

Partner Neil Pathak  
Contact Neil Pathak  
T +61 3 8656 3344  
npathak@gtlaw.com.au  
Our ref NCP: 1037520



101 Collins Street  
Melbourne VIC 3000 AUS  
GPO Box 90 Melbourne VIC 3001  
T +61 3 8656 3300 F +61 3 8656 3400  
www.gtlaw.com.au

**10 October 2018**

**By e-lodgement**

Market Announcements Office  
ASX Limited  
Level 4  
North Tower, Rialto  
525 Collins Street  
Melbourne VIC 3000

Dear Sir / Madam

**Notice of initial substantial holder**

On behalf of the BGH Consortium, please see attached a notice of initial substantial holder.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Neil Pathak', with a stylized flourish at the end.

**Neil Pathak**  
Partner  
T +61 3 8656 3344  
npathak@gtlaw.com.au

# Form 603

Corporations Act 2001  
Section 671B

## Notice of initial substantial holder

To Company Name/Scheme Navitas Limited (NVT)

ACN/ARSN 109 613 309

### 1. Details of substantial holder (1)

Name BGH Capital Pty Ltd (ACN 617 386 982) in its capacity as manager and adviser to the constituent entities of BGH Capital Fund I (BGH)  
Rodney Malcolm Jones and his controlled entities, Remjay Investments Pty Ltd and Hoperidge Enterprises Pty Ltd (Jones Entities)  
AustralianSuper Pty Ltd (ACN 006 457 987) as trustee for AustralianSuper ABN 65 714 394 898 (AusSuper)

ACN/ARSN (if applicable) \_\_\_\_\_

The holder became a substantial holder on BGH became a substantial holder on 8 October 2018.  
AusSuper is a substantial holder in NVT and last lodged a substantial holder notice in respect of NVT on 30 August 2017.  
Rodney Jones is a substantial holder in NVT and last lodged a substantial holder notice in respect of NVT on 22 May 2013.

### 2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Ordinary shares	64,531,813 ordinary shares	64,531,813	18.01% (based on 358,223,060 shares on issue)

### 3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
BGH	Relevant interest in 64,531,813 ordinary shares under section 608(1)(b) and (c) of the <i>Corporations Act 2001</i> (Cth) ( <b>the Act</b> ) pursuant to the Co-operation and Process Agreement with the Jones Entities and AusSuper on 8 October 2018 ( <b>the Co-operation Agreement</b> ) attached as Annexure "A".	64,531,813 ordinary shares
Jones Entities	Relevant interest in 45,117,995 ordinary shares under sections 608(1)(a), (b) and (c) and 608(2)(b) of the <i>Corporations Act</i> .  Relevant interest in 19,413,818 ordinary shares held by AusSuper, being a relevant interest acquired under section 608(1)(b) and (c) of the Act pursuant to the Co-operation Agreement.	64,531,813 ordinary shares
AusSuper	Relevant interest in 19,413,818 ordinary shares under section 608(1)(b) and (c) of the <i>Corporations Act</i> .  Relevant interest in 45,117,995 ordinary shares controlled by the Jones Entities, being a relevant interest acquired under section 608(1)(b) and (c) of the Act pursuant to the Co-operation Agreement.	64,531,813 ordinary shares

#### 4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
BGH, Jones Entities and AusSuper	Remjay Investments Pty Ltd	Remjay Investments Pty Ltd	34,711,843 ordinary shares
BGH, Jones Entities and AusSuper	Hoperidge Enterprises Pty Ltd as trustee for the Jones Family Trust	Hoperidge Enterprises Pty Ltd as trustee for the Jones Family Trust	9,586,690 ordinary shares
BGH, Jones Entities and AusSuper	Hoperidge Enterprises Pty Ltd Superannuation Fund	Hoperidge Enterprises Pty Ltd Superannuation Fund	819,462 ordinary shares
BGH, Jones Entities and AusSuper	JPMorgan Nominees Australia Ltd	JPMorgan Nominees Australia Ltd	19,413,818 ordinary shares

#### 5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-Cash	
Jones Entities*	29/7/2015	\$403,336.50	N/A	100,000 ordinary shares
AusSuper	Refer attached Annexure B for each change in relevant interests in ordinary shares in NVT of AusSuper or an associate since AusSuper last lodged a substantial holder notice in respect of NVT (being 30 August 2017)	Refer attached Annexure B for consideration given in relation to changes in relevant interests in ordinary shares in NVT of AusSuper or an associate since AusSuper last lodged a substantial holder notice in respect of NVT (being 30 August 2017)	N/A	Refer attached Annexure B.
BGH and AusSuper	8/10/2018	N/A	N/A – acquisition of relevant interest by virtue of Co-operation Agreement	45,117,995 ordinary shares
BGH and Jones Entities	8/10/2018	N/A	N/A – acquisition of relevant interest by virtue of Co-operation Agreement	19,413,818 ordinary shares

\* See various substantial shareholder notices previously lodged by Rodney Jones for further details regards changes of interests as a substantial shareholder.

#### 6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
BGH, Jones Entities and AusSuper	Associates by virtue of considering a joint acquisition of NVT as per the Co-operation Agreement.

#### 7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
BGH	Level 26, 101 Collins Street, Melbourne VIC 3000
Jones Entities	3/93 South Perth Esplanade, South Perth, WA 6151
AusSuper	Level 33, 50 Lonsdale Street, Melbourne VIC 3000

#### Signature

print name Ben Gray

capacity

for and on behalf of substantial holders named in 1 above

sign here



date 10 / 10 / 2018

## DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
  - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

## ANNEXURE "A"

This is Annexure "A" of 21 pages referred to in Form 603 (Notice of initial substantial holder) signed by me and dated 10 October 2018.

A handwritten signature in black ink, consisting of a stylized 'R' followed by a horizontal line and a small flourish.

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# **Co-operation and Process Agreement**

**BGH Capital Pty Ltd**

**AustralianSuper Pty Ltd as trustee for AustralianSuper**

**Rodney Malcolm Jones, Hoperidge Enterprises Pty Ltd and Remjay Investments Pty  
Ltd**

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## Parties

- 1 **BGH Capital Pty Ltd** ABN 59 617 386 982 of Level 26, 101 Collins Street, Melbourne VIC 3000 in its capacity as manager or adviser to each of the constituent entities of the BGH Capital Fund I (**BGH**)
- 2 **AustralianSuper Pty Ltd** ABN 94 006 457 987 as trustee for AustralianSuper ABN 65 714 394 898 of Level 33, 50 Lonsdale Street, Melbourne VIC 3000 (**AusSuper**)
- 3 **Rodney Malcolm Jones, Hoperidge Enterprises Pty Ltd and Remjay Investments Pty Ltd** of 3/93 South Perth Esplanade, South Perth, WA 6151 (collectively **RMJ**)

**The parties agree** in consideration of the mutual promises in this agreement:

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## 1 Definitions and interpretation

- (a) A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.
  - (b) The interpretation clause in Schedule 1 sets out rules of interpretation for this agreement.
- 

## 2 Proposed transaction

- (a) The parties agree to work together on an exclusive basis to consider, negotiate and implement the Proposal.
  - (b) This agreement governs the relationship between parties for the purposes of making and progressing the Proposal.
- 

## 3 Conduct of the Proposal

### 3.1 Non-Binding Indicative Offer

Each party irrevocably and unconditionally authorises BGH to submit the Offer Letter to Navitas.

### 3.2 Conduct of the Proposal

- (a) Except to the extent otherwise agreed:
  - (i) each party will regularly and promptly update and consult with the parties in respect of the status of discussions with Navitas and due diligence in relation to Navitas.
  - (ii) each party will keep other parties promptly informed of information received from Navitas that is material to the negotiations in relation to the Proposal, due diligence in respect of Navitas or otherwise material to the Proposal generally.
  - (iii) the parties will make all material decisions in relation to the Proposal jointly.



- (b) No party may legally bind any other party. Any decisions in relation to the content of any binding agreement in relation to the Proposal is to be agreed jointly among the parties.

### **3.3 Disclosure**

The parties will use all reasonable endeavours to co-operate with each other to make the disclosures required by, and within the time limits prescribed by, Part 6C.1 of the Corporations Act, and any other disclosure required by law.

### **3.4 Day to day communications**

- (a) The parties will each nominate executives and advisers to be responsible for day to day operational and organisational decisions in respect of the Proposal.
- (b) The parties will engage in regular and comprehensive communication in relation to the day to day conduct, status and prospects of the Proposal.

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## **4 Exclusivity**

### **4.1 Exclusivity**

Subject to clause 5.3, during the Exclusivity Period, a party must not, and must ensure that its Related Bodies Corporate and Representatives and, in the case of RMJ, RMJ's Associates (alone or acting in concert with any Third Party) do not directly or indirectly, except with the prior written consent of the other parties, enter into any agreement, arrangement or understanding (including but not limited to participating in any consortium, joint bidding structure and other structure) in relation to an actual, proposed or potential Competing Proposal.

### **4.2 RMJ and AusSuper**

Subject to clause 5.3, during the Exclusivity Period, each of RMJ and AusSuper agree that it will not (and must ensure that its Related Bodies Corporate and Representatives and, in the case of RMJ, RMJ's Associates (alone or acting in concert with any Third Party) do not directly or indirectly) except with the prior written consent of the other parties:

- (a) be involved in a Competing Proposal;
- (b) accept in respect of, sell or agree to sell any of, its Navitas Shares to a Third Party proposing or making a Competing Proposal;
- (c) vote in favour of a Competing Proposal; or
- (d) make any public announcement that it will accept or propose to accept, vote in favour of or otherwise support a Competing Proposal.

and subject to clause 5.3, during the Exclusivity Period, each of RMJ and AusSuper also agree it will, and must ensure that its Related Bodies Corporate and Representatives and, in the case of RMJ, RMJ's Associates (alone or acting in concert with any Third Party), vote against any Competing Proposal except with the prior written consent of the other parties.

### 4.3 No shop, no talk and no due diligence

Subject to clause 5.3, during the Exclusivity Period, a party must not, and must ensure that its Related Bodies Corporate and Representatives and, in the case of RMJ, RMJ's Associates, do not directly or indirectly, except with the prior written consent of the other parties:

- (a) propose, encourage, initiate, solicit or invite any Competing Proposal to or from Navitas (or its shareholders) or any Third Party or initiate discussions with Navitas (or its shareholders) or any Third Party with a view to obtaining any expressions of interest, offer or proposal from Navitas or any other person in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal;
- (b) participate in any negotiations or discussions with Navitas (or its shareholders) or a Third Party in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal;
- (c) provide any information to Navitas (or its shareholders) or a Third Party for the purposes of enabling or which may reasonably be expected to enable any Third Party to make a Competing Proposal; or
- (d) communicate its willingness or intention to do any of the things listed in clauses 4.3(b) or 4.3(c).

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## 5 Standstill and other dealings

### 5.1 Standstill

- (a) Subject to clauses 5.1(b) and 5.3, each party must not, and must ensure that their Related Bodies Corporate and their Representatives and, in the case of RMJ, RMJ's Associates (alone or acting in concert with any Third Party) do not:
  - (i) directly or indirectly sell or otherwise dispose of a Relevant Interest in any Navitas Shares;
  - (ii) accept, vote in favour, or otherwise support a Competing Proposal in respect of Navitas;
  - (iii) acquire a Relevant Interest in any Navitas Shares;
  - (iv) enter into any derivative, swap or synthetic agreement, deed or other arrangement under which payments may be made that are referable (in whole or part) to the trading price, or the economic value, of Navitas Shares which would require disclosure under the Australian Takeovers Panel's Guidance Note 20: Equity Derivatives; or
  - (v) aid, abet, counsel, assist, facilitate or induce any other person in doing, or publicly announce that it will do, any of the things mentioned in this clause 5.1(a).
- (b) For the avoidance of doubt, nothing in clause 5.1(a) prevents:
  - (i) any party (or any of their Related Bodies Corporate or Representatives or, in the case of RMJ, RMJ's Associates) from taking any steps to implement the Proposal;

- (ii) any party (or any of their of their Related Bodies Corporate or Representatives or, in the case of RMJ, RMJ's Associates) acquiring or disposing of a Relevant Interest in Navitas Shares as a result of:
  - (A) acceptances of the Proposal or implementation of the Proposal; or
  - (B) the terms of this agreement; or
- (iii) any action taken with the prior written consent of each other party.

## 5.2 Voting of Navitas Shares and Foreign Investment Approvals

- (a) If a party requires Foreign Investment Approvals, the rights of that party under clauses 4 or 5, to the extent that it relates to the exercise of rights attached to Navitas Shares of another party, are subject to and conditional on that party having received all required Foreign Investment Approvals.
- (b) For the avoidance of doubt, BGH confirms that it does not require any Foreign Investment Approval in its capacity as manager of the BGH Capital Trust IB and accordingly its rights under clauses 4 and 5 are binding on execution of this agreement.

## 5.3 Exceptions

Nothing in clauses 4.1, 4.2, 4.3 and 5.1 shall in any way restrict or prohibit any activities of a party, its Related Bodies Corporates or Representatives (each a **Relevant Person**), or require the party or any other Relevant Person to take any action (including procuring any restriction on any person in connection with):

- (a) where the investment is an index fund (or other similar investment) which invests in a broad basket of securities;
- (b) where the investment is made on the party's (or Related Body Corporate's or Representative's) behalf by third-party investment managers with discretionary authority, or made by investment funds or other pooled investment vehicles in which the party (or such Related Body Corporate or Representative) has invested as a passive investor with no power to direct the investments of such passive investments, and such investments are managed by third parties; provided that the individuals or entities performing such activities shall not be in possession of Confidential Information and the performing of such activities shall not result from the breach by the party of this agreement;
- (c) where the decision to acquire or dispose of any interest in Navitas Shares on the party's (or Related Body Corporate's) behalf is undertaken by an individual in the ordinary course of business of that person as a market-maker, broker or provider of trustee or nominee services, who are themselves not in possession of Confidential Information;
- (d) in relation to stock lending activities in the ordinary course of a Relevant Person's business, provided that the individuals or entities performing such activities shall not be in possession of Confidential Information and, as soon as practicable following the date of this Agreement, the Relevant Person ceases lending Navitas Shares; or
- (e) in the case of AusSuper, pursuant to its Member Direct facility, provided that, as soon as practicable following the date of this Agreement, AusSuper suspends the



capacity of participants in the Member Direct facility to direct that acquisitions of Navitas Shares be made under the facility.

The parties acknowledge and agree that a party or a party's Related Bodies Corporates' directors, officers or employees may serve on advisory, investment and equivalent committees in relation to the funds and vehicles described in clause 5.3(b), and each party agrees that such funds and vehicles will not be deemed to have received Confidential Information solely because any such individual serves on any such committee, provided that the individual has not provided such fund or vehicle with Confidential Information.

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## **6 RMJ voting commitment**

RMJ agrees with each of the other parties that he will:

- (a) vote in favour of a scheme of arrangement to effect the Proposal; and
- (b) sell 50% of his shares for cash and accept scrip consideration for the remaining 50% of his shares should the scheme be approved and implemented,

provided that the cash offer price to be paid to shareholders under the scheme of arrangement is not less than the cash offer price specified in the Offer Letter.

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## **7 Transaction costs and expenses**

The parties agree that all out of pocket costs and expenses in respect of the Proposal, including advisers' costs, incurred by BGH (or any joint venture or special purpose vehicles established by the parties in relation to the Proposal) will be shared by the parties (and to the extent BGH or such other entities have paid such costs, reimbursed by the parties) in accordance with a separate agreement between the parties to be agreed following this agreement and prior to execution of any Scheme Implementation Deed. The separate agreement will provide that RMJ does not need to contribute to the costs unless RMJ withdraws from the agreement under clause 8.1(b) in which case RMJ will be required to contribute his agreed share of the costs up until the date of notice of withdrawal is given.

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## **8 Withdrawal and termination**

### **8.1 Termination and withdrawal**

- (a) This agreement terminates at the end of the Exclusivity Period. On termination of this agreement this agreement will become void and of no further effect, other than as set out in clause 8.2.
- (b) Any party may give written notice to the other parties stating that it wishes to withdraw from the Proposal prior to the execution of the Scheme Implementation Deed and a shareholders agreement between the parties continuing with the Proposal. On and from the receipt of that notice by all other parties, the withdrawing party will cease to have any rights or obligations under this agreement except as set out in clause 8.2.

## 8.2 Rights and obligations surviving termination and withdrawal

The following rights and obligations survive the termination or withdrawal of this agreement under clause 8.1:

- (a) clause 4 (Exclusivity) - the obligations under clause 4 shall cease to apply at the end of the Exclusivity Period;
- (b) any claim that a party has against another party or its related entity at the time of termination, including any claim for expenses under clause 7; and
- (c) any rights or obligations which have accrued at the time of termination.

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## 9 Confidentiality

### 9.1 Confidentiality

- (a) In this agreement, **Confidential Information** means this agreement, the Transaction Documents, the status of negotiations (and any other agreements) with Navitas and between the parties and any confidential information provided by one party to another or to any person but excludes any information that:
  - (i) at the time it was provided to the party, was lawfully in the possession of the party and without breach of any duty or obligation; or
  - (ii) has been provided to the party but subsequently, through no act or omission of the party (or any person to whom it discloses that information) becomes available from another source and is not subject to any duty or obligation as to confidence.
- (b) Each party must keep confidential and must not disclose, and must procure that its Related Bodies Corporate and its Representatives and, in the case of RMJ, RMJ's Associates keep confidential and do not disclose the Confidential Information except:
  - (i) with the prior written consent of the other parties;
  - (ii) where the information is in or has come into the public domain other than due to a breach of any obligation of confidentiality owed by that party;
  - (iii) to the extent required by any applicable law, order or rule of any court or government agency or the rules of a recognised stock exchange provided that before a party makes any disclosure under this clause 9.1(b)(iii), it must, to the extent practicable having regard to the required timing of the disclosure, consult in good faith with the other parties as to the need for and form of that disclosure; or
  - (iv) to a Representative of that party and of its Related Bodies Corporates and related trusts, on a need to know basis and where those persons undertake to keep information disclosed confidential or are otherwise bound by or subject to a similar confidentiality obligation.

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## 10 Warranties

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

- (a) it is duly incorporated under the laws of the place of its incorporation;
- (b) it has the power and authority to sign this agreement and perform and observe all its terms;
- (c) this agreement has been duly executed and is a legal valid and binding agreement enforceable against it in accordance with its terms;
- (d) it is not bound by any contract which may restrict its right or ability to enter into or perform this agreement; and
- (e) it and its Related Bodies Corporate and, in the case of RMJ, RMJ's Associates do not hold any Navitas Shares, rights to acquire Navitas Shares or any economic interest in Navitas Shares (through a cash settled equity swap, derivative or otherwise) which would require disclosure under the Australian Takeovers Panel's Guidance Note 20: Equity Derivatives other than:
  - (i) AusSuper which owns 19,413,818 Navitas Shares; and
  - (ii) RMJ which owns 45,117,995 Navitas Shares.

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## 11 Relationship between the parties

### 11.1 No partnership or joint venture

- (a) Nothing in this agreement will be construed as giving rise to a partnership, joint venture, fiduciary relationship or agency relationship between the parties.
- (b) No party may act as the agent of, assume any obligation or responsibility on behalf of the other party or in any way bind or pledge the credit of the other party.

### 11.2 Separate tax and accounting obligations

- (a) Each party is responsible for its own tax, accounting and record keeping obligations.
- (b) No party is responsible for the obligations of the other party under the tax laws of any relevant jurisdiction, unless otherwise specifically provided for in a Transaction Document.

### 11.3 AusSuper limitation of liability

Notwithstanding any other provision of this Agreement, the parties (other than AusSuper) acknowledge and agree that:

- (a) AusSuper enters into and performs this agreement and the transactions it contemplates in its capacity as the trustee for AustralianSuper ABN 65 714 394 898 (**Fund**) and in no other capacity. This applies also in respect of any past and future conduct (including omissions) relating to this agreement or those transactions;
- (b) AusSuper is not liable to pay or satisfy any of its obligations under and in connection with this agreement and those transactions and will have no liability to the other parties except to the extent of AusSuper's right of indemnity out of the assets of the Fund;



- (c) if those assets are insufficient, the other parties will not seek to recover any shortfall by bringing proceedings against AusSuper personally and may not seek the appointment of a liquidator, administrator, receiver or similar person to AusSuper or prove in any liquidation, administration or arrangement of or affecting AusSuper; and
- (d) the other parties waive their rights and release AusSuper from any personal liability whatsoever in respect of any loss or damage which cannot be paid or satisfied out of the assets of the Fund.
- (e) The limitation on AusSuper's liability referred to in this clause 11.3 will not apply to the extent that AusSuper's right of indemnity from the Fund is reduced or lost as a result of liability for breach of trust where AusSuper has:
  - (i) failed to act honestly in a matter concerning the Fund; or
  - (ii) intentionally or recklessly failed to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that AusSuper was required to exercise.

#### 11.4 RMJ

For the avoidance of any doubt, BGH and AusSuper acknowledge that Rodney Malcolm Jones (**Mr Jones**) enters into this agreement in his personal capacity and not in his capacity as a director of Navitas. Notwithstanding any other provision of this agreement, Mr Jones is not required to disclose any confidential information of Navitas to the other parties of this agreement.

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## 12 General

### 12.1 Notices

#### How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
  - (i) if to BGH:
 

Address:	Level 26, 101 Collins Street, Melbourne VIC 3000
Email:	ecahill@bghcapital.com
For the attention of:	Emma Cahill
  - (ii) if to AusSuper:

Address: Level 33, 50 Lonsdale Street, Melbourne VIC 3000

Email: bensmith@australiansuper.com  
investmentslegal@australiansuper.com

For the attention of: Ben Smith and Romina Gaudion

(iii) if to RMJ:

Address: 3/93 South Perth Esplanade, South Perth, WA 6151

Email: rod.jones@hoperidge.com.au

- (c) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
- (d) must be delivered by hand or sent by email to the address, in accordance with clause 12.1(b).

#### **When notice taken to be received**

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (e) (in the case of email),
  - (i) when the sender receives an automated message confirming delivery; or
  - (ii) 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered; and
- (f) (in the case of delivery by hand) on delivery,

but if the communication is taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day.

#### **12.2 Governing law**

This agreement is governed by and must be construed according to the law applying in Victoria, Australia.

#### **12.3 Amendments**

Any amendment or variation of this agreement must be agreed in writing by all parties.

#### **12.4 Waiver**

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or



enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement.

- (b) A waiver or consent given by a party under this agreement 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 a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

#### **12.5 Further acts and documents**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this agreement.

#### **12.6 Consents**

Consents required under this agreement must not be unreasonably withheld.

#### **12.7 Specific performance**

The parties acknowledge that damages will not be a sufficient remedy for breach of this agreement. Specific performance or injunctive relief is available as a remedy for a breach or threatened breach of this agreement by any party.

#### **12.8 Counterparts**

This agreement may be executed in a number of counterparts and signatures on behalf of a party may be on different counterparts.

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## Schedule 1 Dictionary

### 1 Dictionary

In this agreement:

**Associate** has the meaning given to that term in the Corporations Act.

**Business Day** is a day that banks are open for business in Melbourne, Australia and Perth, Australia.

**Competing Proposal** means an offer, proposal, expression of interest, transaction or arrangement which is proposed by a Third Party pursuant to which a Third Party will, if the offer, proposal, expression of interest, proposed transaction or arrangement is implemented:

- (a) have a Relevant Interest in 10% or more of the Navitas Shares;
- (b) acquire control of Navitas or the Navitas Group within the meaning of section 50AA of the Corporations Act; or
- (c) directly or indirectly acquire, merge with, or acquire (or have the right to so merge with or acquire) a significant economic interest in Navitas or all or a significant part of the business of the Navitas Group, whether by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back, sale or purchase of a significant or material part of the assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company for the Navitas Group or other synthetic merger or any other transaction or arrangement; or

or would otherwise cause the Proposal to not proceed.

**Confidential information** has the meaning given to such term in clause 9.

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

**Exclusivity Period** means the period from the date of this agreement to the earliest of:

- (a) the date on which BGH ceases to pursue the Proposal (which must be promptly notified to the other parties);
- (b) if the board of directors of Navitas has rejected the Proposal, the date that is 3 months after:
  - (i) BGH (or the parties) have been advised that the Proposal is rejected; and
  - (ii) all parties have ceased all discussions in respect of the Proposal; or
- (c) if a Scheme Implementation Deed is entered into with Navitas (and a shareholders agreement relating to the Proposal has been entered into between some or all of the parties):
  - (i) the date of successful completion of the Proposal; or

- (ii) the first date at which both the Scheme Implementation Deed and the shareholders agreement between the parties relating to the Proposal has been terminated; and
- (d) the date that is 9 months after the date of this agreement,

in each case, unless otherwise agreed in writing between all the parties to this agreement (and provided that BGH may, by notice in writing to all parties, shorten the Exclusivity Period for any one or more of the other parties).

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

**Foreign Investment Approvals** means, with respect to a party, the satisfaction of both (a) and (b):

- (a) either:
  - (i) the Treasurer of the Commonwealth of Australia (or his delegate) providing written notice that there are no objections under the FATA to the acquisition of interests in Navitas Shares under this agreement, and that notice is either without conditions or on terms acceptable to the relevant party (acting reasonably); or
  - (ii) the Treasurer of the Commonwealth of Australia becoming precluded by passage of time from making any order under the FATA in respect of the acquisition of interests in Navitas Shares under this agreement; and
- (b) the party receiving all consents, approvals or clearances required under the OIO Legislation in respect of the acquisition of interests in Navitas Shares under this agreement.

**Navitas** means Navitas Limited.

**Navitas Group** means Navitas and each of its subsidiaries.

**Navitas Shares** means fully paid ordinary shares in the capital of Navitas.

**Offer Letter** means the letter dated on or about the date of this agreement from the parties to Navitas in respect of the Proposal in the form agreed between the parties.

**OIO Legislation** means the Overseas Investment Act 2005 (New Zealand).

**Proposal** means the proposal made by the parties in the Offer Letter (or any variation of the terms subsequently proposed) under which the parties (or their special purpose vehicle) will acquire Navitas by scheme of arrangement or other transaction pursuant to which the parties (or their special purpose vehicle) acquire all or substantial part of Navitas or its assets and business.

**Related Bodies Corporate** has the meaning given in the Corporations Act, but with any necessary modifications for entities established or incorporated outside Australia and provided that references to Related Bodies Corporate shall not include a party's or a party's Related Bodies Corporate's operating or portfolio entities, investment funds or investee entities (each a **Portfolio Company**) that are not provided, or do not obtain access to, Confidential Information. The parties acknowledge and agree that a party or a party's Related Bodies Corporate's directors, officers or employees may serve as directors of the Portfolio Companies, and each party agrees that such Portfolio Companies will not be deemed to have received Confidential Information solely because



any such individual serves on the board of such Portfolio Company, provided that the individual has not provided such Portfolio Company or any other director, officer or employee of such Portfolio Company with Confidential Information.

**Relevant Interest** has the meaning given in the Corporations Act.

**Relevant Person** has the meaning given to such term in clause 5.3.

**Representatives** means in relation to a party:

- (a) the directors and employees of that party and its Related Bodies Corporate; and
- (b) the agents and advisers of that party (or its Related Bodies Corporate), but only to the extent acting in that capacity and on the instruction of that party (or Related Bodies Corporate) in accordance with its engagement terms, in connection with the Proposal (other than common consortium advisers or agents engaged by the parties in connection with the Proposal); and
- (c) in the case of AusSuper only, also includes members of committees of its board,

provided that, where Representatives is used in clauses 4.2 and 5.1 it shall only have the meaning in paragraph (b) above and not paragraphs (a) and (c).

**Scheme Implementation Deed** means the agreement or deed (as the case may be) between Navitas and the parties (and / or one more special purpose vehicles established by the parties) pursuant to which Navitas will be acquired via a scheme of arrangement.

**Third Party** means a person other than a party or any of its Related Bodies Corporate or Associates.

**Transaction Documents** means the Scheme Implementation Deed, the shareholder agreement among the parties in relation to Navitas (and one or more special purpose vehicles to be incorporated by the parties for the purposes of the Proposal) and financing agreements in relation to the Proposal.

## 12.9 Interpretation

In this agreement headings and words in bold are for convenience only and do not affect the interpretation of this agreement and, unless the contrary intention appears:

- (i) a word importing the singular includes the plural and vice versa, and a word indicating a gender includes every other gender;
- (ii) the word "including" or any other form of that word is not a word of limitation;
- (iii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (iv) a reference to a "person" or "entity" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership, a trust, other bodies corporate and bodies politic, substitutes (including, without limitation, persons taking by novation) and permitted assigns, and whether or not being a separate legal entity;
- (v) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of

novation and, in the case of a trustee, includes any substituted or additional trustee;

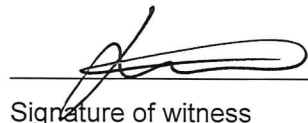
- (vi) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (vii) a reference to a party, paragraph, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (viii) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (ix) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (x) a reference to a time is to that time in Melbourne, Australia;
- (xi) a reference to a statute includes any regulations or other instruments made under it and a reference to a statute or any regulation or other instrument made under it or a provision of any such statute, regulation or instrument includes consolidations, amendments, re-enactments and replacements;
- (xii) a reference to a "liability" incurred by any person includes any liability of that person arising from or in connection with any obligation (including indemnities and all other obligations owed as principal or guarantor) whether liquidated or not, whether present, prospective or contingent and whether owed, incurred or imposed by or to or on account of or for the account of that person alone, severally or jointly or jointly and severally with any other person;
- (xiii) a reference to a "loss" incurred by any person includes any loss, liability, damage, cost, charge, expense which the person pays, incurs or is liable for and any other diminution of value of any description which the person suffers, including all liabilities on account of taxes or duties, all interest, penalties, fines and other amounts payable to third parties and all reasonable legal expenses and other expenses in connection with investigating or defending any claim, action, demand or proceeding, whether or not resulting in any liability, and all amounts paid in settlement of any such claims;
- (xiv) unless otherwise stated, a reference to "\$", "A\$" or "dollar" is to Australian currency; and
- (xv) this agreement, or a provision of this agreement, must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

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## Execution page

---

Executed by **BGH Capital Pty Ltd** by its  
authorised signatory in the presence of:



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Signature of witness

**JASON KORMAN**

---

Name of witness (print)



---

Signature of authorised signatory

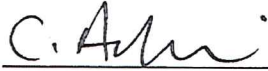
**BEN GRAY**

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Name of authorised signatory (print)

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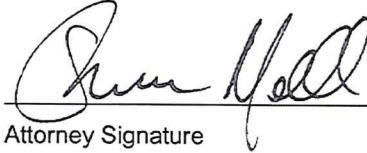
Signed for **AustralianSuper Pty Ltd** as trustee of  
**AustralianSuper** by its undersigned attorneys  
who have not received any notice of revocation of  
the Power of Attorney dated 15 September 2016  
as amended from time to time:



Attorney Signature

CARL ASTORRI

Print Name



Attorney Signature

SHAUN MANUELLI

Print Name

---

Executed by **Rodney Malcolm Jones** in the  
presence of:

N. Harland

Signature of witness

Natalie Harland

Name of witness (print)

[Signature]  
Signature



---

Executed by **Hoperidge Enterprises Pty Ltd** by  
its authorised signatory in the presence of:

Natalie Harland

Signature of witness

Natalie Harland

Name of witness (print)

Rodney Jones

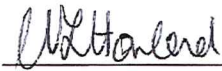
Signature of authorised signatory

RODNEY JONES

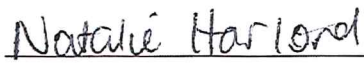
Name of authorised signatory (print)

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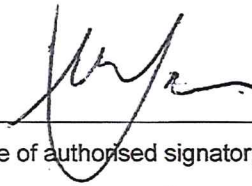
Executed by **Remjay Investments Pty Ltd** by its  
authorised signatory in the presence of:



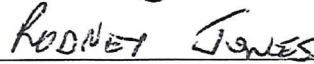
Signature of witness



Name of witness (print)



Signature of authorised signatory



Name of authorised signatory (print)

## ANNEXURE "B"

This is Annexure "B" of 2 pages referred to in Form 603 (Notice of initial substantial holder) signed by me and dated 10 October 2018.

A handwritten signature in black ink, consisting of a stylized 'B' followed by a horizontal line and a small flourish.

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Security Name	Security Code	Trade Description	Trade Date	Settlement Date	Units	Price
NAVITAS LTD	B0498J7	OS-SAL	31/08/2017	4/09/2017	-772	4.501399
NAVITAS LTD	B0498J7	OS-PUR	11/09/2017	13/09/2017	379000	4.52
NAVITAS LTD	B0498J7	OS-PUR	15/09/2017	15/09/2017	343	4.452828
NAVITAS LTD	B0498J7	OS-SAL	15/09/2017	19/09/2017	-43616	4.3718
NAVITAS LTD	B0498J7	OS-PUR	26/09/2017	28/09/2017	435	4.48
NAVITAS LTD	B0498J7	OS-SAL	6/10/2017	10/10/2017	-2440	4.455
NAVITAS LTD	B0498J7	OS-SAL	17/10/2017	19/10/2017	-345	4.89
NAVITAS LTD	B0498J7	OS-PUR	30/10/2017	1/11/2017	11107	4.7587
NAVITAS LTD	B0498J7	OS-SAL	6/11/2017	8/11/2017	-3100	4.86
NAVITAS LTD	B0498J7	OS-PUR	23/11/2017	27/11/2017	40711	5.059
NAVITAS LTD	B0498J7	OS-SAL	27/11/2017	29/11/2017	-1449	5.080297
NAVITAS LTD	B0498J7	OS-PUR	4/12/2017	6/12/2017	650	5.28
NAVITAS LTD	B0498J7	OS-PUR	5/12/2017	7/12/2017	783	5.35
NAVITAS LTD	B0498J7	OS-PUR	11/12/2017	13/12/2017	444	5.46
NAVITAS LTD	B0498J7	OS-PUR	15/12/2017	19/12/2017	288	5.44
NAVITAS LTD	B0498J7	OS-SAL	18/12/2017	20/12/2017	-73907	5.579
NAVITAS LTD	B0498J7	OS-SAL	22/12/2017	28/12/2017	-24925	5.5255
NAVITAS LTD	B0498J7	OS-PUR	27/12/2017	29/12/2017	880	5.47
NAVITAS LTD	B0498J7	OS-SAL	27/12/2017	29/12/2017	-21651	5.4806
NAVITAS LTD	B0498J7	OS-SAL	29/12/2017	3/01/2018	-880	5.472295
NAVITAS LTD	B0498J7	OS-SAL	2/01/2018	4/01/2018	-1054	5.45
NAVITAS LTD	B0498J7	OS-SAL	3/01/2018	5/01/2018	-1249	5.31
NAVITAS LTD	B0498J7	OS-SAL	15/01/2018	17/01/2018	-552	5.433605
NAVITAS LTD	B0498J7	OS-PUR	30/01/2018	1/02/2018	368	4.76
NAVITAS LTD	B0498J7	OS-SAL	31/01/2018	2/02/2018	-368	4.69
NAVITAS LTD	B0498J7	OS-SAL	6/02/2018	8/02/2018	-1346	4.83
NAVITAS LTD	B0498J7	OS-PUR	13/03/2018	15/03/2018	2465	4.997039
NAVITAS LTD	B0498J7	OS-PUR	15/03/2018	15/03/2018	253	4.84751
NAVITAS LTD	B0498J7	OS-PUR	16/03/2018	20/03/2018	60803	5.0489
NAVITAS LTD	B0498J7	OS-PUR	19/03/2018	21/03/2018	1235	5.03
NAVITAS LTD	B0498J7	OS-PUR	19/03/2018	21/03/2018	55849	5.0419
NAVITAS LTD	B0498J7	OS-SAL	23/03/2018	27/03/2018	-1765	4.99
NAVITAS LTD	B0498J7	OS-SAL	4/04/2018	6/04/2018	-2	4.935
NAVITAS LTD	B0498J7	OS-SAL	24/04/2018	27/04/2018	-1154	4.335
NAVITAS LTD	B0498J7	OS-PUR	24/04/2018	27/04/2018	218239	4.315
NAVITAS LTD	B0498J7	OS-SAL	26/04/2018	30/04/2018	-950	4.34
NAVITAS LTD	B0498J7	OS-PUR	26/04/2018	30/04/2018	11326	4.2993
NAVITAS LTD	B0498J7	OS-PUR	26/04/2018	30/04/2018	100000	4.35
NAVITAS LTD	B0498J7	OS-SAL	27/04/2018	1/05/2018	-5232	4.32264
NAVITAS LTD	B0498J7	OS-PUR	1/05/2018	3/05/2018	1000	4.27
NAVITAS LTD	B0498J7	OS-PUR	21/05/2018	23/05/2018	568	4.47
NAVITAS LTD	B0498J7	OS-SAL	22/05/2018	24/05/2018	-1777	4.38
NAVITAS LTD	B0498J7	OS-PUR	12/06/2018	14/06/2018	450	4.41
NAVITAS LTD	B0498J7	OS-SAL	20/06/2018	22/06/2018	-1030	4.49
NAVITAS LTD	B0498J7	OS-PUR	3/07/2018	5/07/2018	369	4.46
NAVITAS LTD	B0498J7	OS-PUR	13/07/2018	17/07/2018	1250	4.3
NAVITAS LTD	B0498J7	OS-PUR	16/07/2018	18/07/2018	850	4.28
NAVITAS LTD	B0498J7	OS-PUR	17/07/2018	19/07/2018	62	4.2
NAVITAS LTD	B0498J7	OS-SAL	18/07/2018	20/07/2018	-920	4.075
NAVITAS LTD	B0498J7	OS-SAL	19/07/2018	23/07/2018	-13047	4.199207
NAVITAS LTD	B0498J7	OS-SAL	20/07/2018	24/07/2018	-844	4.206919
NAVITAS LTD	B0498J7	OS-SAL	23/07/2018	25/07/2018	-1563	4.205003
NAVITAS LTD	B0498J7	OS-SAL	25/07/2018	27/07/2018	-1300	4.17
NAVITAS LTD	B0498J7	OS-PUR	28/08/2018	30/08/2018	1353	4.587797
NAVITAS LTD	B0498J7	OS-SAL	30/08/2018	3/09/2018	-390	4.57441
NAVITAS LTD	B0498J7	OS-SAL	7/09/2018	11/09/2018	-200	4.445
NAVITAS LTD	B0498J7	OS-PUR	17/09/2018	17/09/2018	115	4.484174
NAVITAS LTD	B0498J7	OS-PUR	17/09/2018	19/09/2018	755	4.247007

NAVITAS LTD	B0498J7	OS-PUR	18/09/2018	20/09/2018	650	4.4
NAVITAS LTD	B0498J7	OS-SAL	21/09/2018	25/09/2018	-93859	4.3969
NAVITAS LTD	B0498J7	OS-PUR	24/09/2018	26/09/2018	686	4.37
NAVITAS LTD	B0498J7	OS-PUR	27/09/2018	1/10/2018	1360	4.346397
NAVITAS LTD	B0498J7	OS-SAL	28/09/2018	2/10/2018	-3785	4.5