

5 February 2018

ASX Release

LifeHealthcare enters into Scheme Implementation Deed with Pacific Equity Partners

- LifeHealthcare shareholders to receive \$3.75 per share in cash
- Scheme Consideration represents a significant premium to pre-announcement share price
- The Directors unanimously recommend that shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of LifeHealthcare shareholders

LifeHealthcare Group Limited (**LifeHealthcare** or the **Company**) today announces that it has entered into a binding Scheme Implementation Deed (**SID**) with Pacific Health Supplies BidCo Pty Limited, an entity wholly-owned by funds advised by Pacific Equity Partners (**PEP**), under which it is proposed that PEP will acquire 100% of the shares in LifeHealthcare by way of a Scheme of Arrangement (the **Scheme**) for \$3.75 per share in cash.

PEP is an Australian-based private equity firm, with approximately A\$2.5 billion of funds under advisement. Funds managed by PEP have made more than 26 operating company investments and more than 90 bolt-on acquisitions.

Overview of the Scheme

Under the terms of the Scheme, LifeHealthcare shareholders will be entitled to receive \$3.75 per share in cash (**Scheme Consideration**), subject to all applicable conditions being satisfied or waived and the Scheme being implemented.

Under the SID, LifeHealthcare is permitted to declare and pay a fully franked interim dividend in relation to the six months to 31 December 2017 (**Interim Dividend**). The Scheme Consideration would be reduced by the cash amount per share of the Interim Dividend. The amount of the Interim Dividend declared by the Board will be advised with the release of LifeHealthcare's first half FY2018 results.

If the Scheme is implemented, the LifeHealthcare Board also intends to declare a fully franked special dividend of \$0.18 per share (**Special Dividend**). The Special Dividend would have approximately \$0.08 per share in franking credits attached. It remains at the discretion of the LifeHealthcare Board whether the dividend is ultimately declared and paid and the Scheme Consideration would be reduced by the cash amount per share of any such dividend.

The Scheme Consideration of \$3.75 per share represents:

- 46% premium to the closing price of A\$2.57 per share on 2 February 2018
- 44% premium to the 1-month volume weighted average price (VWAP) to 2 February 2018
- 42% premium to the 3-month VWAP to 2 February 2018

The Scheme Consideration implies a fully diluted market capitalisation for LifeHealthcare of A\$179 million¹ and an enterprise value of approximately A\$211 million².

¹ Based on 47.8 million shares, comprising 44.9 million existing shares, 2.7 million options and 0.1 million performance rights

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The Directors of LifeHealthcare unanimously recommend that LifeHealthcare shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of LifeHealthcare shareholders. Subject to those same qualifications, each Director of LifeHealthcare intends to vote, or cause to be voted, all the LifeHealthcare shares held or controlled by them in favour of the Scheme at the Scheme Meeting.

The Chairman of LifeHealthcare, Bill Best said, “PEP’s proposal represents a significant premium to LifeHealthcare’s recent share price, is 100% cash consideration and allows for LifeHealthcare to pay a fully franked special dividend should the Board elect to do so. For these reasons, the Board considers PEP’s offer to be very attractive to shareholders.”

Key terms of the Scheme Implementation Deed

The implementation of the Scheme is subject to LifeHealthcare shareholders approving the Scheme by the requisite majorities. LifeHealthcare shareholders will have the opportunity to vote on the Scheme at a meeting (**Scheme Meeting**) expected to be held in May 2018.

The implementation of the Scheme remains subject to certain other customary conditions including:

- Foreign Investment Review Board approval;
- no “Material Adverse Change” or “Prescribed Occurrences”; and
- Court approval.

The Scheme does not include any funding condition, with PEP having secured committed funding.

Under the SID, LifeHealthcare is bound by customary exclusivity provisions, including “no shop”, “no talk” (subject to the LifeHealthcare Directors’ fiduciary obligations), and “notification” obligations, as well as “matching” rights. A break fee of 1.0% of the aggregate Scheme Consideration will be payable to PEP by LifeHealthcare in certain circumstances.

A full copy of the Scheme Implementation Deed, including all applicable conditions, is attached to this announcement.

Indicative timetable and next steps

Shareholders do not need to take any action at the present time. An Independent Expert will be appointed to prepare a report on whether, in the Independent Expert’s opinion, the Scheme is in the best interests of LifeHealthcare shareholders. The Independent Expert’s report will be included in the Scheme Booklet, along with information relating to the Scheme, the reasons for the Directors’ recommendation and details of the Scheme Meeting. The Scheme Booklet is expected to be sent to LifeHealthcare shareholders in April 2018.

The Scheme Meeting is expected to be held in May 2018. Subject to the conditions of the Scheme being satisfied, the Scheme is expected to be implemented in late May 2018. These dates are indicative and subject to change.

LifeHealthcare's first half financial performance for FY2018

For the six months to 31 December 2017, LifeHealthcare’s preliminary unaudited summary financial performance was as follows:

- Revenue of \$67.3 million (up 9.1% on the restated prior corresponding period)
- Underlying EBITDA of \$9.8 million (up 9.8%)
- Underlying NPATA of \$4.05 million (up 10.6%)

² Based on unaudited net debt at 31 December 2017 of \$38 million, before adjustment for the proceeds from exercise of options associated with the Scheme

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These results were driven by a strong performance in its spine division, which benefited from strong momentum in implants as well as the contribution from acquisitions made during the period (Oceania Orthopaedics and Point Blank Medical's spine services division), partially offset by lower sales of capital equipment relative to a very strong performance in the first half FY2017.

LifeHealthcare reiterates its FY2018 outlook provided at its Annual General Meeting in October 2017 for high single to low double digit growth in revenue, Underlying EBITDA and Underlying NPATA EPS.

LifeHealthcare expects to release its full interim financial results on 20 February 2018.

UBS AG, Australia is acting as financial adviser and Gilbert + Tobin is acting as legal adviser to LifeHealthcare.

Investor conference call

A conference call will be held at 10:30am on 6 February 2018 (AEDT) for investors and analysts. The conference details are:

Australia: 1 800 558 698
International: +61 2 9007 3187
Conference ID: 420036

ENDS

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Scheme Implementation Deed

Pacific Health Supplies BidCo Pty Limited

LifeHealthcare Group Limited

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Parties

- 1 **Pacific Health Supplies BidCo Pty Limited** ACN 624 033 889 of Level 31, 126-130 Phillip Street, Sydney New South Wales 2000, Australia (**Bidder**)
 - 2 **LifeHealthcare Group Limited** ACN 166 525 186 of Level 8, 15 Talavera Road, North Ryde, New South Wales 2113, Australia (**Target**)
-

Background

- A Target has agreed to propose a members' scheme of arrangement pursuant to which Bidder will acquire all the Scheme Shares, and Target and Bidder have agreed to implement the Scheme on the terms and conditions of this deed.
- B Bidder has agreed to assist Target in proposing the Scheme.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Agreement to proceed with Transaction

- (a) Target agrees to propose the Scheme on and subject to the terms of this deed.
 - (b) Bidder agrees to assist Target in proposing the Scheme on and subject to the terms of this deed.
-

3 Conditions precedent

3.1 Conditions precedent

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until and unless the following Conditions Precedent are satisfied or waived in accordance with clause 3.4:

- (a) (**FIRB**) before the Delivery Time, either:
 - (i) Bidder has received a written notice under FATA from the Treasurer (or his delegate) stating that, or to the effect that, the Commonwealth Government does not object to the acquisition of all the Scheme Shares by Bidder under the Transaction, either without condition or on terms that are acceptable to Bidder (acting reasonably); or

- (ii) following notice of the proposed acquisition of all the Scheme Shares by Bidder under the Transaction having been given by Bidder to the Treasurer under FATA, the Treasurer ceases to be empowered to make any order under Part 3 of FATA.
- (b) **(Court approval)** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (c) **(Target Shareholder approval)** Target Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under section 411(4)(a) of the Corporations Act except to the extent the Court orders otherwise under section 411(4)(a)(ii)(A) of the Corporations Act.
- (d) **(Restraints)** before and as at the Delivery Time:
 - (i) there is not in effect any temporary restraining order, preliminary or permanent injunction or other preliminary or final decision, order or decree issued by any court of competent jurisdiction or by any Government Agency, nor is there in effect any other legal restraint or prohibition; and
 - (ii) no action or investigation is announced or commenced by any Government Agency,

which restrains, prohibits, impedes or otherwise materially adversely impacts upon (or could reasonably be expected to restrain, prohibit or otherwise materially adversely impede or impact upon) the completion of the Transaction.
- (e) **(Prescribed Occurrence)** no Prescribed Occurrence occurs between the date of this deed and the Delivery Time.
- (f) **(no Material Adverse Change)** no Material Adverse Change occurs between the date of this deed and Delivery Time.
- (g) **(No change of Target Board recommendation)** between and including the date of this deed and the date of the Scheme Meeting, none of the Target Directors change, qualify or withdraw their Voting Intention or their Recommendations as provided by clause 7.
- (h) **(Target Scheme Warranties)** the Target Scheme Warranties being true and correct in all material respects at the relevant times set out in clause 10.9.
- (i) **(Bidder Warranties)** the Bidder Warranties being true and correct in all material respects at the relevant times set out in clause 10.9.

3.2 FIRB condition

Each of Bidder and Target acknowledges and agrees that the Standard Tax Conditions issued by FIRB from time to time are reasonable and acceptable to it if they are included in any “no objections” notification contemplated by clause 3.1(a)(i) that is received in connection with the Transaction.

3.3 Reasonable endeavours

- (a) Bidder must use its reasonable endeavours to satisfy, or procure that the Conditions Precedent in clauses 3.1(a) and 3.1(i) are satisfied, as soon as possible after the date of this deed.

- (b) Target must use its reasonable endeavours to satisfy, or procure that the Conditions Precedent in clauses 3.1(e), 3.1(f), 3.1(g) and 3.1(h) are satisfied as soon as possible after the date of this deed.
- (c) The parties must each use reasonable endeavours to procure that:
 - (i) the Conditions Precedent in clauses 3.1(b), 3.1(c) and 3.1(d) are satisfied; and
 - (ii) there is no occurrence or non-occurrence within their control or the control of any of their related bodies corporate that prevents, or would be reasonably likely to prevent, the satisfaction of any Condition Precedent.
- (d) No party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition Precedent, except to the extent such action is required to be taken or procured pursuant to, or is otherwise permitted by, this deed or the Scheme, or is required by law.
- (e) Without limiting clause 3.3(c) but subject to clause 3.3(f), each party must:
 - (i) keep the other party informed of the progress towards satisfaction of the Conditions Precedent; and
 - (ii) except to the extent prohibited by a Government Agency:
 - (A) promptly notify the other party of all communications between it and a Government Agency in connection with any approval or consent required pursuant to a Condition Precedent in clause 3.1 or any action taken or proposed by, or any enquiries made by, a Government Agency in relation to the Transaction (**Regulatory Matter**);
 - (B) promptly provide the other party with copies of all communications referred to in clause 3.3(e)(ii)(A) (where written);
 - (C) before sending any submission or correspondence to a Government Agency relating to any Regulatory Matter, consult with the other party in relation to, and provide the other party with a draft copy of, such submission or correspondence; and
 - (D) respond to reasonable requests for information that relate to any Regulatory Matter, whether made by the other party, a Government Agency or any other person, at the earliest practicable time.
- (f) Before providing any document or other information to the other party (in this clause 3.3(f), the **Recipient**) pursuant to clause 3.3(d), a party (in this clause 3.3(f), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Confidential Information**) if the Discloser reasonably believes that:
 - (i) the Sensitive Confidential Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Confidential Information to the Recipient would be damaging to the commercial or legal interests of the Discloser or any of its related bodies corporate,

and may provide the document or disclose the information to the Recipient with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, the Discloser must provide the Recipient with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information.

3.4 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a), 3.1(b) and 3.1(c) cannot be waived.
- (b) The Condition Precedent in clause 3.1(d) is for the benefit of Bidder and Target and any breach or non-fulfilment of that Condition Precedent may only be waived with the written consent of both Bidder and Target (in each party's absolute discretion).
- (c) The Conditions Precedent in clauses 3.1(e), 3.1(f), 3.1(g) and 3.1(h) are for the sole benefit of Bidder and any breach or non-fulfilment of those Conditions Precedent may only be waived with the written consent of Bidder.
- (d) The Condition Precedent in clause 3.1(i) is for the sole benefit of Target and any breach or non-fulfilment of that Condition Precedent may only be waived with the written consent of Target.
- (e) If a party waives the breach or non-fulfilment of a Condition Precedent, such waiver will not prevent that party from suing the other party for any breach of this deed that resulted in the breach or non-fulfilment of the Condition Precedent.
- (f) Waiver of breach or non-fulfilment of a Condition Precedent does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event.
- (g) A party entitled to waive a Condition Precedent under this clause 3.4 may do so in its absolute discretion. Any waiver of a Condition Precedent by a party for whose benefit the Condition Precedent applies must take place on or prior to Delivery Time.

3.5 Termination on failure of Condition Precedent

- (a) If:
 - (i) there is a breach or non-fulfilment of a Condition Precedent before the End Date and:
 - (A) the breach or non-fulfilment is not waived in accordance with clause 3.4 or cannot be waived because of clause 3.4(a); or
 - (B) each party having the benefit of that Condition Precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment in accordance with clause 3.4; or
 - (ii) subject to clause 3.5(d), a Condition Precedent becomes incapable of satisfaction before the End Date and:

- (A) the breach or non-fulfilment of that Condition Precedent that has occurred or would otherwise occur is not waived in accordance with clause 3.4; or
 - (B) each party having the benefit of that Condition Precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment of that Condition Precedent that has occurred or would otherwise occur in accordance with clause 3.4; or
 - (iii) the Scheme has not become Effective by the End Date,
- and neither of the following has occurred:
- (iv) the Independent Expert concluded in the Independent Expert's Report (or any update or variation to that report) that in its opinion the Transaction is not in the best interests of Target Shareholders; or
 - (v) a Superior Proposal has been publicly announced,
- then either party may give the other party written notice (**Consultation Notice**) within 10 Business Days after the relevant event (**Termination Event**). The parties must then consult in good faith with a view to determining whether they can reach agreement with respect to:
- (vi) an extension of the time for satisfaction of the relevant Condition Precedent or an extension of the End Date (as the case may be); or
 - (vii) the Transaction proceeding by way of alternative means or methods.
- (b) If the parties are unable to reach agreement under clause 3.5(a) within 10 Business Days after a Consultation Notice is given, or if a Consultation Notice is not required to be given or is otherwise not given within 10 Business Days after a Termination Event, either party (in this clause 3.5, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other party, provided that:
- (i) if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.5(a)(i) or 3.5(a)(ii), the Terminating Party has the benefit of the relevant Condition Precedent or the Condition Precedent is one referred to in clause 3.4(a); and
 - (ii) there has been no failure by the Terminating Party to comply with its obligations under this deed, where that failure directly and materially contributed to the circumstances forming the basis upon which the Consultation Notice was given.
- (c) Where a Termination Notice is validly given under this clause 3.5, this deed will terminate with immediate effect and clause 12.5 will apply.
- (d) For the purposes of clause 3.5(a)(ii), a Condition Precedent will be incapable of satisfaction or incapable of being fulfilled if there is an act, failure to act or occurrence that will prevent the Condition Precedent being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

3.6 Certain notices

Each party must promptly notify the other party in writing if:

- (a) a Condition Precedent has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party;
- (b) there is a breach or non-fulfilment of a Condition Precedent; or
- (c) it becomes aware of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:
 - (i) a Condition Precedent becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms; or
 - (ii) a material breach of this deed by that party.

3.7 Scheme voted down

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

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

4 Scheme

4.1 Scheme

- (a) Target agrees to propose the Scheme on and subject to the terms of this deed and substantially in accordance with the Timetable.
- (b) Target must not consent to any modification of, or amendment to, the Scheme, or to the making or imposition by a court of any condition in respect of the Scheme, without the prior written consent of Bidder (such consent not to be unreasonably withheld).

4.2 Scheme Consideration

- (a) Subject to the Scheme becoming Effective, each Scheme Shareholder will be entitled to receive the Scheme Consideration under the Scheme, in respect of each Scheme Share held by that Scheme Shareholder at the Record Date.
- (b) Bidder covenants in favour of Target (in its own right and separately as trustee for each Scheme Shareholder) that, if the Scheme becomes Effective, in consideration

of the transfer to Bidder of all the Scheme Shares held by a Scheme Shareholder under the Scheme, Bidder will, on the Implementation Date:

- (i) accept that transfer; and
- (ii) pay, or procure the payment, into a trust account operated by Target as trustee for the Scheme Shareholders of an amount in cleared funds equal to the aggregate amount of the Scheme Consideration for all Scheme Shares, by no later than the Business Day before the Implementation Date (provided that any interest on the amount so deposited (less bank fees and other charges) will accrue for the benefit of Bidder),

in each case in accordance with the terms of the Scheme.

- (c) Subject to the Scheme becoming Effective and Bidder complying with its obligations under clause 4.2(b), on the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:
 - (i) all Scheme Shares will be transferred to Bidder; and
 - (ii) in exchange, each Scheme Shareholder will receive the Scheme Consideration for each Scheme Share held by it, which Target will procure is paid to each Scheme Shareholder from the trust account referred to in clause 4.2(b)(ii).
- (d) Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up to the nearest whole cent.

4.3 Permitted Dividends

- (a) Subject to clause 4.3(b), Bidder acknowledges and agrees that at any time on or before the Implementation Date, Target may announce, declare and pay:
 - (i) a Permitted Interim Dividend; and
 - (ii) subject to the Scheme becoming Effective, a Permitted Special Dividend.
- (b) If Target announces, declares and pays any Permitted Dividend(s) in accordance with clause 4.3(a):
 - (i) the payment of the Permitted Dividends will be determined by Target provided that the Permitted Dividends are paid no later than the Implementation Date;
 - (ii) the Permitted Dividends may be franked to the maximum extent possible, subject to the franking account of Target not being in deficit after the payment of the Permitted Dividends (and prior to the declaration of any Permitted Dividends, Target must provide Bidder with supporting documents evidencing (to Bidder's reasonable satisfaction) that the franking account of Target shall not be in deficit after the payment of such);
 - (iii) the Permitted Dividends are to be paid from profits, retained earnings or distributable reserves (or a combination of all or some of them) of Target Group existing prior to the declaration or authorisation of such dividends and otherwise in accordance with the Corporations Act; and

- (iv) the Scheme Consideration per Target Share will be reduced by the aggregate amount per Target Share of all Permitted Dividends.

4.4 Target Options and Target Performance Rights

(a) Target must:

- (i) procure that the Target Board exercises any discretion enjoyed by the Target Board, and makes any necessary determinations, under the Target LTIP Rules; and
- (ii) make any necessary waiver applications under the Listing Rules (if applicable),

to cause all Target Options and Target Performance Rights to vest and become exercisable in accordance with, and subject to the conditions in, clause 4.4(b).

(b) As soon as reasonably practicable after the date of this deed, Target must give effect to the determinations made by the Target Board under clause 4.4(a) by giving a written notice (**Conditional Vesting Notice**) to each Option Holder and Performance Rights Holder (each, an **Incentive Securityholder**) which states that, unless the Incentive Securityholder enters into a written agreement with Bidder (or another member of the Bidder Group) that effects a different treatment of that Incentive Securityholder's Target Options and/or Target Performance Rights in connection with the Scheme (**Alternative Incentive Arrangements**):

- (i) the Incentive Securityholder's Target Performance Rights (if any) will, subject to the Scheme becoming Effective, automatically convert into Target Shares immediately before the Record Date (or any earlier date and time determined by the Target Board); and
- (ii) in respect of the Incentive Securityholder's Target Options (if any), subject to the Scheme becoming Effective:
 - (A) such Target Options may be exercised by the Incentive Securityholder in accordance with their terms and the Target LTIP Rules by giving notice to Target at any time after the date of receipt of the Conditional Vesting Notice up to 5:00pm on the Business Day before the Record Date (or any earlier date and time determined by the Target Board) (**Exercise Period**);
 - (B) such Target Options will, if exercised during the Exercise Period, convert into Target Shares immediately before the Record Date (or any earlier date and time determined by the Target Board);
 - (C) if the Target Board so determines, the Incentive Securityholder will not be required to pay the exercise price for each Target Option they elect to exercise, and, on the Implementation Date, they will be paid a cash amount equal to the difference between the aggregate exercise price for the Target Options they have elected to exercise (being such price as set out in the Target LTIP Rules which relate to those Target Options) and the aggregate Scheme Consideration paid by Bidder in respect of those Target Options; and
 - (D) any Target Options that are not exercised during the Exercise Period will lapse immediately before the Record Date.

- (c) Target must provide any assistance reasonably requested by Bidder in connection with any proposals made by Bidder to Incentive Securityholders in relation to Alternative Incentive Arrangements.
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5 Implementation

5.1 Target obligations

Target must, acting at all times in good faith, take all steps reasonably necessary to propose and implement the Scheme substantially in accordance with the Timetable, and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Target must:

- (a) **(Independent Expert)** as soon as reasonably practicable after the date of this deed (if the Independent Expert has not been appointed prior to the date of this deed), appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any update to any such report);
- (b) **(preparation of Scheme Booklet)**
 - (i) subject to clause 5.2(a), prepare the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report) in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules; and
 - (ii) provide Bidder with drafts of the Scheme Booklet and the factual information sections relating to Bidder in the Independent Expert's Report, in a timely manner and, acting reasonably and in good faith, consider (and, where applicable, promptly provide to the Independent Expert in writing) all reasonable comments from Bidder and its Representatives on those drafts, provided that such comments are provided to Target in a timely manner (however in relation to the Independent Expert's Report Target makes no representation as to the extent to which the Independent Expert will receive or consider those comments);
- (c) **(consent of Bidder)** not lodge the Regulator's Draft with ASIC under clause 5.1(e) unless Bidder has provided its consent under clause 5.2(e)(i) and otherwise work collaboratively with Bidder as to the content and presentation of the Scheme Booklet;
- (d) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
- (e) **(lodgement of Regulator's Draft)**
 - (i) as soon as reasonably practicable after the date of this deed but no later than 14 days before the First Court Date, and following Bidder giving confirmation as contemplated by clause 5.2(e), provide an advanced draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of

the Regulator's Draft to Bidder immediately thereafter (for the avoidance of doubt, Target will not be deemed to have breached its obligation to use reasonable endeavours under this clause 5.1(e)(i) if it has used reasonable endeavours in respect of matters reasonably within the control of Target and will not be deemed to have breached this clause 5.1(e)(i) to the extent that Bidder, Bidder Group, a Representative of Bidder or the Independent Expert has caused or contributed to the failure of Target to lodge the Regulator's Draft with ASIC by the required time); and

- (ii) keep Bidder reasonably informed of any issues raised by ASIC in relation to the Regulator's Draft (and of any resolution of those matters) and, where practical to do so, consult with Bidder in good faith prior to taking any steps or actions to address any such issues (provided that, where such issues relate to Bidder Information, Target must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld);
- (f) **(indication of intent)** apply to ASIC for a letter indicating whether ASIC proposes to make submissions to the Court, or intervene to oppose the Scheme, during the First Court Hearing;
- (g) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet in accordance with clause 5.1(f), procure that a meeting of the Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving the Scheme Booklet for despatch to the Target Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (h) **(First Court Hearing)** apply to the Court for orders under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting, and consult with Bidder as to the content of all relevant Court Documents. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court Documents before they are lodged, and Target must consider in good faith any comments provided by or on behalf of Bidder;
- (i) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Target Information;
- (j) **(approval and registration of Scheme Booklet)** request that, in accordance with section 412(6) of the Corporations Act, ASIC register the Scheme Booklet;
- (k) **(despatch)** as soon as reasonably practicable following the receipt of the Bidder's written consent to the inclusion of the Bidder Information in the form and context in which the Bidder Information appears in such version of the Scheme Booklet (which must not be unreasonably withheld or delayed) and the subsequent registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to Target Shareholders;
- (l) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, Target becomes aware:
 - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Target Shareholders under any applicable law or RG 60 but was not included in the Scheme Booklet,

promptly consult with Bidder in good faith as to the need for, and form of, any supplementary disclosure to Target Shareholders, and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable laws and RG 60. Such consultation with Bidder includes, to the extent reasonably practicable, providing Bidder with a reasonable opportunity to review and comment on such disclosure before it is made and must consider in good faith any comments provided by or on behalf of Bidder (however in relation to any update or variation to the Independent Expert's Report in connection with the proposed supplementary disclosure, Target makes no representation as to the extent to which the Independent Expert will receive or consider those comments). To the extent that the supplementary disclosure relates to (or constitutes) Bidder Information, it may only be made with Bidder's prior written consent (not to be unreasonably withheld or delayed);

- (m) **(promote Transaction)** participate in efforts reasonably requested by Bidder to promote the merits of the Transaction, including, where reasonably requested by Bidder, meeting with key Target Shareholders;
- (n) **(no objection statement)** apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (o) **(Scheme Meeting)** convene and hold the Scheme Meeting to approve the Scheme in accordance with the orders made by the Court at the First Court Hearing;
- (p) **(Conditions Precedent certificate)** at the Second Court Hearing, provide to the Court (through its counsel):
 - (i) a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(b)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Bidder by 5:00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Bidder pursuant to clause 5.2(h);
- (q) **(Second Court Hearing)** subject to the Conditions Precedent (other than the Condition Precedent in clause 3.1(b) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme and consult with Bidder as to the content of all Court Documents. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court Documents before they are lodged, and Target must consider in good faith any comments provided by or on behalf of Bidder;
- (r) **(Court Documents)** prepare the Court Documents, provide drafts of those documents to Bidder in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from Bidder and its Representatives on those drafts, provided that such comments are provided in a timely manner;
- (s) **(Bidder representation at Court Hearings)** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court Hearing;
- (t) **(lodgement of Court order)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme before

5:00pm on the Business Day following the day on which it receives such office copy;

- (u) **(Bidder Information)** without the prior written consent of Bidder, not use the Bidder Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (v) **(Target SSSP Shares)** Target must take any reasonable action, and must procure that the Target Board exercises any discretion under the Target SSSP Rules, required to enable all Target SSSP Shares to be acquired by Bidder under the Scheme;
- (w) **(Escrowed Target Shares)** Target must take all actions required under the Oceania Escrow Deeds to enable all Escrowed Target Shares to be acquired by Bidder under the Scheme;
- (x) **(quotation of Target Shares and ASX listing)** if the Scheme becomes Effective, apply to ASX to have:
 - (i) trading in Target Shares suspended from the close of trading on the Effective Date; and
 - (ii) Target removed from the official list of ASX, and quotation of Target Shares on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following, or shortly after, the Implementation Date,

and not do anything to cause any of these things to happen before the time specified in this clause 5.1(x);

- (y) **(information)** provide Bidder with such information as Bidder reasonably requests, and procure that the Target Registry provides all information reasonably requested, for the purpose of understanding legal ownership of Target Shares and proxy appointments and directions received by Target prior the Scheme Meeting and soliciting votes in favour of the Scheme;
- (z) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy;
- (aa) **(certificate)** on the Second Court Date but before the Delivery Time, provide a certificate to Bidder confirming whether or not it is actually aware (after making reasonable enquiries) that it has breached any of its material obligations under this deed, and if it has, giving details of such breach;
- (bb) **(implementation)** if the Scheme becomes Effective, do all things contemplated of it under the Scheme and all other things (if any) necessary for Target to do to lawfully give effect to the Scheme including:
 - (i) requesting that ASX suspends trading in Target Shares from the close of trading on the Effective Date;
 - (ii) closing the Target Share Register at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Consideration as at the Record Date; and
 - (iii) executing instruments of transfer of and giving effect to and registering the transfer of the Scheme Shares to Bidder on the Implementation Date; and

- (cc) **(ASX listing)** maintain Target's admission to the official list of ASX and the quotation of Target Shares on ASX up to and including the Implementation Date.

5.2 Bidder obligations

Bidder must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme substantially in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Bidder must:

- (a) **(prepare Bidder Information)**
 - (i) as soon as reasonably practicable after the date of this deed, prepare the Bidder Information for inclusion in the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules; and
 - (ii) provide Target with drafts of the Bidder Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from Target and its Representatives on those drafts, provided that such comments are provided to Target in a timely manner;
- (b) **(assistance with Scheme Booklet and Court Documents)** provide any assistance or information reasonably requested by Target or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Target Shareholders) or any Court Documents, including reviewing the drafts of the Scheme Booklet prepared by Target and provide comments in a timely manner on those drafts in good faith;
- (c) **(Independent Expert's Report)** subject to the Independent Expert agreeing to reasonable confidentiality restrictions, provide any assistance or information reasonably requested by Target or its Representatives, or by the Independent Expert, in connection with the preparation of the Independent Expert's Report (and any update or variation to any such report);
- (d) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Bidder Information;
- (e) **(confirmation of Bidder Information)** promptly after Target requests that it does so, confirm in writing to Target that:
 - (i) it consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which the Bidder Information appears; and
 - (ii) the Bidder Information in the Scheme Booklet is not misleading or deceptive in any material respect (whether by omission or otherwise), and the inclusion of such Bidder Information, in that form and context, has been approved by the Bidder Board;
- (f) **(update Bidder Information)** promptly advise Target in writing if it becomes aware:
 - (i) of information which should have been but was not included in the Bidder Information in the Scheme Booklet (including if known at the time), and promptly provide Target with the omitted information; or

- (ii) that the Bidder Information in the Scheme Booklet is misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide Target with any information required to correct the misleading or deceptive statements;
- (g) **(Deed Poll)** before 5:00pm on the Business Day before the First Court Date, enter into the Deed Poll and deliver it to Target, and if the Scheme becomes Effective, fully comply with its obligations under the Deed Poll;
- (h) **(Conditions Precedent certificate)** before the Delivery Time, provide to Target for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(b)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Target by 5:00pm on the Business Day before the Second Court Date;
- (i) **(representation at Court)** ensure that it is represented by counsel at the First Court Hearing and the Second Court Hearing, at which, through its counsel, Bidder will 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, the Scheme and to, so far as reasonably practicable, ensure that the Court makes an order under section 411(4)(b) of the Corporations Act approving the Scheme;
- (j) **(Scheme Consideration)** if the Scheme becomes Effective, pay or procure the payment of the Scheme Consideration in the manner and in the amount contemplated by clause 4 of this deed, the terms of the Scheme and the Deed Poll (and Target holds this promise on trust for Target Shareholders);
- (k) **(share transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 4.2(b) and execute instruments of transfer in respect of the Scheme Shares;
- (l) **(certificate)** on the Second Court Date but before the Delivery Time, provide a certificate to Target confirming whether or not it is actually aware (after making reasonable enquiries) that it has breached any of its material obligations under this deed, and if it has, giving details of such breach; and
- (m) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy.

5.3 Scheme Booklet

- (a) If the parties are unable to agree on the form or content of a particular part of the Scheme Booklet, then:
 - (i) if the relevant part of the Scheme Booklet is Bidder Information, Target will make such amendments to that part of the Scheme Booklet as required by Bidder (acting reasonably and in good faith); and
 - (ii) in any other case, Target (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.

- (b) The parties agree that the Scheme Booklet will contain a responsibility statement to the effect that:
 - (i) Target is responsible for the Target Information contained in the Scheme Booklet;
 - (ii) Bidder is responsible for the Bidder Information contained in the Scheme Booklet; and
 - (iii) the Independent Expert is responsible for the Independent Expert's Report, and none of Target, Bidder or their respective directors or officers assumes any responsibility for the accuracy or completeness of the Independent Expert's Report.
- (c) Each party must undertake appropriate verification processes for the information supplied by that party for the Scheme Booklet.

5.4 Conduct of business

Subject to clause 5.5(a), from the date of this deed up to and including the Implementation Date, Target must:

- (a) ensure that the business of the Target Group is conducted:
 - (i) in the usual and ordinary course;
 - (ii) in a manner generally consistent with the manner in which such business has been conducted in the 12 months prior to the date of this deed; and
 - (iii) in accordance with all applicable laws and contractual obligations in all material respects;
 - (iv) substantially in accordance with the budget for the Target Group in respect of the financial year ending 30 June 2018 which has been provided at folder 02.03 of the Online Data Room (the **Target Group Budget**);
- (b) not, and must ensure that its Related Bodies Corporate do not:
 - (i) do or cause to be done, or fail to do or cause not to be done, anything that would or may result in the Scheme not being implemented or being implemented otherwise than substantially in accordance with the Timetable, and in accordance with the terms of this deed, provided that this clause 5.4(a)(iv) does not require a standard of conduct higher than that set out in clause 3.3 in respect of the satisfaction of the Conditions Precedent; or
 - (ii) authorise, commit or agree to do any of the matters set out above;
- (c) make reasonable endeavours to:
 - (i) retain the services of the Relevant Employees of the Target Group; and
 - (ii) maintain and preserve the Target Group's relationships with joint venturers, customers, suppliers, investors, Government Agencies, licensors, licensees and others with whom the Target Group has business dealings;
- (d) ensure that all material assets are maintained in the normal course and consistent with past practice;

- (e) ensure that the Target Group manages its cash flow in accordance with prudent practice in the ordinary course of business (including by ensuring that monthly payments to suppliers are made in accordance with the relevant contractual terms) and substantially consistent with forecast utilisation Fairly Disclosed in the Disclosure Materials prior the date of this deed;
- (f) maintain the policies of insurance held by the Target Group that are in force as at the date of this deed;
- (g) ensure that all invoices are paid as and when due, unless disputed by the relevant Target Group Company;
- (h) keep Bidder informed of any current, pending or threatened Tax or Duty audits, reviews or investigations or Tax Demands relating to any member of the Target Group, and procure that no member of the Target Group settles, compromises or otherwise deals with such audits, reviews or investigations or Tax Demands without the prior written consent of Bidder (which must not be unreasonably withheld or delayed);
- (i) ensure that none of the following events occurs:
 - (i) any member of the Target Group provides financial accommodation other than to members of the Target Group (irrespective of what form that financial accommodation takes), other than in connection with the sale or purchase of products by any member of the Target Group in the ordinary course of the Target Group's business;
 - (ii) any member of the Target Group enters into (or agrees to enter into) any Indebtedness which it was not a party to as at the date of this deed, other than in connection with:
 - (A) the sale or purchase of products by any member of the Target Group in the ordinary course of the Target Group's business; or
 - (B) a drawdown on any Target Group debt facility in place on the date of this deed in connection with the funding of any Permitted Dividend(s);
 - (iii) any member of the Target Group materially varying any employment agreement with a Relevant Employee or otherwise increasing remuneration, compensation or rights to benefits for a Relevant Employee (other than in the ordinary course of the Target Group's business, pursuant to contractual arrangements or Target Group's policies and guidelines in effect as at the date of this deed or as required by law or regulation);
 - (iv) any member of the Target Group entering into, or resolving to enter into, a transaction with a related party of Target, including giving or agreeing to give a financial benefit to a related party (other than a related party that is a member of Target Group) as defined in section 228 of the Corporations Act, other than under or in connection with an incentive plan or scheme in place as at the date of this deed;
 - (v) any member of the Target Group materially amending any agreement or arrangement with a Financial Adviser, or entering into an agreement or arrangement with a new Financial Adviser;
 - (vi) any member of the Target Group paying any of its directors, officers, or senior executives a termination or retention payment, other than in

accordance with contractual arrangements in place on the date of this deed and which have been Fairly Disclosed to Bidder in the Disclosure Materials;

- (vii) the Target Group alters in any material respect any accounting policy of any member of the Target Group, other than any change required by applicable accounting standards; or
- (viii) any member of the Target Group authorises, procures or commits or agrees to do any of the matters set out in paragraphs (i) to (vii) above.

5.5 Permitted Activities

- (a) Nothing in clause 5.4 restricts the ability of a Target Group Company to:
 - (i) take any action which:
 - (A) is required or permitted by this deed or the Scheme;
 - (B) is an action of the kind referred to in paragraph (u), (v) or (w) of the definition of Prescribed Occurrence, provided that it does not cause the relevant Prescribed Occurrence to occur;
 - (C) has been Fairly Disclosed in the Disclosure Materials or Fairly Disclosed in an announcement by Target to ASX within 5 years prior to the date of this deed, or Fairly Disclosed in a document lodged with ASIC by or on behalf of Target within 5 years prior to the date of this deed;
 - (D) has been agreed to in writing by Bidder (such agreement not to be unreasonably withheld or delayed);
 - (E) ensures that directors' and officers' run-off insurance cover for the directors and officers of Target and each member of the Target Group is maintained on terms and at such costs which are reasonable and standard for a company similar to Target or a member of the Target Group (as the case may be) for a period of 7 years from the resignation or retirement date of each such director and officer (**D&O Run-off Policy**). For the avoidance of doubt, a D&O Run-off Policy premium of more than \$400,000 for such policy would be reasonable in the circumstances existing as at the date of this deed; or
 - (F) is required by law or by any applicable governmental or other regulatory authority.
 - (b) In this deed, unless the context requires otherwise, references to the business or assets of the Target Group are to that business or those assets taken as a whole.
 - (c) For the avoidance of doubt, nothing in this clause 5.4 restricts the ability of Target to respond to a Competing Proposal in accordance with clause 8.

5.6 Access

- (a) From the date of this deed until and including the Implementation Date, Target must procure that Bidder is provided with reasonable, non-disruptive access during normal business hours and on reasonable notice to information, premises and senior executives of any member of the Target Group, where Bidder requests such access for the purposes of:

- (i) implementation of the Transaction;
- (ii) obtaining an understanding, or furthering its understanding, of the Target Group or its business or assets in order to allow Bidder to develop, finalise and implement its plans for the Target Group following implementation of the Transaction;
- (iii) finalisation of Bidder's structuring arrangements for the Transaction; or
- (iv) any other purpose that is agreed in writing between the parties (acting reasonably),

provided that compliance with any such request would not, in the reasonable opinion of Target (acting in good faith), result in undue disruption to the Target Group's business, and provided that nothing in this clause 5.6 shall require Target to provide Bidder with any information:

- (v) in breach of an obligation of confidentiality to any person; or
 - (vi) without limitation to any of Target's obligations and covenants in clause 8, concerning the consideration of the Transaction or any actual or potential Competing Proposal by the Target Board (or a sub-committee of the Target Board) or Target management.
- (b) During the period from the date of this deed up to and including the Implementation Date, Target must promptly notify Bidder in writing of any of the following matters of which Target becomes aware, and such written notification must include a reasonable summary of the relevant matter to the extent the details are known to Target:
- (i) events, facts, matters or circumstances which:
 - (A) would or would be likely to constitute a Material Adverse Change; or
 - (B) would or would be likely to have a material adverse effect on: (x) the financial or operational performance, or the reputation, of the Target Group; or (y) the Target Group's relationships with Government Agencies or key customers, suppliers, licensors, licensees, or other persons with whom the Target Group has material business dealings;
 - (ii) changes to any of the persons holding the positions of the Relevant Employees; and
 - (iii) any breach of, or default under, any law, contract (other than this deed, which is dealt with in clause 5.12), arrangement, permit, licence or authorisation that is binding upon any member of the Target Group and which is reasonably likely to result in a material liability on the part of any member of the Target Group.

5.7 Provision of certain information to Bidder

Without limiting clause 5.6(a), during the period from the date of this deed up to and including the Implementation Date, Target must promptly provide Bidder with:

- (a) all information and reports provided to the Target Board; and

- (b) a copy of all material correspondence received from, or provided or proposed to be provided to, a Government Agency,

provided that compliance with clauses 5.7(a) and 5.7(b) would not, in the reasonable opinion of Target (acting in good faith), result in undue disruption to the Target Group's business, and provided that nothing in this clause 5.7 shall require Target to provide Bidder with any information:

- (c) in breach of an obligation of confidentiality to any person; or
- (d) without limitation to any of Target's obligations and covenants in clause 8, concerning the consideration of the Transaction or any actual or potential Competing Proposal by the Target Board (or a sub-committee of the Target Board) or Target management.

5.8 Change of Control Requirements

As soon as practicable after the date of this deed, the parties must:

- (a) seek to identify any change of control or similar provisions in any contracts to which a member of the Target Group is party which may be triggered by the implementation of the Transaction (**Change of Control Requirements**); and
- (b) use all reasonable endeavours to agree a proposed strategy to obtain any consents required in accordance with the terms of any identified Change of Control Requirements, and, if agreed between parties as part of the proposed strategy, to then use reasonable efforts to promptly seek those consents in accordance with the agreed strategy.

5.9 Financing arrangements

- (a) Between the date of this deed and the Implementation Date, Target must provide assistance reasonably requested by Bidder in connection with any repayment of Target Group Indebtedness (which shall be repaid on the Implementation Date) that Bidder reasonably requires in connection with the Transaction, including:
 - (i) providing the Bidder with information reasonably requested by Bidder in relation to use of existing cash reserves of the Target Group for such purpose;
 - (ii) issuing prepayment notices in relation to the existing Target Group debt facilities, and using reasonable endeavours to close out hedging arrangements (will shall be closed out on the Implementation Date); and
 - (iii) using reasonable endeavours to procure deeds of release and discharges of real property mortgages and registrations on the Personal Property Securities Register from secured parties in relation to any security interest granted by a member of Target Group in favour of that party and using reasonable endeavours procuring the return of any little documents held by a secured party.
- (b) Target agrees to provide assistance in connection with the arrangement or syndication of any debt financings by any member of Bidder Group (**Transaction Financing**) as may be reasonably requested by Bidder and from time to time (at Bidder's sole cost, except that the remuneration of Employees will continue to be paid by the Target Group), including:

- (i) participating in meetings (including meetings with ratings agencies), drafting sessions and due diligence sessions;
- (ii) furnishing Bidder and the financing sources of Bidder Group within a reasonable timeframe with reasonable financial and other pertinent information regarding Target Group or an entity in which any member of Target Group has an investment, as may be reasonably requested by Bidder;
- (iii) providing reasonable assistance to Bidder and its financing sources in the preparation of any offering document to be used in obtaining or syndicating any debt financing, and any materials required in connection with ratings agency presentations;
- (iv) providing reasonable co-operation with any marketing efforts undertaken by Bidder Group and its financing sources related to debt financings (including by making available such senior executives of Target as reasonably requested by Bidder at mutually convenient times);
- (v) providing reasonable assistance to Bidder Group to satisfy any conditions and obligations of any financing to the extent it is within its reasonable control; and
- (vi) providing reasonable information required to complete a reconciliation of financial statements to applicable accounting standards,

provided, in each case that no member of Target Group shall be required to incur any liability in connection with any Transaction Financing prior to implementation of the Scheme.

- (c) Nothing in this clause 5.9 shall require co-operation to the extent that it would cause any Condition Precedent to not be satisfied or otherwise cause a breach of this deed.
- (d) Bidder must indemnify Target (in its own right and separately as trustee or nominee for each Target Indemnified Party) and each of the Target Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment, of whatever nature and however arising, suffered or incurred by any of them in connection with any Transaction Financing and any information utilised in connection with any Transaction Financing, in each case other than to the extent any of the foregoing arises from the bad faith or wilful misconduct of, or breach of this deed by, Target or a Target Indemnified Party.
- (e) No Target Group Company or Target Indemnified Party will be required to execute, other than subject to the Scheme becoming Effective, any credit agreements, pledge or security documents or legal opinions in connection with Transaction Financing.

5.10 Resignation of directors

Subject to provision of the Scheme Consideration in accordance with clause 4.2, Target must procure that, with effect on and from the Implementation Date:

- (a) those persons nominated by Bidder are appointed to the Target Board and the boards of other members of the Target Group, provided that:

- (i) such persons sign consents to act as a director of the relevant member(s) of the Target Group; and
- (ii) such consents to act are provided to Target before the Implementation Date; and
- (b) those Target Directors and directors of other members of the Target Group, as nominated by Bidder, resign as a director of the relevant member(s) of the Target Group by providing to the relevant board their resignation in writing (such resignation to include a statement to the effect that the outgoing director has no claim outstanding against any member of the Target Group, provided that nothing in this clause 5.10(b) requires any such director to forego any rights they may have under any deed of access and indemnity or policy of directors and officers insurance).

5.11 Appeal process

If the Court refuses to make any orders directing Target to convene the Scheme Meeting or approving the Scheme, Target and Bidder must:

- (a) consult with each other in good faith as to whether to appeal the Court's decision; and
- (b) appeal the Court's decision unless the parties agree otherwise under paragraph (a) or an independent senior counsel opined that, in his or her view, an appeal would have no reasonable prospect of success.

5.12 Notification of material breach

- (a) During the period from the date of this deed up to and including the Implementation Date, Target must promptly notify Bidder in writing of any material breach of this deed by Target (including any breach of a Target Scheme Warranty) of which Target becomes aware.
- (b) During the period from the date of this deed up to and including the Implementation Date, Bidder must promptly notify Target in writing of any material breach of this deed by Bidder (including any breach of a Bidder Warranty) of which Bidder becomes aware.
- (c) Any written notification provided by a party under paragraph (a) or (b) above must include a reasonable summary of the relevant material breach, to the extent the details are known to the party providing the notice.

6 Public announcements

- (a) Immediately after execution of this deed, Target must release the Agreed Public Announcement.
- (b) Subject to clause 6(c), before making any public announcement in relation to the Transaction (whether through the ASX or otherwise), a party must provide the other party with a draft copy of the relevant portion of such public announcement as soon as reasonably practicable before it is proposed that such public announcement is made, and must give the other party a reasonable opportunity to comment on the form and content of the relevant portion of such draft announcement and must take into account all reasonable comments from that party and its Representatives on the draft.

- (c) A party will only be required to comply with clause 6(b) if and to the extent that compliance would not, in the reasonable opinion of that party, be likely to result in that party breaching its continuous disclosure or similar obligations.
-

7 Board support of Transaction

7.1 Confirmation of Recommendations and Voting Intentions

Target represents and warrants to Bidder that each Target Director has confirmed (by way of a unanimous resolution of the Target Board) that:

- (a) his or her recommendation in respect of the Scheme is that Target Shareholders vote in favour of the Scheme at the Scheme Meeting (**Recommendation**); and
- (b) he or she intends to vote, or cause to be voted, all Target Shares held or Controlled by him or her in favour of the Scheme at the Scheme Meeting (**Voting Intention**),

in each case qualified only by words to the effect of:

- (c) “in the absence of a Superior Proposal”; and
- (d) “subject to the Independent Expert concluding in the Independent Expert’s Report (or any update or variation to that report) that the Transaction is in the best interests of Target Shareholders”.

7.2 Maintenance of Recommendation and Voting Intention

Target must use its reasonable endeavours to ensure that no Target Director withdraws, changes or modifies his or her Recommendation or Voting Intention unless:

- (a) the Target receives a Competing Proposal and the Target Board determines, after all of the Bidder's rights under clause 8.7 have been exhausted, that the Competing Proposal constitutes a Superior Proposal; or
- (b) the Independent Expert concludes in the Independent Expert’s Report (or any update or variation to that report) that the Transaction is not in the best interests of Target Shareholders.
- (c) Subject to a Target Director withdrawing or changing a Recommendation or Voting Intention following the occurrence of one of the events referred to in clause 7.2, Target must ensure that:
 - (i) the Scheme Booklet includes statements to the effect that that Target Director gives the Scheme Recommendation and has the Voting Intention; and
 - (ii) no public announcement is made by Target, and use its reasonable endeavours to procure that no public statement is made by that Target Director, which is inconsistent with that Target Director giving the Recommendation and having the Voting Intention.

8 Exclusivity

8.1 Termination of existing discussions

Target represents and warrants to Bidder that, as at the date of this deed, Target Group:

- (a) is not a party to any agreement or arrangement with a Third Party entered into for the purpose of facilitating a Competing Proposal;
- (b) is not, directly or indirectly, participating in any discussions or negotiations with a Third Party that concern, or that could reasonably be expected to lead to, a Competing Proposal;
- (c) has ceased any existing discussions or negotiations with any Third Party in relation to a potential Competing Proposal; and
- (d) has ceased the provision of any non-public information in relation to the Target Group (**Non-public Information**) to any Third Party, where the provision of Non-public Information was for the purposes of a potential Competing Proposal.

8.2 No-shop restriction

During the Exclusivity Period, Target Group must not, and must procure that its Representatives do not:

- (a) solicit, initiate, encourage or invite any Competing Proposal;
- (b) solicit, initiate, encourage or invite enquiries, discussions, negotiations or proposals in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or
- (c) communicate to any person any intention to do any of the things referred to in clauses 8.2(a) to 8.2(b).

8.3 No-talk restriction

Subject to clause 8.6, during the Exclusivity Period, Target Group and its Representatives must not (whether directly or indirectly):

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of these things;

in relation to, or which may reasonably be expected to lead to, a Competing Proposal, even if:

- (c) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Target Group; or
- (d) that person has publicly announced the Competing Proposal.

8.4 No due diligence restriction

During the Exclusivity Period, Target must not directly or indirectly:

- (a) solicit, initiate, facilitate, encourage or invite any person (other than Bidder, its affiliates or its Representatives) to undertake due diligence investigations in respect of the Target or any member of the Target Group, or any of their respective businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
- (b) subject to clause 8.6, make available to any person (other than Bidder, its affiliates or its Representatives) or permit any such person to receive, other than in the ordinary course of business or as required by law or the rules of any prescribed financial market, any Non-public Information relating to the Target or any member of the Target Group, or any of their respective businesses and operations with a view to obtaining or which may reasonably be expected to lead to a Competing Proposal.

8.5 Notification obligation

- (a) During the Exclusivity Period, Target must notify Bidder in writing as soon as practicable and in any event within 2 Business Days if Target Group or any of Target's Representatives:
 - (i) receives a Competing Proposal or any approach, inquiry or proposal made by a Third Party to initiate any discussions or negotiations that could reasonably be expected to lead to a Competing Proposal; or
 - (ii) any request made by a Third Party for any information in relation to Target Group or any of their businesses or operations, that the Target Board has reasonable grounds to suspect may be in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal,

(each, a **Notifiable Proposal**).
- (b) A notice provided by Target to Bidder under clause 8.5(a) must set out the material terms of the Notifiable Proposal, including (as the case may be):
 - (i) the identity of the Third Party that made the Notifiable Proposal; and
 - (ii) to the extent known by Target, the material terms (including price, conditions precedent and proposed timing) of any Competing Proposal or any proposed Competing Proposal.

8.6 Fiduciary exception

Clauses 8.3 and 8.4 do not apply to the extent they restrict Target or any Target Director from taking or refusing to take any action with respect to a Competing Proposal, approach, inquiry, proposal or request for information (in relation to which there has been no contravention of this clause 8) provided that:

- (a) the Competing Proposal, approach, inquiry or proposal or request for information (as the case may be) is bona fide and is made by or on behalf of a person that the Target Board considers is of sufficient commercial standing; and
- (b) the Target Board has determined in good faith after:
 - (i) consultation with Target's financial and legal advisers, that the Competing Proposal, approach, inquiry or proposal or request for information (as the

case may be) is or may be reasonably expected to lead to a Superior Proposal; and

- (ii) receiving advice from Target's external Australian legal advisers practicing in the area of corporate law, that failing to take the action or refusing to take the action (as the case may be) with respect to the Competing Proposal, approach, inquiry, proposal or request for information (as the case may be) may constitute a breach of its fiduciary or statutory duties.

8.7 Matching right

(a) Target must:

- (i) not, and must procure that its Representatives do not, enter into any legal binding agreement, arrangement or understanding to implement a Competing Proposal; and
- (ii) use its reasonable endeavours to ensure that no Target Director withdraws, changes or modifies his or her Recommendation or Voting Intention (as set out in clause 7.1) or publicly recommends, supports or endorses a Competing Proposal,

unless:

- (iii) the Competing Proposal is a Superior Proposal;
- (iv) Target has provided Bidder with the material terms (including the price, conditions precedent and proposed timing) of, and the identity of the Third Party that made, the Competing Proposal;
- (v) Target has given Bidder at least 5 Business Days after provision of all of the information referred to in clause 8.7(a)(iv) to provide a counter proposal to the Competing Proposal (**Bidder Proposal**); and
- (vi) Bidder has not provided a Bidder Proposal which the Target Board, acting in good faith, after consulting with its financial and legal advisers, determines would be reasonably likely to provide an outcome that is no less favourable to or more favourable to Target Shareholders as a whole than the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty and timing) by the expiry of the period referred to in clause 8.7(a)(v).

(b) Target's obligations under paragraph (a) apply in respect of each new Competing Proposal and any material variation or amendment to a Competing Proposal.

(c) The Target Board must consider a Bidder Proposal provided before the expiry of the period referred to in clause 8.7(a)(v) and, if it determines that the Bidder Proposal would provide an outcome that is no less favourable to or more favourable to Target Shareholders as a whole than the relevant Competing Proposal in accordance with clause 8.7(a)(vi), then Target and Bidder must use their best endeavours to agree any amendments to this deed and the contents of the Scheme Booklet which are reasonably necessary to reflect the Bidder Proposal, and once agreed:

- (i) Target and Bidder must enter into an appropriate amending deed to give effect to those amendments; and

- (ii) Target must use its reasonable endeavours to ensure that the Target Board unanimously recommends the Bidder Proposal to Target Shareholders and does not recommend the applicable Competing Proposal,

in each case as soon as reasonably practicable.

9 Break Fee

9.1 Background

- (a) This clause 9 has been agreed to in circumstances where:
 - (i) Target believes that it and the Target Shareholders will derive significant benefits from the implementation of the Transaction;
 - (ii) Bidder has incurred and will further incur significant costs in connection with the Transaction, which will include significant opportunity costs if the Transaction is not implemented;
 - (iii) Bidder has requested that provision be made for the payment of the Break Fee by Target, and would not have entered into this deed had such provision not been made;
 - (iv) Target believes that it is appropriate to agree to pay the Break Fee to secure Bidder's entry into this deed; and
 - (v) Target has received separate legal advice in relation to this deed and the operation of this clause 9.
- (b) The parties acknowledge and agree that the costs referred to in clause 9.1(a)(ii) are of such a nature that they cannot be precisely quantified, but that the Break Fee is a genuine and reasonable pre-estimate of a proportion of the those costs.

9.2 Payment of Break Fee

Subject to clauses 9.4, 9.5, 9.6 and 9.7, Target must pay Bidder the Break Fee (without set-off or withholding) within 10 Business Days after receipt of a written demand from Bidder if any of the following events occur:

- (a) any Target Director:
 - (i) fails to make, withdraws, adversely changes or adversely modifies his or her Recommendation or Voting Intention; or
 - (ii) makes any public statement supporting or endorsing a Competing Proposal, other than:
 - (iii) as a direct result of or following the Independent Expert opining to the effect that the Transaction is not in the best interests of Target Shareholders except where the sole or dominant reason for the Independent Expert's opinion is the existence of a Superior Proposal; or
 - (iv) in circumstances where Target is entitled to terminate this deed under clause 12.1(b);

- (b) at any time before the End Date or, if earlier, the date this deed is terminated under clause 12, a Competing Proposal is publicly announced by a Third Party and, within 9 months after that occurring, the Third Party or an associate of the Third Party completes a transaction of the kind referred to in paragraphs (b) or (c) of the definition of Competing Proposal;
- (c) Bidder becomes entitled to terminate this deed under clause 12.1(b); or
- (d) there is a breach or non-fulfilment of the Condition Precedent in clause 3.1(e) and Bidder has given Target a Termination Notice under clause 3.5 in respect of the breach or non-fulfilment of that Condition Precedent.

9.3 Nature of payment

The Break Fee is an amount to compensate Bidder for the following costs and expenses:

- (a) fees for legal and financial advice in planning and implementing the Transaction;
- (b) reasonable opportunity costs incurred in engaging in the Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
- (c) costs of management and directors' time in planning and implementing the Transaction;
- (d) out of pocket expenses incurred in planning and implementing the Transaction;
- (e) costs associated with the financing arrangements in respect of the Transaction; and
- (f) any damage to Bidder's reputation associated with a failed transaction,

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

9.4 Compliance with law

- (a) This clause 9 imposes obligations on Target only to the extent that the performance of all or part of those obligations:
 - (i) does not constitute unacceptable circumstances as declared by the Australian Takeovers Panel; and
 - (ii) is not determined to be unlawful or unenforceable by a court,
 subject to all proper avenues of appeal and review, judicial and otherwise, having been exhausted.
- (b) The parties must not make, or cause or permit to be made, any application to the Australian Takeovers Panel or a court for or in relation to a declaration or determination of a kind referred to in clause 9.4(a)(i) or 9.4(a)(ii).
- (c) If the Break Fee is paid to Bidder and clause 9.4(a)(i) or 9.4(a)(ii) applies, Bidder must refund the relevant part of the Break Fee (if any) to Target within 10 Business Days after receipt of a written demand from Target.

9.5 Payment conditions

- (a) Notwithstanding the occurrence of any event referred to in clause 9.2, the Break Fee will not be payable if the Scheme becomes Effective.
- (b) Target can only ever be liable to pay the Target Break Fee once.

9.6 Limitation of liability

Notwithstanding any other provision of this deed the maximum liability of Target under or in connection with this deed (including in respect of any breach by Target of the terms of this deed) is an amount equal to the Break Fee and in no event will the aggregate liability of Target under or in connection with this deed (including in respect of any breach by Target of the terms of this deed) exceed an amount equal to the Break Fee.

9.7 Exclusive remedy

A payment by Target in accordance with this clause 9 represents the sole and absolute liability of Target under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Target in connection with this deed.

10 Warranties

10.1 Bidder Warranties

Bidder represents and warrants to Target that each Bidder Warranty is true and correct.

10.2 Bidder's indemnity

Bidder agrees to indemnify Target and each of the Target Indemnified Parties against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Target or any of the other Target Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Bidder Warranties.

10.3 Target Warranties

Subject to clauses 10.5 and 10.6, Target represents and warrants to Bidder that each Target Warranty is true and correct.

10.4 Target's indemnity

Subject to clauses 10.5 and 10.6, Target agrees with Bidder (in its own right and separately as trustee or nominee for each Bidder Indemnified Party) to indemnify Bidder and each of the Bidder Indemnified Parties against any Claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Bidder or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Target Warranties.

10.5 Qualifications on Target Warranties

The Target Warranties and the Indemnities are each subject to matters that:

- (a) have been Fairly Disclosed in:
 - (i) the Disclosure Materials; and

- (i) any announcement by Target to ASX within 5 years prior to the date of this deed, or Fairly Disclosed in a document lodged with ASIC by or on behalf of Target within 5 years prior to the date of this deed;
 - (ii) the Disclosure Letter; or
- (b) are within the actual knowledge of Bidder as at the date of this deed, which for these purposes, will be taken to include (and be limited to) the facts, matters and circumstances of which the following individuals are actually aware as at the date of this deed:
 - (i) Geoff Hutchinson;
 - (ii) Tony Duthie; and
 - (iii) Matthew Robinson.

10.6 W&I Policy and limitations on Claims in connection with a Target Warranty or Indemnity

Notwithstanding any provision to the contrary in this deed:

- (a) Bidder agrees that it will not be entitled to make, and that it will not make, and irrevocably waives any right it may have to make, any Warranty or Indemnity Claim, except to the extent required to permit a Claim under the W&I Policy (if any) and then only on the basis that Target will have no liability whatsoever for such Claim.
- (b) Bidder covenants in favour of Target that, prior to the Scheme becoming Effective and subject to Bidder taking out a W&I Policy, it will:
 - (i) not do anything that causes any right of the insured under the W&I Policy not to have full force and effect upon its terms;
 - (ii) not novate or assign its rights under the W&I Policy other than where permitted by the terms of the W&I Policy; and
 - (iii) comply with the terms of the W&I Policy relating to deliverables required to satisfy conditions in the W&I Policy;
- (c) Bidder must ensure that any W&I Policy includes terms to the effect that:
 - (i) the insurer irrevocably waives its rights to bring any Claim against Target by way of subrogation, claim for contribution or otherwise; and
 - (ii) Bidder acknowledges that Target is entitled to directly enforce such waivers and that in respect of the waivers Bidder contracts in its own right and as agent of each Target Indemnified Party;
- (d) Bidder acknowledges and agrees that:
 - (i) there is no excess or any other amount payable by any member of the Target Group or a Target Indemnified Party under the W&I Policy (if any);
 - (ii) sub-paragraph (i) above applies regardless of whether or not it takes out a W&I Policy; and

- (iii) in the event that it takes out a W&I Policy, it will promptly provide Target with a copy of such policy; and
- (e) Target acknowledges and agrees that:
 - (i) Bidder is under no obligation to take out a W&I Policy; and
 - (ii) if Bidder takes out a W&I Policy and provides a copy of such policy to it, it shall keep the terms of such policy confidential in accordance with the Confidentiality Deed.

10.7 Survival of Warranties

Each Warranty:

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

10.8 Survival of indemnities

Each indemnity in this deed (including those in clauses 10.2 and 10.4):

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survives the termination of this deed.

10.9 Timing of Warranties

- (a) Each Warranty is given at the date of this deed and again at the Delivery Time, except that:
 - (i) the Bidder Warranty in paragraph (r) of Schedule 3 is given on each date from the date on which the Bidder Facility Agreements are entered into until the 8.00am on the Implementation Date;
 - (ii) the Bidder Warranty in paragraph (s) of Schedule 3 is only given at the date of this deed;
 - (iii) the Target Scheme Warranty in paragraph (j) of Schedule 4 is only given at the date of this deed; and
 - (iv) the Target Business Warranties are given on the Implementation Date.
- (b) For the purposes of clause 10.9(a), a Warranty shall be read with any necessary adjustments to the tense used in the Warranty.

10.10 Knowledge, belief and awareness of Target

Certain statements made in this deed (including certain Target Warranties) are given and made by Target only on the basis of its knowledge, belief or awareness. For the purposes of this deed, Target's knowledge, belief or awareness is limited to the actual knowledge, belief or awareness of the Specified Individuals and the knowledge, belief or awareness of which the Specified Individuals ought to have had, having made due and proper enquiries of each other and of their direct reports.

10.11 Tax indemnity

Subject to clause 10.6, Target indemnifies Bidder against, and must pay Bidder on demand the amount of, any losses, liabilities, damages, costs, charges or expenses attributable to:

- (a) Tax or Duty payable by a member of the Target Group (whether payable before, on or after implementation of the Scheme) as a result of a Tax Demand to the extent that such Tax or Duty relates to:
 - (i) any period, or part period, up to and including implementation of the Scheme; or
 - (ii) any act, transaction, event or omission, or any misstatement, executed, performed or made on or prior to implementation of the Scheme,excluding any Duty payable by Bidder under clause 14.1;
- (b) the loss or limitation, including any reduction in the rate of use, of any tax attributes of the Target Group at the implementation of the Scheme due to prior changes in the control or ownership of the Target Group; or
- (c) Tax Costs incurred by or on behalf of a member of the Target Group to the extent that such Tax Costs arise from or relate to any of the matters for which Target may be liable under clauses 10.11(a) or 10.11(b),

in each case except to the extent that Target's liability is limited or qualified under clause 10.5.

11 Releases

11.1 Release of Target Indemnified Parties

- (a) Subject to clauses 11.1(b) and 11.1(d), Bidder releases any and all rights that it may have, and agrees with Target that it will not make any Claim, against any Target Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by Target under this deed;
 - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Target Indemnified Party has engaged in fraud or wilful misconduct.

- (b) Subject to clause 11.1(d), Bidder releases any and all rights that it may have, and agrees with Target that it will not make any Claim, against any Target Indemnified Party as at the date of this deed and from time to time in connection with any matter described in paragraphs (i), (ii) or (iii) of clause 11.1(a) in relation to the Target Business Warranties, whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise.
- (c) To avoid doubt, nothing in clause 11.1(a) or clause 11.1(b) limits the rights of Bidder to terminate this deed under clause 12.
- (d) The releases in clauses 11.1(a) and 11.1(b) are subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (e) Target receives and holds the benefit of clauses 11.1(a) and 11.1(b) as trustee for the Target Indemnified Parties.

11.2 Release of Bidder Indemnified Parties

- (a) Subject to clause 11.2(b), Target releases any and all rights that it may have, and agrees with Bidder that it will not make any Claim, against any Bidder Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by Bidder under this deed;
 - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Bidder Indemnified Party has engaged in fraud or wilful misconduct. To avoid doubt, nothing in this clause 11.2 limits the rights of Target to terminate this deed under clause 12.

- (b) The release in clause 11.2(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) Bidder receives and holds the benefit of clause 11.2(a) as trustee for that Bidder Indemnified Parties.

11.3 Deeds of indemnity and insurance

- (a) Subject to the Scheme becoming Effective and the Transaction completing, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:
 - (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its current and previous directors and officers against any liability incurred by that person in

his or her capacity as a director or officer of the company to any person other than a member of the Target Group; and

- (ii) procure that Target and each member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained, for a period of 7 years from the retirement date of each director and officer.
- (b) Bidder acknowledges that notwithstanding any other provision of this deed, Target may, prior to the Implementation Date, enter into arrangements to secure the D&O Run-off Policy and that any actions to facilitate that insurance (subject to the premium limit prescribed in 5.5(a)(i)(D)) or in connection therewith will not be Prescribed Occurrences or breach any provision of this deed.
- (c) The undertakings contained in clause 11.3(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (d) Target receives and holds the benefit of clause 11.3(a), to the extent it relates to the other Target Indemnified Parties as trustee for them.
- (e) The undertakings contained in clause 11.3(a) are given until the earlier of the end of the relevant period specified in clause 11.3(a) or the relevant Target Group Member ceasing to be part of the Target Group.

12 Termination

12.1 Termination by either party

- (a) Either party may terminate this deed in accordance with clause 3.5.
- (b) At any time before the Delivery Time, either party may terminate this deed if the other party commits a material breach of this deed, provided that:
 - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances have not been remedied within 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date).

Termination under this clause 12.1(b) will take effect at the expiry of the period referred to in clause 12.1(b)(ii).

12.2 Termination by Bidder

Bidder may terminate this deed, with immediate effect, at any time before the Delivery Time by notice in writing to Target if:

- (a) Target materially breaches clause 8;
- (b) in any circumstances (including where clause 7.2 applies), a Target Director:
 - (i) withdraws, adversely changes or makes any public statement that is inconsistent with a Recommendation or Voting Intention; or

- (ii) recommends, endorses or supports any Competing Proposal; or
- (c) in any circumstances, Target enters into any agreement or arrangement in relation to the implementation of a Competing Proposal.

12.3 Termination by Target

- (a) Without limiting Target's obligations under clauses 7.2 and 8.7, Target may terminate this deed, with immediate effect, by notice in writing to Bidder if, at any time before the Delivery Time, a majority of the Target Board publicly:
 - (i) withdraws, qualifies or adversely changes their Recommendation; or
 - (ii) recommends a Competing Proposal.
- (b) Target may terminate this deed, with immediate effect, by notice in writing to Bidder if the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that in its opinion the Transaction is not in the best interests of Target Shareholders.

12.4 Termination by written agreement

This deed may be terminated by the written agreement of the parties, on such terms as the parties agree.

12.5 Effect of termination

If this deed is terminated in accordance with this clause 12, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 12.5 and clauses 1, 11, 13, 14, 15 and 16, and Schedule 1, will survive termination;
- (b) each party will retain any rights and remedies that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination; and
- (c) if Target is required to pay the Break Fee as a result of this deed being terminated, Target has paid Bidder the Break Fee.

13 Confidentiality

Each party acknowledges and agrees that nothing in this deed derogates from the rights and obligations of Bidder and Target under the Confidentiality Deed, provided that this deed prevails to the extent of any inconsistency with the Confidentiality Deed.

14 Duty, costs and expenses

14.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed or any transaction effected under it; and

- (b) indemnifies Target against any liability arising from or in connection with any failure by it to comply with clause 14.1(a).

14.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of the Transaction.

15 GST

- (a) In this clause 15, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that legislation.
- (b) If a party makes a supply under or in connection with this deed in respect of which GST is payable, the consideration for the supply but for the application of this clause 15(b) (**GST exclusive consideration**) is increased by an amount (**Additional GST amount**) equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (c) If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by the amount equal to any input tax credit the other party, or the representative member of the GST group of which the other party is a member, is entitled to with respect to the loss, cost or expense, and then increased in accordance with clause 15(b) if such amount is consideration for a taxable supply made under or in connection with this deed.
- (d) A party need not make a payment of the Additional GST amount until it receives a tax invoice or adjustment note (as appropriate) for the supply to which the payment relates.

16 General

16.1 Notices

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
 - (i) in writing;
 - (ii) sent by an authorised representative of the sender; and
 - (iii) marked for the attention of the person named below,and must be:
 - (iv) left at, or sent by commercial courier to, the address set out below;
 - (v) sent by email to the address set out below.

Bidder

Attention: Geoff Hutchinson

Address: Level 31, 126 Phillip Street, Sydney New South Wales 2000,

Australia

Email: geoff.hutchinson@pep.com.au

with a copy (for information purposes only) to: tom.story@allens.com.au

Target

Attention: Matt Muscio, Chief Executive Officer

Address: Level 8, 15 Talavera Road, North Ryde, New South Wales
2113, Australia

Email: matt.muscio@lifehealthcare.com.au

with a copy (for information purposes only) to: jwilliamson-noble@gtlaw.com.au

- (b) Subject to clause 16.1(c), a Notice is taken to be received:
 - (i) if sent by delivery, when it is delivered;
 - (ii) if sent by commercial courier, three days after dispatch;
 - (iii) if sent by email:
 - (A) when the sender receives an automated message confirming delivery;
or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,
- whichever happens first.
- (c) If a Notice is taken to be received under clause 16.1(b):
 - (i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or
 - (ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day.

16.2 Governing law and jurisdiction

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

16.3 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 and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

- (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 person, except for any representation or inducement expressly set out in this deed.

16.4 No merger

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

16.5 Waivers and consents

- (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 a 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.
- (d) Except where this deed expressly provides otherwise, where the consent of a party is required under this deed, such consent may be given or withheld in that party's absolute discretion.

16.6 Variation

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

16.7 Assignment

Subject to the following sentence, 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. On and from the date on which the Bidder draws down its financing and deposits some or all of those proceeds into the trust account operated by Target in accordance with clause 4.2(b), Bidder may assign this deed for collateral security purposes to any lender to Bidder or its affiliates solely for the purpose of obtaining finance or providing security in connection with the Transaction, provided that no assignment to any such lender shall affect Bidder's obligations under this deed or increase Target's obligations under this deed.

16.8 Further action

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

16.9 Entire agreement

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

16.10 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other jurisdiction. Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.

This clause 16.10 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

16.11 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

1 Dictionary

Accounting Standards means:

- (a) the requirements of the Corporations Act about the preparation of financial reports; and
- (b) the accounting standards and any authoritative interpretations issued by the Australian Accounting Standards Board.

Accounts means the consolidated financial statements (including the notes thereto) contained in the financial report in respect of the Target Group for the period to the Accounts Date.

Accounts Date means 30 June 2017.

Additional GST amount has the meaning given in clause 15(d).

Agreed Public Announcement means an announcement in a form agreed between Bidder and Target prior to execution of this deed, to be released by each of Bidder and Target pursuant to clause 6(a).

Alternative Incentive Arrangements has the meaning given in clause 4.4(b).

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12 of the Corporations Act.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

Bidder Board means the board of directors of Bidder.

Bidder Director means a director of Bidder.

Bidder Facility Agreements means the debt facility agreements to be entered into pursuant to the Debt Commitment Letter.

Bidder Group means, collectively, Bidder and each of its Related Bodies Corporate.

Bidder Indemnified Party means a director, officer, employee or adviser of a member of the Bidder Group.

Bidder Information means information regarding the Bidder Group provided by or on behalf of Bidder to Target or its Representatives in writing for inclusion in a Scheme Booklet.

Bidder Warranty means a representation and warranty of Bidder set out in Schedule 3.

Break Fee means an amount equal to 1% of the aggregate Scheme Consideration payable for all the Target Shares under the Scheme (before any reduction for the amount of any Permitted Dividend(s) paid by Target in accordance with clause 4.3(b)).

Business means the business and activities of the Target Group as conducted as at the date of this deed.

Business Day has the meaning given in the Listing Rules.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Competing Proposal means any proposal, offer, agreement, arrangement or transaction (including by way of takeover bid or scheme of arrangement) which, if entered into or completed substantially in accordance with its terms, would result in a Third Party (either alone or together with one or more Associates) directly or indirectly:

- (a) acquiring an interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest in more than 20% of the Target Shares (other than as a custodian, nominee or bare trustee);
- (b) acquiring or becoming the holder of all or a substantial part of the business or assets of the Target Group ; or
- (c) acquiring Control of or merging with Target or any other material member of the Target Group, whether by takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets or interests therein, joint venture, reverse takeover bid, dual-listed company structure, recapitalisation, establishment of a new holding company for the Target Group or other synthetic merger, or any other means.

Condition Precedent means a condition set out in clause 3.1.

Conditional Vesting Notice has the meaning given in clause 4.4(b).

Confidentiality Deed means the confidentiality deed between Target and PEP Services Pty Limited (ACN 165 732 347) in relation to the Transaction, dated 22 November 2017.

Consolidated Group means a “consolidated group” or a “MEC group” as those terms are defined in section 995-1(1) of the ITAA 1997.

Consultation Notice has the meaning given in clause 3.5(a).

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 agreed in writing between Bidder and Target.

Court Documents means the documents required for the purposes of a Court Hearing, including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders.

Court Hearing means the First Court Hearing or Second Court Hearing (as applicable), and **Court Hearings** means both of them.

D&O Run-off Policy has the meaning given to that term in clause 5.5(a)(i)(E).

Debt Commitment Letter means the credit-approved, executed commitment letter and accompanying term sheet from certain financial institutions addressed to Bidder and dated 29 January 2018.

December 2017 Management Accounts means document 07.02.06 in the Online Data Room.

Deed Poll means the deed poll to be entered into by Bidder in the form of Attachment C.

Delivery Time means, in relation to the Second Court Date, 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act is due to commence.

Discloser has the meaning given in clause 3.3(f).

Disclosure Materials means the information in relation to the Target Group disclosed in writing by or on behalf of Target to Bidder and its Representatives prior to the date of this deed in:

- (a) the Online Data Room; and
- (b) any written answers to requests for further information made by Bidder and its Representatives as contained in the Online Data Room.

Disclosure Letter means the letter containing disclosures against the Target Warranties addressed to Bidder and delivered to it on or before signing of this deed and includes all of its schedules and annexures (if any).

Disputing Action means, in respect of a Tax Demand, any action to cause the Tax Demand to be withdrawn, reduced or postponed or to avoid, resist, object to, defend, appear against or compromise the Tax Demand and any judicial or administrative proceedings arising out of that action.

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.

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

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

Employee means an employee of a Target Group Company.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means 27 July 2018 or such later date as Bidder and Target agree in writing.

Equity Commitment Letter means the binding, executed commitment letter dated 31 January 2018 addressed to Bidder and others from the PEP Parties and agreed to and accepted by Bidder.

Escrowed Target Shares means the Target Shares which are the subject of voluntary escrow arrangements under the Oceania Escrow Deeds.

Exclusivity Period means the period from the date of this deed to the earlier of:

- (a) the termination of this deed under clause 12; and
- (b) the End Date.

Exercise Period has the meaning given in clause 4.4(b)(ii)(A).

Fairly Disclosed means, in relation to a fact, matter, circumstance or information, disclosed in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Transaction to identify the nature and scope of that fact, matter, circumstance or information.

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

Financial Adviser means any financial adviser retained by Target in connection with the Scheme or a Competing Proposal.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Target to convene 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) with such hearing being the **First Court Hearing**.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory 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, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel).

GST has the meaning given in the GST Law.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the same meaning as in the GST Act.

GST exclusive consideration has the meaning given in clause 15(b).

Head Company has the meaning given by section 995-1 of the ITAA 1997.

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

Implementation Date means the fifth Business Day after the Record Date or such other day as the parties agree in writing.

Incentive Securityholder has the meaning given in clause 4.4(b).

Indebtedness means any debt or other monetary liability (whether actual or contingent), together with all interest, fees and penalties accrued thereon, in respect of moneys borrowed or raised or any financial accommodation including under or in respect of any:

- (a) bill, bond, debenture, note or similar instrument;
- (b) acceptance, endorsement or discounting arrangement;
- (c) guarantee or letter of credit;
- (d) finance or capital lease;
- (e) swap, option, hedge, forward, futures or similar transaction;
- (f) redeemable share or security;
- (g) deferral of a purchase price or other payment in relation to the acquisition of any asset or service;
- (h) obligation to deliver assets or services paid for in advance by a financier, or any guarantee of the obligations of another person with respect to the foregoing;
- (i) all recourse and non-recourse liabilities and other liabilities (whether conditional or unconditional, present or future) arising from any transactions related to the assignment or securitisation of receivables for financing purposes to any third party, including all factoring agreements and similar agreements executed for the purpose of obtaining financing and including any amount raised pursuant to such agreements but which, in accordance with Accounting Standards, have not otherwise been recognised on the balance sheet as a liability; or
- (j) all interest and non-interest bearing loans or other financing liabilities or obligations, including overdrafts and any other liabilities in the nature of borrowed money (whether secured or unsecured).

Indemnities means the indemnity in clause 10.4 and the indemnity in clause 10.11, each of them being an **Indemnity**.

Independent Expert means the independent expert to be appointed by Target to prepare the Independent Expert's Report in accordance with clause 5.1(a).

Independent Expert's Report means the report in respect of the Scheme to be prepared and issued by the Independent Expert for inclusion in the Scheme Booklet.

Insolvency Event means, in relation to any entity:

- (a) the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity;
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;
- (c) the entity executing a deed of company arrangement;

- (d) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation) or is otherwise presumed to be insolvent under the Corporations Act unless the entity has, or has access to, committed financial support from its parent entity such that it is able to pay its debts; or
- (e) the entity being deregistered as a company or otherwise dissolved.

Intellectual Property Rights means all intellectual and industrial property rights of whatever nature throughout the world conferred under statute, common law or equity, whether existing now or at any time in the future, and includes rights in respect of or in connection with trade marks, service marks (including goodwill in those marks), business names, trade names, domain names, designs, inventions (including patents), business processes or methods, circuit layouts, copyright and analogous rights, rights to have confidential information, know-how and similar intellectual property and industrial rights, whether or not registered or registrable, and includes pending applications for such rights and the right to apply for or renew the registration of such rights.

ITAA 1997 means the Income Tax Assessment Act 1997 (Cth).

Listing Rules means the official listing rules of ASX.

Material Adverse Change means change, event, circumstance, occurrence or matter that occurs, is announced, is disclosed or otherwise becomes known to Bidder or the Target Board (whether it becomes public or not) which (whether individually or when aggregated with all such changes, events, circumstances, occurrences or matters) has had or is reasonably likely to have:

- (a) the effect of a diminution in the consolidated earnings before interest, tax, depreciation and amortisation of the Target Group, taken as a whole, by at least \$3,000,000 (on an annualised basis) for the financial years ending 30 June 2018 or 30 June 2019 for the Target Group against what it would reasonably be expected to have been (without taking into account any forecast increase in earnings derived from sources other than the Target Group's current sources of earnings), but for that change, event, circumstance, occurrence or matter; or
- (b) an increase in the consolidated Net Indebtedness of the Target Group by at least \$5 million or more compared to the amounts provided for in the December 2017 Management Accounts,

provided that any events which have occurred after the date of this deed but prior to Delivery Time and which have a positive effect on the consolidated earnings before interest, tax, depreciation and amortisation of the Target Group are taken into account in calculating whether the threshold in paragraph (a) has been reached, and in each case other than changes, events, occurrences or matters:

- (c) expressly required or permitted by this deed or the Scheme;
- (d) Fairly Disclosed to Bidder in the Disclosure Materials;
- (e) Fairly Disclosed in any announcement by Target to ASX within 5 years prior to the date of this deed, or Fairly Disclosed in a document lodged with ASIC by or on behalf of Target within 5 years prior to the date of this deed;
- (f) consented to in writing by Bidder; or
- (g) which arise from:

- (i) changes in exchange rates or interest rates;
- (ii) general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets, and acts of terrorism, war (whether or not declared), natural disaster or the like; or
- (iii) changes to accounting standards, laws or policies of a Government Agency in Australia or New Zealand,

but excluding any change, event, circumstance, occurrence or matter which has a disproportionate effect on the Target Group, taken as a whole, as compared to other participants in the industries in which the Target Group operates.

Management Accounts means the unaudited historical financial information of the Target Group as set out in folders 02.01, 02.02, 07.01, and 07.02 of the Online Data Room.

Material Form includes any form (whether visible or not) of storage from which reproductions can be made.

MEC Group has the meaning given by section 995-1 of the ITAA 1997.

Net Indebtedness means Indebtedness less the amount of cash, cash equivalents and short term interest bearing deposits, where the terms "cash" and "cash equivalents" are as defined in the Accounting Standards.

Non-public Information has the meaning given in clause 8.1(d).

Notice has the meaning given in clause 16.1(a).

Oceania Escrow Deeds means the escrow deeds dated on or about 31 July 2017 between certain Target Shareholders and Target.

Online Data Room means the documents and information (including, for the avoidance of doubt, information and responses to questions or requests for information from the Bidder and its Representatives provided by the Target or its Representatives via the "Q&A" function) contained in the Ansarada online data room entitled "Project Darwin" to which Bidder and its Representatives were given access prior to the date of this deed, an electronic copy of which has been provided to Bidder by Target or its Representatives on or before the date of this deed.

Option Holder means a person who holds Target Options.

PEP Parties means each of Pacific Equity Partners Fund V L.P., Pacific Equity Partners Fund V-A L.P., Pacific Equity Partners Fund V-B L.P., Pacific Equity Partners V-C L.P., PEP Investment Pty Limited, Eagle Coinvestment Pty Limited and Pacific Equity Partners Investors Administration Pty Ltd.

Performance Rights Holder means a person who holds Target Performance Rights.

Permitted Dividend means a Permitted Interim Dividend or a Permitted Special Dividend.

Permitted Encumbrance means:

- (a) a charge or lien arising in favour of a Government Agency by operation of statute in the ordinary course of the business of the Target Group;
- (b) any mechanics', workmen's or other like lien arising in the ordinary course of the business of the Target Group;
- (c) any retention of title arrangement or purchase money security interest (including arising from any lease of goods or consignment arrangement), in each case, arising in favour of a trade supplier to the business of the Target Group in the ordinary course of that business;
- (d) a PPS Lease (as defined in the *Personal Property Securities Act 2009* (Cth));
- (e) any security interest within the meaning of section 12(3) of the *Personal Property Securities Act 2009* (Cth);
- (f) any Encumbrance registered by Bidder;
- (g) any Encumbrance created in the ordinary course of business after the execution of this deed that does not secure the payment of financial indebtedness;
- (h) any Encumbrance approved in writing by Bidder; and
- (i) any Encumbrance relating to any specific financial indebtedness that is agreed by Bidder as not being paid out in connection with implementation of the Scheme.

Permitted Interim Dividend means an interim dividend in respect of the financial half-year ending 31 December 2017 (which may be franked) declared or determined by Target Board, provided that the maximum amount paid or payable by Target per Target Share in respect of such dividend is A\$0.075 per Target Share.

Permitted Special Dividend means a special dividend (which may be franked) declared or determined by Target Board, provided that the maximum amount paid or payable by Target per Target Share in respect of such dividend is A\$0.18 per Target Share.

Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a tangible form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Prescribed Occurrence means the occurrence of any of the following:

- (a) Target converting all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Target Group resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming any of its shares;
- (c) any member of the Target Group:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any member of Target Group creates any new share based incentive plan (or phantom based incentive plan) or scheme, modifies the Target LTIP Rules, or issues any offers to participate in the Target LTIP;

- (e) any member of the Target Group issuing shares, or granting a performance right or an option over its shares, or agreeing to make such an issue or grant such a performance right or an option other than an issue of shares pursuant to the granting of (or in satisfaction of) a Target Option or Target Performance Right under the Target LTIP;
- (f) any member of the Target Group issuing or agreeing to issue securities convertible into shares (including any issue or agreement to issue performance rights) or debt securities other than the granting of (or in satisfaction of) a Target Option or Target Performance Right under the Target LTIP;
- (g) any member of the Target Group making, determining as payable or declaring any distribution or incurring a liability to make or pay a dividend (whether by way of dividend, capital reduction or otherwise and whether cash or in specie), other than a Permitted Dividend;
- (h) any member of the Target Group disposing, or agreeing to dispose, of the whole or a substantial part of its business or property (whether by way of a single transaction or series of related transactions);
- (i) any member of the Target Group ceasing, or threatening to cease, the whole or a material part of its business;
- (j) any member of the Target Group creating, granting or agreeing to any Encumbrance over any of the assets of any member of the Target Group, other than a lien which arises by operation of law, legislation or arises in the ordinary course of the Target Group's business;
- (k) any member of the Target Group resolving that it be wound up or the making of an application or order for the insolvent winding up or dissolution of a member of the Target Group other than where the application or order (as the case may be) is set aside within 14 days;
- (l) a liquidator or provisional liquidator of a member of the Target Group being appointed;
- (m) a court making an order for the winding up of a member of the Target Group;
- (n) an administrator of a member of the Target Group being appointed under the Corporations Act;
- (o) any member of the Target Group is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act unless that company has, or has access to, committed financial support from its parent entity such that it is able to pay its debts;
- (p) a member of the Target Group making any change to its constitution;
- (q) any member of the Target Group executing a deed of company arrangement;
- (r) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of a member of the Target Group;
- (s) any member of the Target Group being deregistered as a company or otherwise dissolved other than on a solvent basis;

- (t) Target Shares cease to be quoted on ASX;
 - (u) any member of the Target Group:
 - (i) acquiring or disposing, or agreeing to acquire or dispose;
 - (ii) agreeing to acquire, lease or dispose of; or
 - (iii) offers, proposes, announces a bid or tenders for the acquisition, leasing or disposal of,

any business or property of any business, assets or entity (whether by way of a single transaction or series of related transactions) the value of which exceeds \$3,000,000 (individually or in aggregate);
 - (v) any member of the Target Group incurring or entering into any new commitments involving the purchase of plant and equipment or other capital expenditure of more than \$3,000,000 (individually or in aggregate);
 - (w) any member of the Target Group entering into a new contract or materially varying or terminating any existing contract that generates, or is expected to generate, or entering into or materially varying any supply agreement under which the Target Group generates, or is expected to generate, in each case, \$2,000,000 (individually or in aggregate) or more in gross annual revenue or expenditure for the Target Group; or
 - (x) authorises, agrees, offers, commits or resolves to do any of the matters set out above in this definition, whether conditionally or otherwise,
- but does not include any occurrence:
- (y) required or permitted by this deed or the Scheme or the transactions contemplated by either;
 - (z) specifically agreed to in writing by Bidder (such agreement not to be unreasonably withheld or delayed);
 - (aa) Fairly Disclosed in the Disclosure Materials; or
 - (bb) Fairly Disclosed in an announcement made by Target to ASX within 5 years prior to the date of this deed, or Fairly Disclosed in a document lodged with ASIC by or on behalf of Target within 5 years prior to the date of this deed.

Privacy Laws means the *Privacy Act 1988* (Cth), the Australian Privacy Principles contained in Schedule 1 to the *Privacy Act 1988* (Cth), and all other applicable federal, state, local and foreign laws (only as they apply to a member of the Target Group) pertaining to the collection, storage, use, disclosure and transfer of Personal Information.

Recipient has the meaning given in clause 3.3(f).

Recommendation has the meaning given in clause 7.2(a).

Record Date means 7:00pm on the fifth Business Day after the Effective Date of the Scheme, or such other date after the Effective Date as Bidder and Target agree in writing.

Records means originals and copies, in any Material Form, of all books, files, reports, records, correspondence, documents and other material of, relating to or used in

connection with, and which are in the control or possession of, the Target Group Companies and includes:

- (a) minute books, statutory books and registers, books of account and copies of taxation returns;
- (b) sales literature, market research reports, brochures and other promotional material (including printing blocks, negatives, sound tracks and associated material);
- (c) all sales and purchasing records, contracts, designs and working papers;
- (d) spreadsheets, financial models and other business, financial or technical tools, records and documents;
- (e) all trading and financial records; and
- (f) lists of all regular suppliers and customers.

Regulator's Draft has the meaning given in clause 5.1(e)(i).

Regulatory Matter has the meaning given in clause 3.3(e)(ii)(A).

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant Employee means the Chief Executive Officer, the Chief Financial Officer or the General Manager, Corporate Development of Target or any other employee of the Target Group who participates in the Target LTIP.

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

Representative means, in respect of a party, an employee, agent, officer, director, adviser or financier of that party (or of a Related Body Corporate of that party), and, in the case of advisers and financiers, includes employees, officers and agents of the adviser or financier (as applicable).

RG 60 means Regulatory Guide 60 issued by ASIC and dated September 2011.

Scheme means a members' scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders, in the form of Attachment B, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the explanatory statement in respect of the Scheme to be prepared by Target pursuant to section 412 of the Corporations Act and in accordance with clause 5.1(b), and to be despatched to Target Shareholders in accordance with clause 5.1(k), which will contain (among other things) the Independent Expert's Report (or a concise version of that report), a notice of meeting in respect of the Scheme Meeting and a proxy form.

Scheme Consideration means, in respect of each Scheme Share, A\$3.75, less the aggregate amount per Target Share of any Permitted Dividend(s) paid in accordance with clause 4.3.

Scheme Meeting means the meeting of Target Shareholders ordered by the Court to be convened at the First Court Hearing.

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

Scheme Shareholder means a Target Shareholder as at the Record Date.

Second Court Date means the first day on which an application made to the Court for orders under 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), with such hearing being the **Second Court Hearing**.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Sensitive Confidential Information has the meaning given in clause 3.3(f).

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

Specified Individuals means the following individuals:

- (a) Matt Muscio;
- (b) Dean Taylor; and
- (c) Kristine James.

Standard Tax Condition means any tax-related conditions which are in the form, or substantially in the form, of those set out in Part A of Attachment A of FIRB Guidance Note 47 on 'Tax Conditions' (in the form released on 24 November 2016).

Superannuation Guarantee Charge means a charge levied against an employer for failing to make the minimum level of contribution to superannuation funds on behalf of its employees prescribed by the *Superannuation Guarantee (Administration) Act 1992* (Cth).

Superior Proposal means a bona fide, written Competing Proposal received after the date of this deed which in the determination of the Target Board acting in good faith in order to satisfy what the Target Board considers to be its fiduciary or statutory duties (after having obtained written advice from their legal and financial advisers):

- (a) is capable of being valued and completed in accordance with its terms, taking into account all financial, regulatory and other aspects of the proposal, including the ability of the proposing party to consummate the transactions contemplated by the Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to Target Shareholders as a whole than the Transaction, taking into account all of the terms and conditions of the Competing Proposal, including consideration, conditionality, funding, certainty and timing.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Target Board means the board of directors of Target.

Target Business Warranty means a representation and warranty of Target set out in Schedule 5.

Target Consolidated Group means the Consolidated Group of which Target is the Head Company.

Target Director means a director of Target.

Target Group means, collectively, Target and each of its Related Bodies Corporate, and **Target Group Company** means any one of them.

Target Group Budget has the meaning given to such term in 5.4(a)(iv).

Target GST Group means the GST Group (as defined in the GST Act) of which Target is the representative member.

Target Indemnified Party means a director, officer, employee or adviser of a member of the Target Group.

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

Target LTIP means the long term equity incentive plans of Target in existence as at the date of this deed.

Target LTIP Rules means the rules governing the Target LTIP, a copy of which is disclosed in the Online Data Room at document 01.01.02).

Target SSSP means the Salary Sacrifice Share Plan of Target, which is governed by the Salary Sacrifice Share Plan Rules disclosed in document 04.03.01 of the Online Data Room.

Target SSSP Share means a Target Share issued to a former or current Employee under the Target SSSP.

Target Option means an option to be issued a Target Share issued under the Target LTIP, with such options on issue as at the date of this agreement being those set out in Schedule 2.

Target Performance Right means a performance right issued under the Target LTIP, with such performance rights on issue as at the date of this agreement being those set out in Schedule 2.

Target Registry means Computershare Investor Services Pty Limited (ACN 078 279 277).

Target Scheme Warranty means a representation and warranty of Target set out in Schedule 4.

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

Target Shareholder means a holder of one or more Target Shares, as shown in the Share Register.

Target Warranties means the Target Business Warranties and the Target Scheme Warranties.

Tax means any tax, levy, charge, impost, fee, deduction, goods and services tax (including GST), compulsory loan or withholding, that is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above, but excludes Duty.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the ITAA 1997, or both as the context requires.

Tax Costs means all costs and expenses incurred in:

- (a) managing an inquiry; or
- (b) conducting any Disputing Action in relation to a Tax Demand.

Tax Demand means:

- (a) a demand or assessment from a Government Agency requiring the payment of any Tax or Duty for which Target may be liable under this deed;
- (b) any document received from a Government Agency administering any Tax or Duty assessing, imposing, claiming or indicating an intention to claim any Tax or Duty;
- (c) a notice to a contributing member of a Consolidated Group given under section 721-15(5) of the ITAA 1997;
- (d) a notice to a member of a GST Group (as defined in the GST Act), in relation to section 444-90(1) of Schedule 1 to the TAA; and
- (e) a lodgement of a Tax or Duty return or a request for an amendment to a lodged Tax or Duty return.

Tax Laws means any law relating to either Tax or Duty as the context requires.

Tax Sharing Agreement means the agreement contemplated by section 721-25 of the ITAA 1997 and entered into between the Target and each of the subsidiary members (within the meaning of section 995-1 of the ITAA 1997) of the Target Consolidated Group as most recently executed by the parties thereto (and as amended from time to time).

Terminating Party has the meaning given in clause 3.5.

Termination Event has the meaning given in clause 3.5.

Termination Notice has the meaning given in clause 3.5.

Third Party means a person other than Bidder and its Associates.

Timetable means the indicative timetable for the implementation of the Transaction set out in Attachment A.

Top 10 Supplier Agreements means each agreement set out in 07.03 of the Online Data Room.

Trading Day has the meaning given in the Listing Rules.

Transaction means the acquisition of Target by Bidder by means of the Scheme.

Transaction Financing has the meaning given to that term in clause 5.9(b).

Treasurer means the Treasurer of Australia.

Voting Intention has the meaning given in clause 7.1(b).

Warranty means a Bidder Warranty or a Target Warranty.

Warranty or Indemnity Claim means a Claim for breach of a Target Warranty or under an Indemnity.

Work Safety Authority means a Government Agency with responsibility for the investigation and enforcement of work health and safety legislation, amongst other functions.

W&I Policy means any policy of warranty and indemnity insurance issued to Bidder after the date of this deed in respect of some or all of the Target Warranties.

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including”, “such as”, “to avoid doubt” and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
 - (vi) this deed includes all schedules and attachments to it;

- (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
- (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
- (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
- (x) a monetary amount is in Australian dollars;
- (g) An agreement on the part of two or more persons binds them jointly and severally.
- (h) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (i) In determining the time of day, where relevant to this deed, the time of day is:
 - (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (j) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 Target capital structure

Class of security	Number of securities on issue as at the date of this deed
Securities quoted on ASX	
Ordinary shares	44,933,172
Securities not quoted on ASX	
Target Options	2,673,327
Target Performance Rights	147,122

Schedule 3 Bidder Warranties

- (a) **(Validly existing)** Bidder is a validly existing corporation registered under the laws of its place of incorporation.
- (b) **(Power)** Bidder has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll.
- (c) **(Corporate action)** Bidder has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll.
- (d) **(Binding)** This deed is a valid and binding obligation on Bidder, enforceable in accordance with its terms.
- (e) **(Performance)** The execution and performance by Bidder of this deed did not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on Bidder; or
 - (ii) Bidder's constitution.
- (f) **(Regulatory approvals)** As far as Bidder is aware, no regulatory approval is required to be obtained by Bidder in order for it to execute, deliver and perform this deed, other than those approvals set out in clause 3.1(b).
- (g) **(Bidder Information)** At the time Target commences despatch of the Scheme Booklet to Target Shareholders, the Bidder Information included in the Scheme Booklet with Bidder's consent pursuant to clause 5.2(e), and any other information provided by Bidder pursuant to clause 5.2(f), will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise, and will comply in all material respects with applicable laws (including the Corporations Act and Corporations Regulations), RG 60 and the Listing Rules.
- (h) **(Basis of Bidder Information)** The Bidder Information:
 - (i) will be provided to Target in good faith and on the understanding that Target and each other Target Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules,and all information provided by Bidder to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.
- (i) **(New information)** Bidder will, as a continuing obligation, provide to Target all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive in any material respect (including by way of omission).

- (j) **(Opinions)** Any statement of opinion or belief contained in the Bidder Information is honestly held and there are reasonable grounds for Bidder holding that opinion or belief.
- (k) **(No dealing with Target Shareholders)** Neither Bidder nor any of its Associates has any agreement, arrangement or understanding with any Target Shareholder under which:
 - (i) that Target Shareholder (or an Associate of that Target Shareholder) would be entitled to receive consideration for their Target Shares that is different from the Scheme Consideration; or
 - (ii) the Target Shareholder agrees to vote in favour of the Scheme or against any Competing Proposal.
- (l) **(Insolvency Event or regulatory action)** No Insolvency Event has occurred in relation to Bidder or another member of the Bidder Group, nor has any regulatory action of any nature of which Bidder is aware been taken that would prevent or restrict Bidder's ability to fulfil its obligations under this deed.
- (m) **(Equity Commitment Letter)** The Equity Commitment Letter has been duly executed by the parties to it and constitute legally binding obligations of those parties that are enforceable in accordance with its terms and the Equity Commitment Letter has not been terminated.
- (n) **(Equity Commitment Letter warranties)** The representations and warranties given by the PEP Parties in the Equity Commitment Letter are true and accurate.
- (o) **(No amendment of Equity Commitment Letter)** As a continuing obligation, without the prior written consent of Target:
 - (i) Bidder and the PEP Parties will not amend the Equity Commitment Letter in any respect which will, or is reasonably likely to, prejudice Bidder's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll; and
 - (ii) Bidder will not waive any of its rights under the Equity Commitment Letter in any respect which will, or is reasonably likely to, prejudice Bidder's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll.
- (p) **(Debt Commitment Letter)** The Debt Commitment Letter has been duly executed by Bidder and constitutes legally valid and binding obligations of Bidder that are enforceable against Bidder in accordance with its terms and the Debt Commitment Letter has not been terminated.
- (q) **(No amendment of Debt Commitment Letter)** As a continuing obligation, without the prior written consent of Target:
 - (i) Bidder will not amend the Debt Commitment Letter in any respect which will, or is reasonably likely to, prejudice Bidder's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll; and
 - (ii) Bidder will not waive any of its rights under the Debt Commitment Letter in any respect which will, or is reasonably likely to, prejudice Bidder's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll.

- (r) **(Bidder Facility Agreements)** On each date from the date on which the Bidder Facility Agreements are entered into until the 8:00am on the Implementation Date:
- (i) the Bidder Facility Agreements have been duly executed by Bidder and constitute legally valid and enforceable obligations on, and rights of, Bidder that are enforceable in accordance with their terms; and
 - (ii) without the prior written consent of Target, Bidder will not amend or agree to amend the Bidder Facility Agreements in any respect which will, or is reasonably likely to, prejudice Bidder's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll.
- (s) **(Reasonable basis)** Bidder has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy Bidder's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- (t) **(Availability of funding on Second Court Date)** By the Delivery Time, Bidder will have available to it on an unconditional basis (other than conditions relating to the approval of the Court, the Scheme becoming Effective, and other conditions within the control of Bidder) sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy Bidder's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- (u) **(Availability of funding on Implementation Date)** Bidder will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources or external funding (including debt and equity financing) arrangements or a combination of both) to satisfy Bidder's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.

Schedule 4 Target Scheme Warranties

- (a) **(Validly existing)** Target is a validly existing corporation registered under the laws of its place of incorporation.
- (b) **(Power)** Target has full corporate power and lawful authority to execute, deliver and perform this deed and the Scheme.
- (c) **(Corporate action)** Target has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Scheme.
- (d) **(Binding)** This deed is a valid and binding obligation on Target, enforceable in accordance with its terms.
- (e) **(Performance)** The execution and performance by Target of this deed did not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on Target; or
 - (ii) Target's constitution.
- (f) **(Capital structure)** Target's capital structure is as set out in Schedule 2 and, other than as set out in Schedule 2:
 - (i) Target has not issued any other Target Shares or other securities, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, Target Shares; and
 - (ii) Target is not under any obligation to issue, and no person has any right to require or call for the issue of, any Target Shares or other securities, rights or instruments issuable by Target (whether such obligation or right is conditional or otherwise).
- (g) **(Target Information)** The Target Information included in the Scheme Booklet, and any supplementary disclosure made to Target Shareholders pursuant to clause 5.1(l) (excluding any information provided by Bidder), will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise, and will comply in all material respects with applicable laws, including (in respect of the Target Information) the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules.
- (h) **(Basis of Target Information)** The Target Information:
 - (i) will be prepared and included in the Scheme Booklet in good faith and on the understanding that Bidder and each other Bidder Indemnified Party will rely on that information for the purpose of determining to proceed with the Transaction; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules,

and all information provided by Target to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.

- (i) **(New information)** Target will, as a continuing obligation (but in respect of the Bidder Information, only to the extent that Bidder provides Target with updates to the Bidder Information), ensure that the Scheme Booklet is updated to include all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive (including by way of omission) in any material respect.
- (j) **(Continuous disclosure)** Target is in compliance in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and following release of the Agreed Public Announcement, there will be no information which Target is withholding from disclosure in reliance on Listing Rule 3.1A.
- (k) **(Insolvency Event or regulatory action)** No Insolvency Event has occurred in relation to Target or another member of the Target Group, nor has any regulatory action of any nature of which Target is aware been taken that would prevent or restrict Target's ability to fulfil its obligations under this deed.
- (l) **(Disclosure Materials)** The Disclosure Materials were compiled and made available to Bidder and its Representatives in good faith and Target has not withheld from the Disclosure Materials any information of which Target is aware which, if disclosed, might reasonably be expected to affect the decision of the Bidder to enter into this deed and complete the Transaction.

Schedule 5 Target Business Warranties

(a) **(Target Group):**

- (i) The structure diagram in Schedule 6 includes details of all members of the Target Group and is true and accurate in all respects.
- (ii) No member of the Target Group holds shares, options, units, securities or interests in, or is a member of, any company, trust, partnership, incorporated or unincorporated joint venture or association, or other entity (other than an entity identified in Schedule 6).

(b) **(Financial information)**

- (i) The Accounts:
 - (A) comply with applicable statutory requirements and were prepared in accordance with the Accounting Standards;
 - (B) give a true and fair view of the financial position and the assets and liabilities of the Target Group as at the Accounts Date; and
 - (C) are not affected by any unusual, abnormal, extraordinary or non-recurring items.
- (ii) The Management Accounts (having regard to the purpose for which they were prepared):
 - (A) fairly represent and show a materially accurate view of:
 - (1) the financial position and state of affairs of the Target Group as at the date to which they have been prepared; and
 - (2) the financial performance of the Target Group for the period in respect of which they have been prepared; and
 - (B) have been prepared in good faith and with reasonable care and diligence.

(c) **(Conduct of business since Accounts Date)**

- (i) Since the Accounts Date and up to the date of this deed, the Target Group has conducted its businesses and operations:
 - (A) in the ordinary course;
 - (B) in accordance with legal and contractual obligations; and
 - (C) in a manner generally consistent (subject to any applicable laws, regulations and regulatory approvals) with the manner in which each such business and operation had been conducted in the 12 month period prior to the Accounts Date.
- (ii) Between the Accounts Date and the date of this deed:

- (A) no member of the Target Group undertook any actions which would have resulted in a breach of clause 5.4(i) had it been operative during that period; and
 - (B) no Material Adverse Change occurred.
- (d) **(Compliance with material contracts)** No member of the Target Group is in breach of, or default under, any material provision of any contract, agreement or arrangement that could reasonably be considered material to the Target Group (including the Top 10 Supplier Agreements) (**Material Contracts**).
- (e) **(Material Contracts and other arrangements)**
 - (i) All Material Contracts have been Fairly Disclosed in the Disclosure Materials, and the copies of such Material Contracts included in the Disclosure Materials are current, accurate and complete (and include any and all amendments, variations, supplements, addendums, annexures, appendices, extensions and/or renewals in respect of such Material Contracts).
 - (ii) Each Material Contract is valid, binding and enforceable against and by the member of Target Group Company which is party to that Material Contract.
 - (iii) As at the date of this deed, no party to any Material Contract has terminated, suspended or reduced the supply of, or demand for, services provided by or to a Target Group Company under a Material Contract or altered the terms of a Material Contract in any way which has had or is likely to have a material impact on the business and activities of the Target Group as at the Implementation Date, and Target is not aware that any such termination, suspension, reduction in scope, or alteration of a Material Contract is threatened or is reasonably likely.
 - (iv) No member of the Target Group has received or given any notice in respect of any actual, alleged or potential breach of any Material Contract, nor is Target aware of any facts, matters or circumstances which may result in such a notice being given.
 - (v) No member of the Target Group is in default, or would be in default but for the requirements of notice or lapse of time, under any Material Contract, and Target is not aware of any grounds for termination, rescission, avoidance or repudiation of any Material Contract.
 - (vi) No member of the Target Group is a party to any material agreement or arrangement that:
 - (A) is not on arm's length terms;
 - (B) was not entered into in the ordinary course of business; or
 - (C) other than as Fairly Disclosed, contains a non-compete undertaking or exclusivity restriction.
- (f) **(Change of control)** So far as Target is aware, the Disclosure Materials contain a complete copy of each Material Contract under which a member of the Target Group is required to give notice to, or to obtain consent or approval from, a Third Party, in connection with this deed or the transactions contemplated by it (including

in respect of the change in control of Target resulting from the implementation of the Scheme).

- (g) **(Customer and supplier relationships)** No member of the Target Group has been notified by any customer or supplier that such customer or supplier (as applicable) intends to cease or alter the nature of its commercial or business dealings with the Target Group (or any member thereof), where the cessation or alteration of such commercial or business dealings could be reasonably expected to have a material adverse effect on the operational or financial performance of the Target Group (taken as a whole).
- (h) **(Medical devices regulation)**
 - (i) So far as Target is aware, each product supplied by Target Group that is required to be included on the Australian Register of Therapeutic Goods (**ARTG**) is included on the ARTG.
 - (ii) So far as Target is aware, each product supplied by the Target Group that is required to comply with the Essential Principles (as that term is defined in the *Therapeutic Goods Act 1989*), complies with the Essential Principles.
 - (iii) So far as Target is aware, each product supplied by the Target Group that is required to have had the Conformity Assessment Procedures (as that term is defined in the *Therapeutic Goods Act 1989*) applied to it, has had the Conformity Assessment Procedures applied to it.
 - (iv) So far as Target is aware, each product supplied by the Target Group complies with all the obligations imposed as a result of that product's inclusion on the ARTG.
 - (v) So far as Target is aware, each product supplied by the Target Group that is exempt from inclusion on the ARTG complies with all the conditions of that exemption.
 - (vi) So far as Target is aware, no Government Agency has taken any step to, and there is no reason why any Government Agency would have any basis to, cancel or suspend any product supplied by the Target Group from the ARTG.
 - (vii) Except as Fairly Disclosed in the Disclosure Materials, so far as Target is aware, each product for which a Target Group member is the sponsor under the *Therapeutic Goods Act 1989* is included on the ARTG in the name of the relevant Target Group member.
- (i) **(Financing Arrangements)**
 - (i) Other than as Fairly Disclosed in the Disclosure Materials, there are no material:
 - (A) agreements or arrangements entered into by any member of the Target Group for the borrowing of money or the incurrence of any debt or other financial indebtedness (whether contingent or otherwise), or the granting of Encumbrances or security (other than any Permitted Encumbrances);

- (B) debentures, bonds, notes or similar debt instruments issued by any member of the Target Group (whether by one instrument or by all of the instruments in a series);
 - (C) guarantees, letters of comfort, indemnities or other commitments of financial support which have been given or issued in favour of any Third Party in respect of an obligation or liability of any member of the Target Group, and no member of the Target Group has requested that any bank or other financial institution give or issue any such guarantee, letter of comfort, indemnity or other commitment of financial support;
 - (D) bank guarantees, letters of credit, trade instruments or similar credit support which have been issued in respect of, or at the request of, any member of the Target Group or any arrangements related thereto (including cash-backing);
 - (E) interest rate swaps, foreign currency forward contracts or other derivative contracts to which any member of the Target Group is a party or by which any member of the Target Group is bound; or
 - (F) financing arrangements that restrict the sale or disposal of any member of the Target Group (or any assets thereof).
- (ii) No member of the Target Group has given any guarantee, letter of comfort or other commitments of financial support, or granted any Encumbrance, in respect of any obligation or liability of any Third Party (other than any Permitted Encumbrances).
 - (iii) No calls or demands have been made under, or in respect of, any of the financing or security arrangements to which any member of the Target Group is a party or by which any member of the Target Group (or any assets thereof) is bound (including, for the avoidance of doubt, arrangements of a kind described in paragraphs (h)(i) or (h)(ii) of this Schedule 5) (such arrangements, **Financing Arrangements**).
 - (iv) So far as Target is aware:
 - (A) no action has been taken or threatened by any person to enforce any Encumbrance of any kind over any assets of any member of the Target Group; and
 - (B) there are no facts, matters or circumstances that would or may entitle any person to take such action.
 - (v) There is no existing or unremedied material breach of, nor any default, event of default, cancellation event, review event, prepayment event or similar event currently subsisting under, any Financing Arrangements.
- (j) **(Properties)**
 - (i) The Target Group does not hold freehold title to any real property.
 - (ii) The Disclosure Materials include copies of all agreements or other documents pursuant to which a member of the Target Group leases (or sub-leases), licences, occupies or otherwise uses any parcel of real property (all such agreements and other documents, the **Property Leases**, and all such

parcels of real property, the **Leased Properties**), and the copies of such Property Leases included in the Disclosure Materials are current, accurate and complete (and include any and all amendments, variations, supplements, addendums, annexures, appendices, extensions and/or renewals in respect of such Property Leases).

- (iii) No member of the Target Group has any interest in land other than the interests in the Leased Properties (together, the **Properties**).
- (iv) No member of the Target Group is party to any agreement or arrangement in relation to the ownership (including purchase or sale), occupation, lease, licence or use of any real property other than the Properties.
- (v) Each of the Property Leases is valid, binding, enforceable and subsisting, and (where necessary to be binding and enforceable against successors in title) registered.
- (vi) No member of the Target Group has received:
 - (A) any notice to vacate or notice to quit in respect of any of the Properties;
 - (B) any notice in respect of the compulsory acquisition or resumption of any of the Properties (or any part thereof);
 - (C) any notice requiring material work to be done or expenditure to be made in respect of any of the Properties;
 - (D) any notice in respect of any contemplated, pending or threatened condemnation or change to the planning, zoning or other ordinances in respect of any of the Properties;
 - (E) any notice in respect of any actual, alleged or potential breach of any Property Lease or the termination or intended termination of any Property Lease; or
 - (F) any order, direction, notice or proposal from any Government Agency affecting or in respect of any of the Properties or the use thereof,

nor is Target aware of any facts, matters of circumstances which may result in any such notice, order, direction or proposal being given.
- (vii) No member of the Target Group is in default, or would be in default but for the requirements of notice or lapse of time, under any Property Lease, and Target is not aware of any grounds for termination, rescission, avoidance or repudiation of any Property Lease.
- (viii) The relevant members of the Target Group have paid all rent, fees, rates and other amounts payable by them in respect of the Properties (including under the Property Leases).
- (ix) The relevant members of the Target Group have exclusive occupation and right of quiet enjoyment in respect of each of the Properties and none of the Properties is subject to any sub-lease, licence, tenancy or right of occupation in favour of any person other than a member of the Target Group.

- (x) None of the Properties is subject to any restrictive covenant or exception or reservation which may adversely affect its use.
- (xi) So far as Target is aware:
 - (A) there are no disputes, Claims or actions relating to any of the Properties or the use thereof; and
 - (B) there is no intention on the part of any counterparty to a Property Lease to:
 - (1) terminate the Property Lease;
 - (2) not renew or extend the Property Lease at expiry or only renew or extend the Property Lease at expiry on terms materially more favourable to such counterparty than the current terms; or
 - (3) seek to increase the rent, fees, rates or other amounts payable by the relevant member(s) of the Target Group under the Property Lease (whether at expiry of the Property Lease or otherwise).
- (k) **(Environment)**
 - (i) So far as Target is aware, there are no facts, matters or circumstances which may give rise to any liability on the part of any member of the Target Group under or in respect of any law or regulation concerning or relating to the protection of the environment (including air, water, land, flora, fauna, ecosystems and man) (**Environmental Law**).
 - (ii) No member of the Target Group has received notice under or in respect of any Environmental Law (including notice of any actual or alleged breach of any Environmental Law), nor is Target aware of any facts, matters or circumstances which may result in such a notice being given.
 - (iii) The Target Group has not assumed, undertaken, provided an indemnity with respect to, or otherwise become subject to, any liability of any other person relating to Environmental Laws.
- (l) **(Assets)**
 - (i) All the material tangible assets of the Target Group are:
 - (A) the absolute property of a member of the Target Group free and clear of all Encumbrances (other than Permitted Encumbrances) or used by a member of the Target Group under a contract pursuant to which such member of the Target Group is entitled to use the relevant asset(s) on the terms and conditions of such contract;
 - (B) not the subject of any lease or hire purchase agreement or agreement for purchase on deferred terms;
 - (C) in the exclusive possession of a member of the Target Group, its agent or nominee;

- (D) not the subject of any agreements or arrangements to dispose or not dispose or that otherwise restrict their use or disposal.
- (ii) The Target Group owns, or has the right to use, all of the assets that are necessary for the carrying on of the businesses and operations of the Target Group as such businesses and operations are currently carried on.
- (iii) No member of the Target Group has received any notice, order or direction from any Government Agency or Third Party in respect of any of its assets or the use of such assets, nor is Target aware of any facts, matters or circumstances which may result in such a notice being given.
- (iv) As far as the Target is aware, each item of plant and equipment owned or used by the Target Group:
 - (A) is capable of performing the function for which it is intended to be used;
 - (B) has been properly serviced throughout its life;
 - (C) is in good repair and condition and satisfactory working order for its age;
 - (D) has been maintained in accordance with prudent business practices; and
 - (E) complies with all applicable laws and standards and has not been repaired or modified in a way which would adversely impact a warranty provided by a supplier of that item of plant and equipment.
- (m) **(Document and Records)**
 - (i) The Records (other than the Accounts and the Management Accounts):
 - (A) contain all relevant material details, which are accurate, of all matters required to be entered by all applicable laws or prudent business practice; and
 - (B) give a reasonably and materially accurate view of the trading transactions, the assets and liabilities and the financial and contractual position of the Target Group.
 - (ii) All material documents relating to any Target Group Company (including documents of title and copies of all agreements to which a Target Group Company is a party) which are the property of a Target Group Company or ought to be in its possession, are in its possession or under its control.
 - (iii) Each material document or filing which is required by law to be delivered or made to any Government Agency by a Target Group Company in connection with the operation of the Target Group has been duly delivered or made.

(n) **(Intellectual Property Rights)**

- (i) The Disclosure Materials Fairly Disclose reasonable particulars of all Intellectual Property Rights owned or used by any member of the Target Group (**Business Intellectual Property**), as well as any terms and conditions attaching to the use of the Business Intellectual Property.
- (ii) In respect of the Business Intellectual Property that is owned by a member of the Target Group:
 - (A) such Business Intellectual Property is valid, subsisting and enforceable, and free and clear of all Encumbrances (other than any Permitted Encumbrances);
 - (B) no member of the Target Group has licensed, assigned or otherwise disposed of or allowed to lapse any right, title or interest in such Business Intellectual Property;
 - (C) no member of the Target Group is obliged to grant a licence, assignment or other right in respect of such Business Intellectual Property to any Third Party;
 - (D) the relevant members of the Target Group have taken all necessary steps to obtain and maintain appropriate registrations for such Business Intellectual Property (to the extent such Business Intellectual Property is registrable), including the payment of all applicable application and renewal fees;
 - (E) the Target Group has taken all reasonable steps to record and protect such Business Intellectual Property, to the extent that it is unregistrable;
 - (F) the terms on which the Business Intellectual Property is licensed within the Target Group does not compromise or otherwise adversely affect the validity, subsistence or enforceability of any of the Business Intellectual Property; and
 - (G) so far as Target is aware, there are no Claims, challenges, disputes or proceedings that have been brought or threatened by any Third Party or Government Agency in relation to such Business Intellectual Property that may adversely affect the right to use, enforce or assign or licence such Business Intellectual Property, including opposition proceedings, non-use proceedings, or amendment, rectification, revocation or cancellation proceedings, and no member of the Target Group has received notice of, nor are there any facts, matters or circumstances that could rise to, any such Claims, challenges, disputes or proceedings;
 - (H) so far as Target is aware, no Third Party:
 - (1) has infringed, attacked or opposed, in the 5 years prior to the date of this deed, or is infringing, attacking or opposing, as at the date of this deed, such Business Intellectual Property;
 - (2) has threatened to allege or has alleged in the 6 years prior to the date of this deed, or is threatening to allege or is alleging as at the date of this deed, that any such Business Intellectual

- Property infringes Intellectual Property Rights owned by or licensed to that Third Party; or
- (3) has any right to use, assign or licence any such Business Intellectual Property, or any right which would otherwise restrict or have the potential to restrict the use by the Target Group (or any member thereof) of such Business Intellectual Property.
- (iii) A member of the Target Group has the exclusive right, enforceable against its employees, consultants and independent contractors, to claim full ownership of and all rights in and title to all Intellectual Property Rights generated by those persons in the course of, or in connection with, their employment or engagement with or by the Target Group. The Target Group has taken reasonable steps, including implementing appropriate training and policies, to ensure that such Intellectual Property Rights do not breach or infringe any Intellectual Property Rights of Third Parties or breach any obligation of confidence owed to any Third Party.
- (iv) The use of the Business Intellectual Property by or on behalf of the Target Group does not:
- (A) breach or infringe any Intellectual Property Rights of any Third Party;
- (B) breach any obligation of confidence owed to any Third Party; or
- (C) breach any law, regulation, rule or policy in force in any jurisdiction, where such breach or infringement or material risk of breach or infringement will, or is reasonably likely to, have a material adverse effect on the operational or financial performance of the Target Group (taken as a whole).
- (v) In respect of Business Intellectual Property that is used but not owned by the Target Group, a member of the Target Group has a current licence to use such Business Intellectual Property and:
- (A) such licence is valid, binding and enforceable and includes rights to sub-license to other members of the Target Group and to Third Parties;
- (B) no member of the Target Group is in breach of such licence; and
- (C) the licensor has not given a notice to terminate such licence nor, so far as Target is aware, does the licensor intend to give such notice.
- (vi) The Intellectual Property Rights owned by the Target Group or used by the Target Group under valid, binding, enforceable and sub-licensable licences from Third Parties together comprise all of the Intellectual Property Rights necessary for the carrying on of the businesses and operations of the Target Group as such businesses and operations are currently carried on.
- (vii) There are no royalties, fees, damages, compensation or other amounts payable by any member of the Target Group in connection with the use of Intellectual Property Rights owned by Third Parties.
- (o) **(Employees and contractors)**
- (i) The Disclosure Material Fairly Discloses accurate details of the commencement date, position title, employing entity, salaries and wages,

participation (if any) in an applicable incentive arrangement, applicable allowances, applicable enterprise agreement (if any), modern award coverage (if any), and accrued long service leave, annual leave, leave loading and personal leave for each Employee as at the relevant dates specified in such disclosure.

- (ii) No member of the Target Group has given a commitment (whether legally binding or otherwise) to increase or supplement the wages, salaries, incentives, annual leave and leave loading, long service leave, personal/carer's leave or any other remuneration, compensation, gratuities or benefits of any Employee beyond the amounts and entitlements specified in the Disclosure Material.
- (iii) Each member of the Target Group complies with its obligations under any law relating to Employees (including employment and industrial laws, anti-discrimination laws, and work health and safety laws), industrial agreements and awards, and with all codes of conduct and practice relevant to conditions of service and to the relations between it and Employees employed by it.
- (iv) Each member of the Target Group has kept adequate and suitable records regarding the service of its Employees and, in respect of each member of the Target Group incorporated in Australia, such records meet such member of the Target Group's record keeping obligations under the *Fair Work Act 2009* (Cth) (if any).
- (v) No member of the Target Group is a party to any collective bargaining agreement, collective bargaining relationship, workplace agreement or other contract with a trade union or industrial organisation, labour union, labour organisation, works council, group of employees or individual employees in respect of Employees and their employment and no industrial awards, collective bargaining agreements or workplace agreements apply to any Employees.
- (vi) No member of the Target Group has been involved in any labour or industrial dispute with any union or industrial organisation, labour organization, works council, group of employees or Employee at any time within the 3 years preceding the date of this deed.
- (vii) There is no actual or pending or (so far as Target is aware) threatened Claim, demand, legal proceedings or cause of action by an Employee against any member of the Target Group and, so far as Target is aware, there are no facts, matters or circumstance which may give rise to any such Claim, demand, charge, complaint, audit, investigation, legal proceeding or cause of action.
- (viii) The Disclosure Material Fairly Discloses full details of all legal proceedings or causes of action brought against a member of the Target Group by current or past Employees during the 3 year period prior to the date of this deed.
- (ix) No member of the Target Group has made any offer of work to, or any appointment of, an individual (or any company controlled by an individual as a senior executive, or as an independent contractor) for a term of 12 months or more or for payment of \$100,000 or more per annum, that remains capable of acceptance and that cannot be terminated without penalty on less than 1 months' notice.

- (x) No member of the Target Group is a party to any written employment or service agreement with any senior executive other than those agreements Fairly Disclosed in the Disclosure Material.
- (xi) No Employee is, or may become, entitled to any bonus, compensation, payment or other benefit:
 - (A) in connection with this deed or the transactions contemplated hereby; or
 - (B) of an amount or value exceeding three times that Employee's base salary which is triggered by a transaction or occurrence, or by the termination or cessation of that Employee's employment with the relevant member of the Target Group.
- (xii) Other than as Fairly Disclosed in the Disclosure Material, no member of the Target Group operates or has adopted, or has resolved or agreed to operate or adopt, any incentive plan in which Employees participate or may participate.
- (xiii) The members of the Target Group have complied with all their obligations to make superannuation or pension contributions which they are required to make on behalf of Employees.
- (xiv) The prescribed minimum level of superannuation support for each Employee has been provided by each member of the Target Group so as not to incur a Superannuation Guarantee Charge liability.
- (xv) There are no overdue contributions due on the part of any member of the Target Group or any Employee that are outstanding and unpaid.
- (xvi) Provisions have been made by each member of the Target Group for any outstanding and unpaid benefits currently due to an Employee or his or her dependants or beneficiaries.
- (xvii) No member of the Target Group contributes to any defined benefit fund in respect of the Employees and no member of the Target Group is liable to contribute in respect of any defined benefit fund.
- (xviii) Each member of the Target Group:
 - (A) has not been subject to a Work Safety Authority inspection in the last 3 years;
 - (B) has not at any time received an improvement notice or prohibition notice from a Work Safety Authority in respect of work health and safety; and
 - (C) is not currently subject to an investigation or prosecution by a Work Safety Authority and, so far as Target is aware, no facts, matters or circumstances exist which may give rise to any such investigation or prosecution.
- (xix) Each member of the Target Group:
 - (A) has workers' compensation insurance in place, and has paid its workers' compensation insurance up to date; and

- (B) is not the subject of any current workers' compensation claim and Target is not aware of any future claim or any facts, matters or circumstances which may give rise to a future claim, and reasonable details of all workers compensation claims during the last 3 years have been Fairly Disclosed in the Disclosure Material.
 - (xx) Each member of the Target Group has complied with all applicable legislation, including Tax Laws and any agreement binding on it, in respect of independent contractors.
 - (xxi) No independent contractor engaged by a member of the Target Group (nor any of the personnel of an independent contractor) is an employee of any member of the Target Group (or is or was entitled to be treated as one) at law.
 - (xxii) Except as would not result in any material losses for any member of the Target Group, each member of the Target Group has paid all wages, salaries, bonuses, commissions, wage premiums, fees, expense reimbursement, severance, and other compensation that have become due and payable to its employees, consultants, independent contractors, and other individual service providers pursuant to any law, contract, or policy.
- (p) **(Information technology)**
- (i) The data, records and information technology and telecommunications systems, hardware and software owned or validly licensed (under a current, enforceable licence) by the Target Group (collectively, the **Systems**) comprise all the data, records and information technology and telecommunications systems, hardware and software necessary for the carrying on of the businesses and operations of the Target Group as such businesses and operations are currently carried on.
 - (ii) All reasonable precautions have been taken to preserve the security and integrity of the Systems and the data and information stored on them, and, so far as Target is aware, there has been no unauthorised access to the Systems or any of the data or information stored on them.
 - (iii) No action is necessary to enable Systems to continue to be used by the Target Group to the same extent and in the same manner as they are used as at the date of this deed.
 - (iv) No member of the Target Group is in breach of any agreement under which a member of the Target Group is licensed to use Systems where such breach may result in any member of the Target Group ceasing to be entitled to use those Systems.
 - (v) So far as Target is aware, the software utilised by the Target Group:
 - (A) is free of material defects and complies with all applicable laws; and
 - (B) is capable of being used for the functions and purposes for which it was designed and/or for which it is currently utilised by the Target Group.
- (q) **(Litigation and disputes)**

- (i) No member of the Target Group is, at the date of this deed, a party to or the subject of any investigation, action, proceeding, dispute, Claim, demand, notice, order, direction, declaration, inquiry, arbitration, mediation, dispute resolution or litigation that will or may have a material adverse effect on the operational or financial performance, or the reputation, of the Target Group (taken as a whole) (**Material Proceedings**).
 - (ii) So far as Target is aware, there are no outstanding settlements, judgments, decrees, awards, orders or other decisions of any court, quasi-judicial body or Government Agency and no Material Proceedings against a member of the Target Group are pending or threatened and Target is not aware of any facts, matters or circumstances that may give rise to a Material Proceeding.
 - (iii) No member of the Target Group has given any undertaking or assurance (whether legally binding or otherwise) to any court or Government Agency under any applicable law.
 - (iv) There are no unsatisfied or outstanding judgments, awards, orders, decrees, Claims or demands against any member of the Target Group.
- (r) (**Insurance**)
- (i) The Disclosure Material Fairly Discloses reasonable particulars of all current insurance policies and cover notes taken out in respect of the Target Group (or a member thereof) or the businesses or operations conducted thereby (or any such business or operation) (**Insurances**).
 - (ii) Each Insurance is in full force and effect in accordance with its terms and all applicable premiums have been paid by the due date for payment.
 - (iii) So far as Target is aware, nothing has been done or omitted to be done:
 - (A) that would make any Insurance void or voidable or that would permit an insurer to cancel the policy or refuse or materially reduce a claim or materially increase the premium payable under any Insurance or otherwise alter the terms of the policy; or
 - (B) by a member of the Target Group so as to make void or voidable any Insurance or to permit an insurer to refuse or reduce a current claim by a member of the Target Group under any Insurance.
 - (iv) As at the date of this deed:
 - (A) there are no outstanding claims made by a member of the Target Group or any person on its behalf under any Insurance or an insurance policy previously taken out by or for the benefit of any member of the Target Group; and
 - (B) so far as Target is aware, there are no threatened or pending claims under any Insurance and there are no facts, matters or circumstances which could give rise to an entitlement to make a claim under any Insurance.
 - (v) The members of the Target Group have notified insurers of all relevant claims, facts, matters and circumstances as required by the notification provisions under each Insurance.

- (vi) No member of the Target Group has made a claim under any Insurance that has been rejected or denied by the insurer.
- (vii) Each member of the Target Group has in place all types of insurances required by law or contract to be taken out by it.
- (s) **(Compliance with laws)** Each member of the Target Group has complied in all material respects with applicable laws (including Privacy Laws), industry codes of conduct (including the Medical Technology Industry Code of Practice published by the Medical Technology Association of Australia) and regulations and holds all material licences, authorisations and permits necessary for them to conduct their business as presently conducted and is not in breach of, or default under, any such licences, authorisations or permits.
- (t) **(Privacy)**
 - (i) Any collection, use or disclosure of Personal Information in connection with the Business by the Target Group:
 - (A) is consistent with any privacy statement or privacy policy issued by the Target Group; and
 - (B) complies with all Privacy Laws by which the members of the Target Group are bound.
 - (ii) Each member of the Target Group has reasonable safeguards in place to protect Personal Information in its possession or control from unauthorised access by third persons.
 - (iii) As far as the Target is aware, within the two years preceding the date of this deed, there have been no material security breaches relating to, or material violations regarding, or unauthorised access, use, processing or disclosure of any Personal Information held or stored by a member of the Target Group.
- (u) **(Taxes and Duties)**
 - (i) At implementation of the Scheme, any Tax or Duty arising under any Tax Law payable:
 - (A) in respect of any transaction, income or assets of a member of the Target Group for all periods up to the Implementation Date;
 - (B) in respect of any event, omission or instrument executed or performed prior to the Implementation Date; and
 - (C) in respect of payments made by a member of the Target Group to another person that must be withheld from that payment prior to the Implementation Date,

have been so withheld (if applicable) and paid (or provided for) prior to the Implementation Date in accordance with the requirements of the relevant Tax Law.
 - (ii) Each member of the Target Group has complied with all material obligations imposed on them by any Tax Law or as requested by any Government Agency.

- (iii) Each member of the Target Group has maintained proper and adequate records to enable it to comply in all material respects with its obligations to:
 - (A) prepare and submit any applications, information, notices, computations, returns and payments required in respect of any Tax Law;
 - (B) prepare any accounts necessary for compliance with any Tax Law; and
 - (C) retain necessary records as required by any Tax Law.
- (iv) Each member of the Target Group has up to the Implementation Date submitted any necessary applications, information, notices, computations and returns to the relevant Government Agency in respect of any Tax or Duty.
- (v) So far as Target is aware, any information, notice, computation and return that has been submitted by any member of the Target Group to a Government Agency in respect of any Tax or Duty:
 - (A) discloses all material facts required to be disclosed under any Tax Law; and
 - (B) is not misleading in any material particular.
- (vi) Target is not aware of any current, pending or threatened Tax or Duty audit, reviews or investigation relating to any member of the Target Group.
- (vii) There are no disputes between any member of the Target Group and any Government Agency in respect of any Tax or Duty.
- (viii) No member of the Target Group will have a franking or imputation account deficit immediately at or any time after the Implementation Date as a result of any act, transaction or omission relating to periods prior to the Implementation Date. No act or omission of any member of the Target Group before the Implementation Date will cause any member of the Target Group to be liable for franking tax or a similar Tax at or after the Implementation Date.
- (ix) There will not be any franking debit to the franking account of any member of the Target Group that relates to a transaction or arrangement entered into before the Implementation Date.
- (x) No member of the Target Group has ever (i) had any taxable presence outside the country in which it is a tax resident or (ii) received notice that it may be subject to Tax in a jurisdiction where it does not currently file tax returns or pay Tax.
- (xi) No debt owed by any member of the Target Group has been, or has been agreed to be, released, waived, forgiven or otherwise extinguished in circumstances which would have attracted any Tax or the operation of the debt forgiveness rules or limited recourse debt rules under the Tax Law.
- (xii) No member of the Target Group has entered into or been a party to any transaction which contravenes any anti-avoidance or integrity provisions of any Tax Law.

- (xiii) Any ruling, determination or election requested, received or made by any member of the Target Group in respect of Tax or Duty:
 - (A) has been Fairly Disclosed in the Disclosure Material; and
 - (B) has at all times been complied with in all material respects by that member of the Target Group.
- (xiv) No agreement extending the period for assessment or collection of any Tax or Duty of any member of the Target Group has been executed or filed with any Government Agency.
- (xv) All registrations required to be maintained by any member of the Target Group with any Government Agency in relation to Tax or Duty are and have at all times been maintained by that member of the Target Group.
- (xvi) Each member of the Target Group has at all relevant times appointed a public officer where required under the applicable Tax Laws.
- (xvii) No member of the Target Group has entered into or been a party to an arrangement, agreement or indemnity whereby it is liable to reimburse or indemnify another party in respect of Tax or Duty, other than pursuant to customary gross up clauses, and no member of the Target Group has any liability for Taxes of another person as a transferee or successor.
- (xviii) No member of the Target Group has a tainted share capital account or a share capital account that is taken to be tainted under any Tax Law and no member of the Target Group has taken any action, up to the Implementation Date, that would cause such member of the Target Group's share capital account to be a tainted share capital account, nor has an election been made at any time up to and including the Implementation Date, to untaint any member of the Target Group's share capital account.
- (xix) No member of the Target Group has made any election or made any choice under Division 230 of the ITAA 1997.
- (xx) No member of the Target Group has been in breach of the benchmark franking percentage rules.
- (xxi) Target has been the Head Company of the Target Group at all times since 30 October 2013.
- (xxii) The Tax Sharing Agreement is valid under the Tax Law.
- (xxiii) The Target Consolidated Group is not and has never been a MEC Group for the purposes of Part 3-90 of the ITAA 1997.
- (xxiv) No tax attributes of the Target Group as at the implementation of the Scheme are subject to any losses, limitations or restrictions due to prior changes in the control or ownership of the Target Group.
- (xxv) No member of the Target Group is a party to any document, instrument, contract, agreement, deed or transaction in respect of which it is or will become liable to pay GST in circumstances where such member of the Target Group has no express entitlement to increase the consideration payable under the document, instrument, contract, agreement, deed or transaction or otherwise seek reimbursement so that such member of the

Target Group retains the amount it would have retained but for the imposition of GST.

(xxvi) Each member of the Target Group:

- (A) that is required to be registered for GST under the GST Law is so registered;
- (B) has complied in all respects with the GST Law;
- (C) is not in default of any obligation to make or lodge any payment or GST return or notification under the GST Law;
- (D) has adequate systems established for it to ensure it complies with the GST Law; and
- (E) where it has the right to require another party to any such agreement or arrangement to pay to it an amount on account of GST, has enforced that right.

(xxvii) The members of the Target Group have only been members (if at all) of the Target GST Group.

(xxviii) No member of the Target Group:

- (A) has paid any amount on account of, or in respect of, GST to any entity which it was not contractually required to pay;
- (B) has ever been a party to an indirect tax sharing agreement or an indirect tax funding agreement;
- (C) is, and has never been, a member (including a joint venture operator) of a GST joint venture; or

(xxix) Target as the representative member of the Target GST Group has met all of its GST obligations in respect of any period or part period up to the Implementation Date in accordance with the requirements of the GST Law.

(xxx) All documents, instruments, contracts, agreements, deeds or transactions which are liable to Duty, or necessary to establish the title of each member of the Target Group to an asset, have had Duty paid in full in accordance with all applicable Tax Laws, and there is no requirement to upstamp on account of an interim assessment.

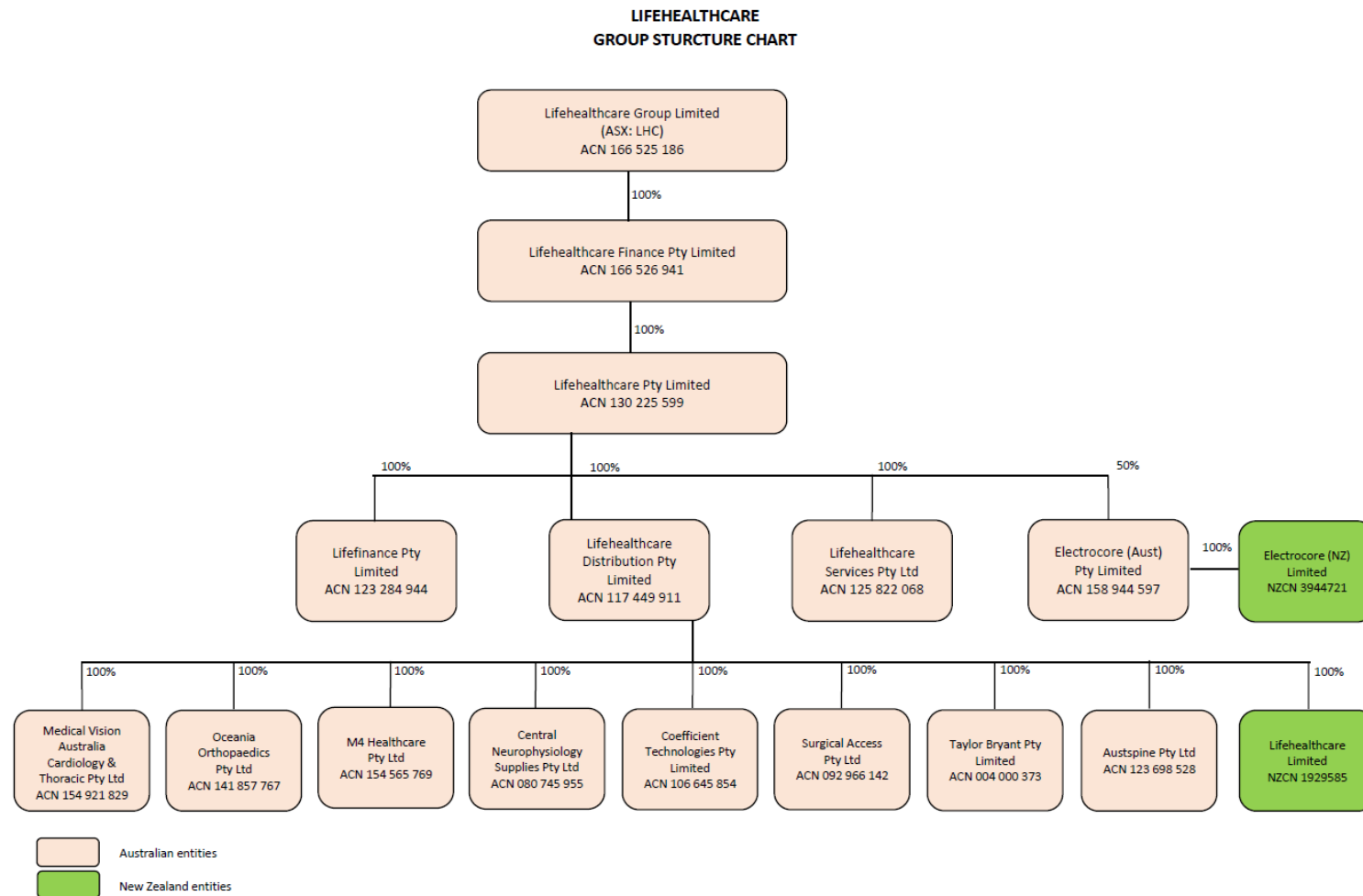
(xxxi) No event has occurred, or will occur, as a result of anything provided for in this deed, or as a result of this deed itself, as a result of which any Duty from which a member of the Target Group may have obtained an exemption or other relief prior to the date of this deed may become payable on any document, instrument, contract, agreement, deed or transaction.

(v) **(Specific compliance matters)**

- (i) So far as Target is aware, each member of the Target Group and their respective directors are in compliance with anti-bribery and corruption laws and anti-money laundering laws in all material respects.

- (ii) So far as Target is aware, no member of the Target Group and none of their respective directors or officers, is or has been the subject of any pending or threatened investigation, audit, suspension, inquiry or enforcement proceeding regarding any offence or alleged offence under any applicable anti-bribery, anti-corruption, anti-money laundering or anti-kickback or similar law or regulation, and so far as Target is aware:
 - (A) no such investigation, inquiry or proceeding has been threatened or is pending; and
 - (B) there are no circumstances reasonably likely to give rise to any such investigation, inquiry or proceeding.
- (iii) So far as Target is aware, no member of the Target Group has been the subject of any penalty, fine or loss of privileges by any Government Agency for violation of any applicable anti-bribery and corruption laws and anti-money laundering laws nor, so far as Target is aware, is there any investigation by any Government Agency for any such violations.

Schedule 6 Target Group Structure Diagram



Execution page

Executed as a deed.


Signed and delivered by **Pacific Health
Supplies BidCo Pty Limited** in accordance
with section 127 of the *Corporations Act 2001*
(Cth) and by:



Signature of director

Geoff Hutchinson

Name of director (print)



Signature of director/secretary

Matthew Robinson

Name of director/secretary (print)

Signed and delivered by **LifeHealthcare
Group Limited** in accordance with section 127
of the *Corporations Act 2001* (Cth) and by:

Signature of director

Name of director (print)

Signature of director/secretary

Name of director/secretary (print)

Execution page

Executed as a deed.

Signed and delivered by **Pacific Health Supplies BidCo Pty Limited** in accordance with section 127 of the *Corporations Act 2001* (Cth) and by:


Signature of director

Signature of director/secretary


Name of director (print)

Name of director/secretary (print)


Signed and delivered by **LifeHealthcare Group Limited** in accordance with section 127 of the *Corporations Act 2001* (Cth) and by:



Signature of director



Signature of director/secretary



Name of director (print)

Matthew Musoro

Name of director/secretary (print)

Attachment A Timetable

Event	Target date
Release of Agreed Public Announcement	Monday, 5 February 2018
Regulator's Draft provided to ASIC	Friday, 9 March 2018
First Court Hearing	Thursday, 29 March 2018
Scheme Meeting	Friday, 4 May 2018
Second Court Hearing	Thursday, 10 May 2018
Effective Date	Friday, 11 May 2018
Record Date	Friday, 18 May 2018
Implementation Date	Friday, 25 May 2018

Scheme of Arrangement

LifeHealthcare Group Limited

Each person registered as a holder of Target Shares as at the Record Date

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Parties

- 1 **LifeHealthcare Group Limited** ACN 166 525 186 of Level 8, 15 Talavera Road, North Ryde, New South Wales 2113, Australia (**Target**)
- 2 Each person registered as a holder of Target Shares as at the Record Date (**Scheme Shareholders**)

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

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.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this Scheme.

2 Preliminary matters

- (a) Target is an Australian public company limited by shares, and has been admitted to the official list of ASX. Target Shares are quoted for trading on the ASX.
- (b) As at **[insert date]**, there were:
 - (i) **[insert number]** Target Shares that were quoted for trading on the ASX;
 - (ii) **[insert number]** Target Options; and
 - (iii) **[insert number]** Target Performance Rights.
- (c) Bidder is an Australian proprietary company limited by shares incorporated in New South Wales.
- (d) Bidder and Target have entered into the Scheme Implementation Deed in respect of (among other things) the implementation of this Scheme.
- (e) This Scheme attributes actions to Bidder but does not itself impose any obligations on it to perform those actions. By executing the Deed Poll, Bidder has agreed to perform the actions attributed to it under this Scheme. By executing the Deed Poll, Bidder agrees to perform its obligations under the Deed Poll, including payment of the Scheme Consideration in accordance with the terms of this Scheme.

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will not become Effective until and unless the following conditions precedent are satisfied:

- (a) all the conditions in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(b) of the Scheme Implementation Deed relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Scheme Implementation Deed by the Delivery Time;
- (b) neither the Scheme Implementation Deed nor the Deed Poll is terminated in accordance with its terms by the Delivery Time;
- (c) this Scheme is approved by the Court at the Second Court Hearing under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Target and Bidder;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to Target and Bidder are satisfied or waived; and
- (e) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act.

3.2 Certificates

- (a) Each of Target and Bidder must provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their respective knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived.
- (b) The certificates given by Target and Bidder constitute conclusive evidence that the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived.

3.3 Termination and End Date

Without limiting any rights under the Scheme Implementation Deed, if:

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

then each of Bidder and Target are released from any further obligation to take steps to implement this Scheme.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, Target must lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme on the first Business Day following the day on which such office copy is received by Target or such later date as Target and Bidder agree in writing.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5.2(a), the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target as attorney and agent for Scheme Shareholders under clause 8.5), by:
 - (i) Target duly completing and executing the Scheme Transfer, duly executed on behalf of the Scheme Shareholders (as transferors), and delivering it to Bidder; and
 - (ii) Bidder duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a), Target must enter, or procure the entry of, the name of Bidder in the Share Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, on the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to the Scheme Consideration in respect of each Scheme Share.

5.2 Provision of Scheme Consideration

- (a) In consideration for the transfer to Bidder of the Scheme Shares, Bidder must provide the Scheme Consideration by depositing (or procuring the deposit) in cleared funds an amount equal to the aggregate Scheme Consideration for all Scheme Shares into the Trust Account on the Business Day before the Implementation Date, such amount to be held by Target on trust for Scheme Shareholders (provided that any interest on the amount so deposited (less bank fees and other charges) (**Accrued Interest**) will accrue for the benefit of Bidder).
- (b) Subject to Bidder having complied with clause 5.2(a), Target must, on the Implementation Date and from the Trust Account, pay to each Scheme Shareholder the Scheme Consideration attributable to that Scheme Shareholder based on the number of Scheme Shares held by that Scheme Shareholder as at the Record Date, which obligation will be satisfied by Target:
 - (i) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of the Share Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (ii) whether or not a Scheme Shareholder has made an election referred to in clause 5.2(b)(i), dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the

name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 5.3).

(c) In the event that:

(i) either:

(A) a Scheme Shareholder does not have a Registered Address; or

(B) Target as the trustee for the Scheme Shareholders believes that a Scheme Shareholder is not known at the Scheme Shareholder's Registered Address,

and no account has been notified in accordance with clause 5.2(b)(i) or a deposit into such an account is rejected or refunded; or

(ii) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.4(a),

Target as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Target (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW).

Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 1995* (NSW), Target must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Target must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

(d) To the extent that there is a surplus in the amount held by Target as the trustee for the Scheme Shareholders in the Trust Account, that surplus may be paid by Target as the trustee for the Scheme Shareholders to Bidder following the satisfaction of Target's obligations as the trustee for the Scheme Shareholders under this clause 5.2.

(e) Target must pay any Accrued Interest to any account nominated by Bidder following satisfaction of Target's obligations under clause 5.2(b) (and, in any event, on the Implementation Date).

5.3 Joint holders

In the case of Scheme Shares held in joint names:

(a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Share Register as at the Record Date; and

(b) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Share Register as at the Record Date.

5.4 Cancellation and re-issue of cheques

- (a) Target may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to Target; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Share Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.4(a) must be reissued.

5.5 Unclaimed monies

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

5.6 Orders of a court

If written notice is given to Target (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by Target in accordance with this clause 5, then Target will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents Target from making a payment to a particular Scheme Shareholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, Target will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 5.6 is permitted by that order or otherwise by law.

6 Dealings in Target Shares

6.1 Determination of Scheme Shareholders

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

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

and Target must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received on or after the Record Date, or received prior to the Record Date but not in registrable or actionable form.

6.2 Share Register

- (a) Target must register registrable transmission applications or transfers of Target Shares in accordance with clause 6.1(b) at or before the Record Date, provided that nothing in this clause 6.2(a) requires Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Target will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Target must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for Target Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Target Shares relating to that entry.
- (e) As soon as possible after the Record Date, and in any event within one Business Day after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Share Register as at the Record Date are available to Bidder in the form Bidder reasonably requires.

7 Quotation of Target Shares

- (a) Provided that the Scheme has been fully implemented in accordance with its terms, Target will apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date.
- (b) Target will apply:
 - (i) for termination of the official quotation of Target Shares on the ASX; and
 - (ii) to have itself removed from the official list of ASX,in each case with effect on and from the close of trading on the trading day immediately following, or shortly after, the Implementation Date, as determined by Bidder.

- (c) Target must use its best endeavours to ensure that such termination of official quotation and removal from the official list of ASX does not occur before the Implementation Date.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

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

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

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
 - (i) agrees to the transfer of their Scheme Shares to Bidder together with all rights and entitlements attaching to those shares in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (iii) agrees:
 - (A) that after the transfer of the Scheme Shares to Bidder, any share certificate relating to the Scheme Shares will not constitute evidence of title to those Scheme Shares; and
 - (B) at the direction of Bidder, to destroy any share certificates relating to the Scheme Shares; and
 - (iv) acknowledges that this Scheme binds Target and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Bidder, and appointed and authorised Target as its attorney and agent to warrant to Bidder, that:
 - (i) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to Bidder, be fully paid and free from all:
 - (A) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind; and
 - (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights attaching to those Scheme Shares.

8.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to Bidder, vest in Bidder free from all:
 - (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (ii) restrictions on transfer of any kind.
- (b) Upon the Scheme becoming Effective, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Target of Bidder in the Share Register as the holder of the Scheme Shares. Bidder's entitlement to be registered in the Share Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.2.

8.4 Appointment of sole proxy

Upon the Scheme becoming Effective and until Target registers Bidder as the holder of all Scheme Shares in the Share Register:

- (a) each Scheme Shareholder is deemed to have irrevocably appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution whether in person, by proxy or by corporate representative;
- (b) no Scheme Shareholder may itself attend or vote at any shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.5 Authority given to Target

On the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Bidder; and
- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and Target accepts such appointment. Target, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

8.6 Binding effect of this Scheme

This Scheme binds Target and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target.

9 General

9.1 Stamp duty

Bidder must:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of this Scheme and the Deed Poll, the performance of this Scheme and each transaction effected by or made under this Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability incurred by the Scheme Shareholder arising from failure to comply with clause 9.1(a).

9.2 Consent

Each Scheme Shareholder consents to Target and Bidder doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Target's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Target Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

9.5 Further action

Target must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

9.6 No liability when acting in good faith

None of Target, Bidder, or any of their respective Representatives, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

1 Dictionary

Accrued Interest has the meaning given in clause 5.2(a).

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market operated by it known as the “Australian Securities Exchange”.

Bidder means Pacific Health Supplies BidCo Pty Limited ACN 624 033 889.

Business Day means a week day on which trading banks in Sydney are open for trading and the ASX is open for trading.

CHES means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Target and Bidder.

Deed Poll means the deed poll dated [insert] 2018 under which Bidder covenants in favour of Scheme Shareholders to perform its obligations under this Scheme.

Delivery Time means, in relation to the Second Court Date, 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

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

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

End Date means the date that is 6 months after the date of execution of the Scheme Implementation Deed or such later date as Bidder and Target agree in writing.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory 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, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel).

Implementation Date means the fifth Business Day after the Record Date or such other date as the parties to the Scheme Implementation Deed agree in writing.

Listing Rules means the official listing rules of ASX.

Permitted Dividend has the meaning given to that term in the Scheme Implementation Deed.

Record Date means 7:00pm on the fifth Business Day after the Effective Date of the Scheme or such other date after the Effective Date as Bidder and Target agree in writing.

Registered Address means, in relation to a Target Shareholder, the address shown in the Share Register as at the Record Date.

Scheme means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Bidder and Target.

Scheme Consideration means, in respect of each Scheme Share, A\$3.75, less the aggregate amount per Target Share of any Permitted Dividend(s) paid in accordance with clause 4.3 of the Scheme Implementation Deed.

Scheme Implementation Deed means the scheme implementation deed dated **[insert]** 2018 between Bidder and Target relating to (among other things) the implementation of this Scheme.

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

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

Scheme Shareholder means a Target Shareholder as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

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

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

Share Registry means Computershare Investor Services Pty Limited (ABN 078 279 277).

Target Option has the meaning given to that term in the Scheme Implementation Deed.

Target Performance Right has the meaning given to that term in the Scheme Implementation Deed.

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

Target Shareholder means a holder of one or more Target Shares, as shown in the Share Register.

Trust Account means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by Target as trustee for the Scheme Shareholders, details of which Target must notify to Bidder no later than 5 Business Days

before the Implementation Date. To avoid doubt, any Accrued Interest on funds in the Trust Account will not be held by Target on trust for the Scheme Shareholders but rather will be held by Target on trust for Bidder.

2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including” and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
 - (i) a person includes a natural person, estate of a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
 - (vi) this Scheme includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends;
 - (x) a monetary amount is in Australian dollars; and
 - (xi) time is to Sydney, Australia time.

Attachment C Deed Poll

Deed Poll

Pacific Health Supplies BidCo Pty Limited

In favour of each person registered as a holder of fully paid ordinary shares in
LifeHealthcare Group Limited ACN 166 525 186 as at the Record Date

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Date:

Parties

- 1 **Pacific Health Supplies BidCo Pty Limited** ACN 624 033 889 of Level 31, 126-130 Phillip Street, Sydney New South Wales 2000, Australia (**Bidder**)

In favour of

Each person registered as a holder of fully paid ordinary shares in LifeHealthcare Group Limited ACN 166 525 186 (**Target**) as at the Record Date (**Scheme Shareholders**)

Background

- A Bidder and Target have entered into the Scheme Implementation Deed, under which Bidder is to pay the Scheme Consideration and acquire all Scheme Shares held by Scheme Shareholders under the Scheme, and also under which Bidder has agreed to enter into this deed poll.
- B Bidder is entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to procure and undertake the actions attributed to Bidder under the Scheme.

This deed poll provides as follows

1 Defined terms and interpretation

1.1 Defined terms

In this deed poll:

- (a) **Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders, subject to any alternations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Bidder and Target; and
- (b) unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

1.2 Interpretation

Clause 2 of Schedule 1 to the Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

1.3 Nature of deed poll

Bidder acknowledges and agrees that:

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

2 Conditions

2.1 Conditions

The obligations of Bidder under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Bidder under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date,

unless Target and Bidder otherwise agree in writing.

2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other available rights, powers or remedies:

- (a) Bidder is released from its obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against Bidder in respect of any breach of this deed poll which occurs before it was terminated.

3 Scheme obligations

Subject to clause 2, Bidder undertakes in favour of each Scheme Shareholder to:

- (a) deposit (or procure the deposit of) in cleared funds by no later than the Business Day before the Implementation Date, an amount equal to the aggregate Scheme Consideration payable to all Scheme Shareholders under the Scheme into the Trust Account; and
- (b) undertake all other actions attributed to it under the Scheme,

in each case subject to and in accordance with the terms of the Scheme.

4 Warranties

Bidder represents and warrants in favour of each Scheme Shareholder that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll and to carry out the transactions contemplated by this deed poll;

- (d) this deed poll is valid and binding on it and is enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

5 Continuing obligations

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

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

6 Further assurances

Bidder must, at its own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

7 General

7.1 Stamp duty

Bidder must:

- (a) pay or procure the payment of all stamp duty (if any) and any related fines and penalties payable on or in respect of the Scheme and/or this deed poll, the performance of the Scheme and/or this deed poll, and each transaction effected by or made under the Scheme and/or this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Notices

- (a) Any notice or other communication to Bidder in connection with this deed poll must be:
 - (i) in legible writing in English;
 - (ii) signed by the person making the communication or that person's duly authorised agent; and
 - (iii) given by hand delivery, pre-paid post or email in accordance with the details set out below:

Bidder

Attention: Geoff Hutchinson

Address: Level 31, 126 Phillip Street, Sydney New South Wales 2000, Australia

Email: geoff.hutchinson@pep.com.au

with a copy (for information purposes only) to: tom.story@allens.com.au

(b) Subject to clause 7.2(c), any notice or other communication given in accordance with clause 7.2(a) will be deemed to have been duly given as follows:

- (i) if delivered by hand, on delivery;
- (ii) if sent by pre-paid post, on receipt; and
- (iii) if sent by email:
 - (A) when the sender receives an email from the recipient confirming receipt of the email; or
 - (B) when the sender receives an automated message from the intended recipient's information system confirming delivery of the email,

whichever happens first.

(c) Any notice or other communication that, pursuant to clause 7.2(b), would be deemed to be given:

- (i) other than on a Business Day or after 5:00pm on a Business Day is regarded as given at 9:00am on the following Business Day; and
- (ii) before 9:00am on a Business Day is regarded as given at 9:00am on that Business Day,

where references to time are to time in the place the recipient is located.

7.3 Cumulative rights

The rights, powers and remedies of Bidder and the Scheme Shareholders under this deed poll are cumulative and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

7.4 Waiver

- (a) A party waives a right under this deed poll only by written and signed notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) 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 poll by any party will 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 poll.

7.5 Variation

- (a) A provision of this deed poll may not be varied unless:
 - (i) if before the First Court Date (as defined in the Scheme Implementation Deed), the variation is agreed to by Target in writing; or

- (ii) if on or after the First Court Date (as defined in the Scheme Implementation Deed), the variation is agreed to by Target in writing and the Court indicates that the variation would not of itself preclude approval by the Court of the Scheme,

in which event Bidder must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

7.6 Governing law and jurisdiction

- (a) This deed poll is governed by the laws in force in New South Wales.
- (b) Bidder irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. Bidder irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

7.7 Assignment

- (a) The rights created by this deed poll are personal to Bidder and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder.
- (b) Any purported dealing in contravention of clause 7.7(a) is invalid.

7.8 Counterparts

This deed poll may be executed in counterparts, all of which taken together constitute one document.

Execution page

Executed as a deed poll.

Signed and delivered by Pacific Health
Supplies BidCo Pty Limited in accordance
with section 127 of the *Corporations Act 2001*
(Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)