust for the relevant Scheme Participant, but any interest or other benefit accruing from the amount will be to the benefit of the Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Participant when credited to the Separate Account or Trust Account (as applicable). The Target must maintain records of the amounts paid, the people who are entitled to the amount and any transfers of the amounts.

- (d) To the extent that, following satisfaction of the Target's obligations under clause 6.3(c), there is a surplus in the amount held in the Trust Account, that surplus may be paid by the Target to the Bidder.

6.4 Unclaimed monies

- (a) The Target may cancel a cheque issued under clause 6.3 of this Scheme if the cheque:
- (i) is returned to the Target; or
 - (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.
- (b) During the period of 1 year commencing on the Implementation Date, on request in writing from a Scheme Participant to the Target, the Target must reissue a cheque that was previously cancelled under this clause 6.4.
- (c) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes "unclaimed money" (as defined in section 3 of the *Unclaimed Moneys Act 2008* (Vic)).
- (d) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of the Bidder.

6.5 Fractional entitlements and splitting

Where the calculation of the Scheme Consideration to be issued to a particular Scheme Participant would result in the Scheme Participant becoming entitled to

a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent.

6.6 Orders of a court or Regulatory Authority

In the case of a written notice having been given to the Target (or the Target Registry) of an order made by or requirement of a court of competent jurisdiction or other Regulatory Authority:

- (a) which requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant in accordance with clause 6.3 of this Scheme, then the Target must procure that payment is made in accordance with that order or otherwise by law; or
- (b) which would prevent the Target from dispatching payment to any particular Scheme Participant in accordance with clause 6.3 of this Scheme, or the payment is otherwise prohibited by applicable law, the Target will retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration until such time as payment in accordance with clause 6.3 of this Scheme Consideration is permitted by that order or otherwise by law,

and the payment or retention by the Target (or the Target Registry) will constitute the full discharge of the Target's obligations under clause 6.3 with respect of the amount so paid or retained until, in the case of clause 6.6(b), it is no longer required to be retained.

6.7 Joint holders

In the case of Scheme Shares held in joint names any bank cheque required to be paid to Scheme Participants under this Scheme must be payable to the joint holders and be forwarded to the holder whose name appears first in the Register as at 5.00pm on the Record Date.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in Target Shares or other alterations to the Register will only be recognised by the Target if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant Target Shares on or before 5.00pm on the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings, or valid requests in respect of other alterations, are received on or before 5.00pm on the Record Date at the place where the Register is kept,

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

7.2 Register

The Target must register any registrable transmission applications or transfers of the Scheme Shares received in accordance with clause 7.1 of this Scheme on or before 5.00pm on the Record Date.

7.3 No disposals after Effective Date

- (a) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after 5:00pm on the Record Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever.
- (b) The Target will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Shares received after 5.00pm on the Record Date (except a transfer to the Bidder pursuant to this Scheme and any subsequent transfer by the Bidder or its successors in title).

7.4 Maintenance of Target Register

For the purpose of determining entitlements to the Scheme Consideration, the Target will maintain the Register in accordance with the provisions of this clause 7.4 until the Scheme Consideration has been paid to the Scheme Participants and the Bidder has been entered in the Register as the holder of all the Scheme Shares. The Register in this form will solely determine entitlements to the Scheme Consideration.

7.5 Effect of certificates and holding statements

Subject to provision of the Scheme Consideration and registration of the transfer to the Bidder contemplated in clauses 5.2 and 7.4 of this Scheme, any statements of holding or share certificates in respect of Scheme Shares will cease to have effect after 5.00pm on the Record Date as documents of title in respect of those shares (other than statements of holding in favour of the Bidder and its successors in title). After 5.00pm on the Record Date, each entry current on the Register as at 5.00pm on the Record Date (other than entries in respect of the Bidder or its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration.

7.6 Details of Scheme Participants

Within 2 Business Days after the Record Date, the Target will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Register at 5.00pm on the Record Date are available to the Bidder in such form as the Bidder reasonably requires.

8 Power of attorney

Each Scheme Participant, without the need for any further act by any Scheme Participant, irrevocably appoints the Target and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of:

- (a) on and from the Effective Date, enforcing the Deed Poll against the Bidder (if required); and
- (b) on and from the Implementation Date, executing and delivering any document or doing or taking any other act necessary, desirable or

expedient to give effect to this Scheme including the Share Scheme Transfer,

and the Target accepts such appointment. The Target, as attorney and agent of each Scheme Participant, may sub-delegate its functions, authorities or powers under this clause 8 to all or any of its directors or officers (jointly, severally or jointly and severally).

9 Notices

9.1 No deemed receipt

If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to the Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at the Target's registered office or at the office of the Target Registry.

9.2 Accidental omission

The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Target Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

10 Suspension and delisting

- (a) The Target will apply to ASX to suspend trading on the ASX in the Target Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by the Bidder, and to take effect only after the transfer of Scheme Shares has been registered in accordance with clause 5.2, the Target will apply for termination of the official quotation of the Target Shares on ASX and to have itself removed from the official list of ASX.

11 General

11.1 Variations, alterations and conditions

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

- (a) the Target may, with the consent of the Bidder, by its counsel or solicitor consent on behalf of all persons concerned to those variations, alterations or conditions; and
- (b) each Scheme Participant agrees to any such variations, alterations or conditions which the Target has consented to.

11.2 Further actions

- (a) The Target and the Bidder must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.

- (b) Each Scheme Participant consents to the Target doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

11.3 Authority and acknowledgement

Each Scheme Participant:

- (a) acknowledges that this Scheme binds the Target and all Scheme Participants (including those who do not attend the Scheme Meeting or do not vote at that meeting or vote against the Scheme at that Scheme Meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of the Target;
- (b) irrevocably consents to the Target and the Bidder doing all things necessary or expedient for or incidental to the implementation of this Scheme, whether on behalf of the Scheme Participants, the Target or otherwise; and
- (c) agrees to the variation, cancellation or modification of the rights attached to their Target Shares constituted by or resulting from this Scheme; and
- (d) agrees to, on the direction of the Bidder, destroy any holding statements or share certificates relating to their Target Shares.

11.4 No liability when acting in good faith

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

11.5 Enforcement of Deed Poll

The Target undertakes in favour of each Scheme Participant to enforce the Deed Poll against the Bidder on behalf of and as agent and attorney for the Scheme Participants.

11.6 Stamp duty

The Bidder will:

- (a) pay all stamp duty (including any fines, penalties and interest) payable in connection with this Scheme or the transactions effected by or made under the Scheme; and
- (b) indemnify each Scheme Participant against any liability arising from failure to comply with clause 11.6(a),

subject to and in accordance with clause 7 of the Deed Poll.

12 Governing law

12.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this Scheme. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of that place.

12.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this Scheme may be served on a party by being delivered or left at that party's address set out in the Details, provided that a copy of the document (or details of it) must also be sent by email to the email address set out in the Details.

Scheme Implementation Agreement

Annexure C Deed Poll

Deed Poll

Dated

Essity Group Holding BV (“**Bidder**”)

In favour of each registered holder of fully paid ordinary shares in Asaleo Care Limited (ACN 154 461 300) (“**Target**”) as at 5.00pm on the Record Date, other than the Bidder or its Related Bodies Corporate (“**Scheme Participants**”)

King & Wood Mallesons

Level 27
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447 Collins Street
Melbourne VIC 3000
Australia
T +61 3 9643 4000
F +61 3 9643 5999
DX 101 Melbourne
www.kwm.com

Deed Poll

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Deed Poll

Details

Parties

Bidder	Name	Essity Group Holding BV
	Formed in	Netherlands
	Address	Postbus 670, 3700AR Zeist Netherlands
	Email	mikael.schmidt@essity.com
	Attention	Mikael Schmidt, SVP and General Counsel With a copy to MinterEllison: Jeremy.Blackshaw@minterellison.com Alberto.Colla@minterellison.com
In favour of	Each registered holder of fully paid ordinary shares in the Target as at 5.00pm on the Record Date (other than the Bidder and its Related Bodies Corporate).	
Governing law	Victoria, Australia	
Recitals	A	The Target's directors (other than the Interested Directors) have resolved that the Target should propose the Scheme.
	B	The effect of the Scheme will be that all Scheme Shares will be transferred to the Bidder (or the Bidder Nominee if applicable).
	C	The Target and the Bidder have entered into the Scheme Implementation Agreement.
	D	In the Scheme Implementation Agreement, the Bidder agreed (amongst other things) to provide the Scheme Consideration to the Target on behalf of the Scheme Participants, subject to the satisfaction of certain conditions and on the terms and conditions of the Scheme Implementation Agreement.
	E	The Bidder is entering into this deed poll for the purpose of covenanting in favour of Scheme Participants to perform the actions attributed to it under the Scheme and to provide the Scheme Consideration in accordance with the Scheme.

Deed Poll

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

Bidder Nominee means any wholly-owned Subsidiary of the Bidder nominated by the Bidder to acquire Scheme Shares under the Scheme in accordance with clause 2.3 of the Scheme Implementation Agreement.

Details means the section of this document headed “Details”.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction.

Immediately Available Funds means cash, bank cheque or telegraphic or other electronic means of transfer of cleared funds into a bank account.

Interested Directors means Mats Berencreutz and Marie-Laure Mahé.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between the Target and Scheme Participants under which all

the Scheme Shares will be transferred to the Bidder (or the Bidder Nominee, if applicable), substantially in the form of Annexure B to the Scheme Implementation Agreement, or as otherwise agreed by the Bidder and the Target, subject to any amendments or conditions that are:

- (a) agreed to in writing by the Target and the Bidder (with any such amendments to be in accordance with the principles in the definition of 'Scheme' in the Scheme Implementation Agreement), and approved by the Court; or
- (b) made or required by the Court pursuant to section 411(6) of the Corporations Act and accepted in writing by the Target and the Bidder.

Scheme Implementation Agreement means the scheme implementation agreement dated 17 February 2021 between the Target and the Bidder under which, among other things, the Target has agreed to propose the Scheme to Target Shareholders, and each of the Bidder and the Target has agreed to take certain steps to give effect to the Scheme.

Scheme Share means a Target Share held by a Scheme Participant as at the Record Date.

All other words and phrases used in this document have the same meaning as given to them in the Scheme.

1.2 General interpretation

Clause 1.2 of the Scheme applies to this document.

1.3 Nature of deed poll

The Bidder acknowledges that:

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

2 Condition precedent and termination

2.1 Condition precedent

The Bidder's obligations under this document are subject to the Scheme becoming Effective.

2.2 Termination

This document and the Bidder's obligations under it will automatically terminate and this document will be of no further force or effect if:

- (a) the Scheme has not become Effective on or before the End Date or any later date as the Court, with the consent of the Bidder and the Target, may order; or

- (b) the Scheme Implementation Agreement is terminated in accordance with its terms,

unless the Bidder and the Target otherwise agree in writing.

2.3 Consequences of termination

If this document is terminated under clause 2.2, then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Participants:

- (a) the Bidder is released from its obligations to further perform this document; and
- (b) each Scheme Participant retains the rights, powers or remedies they have against the Bidder in respect of any breach of this document which occurs before it is terminated.

3 Performance of obligations generally

- (a) The Bidder covenants in favour of Scheme Participants to comply with its obligations under the Scheme Implementation Agreement and, subject to the terms of that document, do all acts and things necessary or desirable on its part to give full effect to the Scheme.
- (b) Subject to clause 2, the Bidder covenants in favour of each Scheme Participant to perform the actions attributed to it under the Scheme as if the Bidder were a party to the Scheme.

4 Scheme Consideration

4.1 Scheme Consideration

Subject to clause 2, the Bidder undertakes in favour of each Scheme Participant to pay or procure the payment of the Scheme Consideration to the Trust Account on behalf of each Scheme Participant, subject to and in accordance with the Scheme.

4.2 Manner of payment

The Bidder's obligation to provide the Scheme Consideration to the Target, on behalf of each Scheme Participant, is satisfied by the Bidder, no later than 5.00pm on the day that is 2 Business Days before the Implementation Date, depositing into the Trust Account in Immediately Available Funds the aggregate amount of the Scheme Consideration payable to all Scheme Participants (except that the amount of any interest on the amount deposited (less bank fees and other charges) will accrue to the Bidder).

5 Representations and warranties

The Bidder represents and warrants that:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;

- (b) **(power)** it has full legal capacity and power to enter into this document, to comply with its obligations under it and carry out the transactions under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (ii) any law binding on or applicable to it or its assets; or
 - (iii) any Encumbrance or document binding on or applicable to it;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms; and
- (f) **(solvency)** it is not Insolvent.

6 Continuing obligations

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

- (a) the Bidder has fully performed its obligations under this document; or
- (b) the earlier termination of this document under clause 2.2.

7 Costs

7.1 Costs

If the Scheme becomes Effective, the Bidder agrees to pay all costs in respect of the implementation of the Scheme (including in connection with the transfer of Target Shares to the Bidder in accordance with the terms of the Scheme).

7.2 Stamp duty and registration fees

The Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of these amounts); and
- (b) indemnifies each Scheme Participant against, and agrees to reimburse and compensate it, for any liability in respect of stamp duty under clause 7.2(a).

8 Notices

8.1 Communications

Notices and other communications in connection with this document must be in writing. They must be sent to the address or email address referred to in the Details and (except in the case of email) marked for the attention of the person referred to in the Details. If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

8.2 When effective

Communications take effect from the time they are received or taken to be received under clause 8.3 (whichever happens first) unless a later time is specified in the communication.

8.3 When taken to be received

Communications sent by:

- (a) post are taken to be received, 2 Business Days after posting (or 5 Business Days after posting if set from the country to another); or
- (b) email are taken to be received:
 - (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 delivery failed,

whichever happens first.

8.4 Receipt outside business hours

Despite anything else in this clause 8, if communications are received or taken to be received under clause 8.3 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

9 General

9.1 Variation

A provision of this document or any right created under it may not be varied, altered or otherwise amended unless:

- (a) the variation is agreed to by the Target and the Bidder in writing; and
- (b) if the variation occurs after the First Court Date (as that term is defined in the Scheme Implementation Agreement), the Court indicates that the variation, alteration or amendment would not itself preclude approval of the Scheme,

in which event the Bidder must enter into a further deed poll in favour of the Scheme Participants giving effect to the variation, alteration or amendment.

9.2 Partial exercising of rights

Unless this document expressly states otherwise, if the Bidder does not exercise a right, power or remedy in connection with this document fully or at a given time, it may still exercise it later.

9.3 Remedies cumulative

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

9.4 Assignment or other dealings

The Bidder and each Scheme Participant may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without each other's consent.

9.5 Further steps

The Bidder agrees to do anything including executing all documents and do all things (on its own behalf or on behalf of each Scheme Participant), at its own expense, necessary or expedient to give full effect to this document and the transactions contemplated by it.

10 Governing law and jurisdiction

10.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The Bidder submits to the non-exclusive jurisdiction of the courts of that place.

10.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on the Bidder by being delivered or left at the Bidder's address set out in the Details.

EXECUTED as a deed poll.

Deed Poll

Signing page

DATED: _____

SIGNED by the following authorised
representatives of **ESSITY GROUP**
HOLDING BV, who by executing this
document each warrant that he/she is
duly authorised to execute this
document on behalf of ESSITY
GROUP HOLDING BV, in the presence
of:

.....
Signature of witness

.....
Name of witness (block letters)

.....
Signature of witness

.....
Name of witness (block letters)

.....
**MUKUNDKUMER AMIN, DIRECTEUR
A**

.....
MATS BECKMAN, DIRECTEUR B