

Wednesday, 2 October 2024

The Manager
ASX Market Announcements
Australian Securities Exchange Limited
20 Bridge Street
Sydney, NSW, 2000

Execution of Scheme Implementation Deed

Platinum Capital Limited (ASX:PMC) (**Company**) is pleased to announce that it has entered into a scheme implementation deed with Platinum Investment Management Limited (ACN 063 565 006) in its personal capacity, as responsible entity of Platinum International Fund (Quoted Managed Hedge Fund) (ASX: PIXX) (**Fund**) and as responsible entity of Platinum International Fund (**Underlying Fund**) to undertake a scheme of arrangement (**Scheme**) conditional upon shareholder and Court approvals.

The Fund is an existing actively managed ETF whose units are quoted on the ASX, that is a “feeder fund”, primarily investing into the Underlying Fund. Platinum manages the investment portfolios of the Company, the Fund and the Underlying Fund, employing the same global equity investment strategy.

The Scheme Implementation Deed is the first formal step to give effect to the proposed Scheme. An executed copy of this deed accompanies this announcement.

The Scheme, if implemented, will have the following key implications:

1. the Company’s shareholders will exchange their ASX listed shares for units in the Fund at a ratio based on the Fund’s net asset value (**NAV**) and the Company’s post tax net tangible assets (**NTA**) (adjusted for all costs associated with the transaction) immediately prior to implementation;
2. the current investment management agreement between the Company and Platinum Investment Management Limited (**Platinum**) will terminate without Platinum claiming, or the Company having to pay, termination fees; and
3. the Company will become wholly owned by the Fund and will be delisted from the ASX. Following implementation of the Scheme, the Company’s investment portfolio will be transferred to the Platinum International Fund and the Company will be wound up.

Rationale for the Scheme

Over the last few years, the Company’s shares have frequently traded at a discount to its NTA.

We announced on 26 April 2024 that we would undertake a formal review of options available to maximise value for shareholders as a whole. Our primary objective was to address the share price discount to NTA issue. A number of proposals were considered during our review, including a proposal from Platinum to undertake the Scheme.

Ultimately, with the assistance of an independent corporate adviser, we determined that the Scheme was the most appropriate solution for shareholders to permanently address the Company’s share price trading at a discount to its NTA.

Notably, if implemented, the Scheme will enable shareholders to:

- continue to access the same global investment strategy via an ASX quoted vehicle managed by Platinum, with the same benchmark and objective as the Company; and
- exchange their shares for a security (i.e. units in the Fund) that will typically trade, and can be sold at, close to the NAV of the underlying investments.

In this way, the Scheme provides choice and flexibility for shareholders as it facilitates both liquidity (i.e. allows for an exit at a price close to NAV) and enables shareholders to maintain an ongoing exposure to Platinum's strategy via units with price trading at close to NAV.

Further, Platinum agreeing to not seek termination fees in respect of the termination of the Company's investment management agreement under the Scheme, has facilitated the Scheme as a simple and relatively low-cost solution for shareholders.

Scheme Consideration

Under the Scheme, shareholders will receive units with an aggregate value equal to the post-tax NTA (adjusted for transaction costs) value of their shares (subject to rounding).

To ensure shareholders are able to receive appropriate value for their investment under the Scheme, the number of new units to be issued as consideration is not fixed.

The consideration will be calculated using the Fund's NAV and the Company's post-tax NTA (adjusted for transaction costs) on the last business day before the Scheme is implemented. The Scheme Implementation Deed requires that entitlements to the Scheme consideration be calculated over a weekend, so that consideration can be issued before markets open on the Implementation Date.

The Scheme Implementation Deed

The Scheme Implementation Deed (released with this announcement) sets out the terms and conditions on which the Scheme will be implemented. It contains customary conditions precedent (such as obtaining shareholder and court approvals) and customary exclusivity arrangements (including 'no shop', 'no talk' and 'no due diligence') which will apply in respect of the Company until an end date (currently 30 June 2025).

The Board unanimously recommends the Scheme

The Board considers the Scheme to be in the best interests of shareholders and recommends that it is approved at the Scheme meeting (in each case, in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of shareholders).

Next steps

Shareholders are not required to take any action at this time.

Shareholders will receive full details of the Scheme in the Scheme booklet, which is expected to be circulated to all shareholders before the end of this calendar year.

The Scheme booklet will include a notice convening the Scheme meeting, the reasons for the Board's recommendation that shareholders vote in favour of the Scheme, a general outline of

the taxation implications of the Scheme and an opinion from an independent expert as to whether the Scheme is in the best interests of shareholders.

Indicative Timetable

An indicative timetable for the Scheme is set out below:

Event	Indicative timeframe
First Court Date	Mid December 2024
Scheme booklet is provided to shareholders and released on the ASX	Before 31 December 2024
Scheme Meeting to consider and vote on the Scheme <i>*Remaining milestones assume the Scheme is approved at this meeting and the Conditions Precedent are satisfied or waived</i>	Late January-mid February 2025
Second Court Date* <i>*Subject to Court availability</i>	Late February-early March 2025
Effective Date – Date the Scheme becomes binding and the last day the Company's shares will trade on ASX	Late February-early March 2025
Record Date – the date and time for determining shareholder participation in the Scheme	Late February-mid March 2025
Valuation Date – the Fund's NAV and the Company's post-tax NTA (adjusted for costs) on this day used to calculate the Scheme Consideration	Business Day prior to the Implementation Date
Implementation Date – Before market open on this day, all shares in the Company are transferred to the Fund and the Fund issues new units as the Scheme consideration	Late February-mid March 2025

Note: These dates are indicative only and subject to change.

Additional information

For more information on the Scheme, please see the Scheme Implementation Deed attached.

The Board has authorised this announcement to be released to the ASX.

The Board of Platinum Investment Management Limited as responsible entity of Platinum International Fund (Quoted Managed Hedge Fund) has authorised this announcement to be released to the ASX.

If you would like to discuss the Scheme, please contact:

Elizabeth Norman | Director of Investor Services and
Communications Platinum Investment Management Limited Tel:
61 2 9255 7500
Fax: 61 2 9254 5555

If you would like to find out more information about the Company, please visit the Company's website at <https://www.platinum.com.au/lics/pmc>

If you would like to find out more information about the Platinum International Fund (Quoted Managed Hedge Fund), please visit Platinum's website at <https://www.platinum.com.au/active-etfs/pixx>.



SCHEME IMPLEMENTATION DEED

Platinum Capital Limited

(ACN 063 975 431)

Platinum Investment Management Limited

trading as Platinum Asset Management

(ACN 063 565 006)

Platinum Investment Management Limited

as responsible entity of

Platinum International Fund (Quoted Managed Hedge Fund)

(ARSN 620 895 301)

Platinum Investment Management Limited

as responsible entity of

Platinum International Fund

(ARSN 089 528 307)



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Table of Contents

1. DEFINITIONS AND INTERPRETATION	4
1.1 DEFINITIONS.....	4
1.2 INTERPRETATION.....	9
2. AGREEMENT TO PROCEED WITH THE TRANSACTION	10
2.1 PROPOSAL OF TRANSACTION	10
2.2 ASSISTANCE.....	10
3. CONDITIONS PRECEDENT	10
3.1 CONDITIONS PRECEDENT TO THE SCHEME	10
3.2 REASONABLE ENDEAVOURS.....	11
3.3 WAIVER OF CONDITIONS PRECEDENT.....	11
3.4 CERTAIN NOTICES.....	12
3.5 NON-FULFILMENT OF A CONDITION PRECEDENT	12
3.6 HEAD COUNT	13
4. SCHEME OVERVIEW	14
4.1 SCHEME TERMS	14
4.2 GENERAL OBLIGATIONS ON ALL PARTIES.....	14
4.3 SCHEME CONSIDERATION	14
4.4 ALLOTMENT AND ISSUE OF SCHEME CONSIDERATION	14
4.5 COMPLETION STEPS IN RELATION TO INELIGIBLE SHAREHOLDERS.....	15
5. IMPLEMENTATION	15
5.1 COMPANY OBLIGATIONS	15
5.2 THE RESPONSIBLE ENTITY'S OBLIGATIONS	18
5.3 OBLIGATIONS OF PLATINUM AND THE UNDERLYING FUND	20
5.4 CONDUCT OF THE COMPANY'S BUSINESS.....	21
5.5 PERMITTED DIVIDEND	21
5.6 OPERATION OF THE FUND AND THE UNDERLYING FUND	21
5.7 COMPANY FACILITATION	22
5.8 TERMINATION OF THE MANAGEMENT AGREEMENT	22
6. DIRECTOR RECOMMENDATION	22
6.1 REASONABLE ENDEAVOURS.....	22
6.2 WITHDRAWAL OR CHANGE OF RECOMMENDATION	23
6.3 FIDUCIARY EXCEPTION	23
7. EXCLUSIVITY	23
7.1 EXISTING DISCUSSIONS.....	23
7.2 NO SHOP AND NO TALK.....	24
7.3 DUE DILIGENCE INFORMATION.....	24
7.4 NON-PUBLIC INFORMATION.....	24
7.5 FIDUCIARY EXCEPTION.....	25
7.6 NOTIFICATIONS DURING THE EXCLUSIVITY PERIOD	25
7.7 MATCHING RIGHT	25
8. POST-IMPLEMENTATION	26
8.1 DIVIDEND PAYMENT.....	26
8.2 COMPANY ASSET TRANSFER AND UNDERLYING ASSET ISSUE	26
8.3 ISSUE OF UNDERLYING UNITS.....	27
8.4 DELISTING AND BOARD CHANGES.....	28
9. REPRESENTATIONS AND UNDERTAKINGS	28

9.1	RESPONSIBLE ENTITY REPRESENTATIONS.....	28
9.2	COMPANY REPRESENTATIONS.....	29
9.3	PLATINUM REPRESENTATIONS.....	30
9.4	SURVIVAL OF REPRESENTATIONS.....	31
10.	PUBLIC ANNOUNCEMENTS.....	31
10.1	PUBLIC ANNOUNCEMENT OF TRANSACTION.....	31
10.2	REQUIRED DISCLOSURE	31
10.3	OTHER ANNOUNCEMENTS	31
11.	CONFIDENTIALITY	31
11.1	CONFIDENTIALITY	31
12.	LIABILITY OF PLATINUM.....	32
12.1	INTRODUCTION	32
12.2	LIMITATION WHEN ACTING AS RESPONSIBLE ENTITY OF THE FUND OR THE UNDERLYING FUND	32
13.	TERMINATION.....	33
13.1	TERMINATION BY ANY PARTY.....	33
13.2	TERMINATION BY THE COMPANY.....	33
13.3	TERMINATION BY THE RESPONSIBLE ENTITY	34
13.4	TERMINATION.....	34
13.5	EFFECT OF TERMINATION	34
14.	GST	34
14.1	GST.....	34
15.	GENERAL	35
15.1	NO REPRESENTATION OR RELIANCE.....	35
15.2	NO MERGER.....	35
15.3	CONSENTS.....	35
15.4	NOTICES.....	35
15.5	GOVERNING LAW AND JURISDICTION	36
15.6	WAIVERS	36
15.7	VARIATION	36
15.8	ASSIGNMENT.....	37
15.9	FURTHER ACTION	37
15.10	ENTIRE AGREEMENT.....	37
15.11	COUNTERPARTS.....	37
	SCHEDULE 1 NOTICE DETAILS	40
	SCHEDULE 2 INDICATIVE TIMETABLE	41
	SCHEDULE 3 SCHEME CONSIDERATION	42

This **IMPLEMENTATION DEED** was made on 01 ____ October 2024

BETWEEN

Platinum Capital Limited (ACN 063 975 431) (**Company**).

AND **Platinum Investment Management Limited** trading as Platinum Asset Management (ACN 063 565 006) (**Platinum**).

AND Platinum Investment Management Limited (ACN 063 565 006) as responsible entity of the **Platinum International Fund (Quoted Managed Hedge Fund) (ARSN 620 895 301) (Responsible Entity)**.

AND Platinum Investment Management Limited as responsible entity of the **Platinum International Fund (ARSN 089 528 307)**.

RECITALS

- A. The Company and the Responsible Entity have agreed that the Platinum International Fund (Quoted Managed Hedge Fund) (**Fund**), an existing quoted managed fund, will acquire all of the issued shares in the Company by means of a scheme of arrangement under Part 5.1 of the Corporations Act between the Company and the Shareholders.
- B. The Scheme will involve the issue of new units in the Fund to Shareholders as Scheme Consideration.
- C. Subject to implementation of the Scheme, on the Implementation Date:
 - a. the Management Agreement between Platinum and the Company will terminate; and
 - b. the Company's investment portfolio will be transferred to the Underlying Fund.
- D. The parties have agreed to implement the Transaction on the terms of this deed.
- E. The Company is not prohibited from paying, and separate to the Transaction, may determine to pay or declare a dividend prior the Implementation Date.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed:

ASIC means the Australian Securities & Investments Commission.

ASX means ASX Limited (ACN 008 624 691) or, as the context requires, the financial market operated by it.

ASX Operating Rules means of the ASX Operating Rules and ASX Operating Rules Procedures of the ASX as amended from time to time.

Board means the board of directors of the Company from time to time.

Business Day means a weekday on which trading banks are open for business in Sydney, Australia, excluding any Saturday, Sunday or public holiday.

Company Parties means the Company and its Representatives in connection with the Transaction, but for avoidance of doubt does not include the Platinum Parties.

Company Assets means the assets forming the Company's investment portfolio on the Valuation Date.

Competing Proposal means any proposal by a Third Party in relation to a transaction or arrangement under which if the transaction or arrangement is completed:

- (a) a person would acquire (whether directly or indirectly) or become the holder of, or otherwise have a right to acquire or have an economic interest in, all or substantially all of the business conducted by the Company, or the assets of the Company;
- (b) a person would acquire (whether directly or indirectly) Control of the Company;
- (c) a person would acquire a Relevant Interest in, or voting power of, 20% or more of the Shares;
- (d) a person would otherwise acquire, or merge or amalgamate with, the Company; or
- (e) the Company would be required to abandon or otherwise fail to proceed with the Transaction.

Completion means completion of the Transaction.

Completion NTA means the post tax net tangible asset value of the Company on the Valuation Date less the Retention Amount (as defined in the Scheme) calculated in accordance with the Corporations Act, Australian Accounting Standards (including the Australian Accounting Interpretations), the Corporations Regulations, the Company's constitution and consistent with the requirements of the Listing Rules.

Condition Precedent means a condition precedent set out in clause 3.1.

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

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

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as the Company and the Responsible Entity agree on in writing.

Custodian means a custodian of the Fund, appointed by the Responsible Entity in respect of all or any of the assets of the Fund from time to time.

Director means a director of the Company from time to time.

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

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

End Date means 30 June 2025.

Exclusivity Period means the period starting on the date of this deed and ending on the End Date.

First Court Date means the first day on which an application made to the Court for an order 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.

Fund means Platinum International Fund (Quoted Managed Hedge Fund) (ARSN 620 895 301), an exchange traded managed fund, quoted on the ASX.

Government Agency means any Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state.

Implementation means the implementation of all the actions required under the Scheme.

Implementation Date means the Business Day on which on which Implementation occurs, being a Monday that is not more than five Business Days after the Record Date or such other date as the Company and Responsible Entity may agree or as may be required by ASX.

Independent Expert means the independent expert in respect of the Scheme appointed by the Company.

Independent Expert's Report means the report prepared by the Independent Expert to be provided to the Company and Shareholders providing an opinion, among other things, as to whether the Scheme is in the best interests of Shareholders.

Ineligible Foreign Shareholder means a Scheme Participant whose address as shown in the Share Register is a place outside Australia, its external territories and New Zealand, unless the Responsible Entity determines that it is lawful and not unduly onerous or impracticable to issue the Scheme Consideration to that Scheme Participant when the Scheme becomes Effective.

Ineligible Shareholder means:

- (a) any Ineligible Foreign Shareholder; and/or
- (b) any Unmarketable Parcel Shareholder who has not provided the Company with an Opt-in Notice before 5.00 pm (Sydney time) on Valuation Date.

Ineligible Units means the Scheme Consideration to which Ineligible Shareholders would have been entitled under the Scheme but for the operation of the Scheme.

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); or
- (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; or
- (c) it is subject to any arrangement, assignment, moratorium 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 deed); or
- (d) an application or order has been made (and in the case of an application, 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 paragraphs (a), (b) or (c); or

- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (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 deed reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

Joint Public Announcement means the public announcement in relation to the Scheme to be issued by the parties, and in respect of the Company and the Responsible Entity, to be released via the ASX, in the form agreed between the parties prior to the date of this deed.

Listing Rules means the official listing rules of the ASX.

Opt-in Notice means the notice pursuant to which an Unmarketable Parcel Shareholder elects to not be treated as an Ineligible Shareholder and requests to be issued New Units as the Scheme Consideration.

Management Agreement means the investment management agreement between the Company and Platinum as amended from time to time.

New Unit means a fully paid unit in the Fund to be issued as Scheme Consideration.

Nominee means the agent appointed in accordance with the terms of this deed to receive, and to transact in, the Ineligible Units in accordance with the terms of the Scheme (and includes any nominee of such person).

Platinum means Platinum Investment Management Limited trading as Platinum Asset Management (ACN 063 565 006, AFSL 221935).

Platinum Information means information provided for inclusion in the Scheme Booklet by Platinum, including information regarding the Fund, the Underlying Fund, the Platinum Parties and the Scheme Consideration, provided that:

- (a) information regarding the Fund is provided by Platinum solely in its capacity as responsible entity of the Fund; and
- (b) information regarding the Underlying Fund is provided by Platinum solely in its capacity as responsible entity of the Underlying Fund
- (c) all other information is provided Platinum in its personal capacity.

Platinum Parties means Platinum and its Representatives in its personal capacity, as Responsible Entity and as responsible entity of the Underlying Fund but, for avoidance of doubt, does not include the Company Parties.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Proceeding means any suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, audit, examination or

investigation commenced, brought, conducted or heard by or before or otherwise involving any court or other Government Agency or any arbitrator or arbitration panel.

Record Date means the record date for the Scheme, being 7.00pm (Sydney time) on the second Business Day after the Effective Date or such other date as the Company and the Responsible Entity may agree or as may be required by ASX.

Related Body Corporate has the meaning set out in the Corporations Act.

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

Representative in respect of a party, means each director, officer, employee, advisor, agent or representative of that party or any Related Body Corporate of that party but in respect of the Company excludes Platinum, any director, officer, employee of Platinum and any advisor, agent or representative of Platinum, the Responsible Entity, the responsible entity of the Underlying Fund, the Fund or the Underlying Fund.

Responsible Entity means Platinum as responsible entity of the Fund.

RG 60 means Regulatory Guide 60 issued by ASIC in September 2020.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between the Company and the Scheme Participants, pursuant to which Scheme Shares will be exchanged for the Scheme Consideration, in the form attached to the Scheme Booklet or in such other form as may be:

- (a) agreed to by the Company and the Responsible Entity in writing and approved by the Court; or
- (a) made or required by the Court under section 411(6) of the Corporations Act and agreed by the Company and the Responsible Entity.

Scheme Booklet means the information relating to the Transaction to be approved by the Court and despatched to all Shareholders, including the Scheme, an explanatory statement in respect of the Scheme for the purposes of section 412 of the Corporations Act, the Independent Expert's Report, a deed poll executed by the Responsible Entity pursuant to which the Responsible Entity agrees to be bound by the Scheme, the notice convening the Scheme Meeting and the proxy form for the Scheme Meeting.

Scheme Consideration means, for each Scheme Participant, the number of New Units determined in accordance with a formula substantially in the form set out in Schedule 3 and issued on the Implementation Date in accordance with the Scheme.

Scheme Meeting means the meeting of Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

Scheme Participant means each person who is recorded in the Share Register as the holder of Shares as at the Record Date.

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

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

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

Share Register means the register of Shareholders maintained by the Share Registry in accordance with the Corporations Act.

Share Registry means Link Market Services Limited (ACN 083 214 537).

Shareholder means a person who is recorded in the Share Register as the holder of a Share from time to time.

Superior Competing Proposal means a bona fide unsolicited Competing Proposal received by the Company after the date of this deed which the Board, acting in good faith and in accordance with their fiduciary duties and after consulting with, and receiving written advice from, the Company's external legal and financial advisers experienced in transactions of this nature, has determined to be a Competing Proposal which is:

- (a) reasonably capable of being completed, taking into account all aspects of the Competing Proposal, including the person making it; and
- (b) more favourable to Shareholders (as a whole) than the Transaction, taking into account all the terms and conditions of the Competing Proposal.

Takeovers Panel means the panel established under section 171 of the *Australian Securities and Investments Commission Act 1989* (Cth) and continued in existence by section 261 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Transaction means the transactions contemplated by this deed.

Timetable means the timetable for the Transaction agreed between the parties, based on the indicative timetable set out in Schedule 2, as such may be amended by the agreement of the parties in writing.

Third Party means a person other than the parties and their Representatives.

Underlying Fund means Platinum International Fund (ARSN).

Underlying Unit means a fully paid 'p class' unit in the Underlying Fund.

Unmarketable Parcel Shareholder means a Scheme Participant, that is not an Ineligible Foreign Shareholder, holding less than a marketable parcel (as that term is defined in the Listing Rules) of Scheme Shares (assessed using the price of Shares on ASX at close of trade on the Effective Date).

Valuation Date means the Business Day prior to the Implementation Date, or such other date as the Company and the Responsible Entity agree in writing.

1.2 Interpretation

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

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture, a partnership, a trust and any Government Agency;

- (e) a reference to a clause, party, attachment or Schedule is a reference to a clause of, and a party, attachment and schedule to this deed, and a reference to this deed includes any Attachment and Schedule;
- (f) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) a reference to any document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (h) the word **includes** in any form is not a word of limitation;
- (i) a reference to **\$** or **dollar** is to Australian currency;
- (j) a reference to any time, unless otherwise indicated, is a reference to the time in Sydney, Australia;
- (k) if an event must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day;
- (l) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this deed; and
- (m) a reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

2. AGREEMENT TO PROCEED WITH THE TRANSACTION

2.1 Proposal of Transaction

- (a) The Company agrees to propose the Transaction on and subject to the terms of this deed.
- (b) The Company agrees to convene the Scheme Meeting on and subject to the terms of this deed.

2.2 Assistance

The Responsible Entity and Platinum, in its personal capacity and as the responsible entity of the Underlying Fund, agree to provide reasonable assistance to the Company to propose and implement the Transaction on the terms of this deed.

3. CONDITIONS PRECEDENT

3.1 Conditions Precedent to the Scheme

The Scheme will not become Effective, and clauses 4 and 5 of this deed are not binding, until each of the following conditions precedent is satisfied or waived in the manner set out in clause 3.3:

Cl	Conditions Precedent	Responsible
3.1(a)	The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act	Company

3.1(b)	Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act, subject to clause 3.6.	Company
3.1(c)	Before 8.00am (Sydney time) on the Second Court Date, ASIC and ASX issue or provide any consents or approvals, or have done any other acts, which are reasonably necessary or desirable to implement the Transaction, and those consents, approvals or other acts have not been withdrawn or revoked at that time.	Company and Responsible Entity
3.1(d)	No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency or other material legal restraint or prohibition preventing the Transaction from being implemented is in effect at 8.00am (Sydney time) on the Second Court Date	Company and Responsible Entity
3.1(e)	None of the warranties in clause 9.2 is or has become false, misleading or incorrect in a material respect by 8.00am (Sydney time) on or before the Second Court Date	Company
3.1(f)	None of the warranties in clause 9.1 is or has become false, misleading or incorrect in a material respect by 8.00am (Sydney time) on or before the Second Court Date	Responsible Entity
3.1(g)	The Independent Expert issues a report which concludes that the Scheme is in the best interests of Shareholders before the time when the Scheme Booklet is registered with ASIC and the Independent Expert has not publicly withdrawn or qualified this conclusion before 8.00am (Sydney time) on the Second Court Date	Company

3.2 Reasonable endeavours

- (a) Each of the Company and the Responsible Entity must use its reasonable endeavours to procure that there is no occurrence within its control or the control of its Related Bodies Corporate that would prevent any of the Conditions Precedent being or remaining satisfied.
- (b) Each of the Company and the Responsible Entity must, for each Condition Precedent which it is named as a 'responsible party' in clause 3.1, use its reasonable endeavours to procure that Condition Precedent is satisfied as soon as practicable after the date of this deed and remains satisfied until the Implementation Date.

3.3 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clause 3.1(a) and 3.1(b) cannot be waived.
- (b) The Conditions Precedent in clauses 3.1(c) and 3.1(d) are for the benefit of the Company and the Responsible Entity and may only be waived by written agreement between them (each in its absolute discretion).
- (c) The Condition Precedent in clause 3.1(e) is for the sole benefit of the Responsible Entity and may only be waived with the written consent of the Responsible Entity (in its absolute discretion).
- (d) The Conditions Precedent in clauses 3.1(f) and 3.1(g) are for the sole benefit of the Company, and may only be waived with the written consent of the Company (in its absolute discretion).

- (e) Waiver of a breach or non-fulfilment in respect of one Condition Precedent does not constitute:
 - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.4 Certain notices

- (a) If, before the time specified for satisfaction of a Condition Precedent, an event that will prevent that Condition Precedent being satisfied occurs, the party with knowledge of that event must promptly give the other party written notice of that event.
- (b) The Company must promptly advise the Responsible Entity orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause:
 - (i) a representation or warranty in clause 9.2 to be false or misleading in any material respect;
 - (ii) a breach or non-fulfilment of any of the Conditions Precedent; or
 - (iii) material breach of this deed by a Platinum Party.
- (c) The Responsible Entity must promptly advise the Company orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause:
 - (i) a representation or warranty in clause 9.1 to be false or misleading in any material respect;
 - (ii) a breach or non-fulfilment of any of the Conditions Precedent; or
 - (iii) material breach of this deed by a Company Party.

3.5 Non-fulfilment of a Condition Precedent

- (a) If:
 - (i) there is an event or occurrence that would, or does, prevent any of the Conditions Precedent being satisfied;
 - (ii) there is an event or occurrence that would, or does, prevent any of the Conditions Precedent being satisfied by the time specified for the satisfaction of that Condition Precedent in clause 3.1 or such Condition Precedent is otherwise not satisfied by that time; or
 - (iii) the Scheme is unlikely to become Effective before the End Date,

and the relevant occurrence or failure does not arise out of a breach of clause 3.2, the Company and the Responsible Entity must consult in good faith with a view to:

 - (iv) determining whether the Transaction may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods;
 - (v) changing the date of the application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed to in

writing by the Company and the Responsible Entity (being a date no later than five Business Days before the End Date); or

- (vi) adjourning, or changing the date of the Scheme Meeting; or
- (vii) extending the End Date.

(b) If:

- (i) the Company and the Responsibility Entity are unable to reach an agreement for the purpose of clause 3.5(a) within five Business Days or such shorter period ending at 5.00pm (Sydney time) on the Business Day before the Second Court Date; or
- (ii) the Scheme has not become Effective by the End Date,

then, unless that Condition Precedent is waived, either party may terminate this deed at any time prior to 8.00am (Sydney time) on the Second Court Date.

(c) A party may not terminate this Deed under clause 3.5(b), if the relevant Condition Precedent has not been satisfied, or is incapable of being satisfied, or there is an occurrence that will prevent the Condition Precedent being satisfied by the date specified in this deed for its satisfaction, as a result of:

- (i) a deliberate act or omission by that party, or any of its Representatives; or
- (ii) a breach of this deed by that party

(d) Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination, on termination of this deed, no party shall have any rights against or obligations to any other party under this deed except for those rights and obligations which accrued prior to termination.

3.6 Head count

(a) Without limiting clause 3.5, if the Scheme is not approved by a majority in number of the Shareholders present and voting (in person or by proxy) at the Scheme Meeting (headcount test), that fact will not of itself be treated as preventing the condition precedent in clause 3.1(a) from being satisfied.

(b) If senior counsel certifies that there are reasonable prospects of success of obtaining:

- (i) Court approval of the Scheme in accordance with section 411(4)(b) of the Corporations Act; and
- (ii) an order of the Court in accordance with section 411(4)(a)(ii)(B) of the Corporations Act that the headcount test need not be satisfied,

the Company must do everything it reasonably can to:

- (iii) obtain that Court approval and order of the Court; and
- (iv) consult and co-operate fully with the Responsible Entity in that regard.

4. SCHEME OVERVIEW

4.1 Scheme terms

- (a) The Company must propose a scheme of arrangement under which:
 - (i) all of the Shares held by Scheme Participants at the Record Date will be transferred to the Fund; and
 - (ii) subject to and in accordance with this deed and the Scheme, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Participant.
- (b) The Responsible Entity agrees to use all reasonable endeavours to assist the Company to propose and implement the Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms of this deed, and must use reasonable endeavours to do so substantially in accordance with the Timetable.

4.2 General obligations on all parties

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

- (a) agree the Timetable as soon as practicable after the date of this deed, with a view to implementing the Transaction expeditiously;
- (b) produce the Scheme Booklet and implement the Scheme and complete the Transaction as soon as reasonably practicable and in accordance with the Timetable.

4.3 Scheme Consideration

The Responsible Entity undertakes in favour of the Company (in its own right and on behalf of the Scheme Participants), subject to and in consideration for the transfer of the Scheme Shares to the Responsible Entity or a Custodian on behalf of the Fund (as determined by the Responsible Entity) under the terms of the Scheme, to issue the Scheme Consideration to each Scheme Participant or, in respect of the Ineligible Shareholders, the Nominee in accordance with the Scheme.

4.4 Allotment and issue of Scheme Consideration

- (a) Subject to the Scheme becoming Effective, the Responsible Entity must:
 - (i) allot and issue the Scheme Consideration to the Scheme Participants (or the Nominee in respect of the Ineligible Shareholders) on the Implementation Date, subject to the transfer of the Scheme Shares in accordance with the Scheme; and
 - (ii) do everything reasonably necessary to ensure that trading in the New Units in accordance with the Timetable.
- (b) The Responsible Entity undertakes in favour of the Company (in its own right and on behalf of the Scheme Participants) that:
 - (i) each New Unit will be duly and validly issued in accordance with all applicable laws and the constitution of the Fund, fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any security interest within the meaning of section 12 of the PPSA); and

- (ii) on issue, each New Unit will rank equally in all respects with each existing unit on issue and will be entitled to participate in and receive any distribution of capital and/or income paid and any other entitlements accruing in respect of units in the Fund on and from the Implementation Date.

4.5 Completion Steps in relation to Ineligible Shareholders

- (a) The Responsible Entity will issue the Scheme Consideration that would otherwise have been issued to the Ineligible Shareholders as Scheme Consideration (**Ineligible Units**) to the Nominee.
- (b) The Responsible Entity will issue the Ineligible Units to the Nominee on the Implementation Date and before the Scheme Shares held by Ineligible Shareholders are transferred to the Fund on that date.
- (c) The Responsible Entity must procure that the Nominee deals with the Ineligible Units in accordance with the terms of the Scheme.

5. IMPLEMENTATION

5.1 Company obligations

The Company must take all necessary steps to implement the Scheme as soon as is reasonably practicable, including doing any acts it is authorised and able to do, on behalf of Shareholders and including each of the following:

- (a) **Independent Expert:** promptly appoint the Independent Expert and provide assistance and information reasonably requested by the Independent Expert to enable it to prepare its report for the Scheme Booklet as soon as practicable;
- (b) **Preparation of Scheme Booklet:** subject to clause 5.2(a), promptly prepare the Scheme Booklet:
 - (i) in accordance with all applicable laws and in particular with the Corporations Act, RG 60, Regulation 5.1.01 and Schedule 8 of the *Corporations Regulations 2001* (Cth);
 - (ii) which, subject to any modification or withdrawal permitted under clause 6, contains a statement by the Directors that, in the absence of a Superior Competing Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Shareholders:
 - (A) the Board unanimously recommends Shareholders vote in favour of the Scheme; and
 - (B) that each Director will vote, or procure the voting of, all Shares held or controlled by them, in favour of the Scheme at the Scheme Meeting;
- (c) **Consult with Platinum:** consult with the Responsible Entity as to the content and presentation of the Scheme Booklet and the Independent Expert's Report, including by:
 - (i) allowing the Responsible Entity a reasonable opportunity to review drafts (provided any review of the draft Independent Expert's Report will be limited to a factual accuracy review) and taking the Responsible Entity's comments into account in good faith when producing revised drafts or final documents;

- (ii) providing the Responsible Entity's comments on the factual accuracy of the draft Independent Expert's Report to the Independent Expert (noting that the Company makes no representation as to the extent to which the Independent Expert will consider those comments);
 - (iii) obtaining written consent from the Responsible Entity and Platinum for the form and context in which the Platinum Information appears in the Scheme Booklet (which consent must not be unreasonably withheld, conditioned or delayed);
- (d) **ASIC and ASX review:** keep the Responsible Entity informed of any matters raised by ASIC or ASX in relation to the Scheme Booklet or the Transaction, and use reasonable endeavours to take into consideration comments raised by the Responsible Entity in resolving such matters any;
- (e) **Consult with the Responsible Entity on Court documents:** consult with the Responsible Entity in relation to the content of the documents required for the purpose of the Court hearings in relation to the Scheme held for the purpose of paragraphs 411(1) and 411(4)(b) of the Corporations Act (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith, any comments provided by the Responsible Entity on drafts on those documents;
- (f) **Court direction:** apply to the Court for orders directing the Company to convene the Scheme Meeting;
- (g) **Provision of Shareholder information:** provide to the Responsible Entity, in each case in the form it reasonably requests, any information regarding Shareholders that the Responsible Entity reasonably requests for the purposes of:
 - (i) understanding the legal and beneficial ownership of Shares, and canvassing agreement to the Scheme by Shareholders;
 - (ii) facilitating the provision by, or on behalf of, the Responsible Entity of the Scheme Consideration and otherwise enabling the Responsible Entity to comply with the terms of this deed and/or the Scheme; or
 - (iii) reviewing the running tally of proxy appointments and directions received by the Company before the Scheme Meeting.
- (h) **ASIC statements:** apply to ASIC for the production of:
 - (i) an indication of intent letter stating that it does not intend to appear at Court on the First Court Date; and
 - (ii) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objections to the Scheme;
- (i) **Representation and undertakings:** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, and (if requested by the Court) undertake to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (j) **Update Scheme Booklet:** until the date of the Scheme Meeting, promptly update or supplement the Scheme Booklet with, or where appropriate otherwise inform the market by way of announcement of, any information that arises after the Scheme Booklet has been dispatched that is necessary to ensure that the Scheme Booklet does not contain any material statement that is false or misleading in a material respect including because of any material omission from that statement, and seek the Court's

approval for the despatch of any updated or supplementary Scheme Booklet. The Company must consult with the Responsible Entity as to the content and presentation of the updated or supplementary Scheme Booklet, or the market announcement, in the manner contemplated by clause 5.1(c);

- (k) **ASX:** apply to the ASX for the Scheme Shares to be suspended from trading from 7.00pm (Sydney time) on the Effective Date and for the Company to be delisted following Completion;
- (l) **Court approval:** subject to all Conditions Precedent in clause 3.1 (other than clause 3.1(a)) being satisfied or waived in accordance with this deed, apply to the Court for orders approving the Scheme as agreed to by the Shareholders at the Scheme Meeting;
- (m) **Conditions precedent certificate:** at the hearing on the Second Court Date, provide to the Court a certificate confirming whether or not the Conditions Precedent in clause 3.1 (other than the Condition Precedent in clause 3.1(a)) have, as at 8.00am (Sydney time) on the Second Court Date, been satisfied or waived in accordance with this deed;
- (n) **Lodge copy of Court order:** lodge with ASIC an office copy of the Court order in accordance with subsection 411(10) of the Corporations Act approving the Scheme by no later than one Business Day after the date on which the Court order was made (or such later date as agreed in writing by the parties);
- (o) **Share Register closure:** if the Scheme becomes Effective, finalise and close the Share Register as at the Record Date and, within two Business Days of the Record Date, provide the Responsible Entity with a copy of the Share Register as at the Record Date (which including the name, address and registered holding of each Scheme Participant as at the Record Date);
- (p) **Permitted underlying assets:** do all things necessary to procure that, as at the Valuation Date, the Company Assets are all permitted underlying assets of AQUA Products in accordance with Schedule 10A.3.3(c) of the ASX Operating Rules or otherwise comply with the terms of any waiver granted to the Responsible Entity for the purpose of the Transaction;
- (q) **Application for Scheme Consideration:** prior to 3.00pm (Sydney time) on the Valuation Date, apply for the Scheme Consideration to be issued to each Scheme Participant or, in respect of Ineligible Shareholders, the Nominee under the Scheme by delivering to the Responsible Entity a duly executed application form, signed by the Company on behalf of the Scheme Participants, the terms of which include an undertaking by the Company to transfer, on the Implementation Date and in accordance with the Scheme, the Scheme Shares as consideration for the application an undertaking by the Company to transfer, on the Implementation Date and in accordance with the Scheme, the Scheme Shares as consideration for the application;
- (r) **Application for Underlying Units:** if so directed by the Responsible Entity, apply for Underlying Units with an aggregate value equal to the Completion NTA delivering a duly executed application form on the terms set out in clause 5.2(k)(ii);
- (s) **Transfer of Scheme Shares:** if the Scheme becomes Effective, on the Implementation Date, subject to the Responsible Entity having issued the Scheme Consideration in accordance with the Scheme, procure the Scheme Shares are transferred to the Fund prior to 10.00am (Sydney time) on the Implementation Date, including:
 - (i) executing, on behalf of Scheme Participants, any instruments of transfer (which may be in the form of a master transfer form) required to transfer the Scheme Shares to the Fund;

- (ii) directing the Share Registry to make the requisite entry in the Share Register to effect the transfer of the Scheme Shares; and
- (t) **Completion and post Completion steps:** comply with all of its obligations under clause 5.8 and clause 8.

5.2 The Responsible Entity's obligations

The Responsible Entity must take all necessary steps to implement the Transaction as soon as is reasonably practicable, including doing each of the following:

- (a) **Platinum Information:**
 - (i) procure all the Platinum Information (including all information regarding the Scheme Consideration) is prepared to comply with all applicable laws, including the Corporations Act, the Corporations Regulations, RG 60, applicable Takeovers Panel guidance notes and the Listing Rules;
 - (ii) promptly provide the Company with drafts, and consult with the Company as to the content and presentation, of the Platinum Information in the Scheme Booklet, such consultation to include allowing the Company a reasonable opportunity to review and make comments on successive drafts of the Platinum Information before lodgement of the draft Scheme Booklet with ASIC; and
 - (iii) consent to the inclusion of the Platinum Information in the Scheme Booklet.
- (b) **Assistance with preparation of Scheme materials:**
 - (i) use all reasonable endeavours to assist the Company with the preparation of the Court materials and the Scheme Booklet as a whole;
 - (ii) provide any assistance and information reasonably requested by the Company or the Independent Expert in connection with the preparation of the Scheme Booklet, the Independent Expert's Report or Court materials; and
 - (iii) review successive drafts of the Scheme Booklet, providing any comments in good faith and in a timely manner;
- (c) **Confirmation of the Platinum Information:** before the draft Scheme Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, either:
 - (i) confirm in writing to the Company that the Platinum Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
 - (ii) provide to the Company the changes required to ensure that the Platinum Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission;
- (d) **Update Platinum Information:** if:
 - (i) at any time after the despatch of the Scheme Booklet, the Responsible Entity becomes aware of new information which, were it known at the time of despatch, would have either been included in or would have materially changed information in the Scheme Booklet; or

- (ii) at any time, the Responsible Entity becomes aware that any information in the Scheme Booklet, including but not limited to the Platinum Information previously provided to the Company, is misleading or deceptive in any material respect (whether by omission or otherwise),

it must advise the Company so that the Company can determine whether supplementary disclosure is required;

- (e) **ASX Waivers:** apply for any necessary confirmations or waivers from ASX required in respect of the Company Assets to ensure the Fund's continue compliance with Schedule 10A.3.3(c) of the ASX Operating Rules following Implementation of the Scheme;
- (f) **Deed Poll:** on or prior to the First Court Date, enter into a deed poll pursuant to which the Responsible Entity undertakes in favour of each Scheme Participant to undertake all actions attributed to it under this deed and the Scheme;
- (g) **Nominee appointment:** on or before the Second Court Date, and in co-operation with the Company, appoint (acting reasonably and in good faith) an agent as the Nominee;
- (h) **Court representations:** undertake (if requested by the Court) to do all such things and take all such steps within its power as are reasonably necessary in order to ensure the fulfilment of its obligations under this deed or otherwise required for the purpose of the Scheme;
- (i) **Conditions Precedent certificate:** provide a certificate confirming as at 8.00am (Sydney time) on the Second Court Date whether or not the Conditions Precedent in clause 3.1 (other than the Condition Precedent in clause 3.1(a)) have been satisfied or waived in accordance with this deed, a draft of which must be provided to the Company by 5.00pm (Sydney time) on the Business Day prior to the Second Court Date;
- (j) **Applications to the Fund:** Prior to 3.00pm (Sydney time) on the Valuation Date accept the Company's application for Scheme Consideration made in accordance with clause 5.1(q);
- (k) **Application or direction to the Underlying Fund:** Prior to 3.00pm (Sydney time) on the Valuation Date either (as determined by the Responsible Entity at its sole discretion):
 - (i) direct the Underlying Fund to acquire the Company Assets post Implementation for a price equal to the Completion NTA; or
 - (ii) apply for (on behalf of the Fund) or, alternatively direct that the Company applies for, Underlying Units with an aggregate value equal to the Completion NTA by delivering a duly executed application form to the Underlying Fund containing:
 - (A) a binding commitment to procure the transfer of Company Assets to the Underlying Fund with an aggregate value equal to the Completion NTA as consideration for the Underlying Units; and
 - (B) an acknowledgement that, to the extent some or all of the consideration in clause 5.2(k)(ii)(A) is not transferred, or received by the Underlying Fund within a reasonable period following the Implementation Date (determined by Platinum as responsible entity of the Underlying Fund in its absolute discretion), all Underlying

Units issued in response to that unpaid consideration will be void, voidable or may be cancelled for nil consideration.

If the above application is made on behalf of the Fund, the Responsible Entity must also direct the Company to do the following on the Implementation Date (post-Implementation):

- (C) undertake in accordance with all applicable laws, an equal capital reduction and/or dividend and/or other corporate action for an amount equal the Completion NTA; and
 - (D) transfer the Company Assets in accordance with clause 8.2 in satisfaction of the Responsible Entity's entitlements to the corporate action in paragraph (C) above and its binding commitment to pay for the Underlying Units on the terms in clause 5.2(k)(ii)(A).
- (l) **Transfer of Scheme Shares and Scheme Consideration:** if the Scheme becomes Effective, on the Implementation Date, do all things necessary to do the following:
- (i) allot and issue the Share Consideration before 10.00am (Sydney time) to the Scheme Participants and the Nominee in accordance with this deed and the Scheme; and
 - (ii) execute and deliver any instruments of transfer required in respect of the Scheme Shares and accept (or procure that a Custodian receives and accepts) the transfer of the Scheme Shares as contemplated this deed and the Scheme and otherwise agree to be bound by the Company's constitution.
- (m) **Other steps:** do all other things necessary to give effect to the orders of the Court approving the Scheme and otherwise required to complete the Transaction, including following Implementation of the Scheme, in its new capacity as the Company's sole shareholder, procuring the Company take all steps required under this deed to complete the Transaction.

5.3 Obligations of Platinum and the Underlying Fund

Platinum, in its personal capacity and as responsible entity of the Underlying Fund, must take all necessary steps to implement the Transaction as soon as is reasonably practicable, including doing each of the following:

- (a) **Permitted underlying assets:** in its capacity as the Company's investment manager, do all things necessary to procure the Company Assets comply with clause 5.1(p);
- (b) **Application to the Underlying Fund:** if an application for Underlying Units with an aggregate value equal to the Completion NTA is made by the Responsible Entity or the Company on the terms set out in clause 5.2(k)(ii), in its capacity as the responsible entity of the Underlying Fund, prior to 3.00pm (Sydney time) on the Valuation Date, accept that application on the terms set out in clause 5.2(k)(ii);
- (c) **Accept directions:** in its capacity as the responsible entity of the Underlying Fund, do all things necessary to acquire the Company Assets post Implementation (on such terms as the Responsible Entity directs in accordance with clause 5.2(k)); and
- (d) **Other steps:** in its capacity as the responsible entity of the Underlying Fund and in its personal capacity, do all other things necessary to give effect to the orders of the Court approving the Scheme and otherwise required to complete the Transaction, including but not limited to the relevant actions in clause 8 in its capacity as the responsible entity of the Underlying Fund.

5.4 Conduct of the Company's business

- (a) From the date of this deed up to and including the Implementation Date, the Company must make all reasonable efforts to:
 - (i) keep available the services of the Directors and the Company's other officers;
 - (ii) maintain and preserve satisfactory relationships with service providers and others having business dealings with the Company (including using reasonable endeavours to obtain consents from third parties to any change of control provisions in contracts or arrangements to which the Company is a party);
 - (iii) not allow any tax payment that is due and payable to remain unpaid;
 - (iv) conduct its business in the ordinary and proper course of business consistent with past practice; and
 - (v) manage its working capital in the ordinary course of ordinary business.
- (b) Nothing in clause 5.4(a) restrains the Company from taking any action permitted or required by this deed, nor does it restrain the Company from taking actions with the prior written consent of the Responsible Entity, such consent not to be unreasonably withheld or delayed.
- (c) The parties must consult with each other in good faith immediately after execution of this deed and for the period up to the Implementation Date, to discuss and assist in preparing a transition plan.

5.5 Permitted Dividend

- (a) Nothing in this deed prohibits the Company (in its absolute discretion) determining to pay or declaring to pay dividends prior to Implementation, provided it does so in accordance with the Corporations Act.
- (b) For the avoidance of doubt, any dividend determined or declared by the Company, does not form part of the Transaction nor does not change the Scheme Consideration offered under the Scheme.
- (c) If a dividend has been determined or declared by the Company but has not paid prior to the Implementation Date, the Company must comply with, and the Responsible Entity (as the Company's then sole Shareholder) must procure the Company complies with, clause 8.1.

5.6 Operation of the Fund and the Underlying Fund

From the date of this deed up until and including the Implementation Date:

- (a) the Responsible Entity, must ensure that it operates the Fund:
 - (i) in the ordinary course and substantially in the manner in which the Fund has been conducted in the period before the date of this deed, unless otherwise agreed to in writing by the Company; and
 - (ii) in compliance in all material respects with all applicable laws and regulations applicable to the Fund.
- (b) Platinum as the responsible entity of the Underlying Fund, must ensure that it operates the Underlying Fund:

- (i) in the ordinary course and substantially in the manner in which the Underlying Fund has been conducted in the period before the date of this deed, unless otherwise agreed to in writing by the Company; and
- (ii) in compliance in all material respects with all applicable laws and regulations applicable to the Underlying Fund.

5.7 Company Facilitation

- (a) Where in this clause 5 an obligation is imposed on the Company to undertake any act or to ensure that an act does not occur, the Company must undertake that act or refrain from undertaking that act (as the case requires). Where the terms of the Management Agreement or any other agreement, arrangement or understanding or course of conduct between Platinum and the Company imposes responsibility for any matter relevant to obligations in this clause 5 on Platinum, the Company instructs Platinum to comply with the requirements of this clause 5 and Platinum accepts those instructions.
- (b) Provided that the Company complies with clause 5.7(a), any breach of an obligation imposed on the Company under this clause 5 to the extent that is caused by any act that Platinum undertakes or refrains from undertaking, will not be considered to be a breach of this deed by the Company.

5.8 Termination of the Management Agreement

Subject to and conditional on the Scheme becoming Effective, Platinum (in its personal capacity) and the Company agree that:

- (a) the Management Agreement will, by force of this clause, terminate with effect on and from the Implementation Date; and
- (b) Platinum waives all rights to claim fees, other payments, loss or damage in respect of the termination of the Management Agreement, other than claims to fees which have been accrued but not yet paid to Platinum as at the Implementation Date.

6. DIRECTOR RECOMMENDATION

6.1 Reasonable endeavours

- (a) Subject to this clause, the Company must use its endeavours to procure that:
 - (i) the Board unanimously recommends, in the absence of a Superior Competing Proposal and subject to the Independent Expert concluding or continuing to conclude that the Transaction is in the best interests of Shareholders, that Shareholders vote in favour of the Scheme; and
 - (ii) the Scheme Booklet includes a statement to the effect that each Director will, in the absence of a Superior Competing Proposal and subject to the Independent Expert concluding or continuing to conclude that the Scheme is in the best interests of Shareholders, vote (or procure the voting of) the Shares it holds or controls in favour of the Scheme.
- (b) The Company must use its reasonable endeavours to procure that none of the Directors withdraws or changes their recommendation in favour of the Scheme, unless:
 - (i) there is a Superior Competing Proposal and the Company has complied with its obligations under clause 7.7; or

- (ii) the Independent Expert concludes that the Scheme is not in the best interests of the Shareholders, withdraws or qualifies its conclusion in any written update to its Independent Expert's Report or otherwise adversely changes the basis of its previously given opinion that the Scheme is in the best interests of the Shareholders; or
- (iii) the Board determines in good faith and acting reasonably, having received advice in writing from its legal advisers (experienced in transactions of this nature), that if they maintained their recommendation, it may breach their fiduciary or statutory duties to Shareholders.

6.2 Withdrawal or change of recommendation

- (a) Without limiting clause 7, if a Director proposes to withdraw or change their recommendation in accordance with clause 6.1:
 - (i) the Company must notify the Responsible Entity in writing immediately; and
 - (ii) the parties must consult in good faith for five Business Days after the date on which the notification in clause 6.2(a)(i) is given to consider and determine whether the recommendation in place at the time can be maintained.
- (b) The Company must use its reasonable endeavours to procure that the recommendation is not withdrawn or changed until the end of the consultation period in clause 6.2(a)(ii).

6.3 Fiduciary exception

The obligation in clause 6.2(a)(ii) to consult, and the restriction in clause 6.2(b) do not apply where a Director, acting in good faith and after taking written advice from the Company's external legal advisers experienced in transactions of this nature, determines that a failure to withdraw, change or modify the recommendation before the end of the five Business Day consultation period would be reasonably likely to constitute a breach of the fiduciary duties or statutory obligations of any member of the Board to the Company.

7. EXCLUSIVITY

7.1 Existing discussions

The Company represents and warrants that at the date of this deed:

- (a) it is not, and must ensure that none of its Representatives are, a party to any agreement or arrangement with any Third Party for the purpose of facilitating a Competing Proposal;
- (b) it is not, and must ensure that none of its Representatives are, directly or indirectly, participating in any discussions or negotiations with a Third Party that concern, or could be reasonably be expected to lead to a Competing Proposal; and
- (c) any due diligence access granted to a Third Party for the purposes of such Third Party making, formulating, developing or finalising, or assisting in the making, formulation, development or finalisation of, a Competing Proposal has been terminated.

7.2 No Shop and No Talk

- (a) Subject to clauses 7.4 and 7.5, during Exclusivity Period, the Company must ensure that neither it nor any of its Representatives directly or indirectly:
 - (i) solicits, invites, encourages or initiates any enquiries, negotiations or discussions; or
 - (ii) communicates any intention to do any of these things,

with a view to obtaining any offer, proposal or expression of interest from any person in relation to a Competing Proposal.
- (b) Subject to clauses 7.4 and 7.5, during the Exclusivity Period, subject to the following, the Company must ensure that neither it nor any of its Representatives:
 - (i) negotiates or enters into; or
 - (ii) participates in negotiations or discussions with any other person regarding,

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

7.3 Due diligence information

Subject to clauses 7.4 and 7.5, during the Exclusivity Period, the Company must ensure that neither it nor any of its Representatives in relation to a Competing Proposal:

- (a) enables any Third Party to undertake due diligence investigations on the Company or solicit, invite, initiate, encourage, facilitate or permit any Third Party to undertake due diligence investigations on the Company in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
- (b) makes available to any Third Party, or permits any Third Party to receive, any non-public information relating to the Company in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

7.4 Non-public information

If the Company proposes that any non-public information be provided to a Third Party in reliance on the fiduciary exception set out at clause 7.5 below:

- (a) before the Company provides such information, the Third Party must enter into a confidentiality agreement with the Company which contains obligations on the recipient of that information which the Board, acting in good faith and after taking advice from external legal advisers experienced in transactions of this nature, determines are appropriate for a transaction of the nature of a Competing Proposal, and which contains standstill provisions that apply to the Third Party subject to exceptions that the Company (acting reasonably) considers appropriate in the circumstances having regard to (among other things) the fact that the Company is already subject to a public change of control proposal; and
- (b) any non-public information provided to that Third Party must also be provided to the Responsible Entity at the same time.

7.5 Fiduciary Exception

- (a) The above restrictions do not apply to the extent that they restrict the Company or the Board from taking or refusing to take any action with respect to a Competing Proposal (which was not solicited, invited, encouraged or initiated by the Company in contravention of clauses 7.2 or 7.3) provided that the Board has determined, in good faith that:
 - (i) after consultation with their financial advisors experienced in transactions of this nature, such a genuine Competing Proposal is, or could reasonably be considered to become, a Superior Competing Proposal; and
 - (ii) after receiving written legal advice from their external legal advisers experienced in transactions of this nature that failing to respond to such a genuine Competing Proposal would be reasonably likely to constitute a breach of the fiduciary or statutory obligations or members of the Board.
- (b) The no talk and no due diligence restrictions set out above do not prevent the Company from disclosing non-public information to its auditors or advisers, or a Government Agency or regulatory body in the ordinary course of its business or as required under the Company's existing contractual obligations, provided it is not done in a manner which is intended to circumvent the intent of the exclusivity provisions of this deed.

7.6 Notifications During the Exclusivity Period

- (a) In respect of each actual or potential Competing Proposal received by a Company Party, the Company must promptly notify the Responsible Entity of all material terms of that Competing Proposal including the identity of the Third Party making the Competing Proposal.
- (b) The Company must notify the Responsible Entity in writing as soon as possible after becoming aware of any material developments in relation to any actual or potential Competing Proposal, including in respect of any of the information previously notified to the Responsible Entity.
- (c) If the Board determines, acting in good faith and after consultation with its financial advisers and external legal advisers experienced in transactions of this nature, that:
 - (i) a Competing Proposal would constitute an actual, proposed or potential Superior Competing Proposal; and
 - (ii) failure to take that action would be inconsistent with the Directors' fiduciary duties or statutory obligations;

it must promptly and within no more than two Business Days of making the determination, notify the Responsible Entity of its determination.

7.7 Matching right

- (a) Without limiting clauses 7.2 and 7.3, during the Exclusivity Period, the Company must not enter into, or agree to enter into, any legally binding agreement, arrangement or understanding to undertake or give effect to a Competing Proposal, unless:
 - (i) the Board has made a determination in relation to the Competing Proposal in accordance with clauses 7.6(c);
 - (ii) the Responsible Entity has been provided all information contemplated by clauses 7.4 (b), 7.6(a) and 7.6(b);

- (iii) the Responsible Entity is given a period of not less than five Business Days (determined by the Company, at its sole discretion, in writing) within which to either propose amendments to the Transaction or make a new proposal, on terms which may reasonably constitute an equivalent or superior outcome to the Competing Proposal (**Platinum Counterproposal**); and
 - (iv) either:
 - (A) the Responsible Entity has not provided a Platinum Counterproposal within the period determined in clause 7.7(a)(iii)(iii); or
 - (B) the Board determines, acting reasonably and in good faith, after consultation with its financial advisers and after receiving written legal advice from their external legal advisers (in each case that are experienced in transactions of this nature), that the Platinum Counterproposal would not provide an equivalent or superior outcome for Shareholders as a whole compared with the Competing Proposal, taking into account all of the terms and conditions of the Platinum Counterproposal.
- (b) If the Board determines that a Platinum Counterproposal would provide an equivalent or superior outcome to a Competing Proposal, then:
- (i) the Company and the Responsible Entity must use their reasonable endeavours to agree the amendments to this deed and, if applicable, the Scheme and the deed poll provided by the Responsible Entity for the purpose of the Scheme, that are reasonably necessary to reflect the Platinum Counterproposal and to implement the Platinum Counterproposal, in each case as soon as reasonably practicable; and
 - (ii) the Company must use its reasonable endeavours to procure that each of the Directors continues to recommend the Scheme (as modified by the Platinum Counterproposal) to Shareholders subject only to no Superior Competing Proposal emerging and to the Independent Expert concluding (and continuing to conclude) that the Scheme, as modified by the Platinum Counterproposal, is in the best interests of Shareholders.

8. POST-IMPLEMENTATION

8.1 Dividend payment

If the Company determined to pay or declared but has not paid a dividend prior to the Implementation Date, the Company must, within 60 days of the Implementation Date pay to each Shareholder entitled to that dividend, their entitlement by dispatching or procuring the Share Registry to dispatch, the relevant cash amount:

- (a) to the Shareholder's nominated bank account as noted in the Share Register at the dividend record date; or
- (b) if no account is nominated, by mailing a cheque to the address as show in the Share Register at the dividend record date.

8.2 Company Asset transfer and Underlying Asset issue

- (a) Subject to the Share Register having first been updated to effect the transfer of the Scheme Shares under the Scheme and the Board being reconstituted in accordance with clause 8.4, on the Implementation Date the Company must do all things necessary to transfer the legal and beneficial title in the Company Assets in accordance with 8.2(d), for an aggregate price equal to the Completion NTA and on such other

terms as the Responsible Entity determines, acting reasonably and in good faith, to Platinum as the responsible entity of the Underlying Fund, or as the Responsible Entity may otherwise direct.

- (b) For the avoidance of doubt, the obligation in clause 8.2(a) to do “all things necessary” includes seeking all necessary approvals to, and undertaking, any corporate actions associated with, or required to transfer the Company Assets on the terms determined by the Responsible Entity acting reasonably and in good faith (including any capital reduction and/or dividend and/or other action).
- (c) The Responsible Entity in its capacity as the Company’s sole Shareholder on the Implementation Date must do all things necessary to facilitate the transfer in accordance with this clause 8.2.
- (d) To the extent permitted by law:
 - (i) the Company Assets (including all rights and entitlements attaching to the Company Assets) will, at the time of transfer, vest in in the Underlying Fund free from all:
 - (A) encumbrances and interests of Third Parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind.
 - (ii) the Underlying Fund will be beneficially entitled to the Company Assets, pending registration of the name and address of Platinum as the responsible entity of the Underlying Fund, or as it may direct, as the holder of the Company Assets.
- (e) Until Platinum as the responsible entity of the Underlying Fund, or as it may direct, is registered as the holder of the Company Assets, the Company:
 - (i) appoints each Platinum director (jointly and severally) as its proxy and, where applicable or appropriate, corporate representative to exercise any rights attaching to the Company Assets registered in the Company’s name or the name of its custodian;
 - (ii) acknowledges that the Platinum directors may act in the best interests of the Underlying Fund as the intended holder of the Company Assets;
 - (iii) must as take or procure that its custodian does take any other actions as the registered holder of the Company Assets as reasonably requested by Platinum as the responsible entity of the Underlying Fund.

8.3 Issue of Underlying Units

- (a) This clause 8.3 is subject to the Responsible Entity having applied or having directed the Company to apply for Underlying Units on the terms set out in clause 5.2(k)(ii).
- (b) Subject to the Share Register having first been updated to effect the transfer of the Scheme Shares under the Scheme, in satisfaction and in accordance with the application accepted in accordance with clause 5.3(b), Platinum as the responsible entity of the Underlying Fund must allot and issue the Underlying Units on the Implementation Date (post Implementation of the Scheme) in accordance with the Responsible Entity’s directions.
- (c) For the avoidance of doubt:

- (i) the application for Underlying Units must have an aggregate value equal to the Completion NTA; and
- (ii) the Underlying Units must be issued with an issue price equal to the net asset value of the Underlying Fund on the Valuation Date on a per unit basis.

8.4 Delisting and Board changes

- (a) Prior to the Implementation Date, the Company must apply to be removed from the official list of ASX as soon as possible after the Implementation Date.
- (b) The Company must procure that the current Directors resign from the Board with effect from Implementation and post-Implementation of the Scheme, the Company must take all actions necessary (and in accordance with the Company's constitution, the Corporations Act and all applicable laws) to reconstitute the Board in accordance with the directions of the Responsible Entity.

9. REPRESENTATIONS AND UNDERTAKINGS

9.1 Responsible Entity representations

The Responsible Entity represents to the Company (in its own capacity and separately as trustee or nominee for each of the other Company Parties) that:

- (a) as at the date of this deed, it has not knowingly, negligently or recklessly, omitted to disclose information to any Company Party, the disclosure of which might reasonably be expected to have resulted in the Company not entering into this deed, or entering into it on materially different terms;
- (b) neither it nor any of Platinum Party has any agreement, arrangement or understanding with any Shareholder under which that Shareholder (or an associate of that Shareholder) would be entitled to receive consideration for their Shares different from the Scheme Consideration or under which the Shareholder agrees to vote in favour of the Scheme or against any Competing Proposal;
- (c) it has provided, and will provide, all Platinum Information in good faith and on the understanding that such information will be relied on:
 - (i) by the Company and its Directors to prepare the Scheme Booklet and to propose and implement the Transaction in accordance with the Corporations Act; and
 - (ii) by the Independent Expert for the purpose of preparing the Independent Expert's Report;
- (d) to the best of its knowledge, after due enquiry, at the date when despatched to Shareholders, the Platinum Information in the Scheme Booklet will not, contain any statement which is materially misleading or deceptive including by way of omission;
- (e) it will, as a continuing obligation, provide to the Company all further or new information which it becomes aware of after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that there would be no breach of clause 9.1(d) if it applied as at the date on which that information arose;
- (f) it has in full force and effect each authorisation necessary for it to enter into this deed, and subject to satisfaction of the Conditions Precedent, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;

- (g) its obligations under this deed are valid and binding and are enforceable against it in accordance with its terms;
- (h) this deed does not conflict with or result in the breach of or default under the Fund's constitution and to the best of its knowledge any other agreement or any writ, order or injunction, judgment, law, rule or regulation to which it is party or by which it is bound;
- (i) the Fund is a validly existing managed investment scheme registered with ASIC and admitted to trading status on the AQUA market operated by ASX in accordance with the Schedule 10A of the ASX Operating Rules;
- (j) the Scheme Consideration will, on issue:
 - (i) be duly issued and fully paid;
 - (ii) be free from any mortgage, charge, lien, encumbrance, pledge or other security interest of any kind, whether legal or otherwise (including any security interest within the meaning of section 12 of the PPSA), or any other restriction on transfer of any kind; and
 - (iii) rank equally in all respects, including for future distributions, with all existing units in the Fund; and
- (k) there is no litigation or regulatory investigation commenced or (so far as the Responsible Entity is aware) threatened against the Fund of any nature.

9.2 Company representations

The Company represents to the Responsible Entity and its directors and officers (in its own right and separately as trustee or nominee for each of the other Platinum Parties) that:

- (a) it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) it has in full force and effect each authorisation necessary for it to enter into this deed, and subject to satisfaction of the Conditions Precedent, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (c) its obligations under this deed are valid and binding and are enforceable against it in accordance with its terms;
- (d) this deed does not conflict with or result in the breach of or default under any provision of its constitution or any material term or provision of any agreement or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it is bound; and
- (e) to the best of its knowledge, information and belief, after due enquiry, when despatched to Shareholders the Scheme Booklet (excluding the Platinum Information and the Independent Expert's Report) will not contain information that is materially misleading or deceptive, including by way of material omission from that statement;
- (f) its capital structure, including all issued securities, as at the date of this deed is 295,430,882.

9.3 Platinum representations

- (a) Platinum in its personal capacity represents to the Company (in its own capacity and separately as trustee or nominee for each of the other Company Parties) that:
 - (i) it is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) it has the power to enter into this deed, to comply with its obligations under it and exercise its rights under it;
 - (iii) its obligations under this deed are valid and binding and are enforceable against it in accordance with its terms;
 - (iv) the entry by it into, its compliance with its obligations and the exercise of its rights under, this deed do not and will not conflict with:
 - (A) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (B) any law binding on or applicable to it or its assets; or
 - (C) any material document or agreement that is binding on it;
 - (v) it has in full force and effect each authorisation necessary for it to enter into this deed, and subject to satisfaction of the Conditions Precedent, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (b) Platinum in the capacity as responsible entity of the Underlying Fund represents to the Company (in its own capacity and separately as trustee or nominee for each of the other Company Parties) that:
 - (i) the Underlying Fund a validly existing managed investment scheme registered with ASIC;
 - (ii) it has the power to enter into this deed, to comply with its obligations under it and exercise its rights under it;
 - (iii) the Underlying Fund obligations under this deed are valid and binding and are enforceable against it in accordance with its terms;
 - (iv) the entry by it into, its compliance with its obligations and the exercise of its rights under, this deed do not and will not conflict with:
 - (A) the Underlying Fund's constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (B) any law binding on or applicable to the Underlying Fund or the Underlying Fund assets; or
 - (C) any material document or agreement that is binding on it;
 - (v) it has in full force and effect each authorisation necessary for it to enter into this deed, and subject to satisfaction of the Conditions Precedent, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;

- (vi) the Underlying Units to be issued under the Transaction will, on issue:
 - (A) be duly issued and fully paid;
 - (B) be free from any mortgage, charge, lien, encumbrance pledge or other security interest of any kind, whether legal or otherwise (including any security interest within the meaning of section 12 of the PPSA), or restriction on transfer of any kind; and
 - (C) rank equally in all respects, including for future distribution, with all existing units in the Underlying Fund.

9.4 Survival of representations

Each representation and warranty in clause 9.1, 9.2, 9.3(a) and 9.3(b):

- (a) is given on the date of this deed and each day until Completion;
- (b) is severable and survives the termination of this deed; and
- (c) is given with the intention that liability under it is not confined to breaches which are discovered before the date of termination of this deed.

10. PUBLIC ANNOUNCEMENTS

10.1 Public announcement of Transaction

Immediately after signing this deed, the parties must issue the Joint Public Announcement.

10.2 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 Transaction, it must use all reasonable endeavours, to the extent possible, to consult with the other parties prior to making the relevant disclosure.

10.3 Other announcements

Subject to clauses 10.1 and 10.2, no party may make any public announcement or disclosure in connection with the Transaction (including disclosure to a Government Agency) other than in a form approved by each party (acting reasonably) unless that party is repeating or summarising points from the Public Announcement or an announcement previously approved by each party. Each party will use all reasonable endeavours to provide that approval as soon as practicable.

11. CONFIDENTIALITY

11.1 Confidentiality

- (a) Each party acknowledges and agrees that all information received by it from another party before or after the date of this deed must be treated as Confidential Information and may only be disclosed in accordance with clause 11.1(b).
- (b) A party may disclose Confidential Information:
 - (i) to its professional advisors, insurers, bankers, financial advisors and financiers, if those persons undertake to keep information disclosed confidential;

- (ii) to comply with any Law or requirement of any Government Authority or the rules of ASX; or
- (iii) to its Representatives to whom it is necessary to disclose the information and provided those Representative undertake to keep any information disclosed confidential.

12. LIABILITY OF PLATINUM

12.1 Introduction

- (a) Platinum enters into this deed in its capacity as responsible entity of each of the Fund and the Underlying Fund and in its personal capacity.
- (b) This clause 12 applies when Platinum is acting in its capacity as the responsible entity of the Fund or in its capacity as the responsible entity of the Underlying Fund.

12.2 Limitation when acting as responsible entity of the Fund or the Underlying Fund

- (a) Except to the extent expressly provided by clause 12.2(c):
 - (i) a liability or obligation of Platinum in its capacity as responsible entity of the Fund or the Underlying Fund (as applicable) arising under or in connection with this deed is, in each case, limited to and can be enforced against Platinum only to the extent to which it can be satisfied out of the assets of the Fund or the Underlying Fund (as applicable);
 - (ii) when acting in its capacity as responsible entity of the Fund or the Underlying Fund (as applicable), neither Platinum nor its directors, officers or employees will have any personal liability to the Company and the Company waives its rights and releases Platinum, its directors, officers and employees from any such personal liability when Platinum is acting in its capacity as responsible entity of the Fund or the Underlying Fund (as applicable); and
 - (iii) this limitation of Platinum's liability applies despite any other provision of this deed and extends to all liabilities and obligations of, undertaken or incurred by, or devolving on, Platinum in its capacity as responsible entity of the Fund or the Underlying Fund (as applicable) arising from, or in any way connected with, any conduct, omission, representation, warranty, agreement, transaction or other matter or thing under or related to this deed.
- (b) Subject to clause 12.2(c), the Company may not sue Platinum in any capacity other than responsible entity of the Fund or the Underlying Fund (as applicable), including seeking the appointment of a receiver, or a liquidator, an administrator or any similar person to Platinum or prove in any liquidation, administration or arrangements of or affecting Platinum.
- (c) The provisions of this clause 12.2 do not limit Platinum's, its directors', officers' or employees' liability in respect of, and will not apply to, any liability or obligation of Platinum to the extent that:
 - (i) it was incurred in a capacity other than as responsible entity of the Fund or the Underlying Fund (as applicable); or
 - (ii) it is not satisfied because under the Fund's or the Underlying Fund's constitution (as applicable) or by operation of law there is a reduction in the extent of Platinum's indemnification out of the assets of the Fund or

Underlying Fund (as applicable), as a result of Platinum's fraud, negligence or breach of trust.

13. TERMINATION

13.1 Termination by any party

This deed may be terminated by either the Company or the Responsible Entity at any time prior to 8.00am (Sydney time) on the Second Court Date:

- (a) if the Scheme has not or cannot become Effective by the End Date;
- (b) if another party is in material breach of a term of this deed (including any representation and warranty not being true and correct), taken in the context of the Transaction as a whole, provided:
 - (i) the terminating party has given notice to the defaulting party setting out the relevant circumstances giving rise to the breach, and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances giving rise to the breach are not remedied to the terminating party's reasonable satisfaction by the earlier of:
 - (A) 10 Business Days after the date of the notice given under clause 13.1(b)(i); or
 - (B) any shorter period ending at 8.00am (Sydney time) on the Second Court Date;
- (c) If a Court or other Government Agency has issued a final and non-appealable order, decree or ruling or taken other action which permanently restrains or prohibits the Transaction;
- (d) in accordance with clause 3.4 of this deed;
- (e) if a party becomes Insolvent; or
- (f) if agreed to in writing by the parties.

13.2 Termination by the Company

This deed may be terminated by the Company at any time prior to 8.00am (Sydney time) on the Second Court Date:

- (a) if the Board determines that a Competing Proposal that was not solicited, invited, encouraged or initiated in breach of this deed is a Superior Competing Proposal, and either:
 - (i) a Platinum Counterproposal was not provided within the permitted time frame under clause 7.7(a)(iii)(iii); or
 - (ii) the Board determines that the Platinum Counterproposal provided would not provide an equivalent or superior outcome for Shareholders;
- (b) if the Independent Expert:
 - (i) concludes in the Independent Expert's Report (or any update or variation to that report) that the Scheme is not in the best interests of Shareholders; or

- (ii) adversely changes its previously given opinion in the Independent Expert's Report (or any update or variation to that report) that the Scheme is in the best interests of Shareholders.

13.3 Termination by the Responsible Entity

This deed may be terminated by the Responsible Entity:

- (a) at any time prior to 8.00am (Sydney time) on the Second Court Date, if any Director changes their recommendation to the Shareholders that they vote in favour of the resolution to approve the Scheme, including any adverse modification to their recommendation, or otherwise makes a public statement indicating that they no longer support the Scheme;
- (b) at any time prior to the Scheme Meeting, if a person (other than a Platinum Party) acquires a Relevant Interest in more than 20% of Shares

13.4 Termination

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

13.5 Effect of Termination

On termination of this deed, all further obligations of the parties under this deed, other than the obligations set out in this clause and in clauses 9.1, 9.2, 11 and 12 (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 deed.

14. GST

14.1 GST

- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 14.1(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 14.1(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 14.1(b):
 - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
 - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and

- (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate.
- (e) Despite any other provision in this deed:
 - (i) If an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred; and
 - (ii) no Additional Amount is payable under clause 14.1(b) in respect of a Supply to which section 84-5 of the GST Law applies.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term starting with a capital letter that is not defined in this deed has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

15. GENERAL

15.1 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed.
- (c) Each party acknowledges and confirms that clauses 15.1(a) and 15.1(b) do not prejudice any rights a party may have in relation to information which has been filed by or on behalf of another party with ASIC or ASX.

15.2 No merger

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

15.3 Consents

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

15.4 Notices

Any communication under or in connection with this deed:

- (a) must be in writing;

- (b) must be addressed as shown in Schedule 1 (or as otherwise notified by that party to the other party from time to time);
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered or posted by prepaid post to the address, or by email to the email address of the addressee, in accordance with this clause 15.4; and
- (e) is regarded as received by the addressee:
 - (i) if sent by prepaid post, on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) if delivered by hand, on delivery at the address of the addressee as provided in Schedule 1, unless delivery is not made on a Business Day, or after 5.00pm (Sydney time) on a Business Day, when that communication will be regarded as received at 9.00am (Sydney time) on the next Business Day; and
 - (iii) if sent by email;
 - (iv) when the sender receives an automated message confirming delivery; or
 - (v) subject to the email being sent within the hours of 9am and 5pm on a Business Day, 6 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.

15.5 Governing law and jurisdiction

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

15.6 Waivers

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

15.7 Variation

This deed may only be varied by a document signed by, or on behalf of, each of the parties.

15.8 Assignment

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

15.9 Further action

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

15.10 Entire agreement

This deed supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the parties.

15.11 Counterparts

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart.
- (d) This deed may be executed on the basis of an exchange of facsimile copies or electronic images (such as scanned copies or digital photos), and execution of this deed by such means is a valid and sufficient execution.

Executed by the parties as a deed:

COMPANY

SIGNED SEALED AND DELIVERED by)
Platinum Capital Limited (ACN 063)
975 431) in accordance with section 127)
of the Corporations Act:)

Signed by:



EEBFE664CBF64AF

Director/Secretary

Margaret Towers

Name (please print)

Signed by:



E118DA679327422...

Director

Dick Morath

Name (please print)

PLATINUM

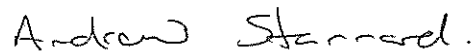
EXECUTED by **Platinum Investment**)
Management Limited (ACN 063 565)
006) in accordance with section 127 of)
the *Corporations Act 2001* (Cth):)


Director/Secretary



Name (please print)

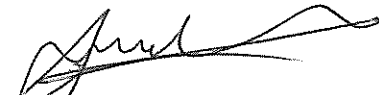

Director



Name (please print)

RESPONSIBLE ENTITY


SIGNED SEALED AND DELIVERED by)
Platinum Investment Management)
Limited (ACN 063 565 006))
as responsible entity of the)
Platinum International Fund (Quoted)
Managed Hedge Fund) (ARSN 620 895)
301))
in accordance with section 127 of the)
Corporations Act 2001 (Cth):)



Director/Secretary

Joanne Jellenev

Name (please print)



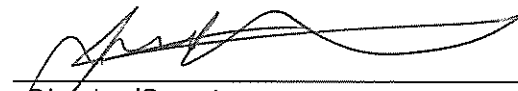
Director

Andrew Stannard

Name (please print)

UNDERLYING FUND

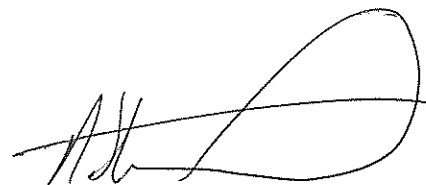
SIGNED SEALED AND DELIVERED by)
Platinum Investment Management)
Limited (ACN 063 565 006))
as responsible entity of the)
Platinum International Fund (ARSN)
089 528 307))
in accordance with section 127 of the)
Corporations Act 2001 (Cth):)



Director/Secretary

Joanne Jellenev

Name (please print)



Director

Andrew Stannard.

Name (please print)

SCHEDULE 1 NOTICE DETAILS

Company

Attention: Margaret Towers
Email: margaret_towers@hotmail.com

Platinum

Attention: Andrew Stannard and Joanne Jefferies
Email: stannard@platinum.com.au; jefferies@platinum.com.au

Responsible Entity

Attention: Andrew Stannard and Joanne Jefferies
Email: stannard@platinum.com.au; jefferies@platinum.com.au

Platinum as responsible entity of the Underlying Fund

Attention: Andrew Stannard and Joanne Jefferies
Email: stannard@platinum.com.au; jefferies@platinum.com.au

SCHEDULE 2 INDICATIVE TIMETABLE

Milestone	Indicative timeframe
Scheme Implementation Deed is executed	30 September 2024
Draft Scheme Booklet, including the Independent Expert's Report, is lodged with ASIC and ASX for review	Mid-late November 2024
First Court Date* <i>*Subject to Court availability</i>	Mid December 2024
Scheme Booklet is released on the ASX and dispatched to Shareholders	Before 31 December 2024
Scheme Meeting is convened <i>Remaining milestones assume the Scheme is approved at this meeting and the Conditions Precedent are satisfied or waived in accordance with this deed</i>	Late January- mid February 2025
Second Court Date* <i>*Subject to Court availability</i>	Late February 2025
Effective Date	Late February 2025
Record Date	Late February 2025
Final milestones occur over two Business Days, targeted for late February to mid-March 2025	
Valuation Date	Business Day prior to the Implementation Date
Last day for Unmarketable Parcel Shareholders to provide the Company with an Opt-In Notice	5.00pm (Sydney time) on the Valuation Date
Finalise calculations of the NTA and NAV required to calculate the Scheme Consideration	After global markets close on the Valuation Date
Scheme Consideration to be issued to each Scheme Participant and the Nominee on the Implementation Date is calculated	Prior to the Implementation Date
Implementation Date - Scheme Consideration issued prior to 10am (Sydney time) on this date. Post-Implementation on the Implementation Date, the Company Assets are transferred to the Underlying Fund and Underlying Units are issued in accordance with clause 8.2.	Late February to mid-March 2025

SCHEDULE 3

SCHEME CONSIDERATION

The Scheme Consideration to be issued to each Scheme Participant or, in respect of the Scheme Participants who are Ineligible Shareholders, the Nominee, is calculated as follows:

$$SC = \left(\frac{NTA}{NAV} \right) \times S$$

Where:

NAV means the net asset value of the Fund on the Valuation Date, calculated on a per Unit basis by the Fund's administrator in accordance with the Fund's constitution.

NTA means the post tax net tangible asset value of the Company on the Valuation Date less the Retention Amount (if any), calculated on a per Share basis in accordance with the Corporations Act, Australian Accounting Standards (including the Australian Accounting Interpretations), the Corporations Regulations and consistent with the requirements of the Listing Rules.

S means:

- (i) In respect of a Scheme Participant that is not an Ineligible Shareholder, the number of Scheme Shares held by that Scheme Participant;
- (ii) In respect of the Nominee, the total number of Scheme Shares held by Scheme Participants that are Ineligible Shareholders.

SC means the number of New Units in the Fund to be issued as Scheme Consideration to a Scheme Participant or the Nominee, in respect of all Ineligible Shareholders, rounded up or down in accordance in accordance with the Scheme.

Retention Amount means the reasonable amount agreed by the Company and the Responsible Entity (acting reasonably and in good faith), that is to be retained by the Company to cover all reasonable expenses associated with the Transaction which, as at the Valuation Date, have not been paid and are not liabilities of the Company or otherwise accounted for in the NTA, including but not limited to the Company's winding up costs.

Valuation Date means the Business Day prior to the Implementation Date, or such other date as the Company and the Responsible Entity agree in writing.