

25 March 2024

McGRATH LIMITED ENTERS INTO SCHEME IMPLEMENTATION DEED WITH KNIGHT FRANK AND BAYLEYS

JOHN McGRATH TO RETAIN SHAREHOLDING AND CONTINUE ROLE AS CEO & MANAGING DIRECTOR SUPPORTED BY MANAGEMENT TEAM

- McGrath Limited (ASX:MEA) has entered into a Scheme Implementation Deed with a consortium of Knight Frank and Bayleys, under which the consortium has agreed to acquire 100% of the share capital of McGrath by way of scheme of arrangement.
- Under the terms of the Scheme, McGrath shareholders will have the option to receive \$0.60 cash per McGrath share, or an unlisted scrip alternative, or a combination of both. McGrath shareholders will also be entitled to a permitted dividend prior to implementation of the Scheme which will not reduce the Scheme consideration, subject to the conditions outlined below.
- The Board of McGrath, who in aggregate currently hold or control approximately 48.1% of the issued McGrath shares, unanimously recommends shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to an Independent Expert concluding and continuing to conclude that the Scheme is fair and reasonable and in the best interests of McGrath shareholders.
- Founder and Chief Executive Officer of McGrath, John McGrath, intends to elect to receive the unlisted scrip alternative for all his McGrath shares (being, in aggregate, approximately 23.3% of the McGrath shares on issue), subject to the qualifications in respect of his voting intention as a McGrath Director (noted above). John McGrath will continue in his role as CEO & Managing Director supported by his management team upon implementation of the Scheme.
- The Scheme is subject to certain conditions, including approval by McGrath shareholders at a Scheme Meeting.
- Subject to satisfaction of the conditions, implementation of the Scheme is expected to occur before 30 June 2024. If the Scheme is implemented, McGrath will be delisted from the ASX.
- McGrath shareholders do not need to take any action at the present time.

Overview of the Scheme

McGrath Limited (ASX: MEA) (**McGrath** or the **Company**) has entered into a Scheme Implementation Deed (**SID**) with RPAA Holdings Pty Ltd (ACN 676 034 101), an entity owned equally by Knight Frank Australia Holdings Pty Ltd (ACN 114 923 938) (**Knight Frank**) and Bayley Corporation Limited's subsidiary, BCL Aus Holdings Limited (NZCN 8958610) (**Bayleys**) (together, the **Consortium**), under which the Consortium has agreed to acquire 100% of the share capital of McGrath by way of scheme of arrangement (**Scheme**).

Under the Scheme, McGrath shareholders will have the option to receive \$0.60 cash per McGrath share (**All-Cash Alternative**) or unlisted scrip consideration (**Rollco Scrip Alternative**), or a combination of both (together, the **Scheme Consideration**). McGrath shareholders will also be entitled to a permitted dividend prior to the proposed Scheme implementation subject to the conditions outlined below (**Permitted Dividend**).

The All-Cash Alternative implies McGrath's equity value is approximately \$95.5 million¹ (on a 100% fully diluted basis), and represents an attractive premium of:

- 27.7% to the closing share price on 22 March 2024 of \$0.47 per share²;
- 25.8% to the 3-month VWAP³ of \$0.48;
- 34.2% to the 6-month VWAP³ of \$0.45; and
- 52.5% to the 12-month VWAP³ of \$0.39.

Rollco Scrip Alternative

The All-Cash Alternative is the default consideration under the Scheme. If the Scheme is implemented, McGrath shareholders that do not make an election will receive the All-Cash Alternative.

Instead of receiving the All-Cash Alternative, McGrath shareholders have the option to elect to receive the Rollco Scrip Alternative or a combination of the All-Cash Alternative and the Rollco Scrip Alternative. The Rollco Scrip Alternative will enable McGrath shareholders to retain an interest in the McGrath business after the proposed Scheme has been implemented.

The Rollco Scrip Alternative comprises unlisted scrip⁴ in RPAA Investments Limited (ACN 676 033 346) (**Rollco**), an unlisted newly incorporated Australian entity which will indirectly own 100% of the issued capital in McGrath. The Rollco Scrip Alternative will be subject to a scale back mechanism on a pro rata basis to ensure the total number of shares being issued does not exceed 35% of the total shares on issue in Rollco.

McGrath shareholders that receive fully paid ordinary shares in Rollco will become parties to the Rollco shareholders' deed, the proposed terms of which are set out in an Annexure to the SID.

¹ Based on the total number of McGrath shares on issue as at the date of this announcement, being 159,177,508 issued ordinary shares.

² 22 March 2024, being the last trading day prior to this announcement.

³ Volume weighted average price (**VWAP**) based on cumulative trading volume and value on ASX up to and including 22 March 2024.

⁴ McGrath shareholders electing the Rollco Scrip Alternative will receive 1 fully paid ordinary share in Rollco for each McGrath share held. Further information on this alternative will be contained in the Scheme Booklet to be provided to McGrath shareholders.

The Board of McGrath makes no recommendation in relation to the Rollco Scrip Alternative.

Permitted Dividend

McGrath will also be entitled to declare and pay a Permitted Dividend prior to the proposed Scheme implementation, conditional on the following:

- The cash amount of the Permitted Dividend will be determined by McGrath based on McGrath's net cash reserves as at 31 May 2024 (based on the expected timetable) and transaction costs, provided that the net cash reserves of McGrath on 31 May 2024 is not below \$23 million after deducting the Permitted Dividend⁵;
- The Permitted Dividend is expected to be fully franked and the Scheme Consideration will not be reduced by the cash amount of the Permitted Dividend; and
- The Permitted Dividend, if any, is subject to the McGrath Board declaring the dividend in its discretion.

Further details regarding the Permitted Dividend are set out in the SID.

McGrath Directors Unanimously Recommend the Scheme

McGrath's Board of Directors unanimously recommends that McGrath shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is fair and reasonable and in the best interests of McGrath shareholders.

Subject to the same qualifications, the McGrath Directors, who in aggregate currently hold or control approximately 48.1% of the issued McGrath shares, each intend to vote all the McGrath shares held or controlled by them in favour of the Scheme.

The Board of McGrath makes no recommendation in relation to the Rollco Scrip Alternative.

McGrath Chair, Peter Lewis, said:

"In considering the merits of the Scheme, the Directors have been committed to acting in the best interests of shareholders. Our view is that the Scheme represents an excellent outcome for McGrath shareholders, customers, our agents and staff. The Scheme Consideration is at a significant premium to historical trading prices, offering McGrath shareholders with certainty of value and the opportunity to realise their investment in full for cash. It is pleasing to see that Knight Frank and Bayleys share a similar business ethos and approach to McGrath and I see this as a positive development for the McGrath senior management and team members who will continue to be led by its Founder and CEO John McGrath."

McGrath Founder and Chief Executive Officer, John McGrath, said:

"We are delighted to have received this offer from a consortium comprising a leading global property firm in Knight Frank, which has a strong residential real estate offering throughout

⁵ As at 31 December 2023, McGrath had net cash reserves of approximately \$26.35 million. McGrath also paid an interim dividend of 3.0c per share on 12 March 2024 (equated to approximately \$4.78 million). The amount of the Permitted Dividend will depend on the performance and net cash flow generated by McGrath up to and including 31 May 2024 and transaction costs incurred, and is subject to the McGrath Board declaring the dividend in its discretion.

the world, and leading New Zealand full-service real estate agency in Bayleys. Together we share common values and cultures and see the potential partnership with McGrath as a positive development for our industry, and for McGrath agents, team members, franchise partners and customers, who will benefit from the Consortium's global networks, access to high net worth clients and real estate expertise in support of our vision and growth plans. My role as CEO will continue and, if the Scheme is approved, I look forward to continuing to work with the great team at McGrath but also in taking advantage of the opportunities afforded by international partners Knight Frank and Bayleys".

Knight Frank Chief Executive Officer of Australia, James Patterson, said:

"We are excited at the prospect of Knight Frank and Bayleys potentially partnering with McGrath, which is a well-established residential property business with a wide reach within Australia. Knight Frank has a world class global network with more than 125 years of experience. The acquisition would allow Knight Frank to have a leading position in Residential and Commercial real estate in Australia, creating a full service real estate capability to support and advise clients and customers. This partnership would see all brands operating as business as usual. Working together, these teams will create a powerful combination of local expertise with global reach, which will generate enormous opportunity for McGrath and its customers."

Bayleys Managing Director, Mike Bayley, said:

"Bayleys views the partnership with McGrath and Knight Frank as a collaboration of leading real estate companies servicing markets on both sides of the Tasman whilst providing unprecedented global reach. The ability to share ideas and innovations as well as systems and information will add considerable value to our clients across Australasia. Bayleys is the largest full service real estate organisation in New Zealand and has considerable expertise across the residential, commercial, and rural market sectors as well as in franchising. We believe that, as a consortium, Knight Frank and Bayleys are the best partners to ensure McGrath is well positioned to realise its long-term strategic objectives and capitalise on its next phase of growth."

John McGrath to Retain his Shareholding

Founder and Chief Executive Officer of McGrath, John McGrath, has stated to McGrath that, subject to the qualifications in respect of his voting intention as a McGrath Director (noted above), he intends to elect to receive 100% of the Rollco Scrip Alternative for his McGrath shares (being, in aggregate, approximately 23.3% of the McGrath shares on issue).

Details of the Scheme Implementation Deed (SID)

The implementation of the Scheme is subject to various customary conditions. A copy of the SID, which sets out the terms and conditions of the Scheme and associated matters, is attached to this announcement. Capitalised terms used in this section below have the meaning given to those terms in the SID.

In summary, conditions for implementation of the Scheme include:

- McGrath shareholder approval;
- approval by the Court;
- the Independent Expert concluding and continuing to conclude that the Scheme is fair and reasonable and in the best interests of McGrath shareholders (and not changing, qualifying or withdrawing that conclusion);
- no McGrath Material Adverse Change;
- no McGrath Prescribed Occurrences;
- no Restraints; and
- McGrath shareholders representing at least 22% of issued McGrath shares making valid elections to receive the Rollco Scrip Alternative.

The Scheme is not subject to any financing condition.

Under the SID, McGrath will be subject to customary exclusivity obligations, including no shop, no talk and no due diligence obligations (the latter two subject to a customary fiduciary exception), notification obligations and a matching right. A break fee of approximately \$0.96 million will be payable by McGrath to the Consortium in certain customary circumstances.

Indicative Timetable and Next Steps

McGrath shareholders do not need to take any action at this point in time.

A Scheme Booklet containing information relating to the proposed acquisition under the Scheme, reasons for the McGrath Directors' recommendation, an Independent Expert report, and details of the Scheme meeting will be prepared and provided to the Australian Securities and Investments Commission for review, and subsequently sent to McGrath shareholders.

Shareholders will then have the opportunity to vote on the Scheme at a shareholder meeting which is anticipated to be held in June 2024.

Subject to shareholder approval being obtained by the requisite majorities and the other conditions of the Scheme being satisfied, implementation of the Scheme is expected to occur before 30 June 2024.

Advisers

Yatsen Associates and Monash Advisory are acting as financial advisers and Herbert Smith Freehills is acting as legal adviser to McGrath.

- Ends -

Authorised for release by McGrath Board of Directors.

For further information, please contact:

Investors

Howard Herman CFO
0413 886 489

Media

Terri Sissian
0419 881 414

Tim Allerton
0412 715 707

About McGrath

McGrath Limited (ASX: MEA) is one of Australia's most successful integrated real estate services business, offering agency sales, property management, mortgage broking and career training services. McGrath Estate Agents currently has offices located throughout the East Coast of Australia. For further information, please visit www.mcgrath.com.au

About Knight Frank

Founded in 1896, Knight Frank is the world's leading independent real estate consultancy with 604 offices across 58 territories and more than 25,000 people globally. As the world's largest privately owned property consultancy, Knight Frank has the distinct advantage of taking a long term approach to investing and client relationships. Knight Frank has significant global expertise in residential sales and unparalleled access to global and ultra-high net worth individuals. Knight Frank LLC is the owner of Knight Frank Australia. For further information, please visit knightfrank.com.au

About Bayleys

Bayleys is New Zealand's largest full-service privately held real estate agency with a presence throughout New Zealand and the South Pacific, offering unmatched and comprehensive array of property-related services and sector specific expertise which has evolved to meet changing markets and client needs. Bayleys is the market leader in high-end residential sales across New Zealand. As well as having expertise in residential sales, property management and valuations, Bayleys is also the national market leader in rural and commercial property sales and leasing and has significant expertise in real estate franchise development and management. Bayleys has been an associate of Knight Frank in New Zealand since 2018. For further information, please visit bayleys.co.nz



HERBERT
SMITH
FREEHILLS

Deed

Scheme Implementation Deed

McGrath Limited

RPAA Holdings Pty Ltd

Knight Frank Australia Holdings Pty Ltd

Bayley Corporation Limited



Contents

Table of contents

1	Definitions and interpretation	2
	1.1 Definitions	2
	1.2 Interpretation	2
	1.3 Deed components	2
	1.4 Bidder knowledge, belief or awareness	2
2	KFA Guarantee	2
3	Bayleys Guarantee	3
4	Agreement to proceed with the Transaction	3
5	Conditions Precedent and pre-implementation steps	3
	5.1 Conditions Precedent	3
	5.2 Satisfaction of Conditions Precedent	4
	5.3 Waiver of Conditions Precedent	5
	5.4 Termination on failure of Condition Precedent	6
	5.5 Certain notices relating to Conditions Precedent	8
6	Transaction steps	8
	6.1 Scheme	8
	6.2 No amendment to the Scheme without consent	8
	6.3 Scheme Consideration	8
	6.4 Scheme Consideration election mechanism	9
	6.5 Provision of Election updates and McGrath Share information	9
	6.6 McGrath Equity Incentives	10
	6.7 Permitted Dividend	10
7	Rollco Shareholders' Deed	11
8	Implementation	11
	8.1 General obligations	11
	8.2 Timetable	12
	8.3 McGrath's obligations	12
	8.4 Bidder's obligations	16
	8.5 Conduct of business	18
	8.6 Implementation Committee	20
	8.7 Appointment of directors	20
	8.8 Change of control provisions	20
	8.9 McGrath Board Recommendation and Voting Intention	21
	8.10 Conduct of Court proceedings	23
	8.11 Scheme Booklet content and responsibility	23
	8.12 Access to information and management	23
	8.13 Appeal process	25
9	Representations and warranties	25
	9.1 Bidder's representations and warranties	25
	9.2 Bidder's indemnity	25
	9.3 McGrath's representations and warranties	25
	9.4 McGrath's indemnity	25



Contents

9.5	Qualifications on McGrath's representations, warranties and indemnities	26
9.6	Survival of representations and warranties	26
9.7	Survival of indemnities	27
9.8	Timing of representations and warranties	27
9.9	No representation or reliance	27
10	Releases	27
10.1	McGrath and McGrath directors and officers	27
10.2	Bidder and Bidder directors and officers	28
10.3	Deeds of indemnity and insurance	28
11	Public announcement	29
11.1	Announcement of the Transaction	29
11.2	Public announcements	29
11.3	Further announcements of the Transaction	29
11.4	Required disclosure	29
12	Confidentiality	30
13	Exclusivity	30
13.1	No existing discussions	30
13.2	No shop and no talk	30
13.3	Fiduciary exception	31
13.4	Notification of approaches	31
13.5	Matching right	32
13.7	Compliance with law	34
14	Usual provision of information	35
15	Break Fee	35
15.1	Background to Break Fee	35
15.2	Break Fee triggers	35
15.3	Payment of Break Fee	37
15.4	Basis of Break Fee	37
15.5	Compliance with law	37
15.6	Break Fee payable only once	38
15.7	Other Claims	38
15.8	No Break Fee if Scheme Effective	39
16	Expense Reimbursement Amount	39
16.1	Background to Expense Reimbursement Amount	39
16.2	Expense Reimbursement Amount triggers	39
16.3	Payment of Expense Reimbursement Amount	39
16.4	Basis of Expense Reimbursement Amount	40
16.5	Expense Reimbursement Amount payable only once	40
16.6	Other Claims	40
16.7	Claims under the Deed Poll or specific performance	40
17	Termination	40
17.1	Termination	40
17.2	Termination for breach of representations and warranties	42
17.3	Effect of termination	42
17.4	Termination	42
17.5	No other termination	43



Contents

18	Duty, costs and expenses	43
	18.1 Stamp duty	43
	18.2 Costs and expenses	43
	18.3 Withholding tax	43
19	GST	44
20	Notices	45
	20.1 Form of Notice	45
	20.2 How Notice must be given and when Notice is received	45
	20.3 Notice must not be given by electronic communication	45
21	General	46
	21.1 Governing law and jurisdiction	46
	21.2 Service of process	46
	21.3 No merger	46
	21.4 Invalidity and enforceability	46
	21.5 Waiver	46
	21.6 Variation	47
	21.7 Assignment of rights	47
	21.8 Acknowledgement	47
	21.9 No third party beneficiary	47
	21.10 Further action to be taken at each party's own expense	47
	21.11 Entire agreement	47
	21.12 Counterparts	48
	21.13 Relationship of the parties	48
	21.14 Remedies cumulative	48
	21.15 Exercise of rights	48
 Schedules		
 Schedule 1		
	Notice details	50
 Schedule 2		
	Definitions and interpretation	51
 Schedule 3		
	Bidder Representations and Warranties	72
 Schedule 4		
	McGrath Representations and Warranties	74
 Schedule 5		
	Capital structure	77



Contents

Signing page	78
Attachment 1 Indicative Timetable	
Attachment 2 Scheme of arrangement	
Attachment 3 Deed poll	
Attachment 4 Conditions Precedent certificate	
Attachment 5 Shareholders' Deed	
Attachment 6 Rollco constitution	

Herbert Smith Freehills owns the copyright in this document and using it without permission is strictly prohibited.



Scheme Implementation Deed

Date ► 24 March 2024

Between the parties

McGrath

McGrath Limited

ACN 608 153 779 of Suite 2 02, Level 2, 19 Harris Street Pyrmont
NSW 2009

(McGrath)

Bidder

RPAA Holdings Pty Ltd (ACN 676 034 101) of Level 29, 120 Collins
Street, Melbourne VIC 3000

(Bidder)

KFA

Knight Frank Australia Holdings Pty Ltd

ACN 114 923 938 of Level 29, 120 Collins Street, Melbourne VIC
3000

(KFA)

Bayleys

Bayley Corporation Limited

NZCN 8958610 of 30 Gaunt Street, Auckland Central, Auckland 1010
New Zealand

(Bayleys)

Recitals

- 1 The parties have agreed that Bidder will acquire all of the ordinary shares in McGrath by means of a scheme of arrangement under Part 5.1 of the Corporations Act between McGrath and the Scheme Shareholders.
 - 2 The parties have agreed to implement the scheme of arrangement on the terms and conditions of this deed.
-

This deed witnesses as follows:



1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out in Schedule 2.

1.2 Interpretation

Schedule 2 contains interpretation rules for this deed.

1.3 Deed components

This deed includes any schedule.

1.4 Bidder knowledge, belief or awareness

- (a) In this deed, a reference to the knowledge, belief or awareness of Bidder or a Bidder Group Member's knowledge, belief or awareness is limited to the actual knowledge, belief or awareness of the persons agreed between McGrath and Bidder in writing as at the date of this deed, where each such person is deemed to have knowledge of all due diligence reports prepared by or for the benefit of the Bidder Group in respect of the McGrath Group in connection with the Transaction (including any such legal, financial or tax due diligence report).
- (b) The knowledge, belief or awareness of any other person will not be imputed to Bidder nor any other Bidder Group Member (except to the extent referred to in clause 1.4(a)).
- (c) Without limiting clause 10, none of the persons referred to in clause 1.4(a) as being agreed between McGrath and Bidder in writing will bear any personal liability in respect of the Bidder Representations and Warranties or otherwise under this deed, except where such person has engaged in fraud.

2 KFA Guarantee

- (a) KFA unconditionally and irrevocably:
 - (1) guarantees to McGrath the due and punctual performance by Bidder of Bidder's obligations under this deed or the Deed Poll, including in respect of the payment of the All-Cash Alternative; and
 - (2) subject to clause 2(c), indemnifies McGrath, on demand, against 50% of losses suffered or incurred by McGrath arising from any default or delay in the performance of such obligations.
- (b) The obligation of KFA under clause 2(a) is a principal, independent and continuing obligation and remains in full force and effect until all obligations of Bidder have been fully discharged.
- (c) The liability of KFA under this clause 2:



- (1) is several and not joint and several with Bayleys;
- (2) is limited to an amount equal to 50% of the relevant losses suffered or incurred by McGrath; and
- (3) is not affected by anything which, but for this clause 2(c), might operate to release or exonerate KFA in whole or in part from its obligations.

3 Bayleys Guarantee

- (a) Bayleys unconditionally and irrevocably:
 - (1) guarantees to McGrath the due and punctual performance by Bidder of Bidder's obligations under this deed or the Deed Poll, including in respect of the payment of the All-Cash Alternative; and
 - (2) subject to clause 3(c), indemnifies McGrath, on demand, against 50% of losses suffered or incurred by McGrath arising from any default or delay in the performance of such obligations.
- (b) The obligation of Bayleys under clause 3(a) is a principal, independent and continuing obligation and remains in full force and effect until all obligations of Bidder have been fully discharged.
- (c) The liability of Bayleys under this clause 3:
 - (1) is several and not joint and several with KFA;
 - (2) is limited to an amount equal to 50% of the relevant losses suffered or incurred by McGrath; and
 - (3) is not affected by anything which, but for this clause 3(c), might operate to release or exonerate Bayleys in whole or in part from its obligations.

4 Agreement to proceed with the Transaction

- (a) McGrath agrees to propose the Scheme on and subject to the terms and conditions of this deed.
- (b) Bidder agrees to assist McGrath to propose the Scheme on and subject to the terms and conditions of this deed.
- (c) McGrath and Bidder agree to implement the Scheme on and subject to the terms and conditions of this deed.

5 Conditions Precedent and pre-implementation steps

5.1 Conditions Precedent

Subject to this clause 5, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme are not binding,



unless and until each of the following Conditions Precedent is satisfied or waived to the extent and in the manner set out in this clause 5.

- (a) **Shareholder approval:** McGrath Shareholders approve the Scheme Resolution at the Scheme Meeting by the Requisite Majorities (except to the extent the Court orders otherwise under sub-subparagraph 411(4)(a)(ii)(A) of the Corporations Act).
- (b) **Independent Expert:** the Independent Expert:
 - (1) issues an Independent Expert's Report which concludes that the Scheme is fair and reasonable to, and in the best interests of, McGrath Shareholders before the time when the Scheme Booklet is registered by ASIC; and
 - (2) does not adversely change its conclusion or withdraw its Independent Expert's Report before 8.00am on the Second Court Date.
- (c) **Court approval:** the Court approves the Scheme in accordance with paragraph 411(4)(b) of the Corporations Act (either unconditionally and without modification or with modifications or conditions consented to by the Bidder in accordance with clause 6.2).
- (d) **Restraints:** as at 8.00am on the Second Court Date, there is no:
 - (1) Law, rule, regulation, temporary restraining order, temporary, preliminary or final order, injunction, decision or decree made or issued by any court of competent jurisdiction or other Government Agency, or
 - (2) other material legal restraint or prohibition,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) implementation of the Scheme.
- (e) **No McGrath Prescribed Occurrence:** no McGrath Prescribed Occurrence occurs between (and including) the date of this deed and 8.00am on the Second Court Date.
- (f) **No McGrath Material Adverse Change:** no McGrath Material Adverse Change occurs or is discovered, announced, disclosed or otherwise becomes known to the Bidder between (and including) the date of this deed and 8.00am on the Second Court Date.
- (g) **Valid Elections:** McGrath Shareholders holding at least 22% of issued McGrath Shares make valid Elections of the Rollco Scrip Alternative under the Scheme.
- (h) **Scheme Security Consideration Documents:** as soon as practicable after the date of this deed, each of the Scheme Security Consideration Documents is duly executed or adopted (as applicable) and no breach of those documents has occurred between the date of this deed and 8.00am on the Second Court Date.

5.2 Satisfaction of Conditions Precedent

- (a) McGrath must, to the extent it is within its power to do so, use all reasonable endeavours to procure that each of the Conditions Precedent in clauses 5.1(a) (Shareholder approval), 5.1(c) (Court approval), 5.1(e) (No McGrath Prescribed Occurrence) and 5.1(f) (No McGrath Material Adverse Change) is satisfied as soon as practicable after the date of this deed and continues to be satisfied at



all times until the last time that the relevant clause provides that it is to be satisfied.

- (b) Each party must, to the extent it is within its respective power to do so, use its best endeavours to procure that:
- (1) the Condition Precedent in clause 5.1(h) (Scheme Security Consideration Documents) is satisfied as soon as practicable after the date of this deed and continues to be satisfied at all times until the last time that clause 5.1(h) (Scheme Security Consideration Documents) provides that this Condition Precedent is to be satisfied;
 - (2) the Condition Precedent in clause 5.1(d) (Restraints) is not triggered; and
 - (3) there is no occurrence within its control that would prevent any of the Conditions Precedent being or remaining satisfied.
- (c) McGrath will not be in breach of its obligations under clause 5.2(a) or clause 5.2(b) to the extent that it takes an action or omits to take an action:
- (1) as expressly required, permitted or permitted not to be done, by this deed (including without limitation taking an action or omitting to take an action in response to a Competing Proposal as permitted or contemplated by clause 13);
 - (2) which is Fairly Disclosed in the Disclosure Materials;
 - (3) which has been publicly disclosed to ASX by McGrath prior to the date of this deed; or
 - (4) which has been consented to in writing by Bidder (such consent not to be unreasonably withheld or delayed).
- (d) In respect of the Conditions Precedent in clause 5.1(e) (No McGrath Prescribed Occurrence) or clause 5.1(f) (No McGrath Material Adverse Change), if:
- (1) a McGrath Prescribed Occurrence occurs between and including the date of this deed and 8.00am on the Second Court Date, the Condition Precedent in clause 5.1(e) (No McGrath Prescribed Occurrence) will be taken to have been breached or not satisfied; or
 - (2) a McGrath Material Adverse Change occurs between and including the date of this deed and 8.00am on the Second Court Date, the Condition Precedent in clause 5.1(f) (No McGrath Material Adverse Change) will be taken to have been breached or not satisfied,
- unless:
- (3) Bidder has given written notice to McGrath in accordance with clause 5.5 and such notice also sets out the relevant circumstance of the breach; and
 - (4) McGrath has failed to remedy the breach within 10 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which such notice is given.

5.3 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 5.1(a) (Shareholder approval) and 5.1(c) (Court approval) cannot be waived.
- (b) The Conditions Precedent in clauses 5.1(g) (Valid Elections), 5.1(e) (No McGrath Prescribed Occurrence) and 5.1(f) (No McGrath Material Adverse



Change) are for the sole benefit of Bidder and may only be waived by Bidder (in its absolute discretion) in writing.

- (c) The Conditions Precedent in clause 5.1(b) (Independent Expert) and clause 5.1(h) (Scheme Security Consideration Documents) are for the sole benefit of McGrath and may only be waived by McGrath (in its absolute discretion) in writing.
- (d) The Conditions Precedent in clauses 5.1(d) (Restraints) is for the benefit of both parties and may only be waived by written agreement between Bidder and McGrath (in each case in their respective absolute discretion).
- (e) If McGrath or Bidder waives the breach or non-satisfaction of any of the Conditions Precedent in clause 5.1, that waiver does not prevent that party from suing the other party for any breach of this deed that resulted in the breach or non-satisfaction of the relevant Condition Precedent.
- (f) Waiver of a breach or non-satisfaction in respect of one Condition Precedent does not constitute:
 - (1) a waiver of breach or non-satisfaction of any other Condition Precedent resulting from the same event; or
 - (2) a waiver of breach or non-satisfaction of that Condition Precedent resulting from any other event.

5.4 Termination on failure of Condition Precedent

- (a) If there is an act, a failure to act, an event or an occurrence that would, does, or will prevent any of the Conditions Precedent being satisfied (including, for the avoidance of doubt, if McGrath Shareholders do not approve the Scheme Resolution at the Scheme Meeting by the Requisite Majorities), or if any of the Conditions Precedent become incapable of being satisfied, by the earlier of:
 - (1) the time and date specified in this deed for the satisfaction of that Condition Precedent; and
 - (2) the End Date,or such Condition Precedent is otherwise not satisfied by the earlier of that specified time and date or the End Date (as applicable), and the breach or non-fulfilment of the relevant Condition Precedent that has occurred or would otherwise occur has not been waived in accordance with clause 5.3 or cannot be waived because of clause 5.3(a), or the Scheme has not otherwise become Effective on the End Date, then either party may give the other party written notice (**Consultation Notice**) within 5 Business Days after a relevant notice being given under clause 5.5(b) and McGrath and Bidder then must consult in good faith to:
 - (3) consider and, if agreed, determine, whether the Transaction may proceed by way of alternative means or methods or whether, in the case of a breach of a Condition Precedent in clauses 5.1(e) (No McGrath Prescribed Occurrence) or 5.1(f) (No McGrath Material Adverse Change), the breach or the effects of the breach is or are able to be remedied before the expiry of the period in clause 5.2(d)(4);
 - (4) consider changing and, if agreed, change, the date of the application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed to in writing by Bidder and McGrath; or



- (5) consider extending and, if agreed, extend, the time and date specified in this deed for the satisfaction of that Condition Precedent or End Date (as applicable),

respectively.

- (b) Subject to clauses 5.4(c) and 5.4(d), if McGrath and Bidder are unable to reach agreement under clause 5.4(a) within the earlier of 10 Business Days after the date on which the Consultation Notice is given and 5 Business Days before the time and date specified in this deed for the satisfaction of the Condition Precedent, then, unless:

- (1) the relevant Condition Precedent has been waived in accordance with clause 5.3; or
- (2) the party, or in the case of clause 5.3(d), each party, entitled to waive the relevant Condition Precedent in accordance with clause 5.3 confirms in writing to the other party that it will not rely on the event or occurrence that would or does prevent the relevant Condition Precedent from being satisfied, or would mean the relevant Condition Precedent would or will not otherwise be satisfied,

either party may terminate this deed without any liability to the other party because of that termination.

- (c) A party may not terminate this deed pursuant to clause 5.4(b) if:

- (1) the relevant occurrence or event, the failure of the Condition Precedent to be satisfied, or the failure of the Scheme to become Effective, arises out of a breach of clauses 5.2 or 5.5 by that party, although in such circumstances the other party may still terminate this deed; or
- (2) the relevant Condition Precedent is stated in clause 5.3 to be for the sole benefit of the other party.

- (d) If the Condition Precedent in clause 5.1(a) (Shareholder approval) is not satisfied only because of a failure to obtain the majority required by sub-subparagraph 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice to the other within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that sub-subparagraph, provided the party has, in good faith formed the view that the prospect of the Court exercising its discretion in that way is reasonable (including, but not limited to, because the relevant party considers (acting reasonably) that the splitting by one or more McGrath Shareholders of a holding of McGrath Shares into two or more parcels of McGrath Shares (whether or not it results in any change in beneficial ownership of the McGrath Shares) or some other abusive or improper conduct may have caused or contributed to the majority required by sub-subparagraph 411(4)(a)(ii)(A) of the Corporations Act not having been obtained). If such a notice is given, McGrath must make such submissions to the Court and file such evidence as counsel engaged by McGrath 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 sub-subparagraph 411(4)(a)(ii)(A) of the Corporations Act. If approval is given, the Condition Precedent in clause 5.1(a) (Shareholder approval) is deemed to be satisfied for all purposes.



5.5 Certain notices relating to Conditions Precedent

If a party becomes aware of:

- (a) the satisfaction of a Condition Precedent or of any material progress towards such satisfaction; or
- (b) the happening of an event or occurrence that would, does, will, or would reasonably be likely to:
 - (1) prevent a Condition Precedent being satisfied; or
 - (2) mean that any Condition Precedent will not otherwise be satisfied, before the time and date specified for its satisfaction (or being satisfied by the End Date, if no such time and date is specified) or such Condition Precedent is not otherwise satisfied by that time and date (including, for the avoidance of doubt, if McGrath Shareholders do not approve the Scheme Resolution at the Scheme Meeting by the Requisite Majorities),

it must advise the other by notice in writing, as soon as possible (and in any event within 2 Business Days).

6 Transaction steps

6.1 Scheme

McGrath must propose the Scheme to McGrath Shareholders on and subject to the terms and conditions of this deed.

6.2 No amendment to the Scheme without consent

McGrath must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of Bidder.

6.3 Scheme Consideration

- (a) The Scheme Consideration in respect of each Scheme Share is either:
 - (1) the All-Cash Alternative; or
 - (2) the Rollco Scrip Alternative.
- (b) If the Scheme becomes Effective, subject to clause 6.3(f):
 - (1) each Scheme Shareholder that is not an Ineligible Foreign Shareholder is entitled to receive either the All-Cash Alternative or Rollco Scrip Alternative in respect of each Scheme Share held by that Scheme Shareholder, in accordance with that Scheme Shareholder's Election and subject to the terms of this deed and the Scheme; and
 - (2) each Scheme Shareholder that is an Ineligible Foreign Shareholder is entitled to receive the All-Cash Alternative in respect of each Scheme Share held by that Scheme Shareholder, in accordance with and subject to the terms and conditions of this deed and the Scheme.
- (c) Subject to clauses 6.3(e) and 6.3(f), Bidder undertakes and warrants to McGrath that, in consideration of the transfer to Bidder of each McGrath Share



held by a Scheme Shareholder under the terms of the Scheme, on the Implementation Date, Bidder will:

- (1) accept that transfer; and
 - (2) provide to each Scheme Shareholder (or procure the provision to each Scheme Shareholder of) the Scheme Consideration for each Scheme Share in accordance with and subject to the terms and conditions of this deed and the Scheme (including the payment of the All-Cash Alternative and the issuance of the Rollco Scrip Alternative pursuant to the terms of the Scheme).
- (d) Where the calculation of the Scheme Consideration to be issued to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a Rollco Share, the fractional entitlement will be rounded to the nearest whole number of Rollco Shares, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Rollco Shares, and any such fractional entitlement of 0.5 or more being rounded up to the nearest whole number of Rollco Shares.
- (e) Notwithstanding anything to the contrary in this clause 6.3, Bidder will be under no obligation under this deed or the Scheme to procure the issue of, and Rollco will be under no obligation under this deed or the Scheme to issue, any Rollco Shares under the Scheme to any Ineligible Foreign Shareholder.
- (f) Notwithstanding anything to the contrary in this clause 6.3, the issue of Rollco Shares as Scheme Consideration under the Scheme is subject to the Scaleback Arrangements.

6.4 Scheme Consideration election mechanism

- (a) McGrath must ensure that the Scheme Booklet sent to McGrath Shareholders is accompanied by a form of election under which each McGrath Shareholder that is not an Ineligible Foreign Shareholder is requested to elect to receive either the All-Cash Alternative or the Rollco Scrip Alternative in respect of all of their McGrath Shares, and which sets out the election process (**Election Form**).
- (b) The Election Form must include the relevant matters set out in the Scheme and must otherwise be in a form agreed by McGrath and Bidder in writing.
- (c) McGrath must procure that, to the extent practicable, Scheme Shareholders who acquired McGrath Shares after the date of the despatch of the Scheme Booklet and Election Form receive an Election Form on request to McGrath.

6.5 Provision of Election updates and McGrath Share information

In order to facilitate the provision of the Scheme Consideration, McGrath must provide, or procure the provision of, to Bidder:

- (a) reasonable written updates of the Elections that have been received in the period up to the Election Time;
- (b) written details of the final Elections made by each Scheme Shareholder, within one Business Day after the Scheme Record Date; and
- (c) a complete copy of the McGrath Share Register as at the Scheme Record Date (which must include the name, Registered Address and registered holding of each Scheme Shareholder as at the Scheme Record Date), within one Business Day after the Scheme Record Date.



6.6 McGrath Equity Incentives

Despite any other provision of this deed:

- (a) subject to clause 6.6(b), McGrath and Bidder agree that the McGrath Equity Incentives and any other McGrath equity incentives (including future grants of incentives) will be treated in the manner disclosed by McGrath to Bidder before entry into this deed; and
- (b) McGrath must ensure that all McGrath Equity Incentives which are not McGrath Shares have either been cancelled or vested and converted into McGrath Shares such that there are no outstanding McGrath Equity Incentives which are not McGrath Shares on issue as at the Scheme Record Date.

For the avoidance of doubt, McGrath and Bidder agree that the exercise of any discretion by the McGrath Board, or any other action, which is in accordance with this clause 6.6, will not be a McGrath Material Adverse Change, a McGrath Prescribed Occurrence or a McGrath Regulated Event or a breach of any provision of this deed, or give rise to any right to terminate this deed, and will be disregarded when assessing the operation of any other part of this deed.

6.7 Permitted Dividend

- (a) Notwithstanding any other provision of this deed but subject to clause 8.2(f) and the requirements of this clause 6.7, McGrath may (in its absolute discretion) declare and pay a cash dividend to McGrath Shareholders (**Permitted Dividend**), provided that:
 - (1) the payment date for the Permitted Dividend will be determined by McGrath, provided that the payment date occurs on or before the Implementation Date;
 - (2) the cash amount of the Permitted Dividend will be determined by McGrath, provided that the Net Cash Reserves of McGrath at 11.59pm on the Determination Date are not below \$23 million after deducting the aggregate amount of the Permitted Dividend;
 - (3) McGrath provides Bidder with reasonable supporting evidence of the amount of the Net Cash Reserves as at the Determination Date at least 2 Business Days before announcing the amount of the Permitted Dividend;
 - (4) no less than 3 Business Days before the Determination Date, McGrath provides the Bidder with an update (including costs paid and accrued as well as an estimate of the remaining costs to be paid by McGrath in respect of the Transaction (together, **Transaction Costs**), in the form set out in document (data room reference number 09.01.01.01) comprising part of the Disclosure Materials (**Estimated Transaction Costs**), with reasonable supporting evidence;
 - (5) for the purposes of calculating the amount of the Net Cash Reserves as at the Determination Date:
 - (A) the Net Cash Reserves will be increased by the amount by which the Estimated Transaction Costs is less than \$4,000,000 (excluding GST on all items in this calculation);
 - (B) the Net Cash Reserves will be decreased by the amount by which the Estimated Transaction Costs is more than \$4,000,000 (excluding GST on all items in this calculation);and



- (C) to the extent that any amount of Transaction Costs has been paid by McGrath as at the Determination Date (**Paid Transaction Costs**), the Net Cash Reserves will be increased by the amount of the Paid Transaction Costs (including any GST which has been paid on such Transaction Costs by McGrath).
- (6) the Permitted Dividend may be fully franked, provided that its payment would not cause:
 - (A) the McGrath franking account to fall into deficit upon payment of the Permitted Dividend;
 - (B) McGrath to incur any franking credit tax;
 - (C) McGrath to incur or otherwise become liable for any fine or penalty in connection with any franking deficit;
 - (D) McGrath to break the benchmark rule (as defined in section 995-1 of the Tax Act), if applicable; or
 - (E) the share capital account of McGrath to be debited or tainted; and
- (7) the payment of the Permitted Dividend complies with the Corporations Act.
- (b) The Scheme Consideration will not be reduced by the cash amount of the Permitted Dividend.
- (c) McGrath must not incur, pay or agree to incur or pay any transaction costs in excess of the Estimated Transaction Costs without the prior written consent of the Bidder (such consent not to be unreasonably withheld).

7 Rollco Shareholders' Deed

Any McGrath Shareholders who elect to receive the Rollco Scrip Alternative and subsequently receive Rollco Shares will be subject to the Shareholders' Deed.

The Shareholders' Deed will be substantially in the form set out in Attachment 5, with such further amendments as agreed between McGrath and Bidder.

8 Implementation

8.1 General obligations

Subject to clause 8.2(b), McGrath and Bidder each must:

- (a) use all reasonable endeavours and commit necessary resources (including management and the resources of external advisers); and
- (b) procure that its respective officers and advisers work in good faith and in a timely and cooperative fashion with the other party (including by attending meetings and by providing information),



to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and in accordance with the Timetable, subject to the terms and conditions of this deed.

8.2 Timetable

- (a) Subject to clause 8.2(b), McGrath and Bidder must each use all reasonable endeavours to:
 - (1) comply with their respective obligation under this clause 8; and
 - (2) take all necessary steps and exercise all rights necessary to implement the Transaction,in accordance with the Timetable.
- (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 8.2(a) to the extent that such failure is due to circumstances and matters outside the party's control or due to McGrath taking or omitting to take any action in response to a Competing Proposal as permitted or contemplated by this deed.
- (c) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable.
- (d) To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control, the parties will consult in good faith to seek to agree to any necessary extension to ensure such matters are completed within the shortest possible timeframe.
- (e) Subject to clause 8.2(f), to the extent that there is a delay in the Timetable resulting in implementation of the Transaction not occurring on or before 30 June 2024 and the Scheme Meeting will not occur on or before 11 July 2024, McGrath or Bidder may extend the End Date to 31 July 2024 by written notice to the other party (in which case, in respect of the Permitted Dividend, the Determination Date will change to 30 June 2024 unless the Scheme Meeting will occur on or before 11 July 2024).
- (f) Where any such delay is directly and solely caused by an unreasonable delay:
 - (1) by the Consortium or Bidder Group, then:
 - (A) the Bidder may not extend the End Date under clause 8.2(e); and
 - (B) the cash amount of the Permitted Dividend will be increased by the amount of the incremental costs incurred by McGrath as a consequence of that delay to the Timetable; or
 - (2) by McGrath, then the cash amount of the Permitted Dividend will be reduced by the amount of the incremental costs incurred by the Bidder as a consequence of that delay to the Timetable.

8.3 McGrath's obligations

Subject to any change of recommendation by the McGrath Board that is permitted by clause 8.9, McGrath must take all necessary steps to implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, use all reasonable endeavours to ensure that each step in the Timetable is met by the relevant date set out beside that step (and must consult with Bidder on a regular basis about its progress in that regard) and do each of the following:



- (a) **preparation of Scheme Booklet:** subject to clauses 8.4(a) and 8.4(b), prepare and despatch the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and the Corporations Regulations), RG 60, applicable Takeovers Panel guidance notes and the Listing Rules;
- (b) **directors' recommendation:** use its best endeavours to include in the Scheme Booklet and the public announcement by McGrath contemplated by clause 11.2, a statement by:
 - (1) the McGrath Board unanimously recommending that McGrath Shareholders vote in favour of the Scheme Resolution at the Scheme Meeting in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is fair and reasonable to, and in the best interests of, McGrath Shareholders; and
 - (2) each McGrath Board Member that he or she will (subject to the same qualifications as set out in clause 8.3(b)(1)) vote, or procure the voting of, any Director McGrath Shares at the time of the Scheme Meeting in favour of the Scheme Resolution at the Scheme Meeting,unless there has been an adverse change of recommendation permitted by clause 8.9;
- (c) **paragraph 411(17)(b) statement:** apply to ASIC for the production of:
 - (1) an indication of intent letter stating that it does not intend to appear before the Court, or intervene to oppose the Scheme, at the First Court Hearing; and
 - (2) a statement under paragraph 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (d) **Court direction:** apply to the Court for orders pursuant to subsection 411(1) of the Corporations Act directing McGrath to convene the Scheme Meeting and, without limiting clause 8.3(f), lodge all relevant documents with the Court and take all other reasonable steps necessary to ensure that such application is heard by the Court at the First Court Hearing;
- (e) **Scheme Meeting:** convene and hold the Scheme Meeting to seek McGrath Shareholders' agreement to the Scheme and despatch the Scheme Booklet to McGrath Shareholders in accordance with the orders made by the Court pursuant to subsection 411(1) of the Corporations Act at the First Court Hearing;
- (f) **Court documents:** prepare and consult with the Bidder in relation to the content of the documents required for purpose of each of the Court hearings held for the purpose of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and:
 - (1) provide drafts of those documents to Bidder in a timely manner;
 - (2) provide Bidder with a reasonable opportunity to review and comment on those documents before they are lodged or filed with the Court; and
 - (3) consider, for the purpose of amending drafts of those documents, any reasonable comments from Bidder on those documents;
- (g) **Court approval:** if the Scheme is approved by McGrath Shareholders under subparagraph 411(4)(a)(ii) of the Corporations Act and it can reasonably be expected that all of the Conditions Precedent (other than the Condition



Precedent in clause 5.1(c) (Court approval)) will be satisfied or waived in accordance with this deed before 8.00am on the Second Court Date, apply to the Court for orders approving the Scheme as agreed to by the McGrath Shareholders at the Scheme Meeting and, without limiting clause 8.3(f), lodge all relevant documents with the Court and take all other reasonable steps necessary to ensure that such application is heard by the Court at the Second Court Hearing (and, if it becomes apparent that a Condition Precedent (other than the Condition Precedent in clause 5.1(c) (Court approval)) will not be satisfied or waived in accordance with this deed before 8.00am on that proposed Second Court Date, apply for an adjournment of that proposed Second Court Date to a date determined in accordance with this clause 8.3(g));

- (h) **certificate:** at the Second Court Hearing, provide to the Court (through McGrath's counsel):
 - (1) a certificate (signed for and on behalf of McGrath) in the form of a deed (substantially in the form set out in Attachment 4) confirming (in respect of matters within McGrath's knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 5.1(c) (Court approval)) have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided by McGrath to Bidder by 4.00pm on the date that is two Business Days prior to the Second Court Date; and
 - (2) any certificate provided to it by Bidder pursuant to clause 8.4(j);
- (i) **lodge copy of Court order:** if the Court approves the Scheme, lodge with ASIC an office copy of the Court order in accordance with subsection 411(10) of the Corporations Act approving the Scheme by no later than the Business Day after the date on which the Court order was made (or such later date as agreed in writing by Bidder);
- (j) **Scheme Consideration:** if the Scheme becomes Effective, finalise and close the McGrath Share Register as at the Scheme Record Date for the purposes of determining the identity of the Scheme Shareholders, and determine the Scheme Shareholders' entitlements to the Scheme Consideration, in accordance with the Scheme and the Deed Poll;
- (k) **transfer and registration:** if the Scheme becomes Effective and subject to Bidder having paid the Scheme Consideration in accordance with the Scheme and Deed Poll:
 - (1) execute, on behalf of Scheme Shareholders, instruments of transfer of the Scheme Shares to Bidder; and
 - (2) give effect to and register all transfers of the Scheme Shares to Bidder on the Implementation Date;
- (l) **consultation with Bidder in relation to Scheme Booklet:** consult with Bidder as to the content and presentation of the Scheme Booklet including:
 - (1) providing to Bidder drafts of the Scheme Booklet and (if and to the extent consented to by the Independent Expert) the Independent Expert's Report in a timely manner for the purpose of enabling Bidder to review and comment on those draft documents. In relation to the Independent Expert's Report, Bidder's review is to be limited to a factual accuracy review;
 - (2) considering and taking timely and reasonable comments made by Bidder when producing revised drafts of the Scheme Booklet;



- (3) providing to Bidder the Regulator's Draft within a reasonable time to enable Bidder to review and comment on the Regulator's Draft before the date of its submission; and
- (4) seeking written consent from Bidder for the form and content in which the Bidder Information appears in the Regulator's Draft of the Scheme Booklet (which consent must not be unreasonably withheld or delayed);
- (m) **due diligence and verification:** undertake appropriate due diligence and verification processes in relation to the McGrath Information;
- (n) **lodgement of Regulator's Draft:** as soon as practicable, but by no later than 14 days before the First Court Date, provide the Regulator's Draft to ASIC for its review for the purposes of subsection 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder as soon as practicable thereafter;
- (o) **ASIC and ASX review of Scheme Booklet:** keep Bidder reasonably informed of any matters raised by ASIC or ASX in relation to the Scheme Booklet or the Transaction, and consult with and consider in good faith any reasonable comments made by Bidder in relation to any matters raised by ASIC or ASX (provided that, where such issues relate to Bidder Information, McGrath must seek Bidder's prior written consent to the response to those comments, which must not be unreasonably withheld, before providing that response to ASIC or ASX);
- (p) **registration of Scheme Booklet:** if the Court directs McGrath to convene the Scheme Meeting, take all reasonable measures within its control to cause ASIC to register the Scheme Booklet under subsection 412(6) of the Corporations Act on the first Business Day after such Court orders are made or as soon as reasonably practicable thereafter;
- (q) **despatch:** as soon as reasonably practicable following the registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to McGrath Shareholders;
- (r) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act and allow, and not oppose, and application by Bidder for leave of the Court to be represented by counsel at a Court Hearing;
- (s) **Independent Expert:** promptly 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 for inclusion in the Scheme Booklet (including any updates to such report) and any other materials to be prepared by the Independent Expert for inclusion in the Scheme Booklet (including any updates thereto);
- (t) **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;
- (u) **listing:** subject to clause 8.3(w), not do anything to cause McGrath Shares to cease being quoted on ASX or to become suspended from quotation prior to implementation of the Transaction unless Bidder has agreed in writing;
- (v) **update Scheme Booklet:** until the date of the Scheme Meeting, promptly update or supplement the Scheme Booklet with, or where appropriate otherwise inform the market by way of announcement of, any information that arises after the Scheme Booklet has been despatched that is necessary to ensure that the Scheme Booklet:



- (1) contains all information that is required to be disclosed to McGrath Shareholders under any applicable law or RG 60; and
 - (2) is not misleading or deceptive in any material respect and does not contain any statement that is or has become false or misleading in a material respect including because of any omission from that statement, and subject to compliance with this 8.3(v), seek the Court's approval for the despatch of any updated or supplementary Scheme Booklet. McGrath must consult with Bidder in good faith as to the need for, form of, and if applicable, content and presentation of the updated or supplementary Scheme Booklet, or the market announcement, in the manner contemplated by clause 8.3(l). 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); and
- (w) **suspension of trading:** if the Scheme becomes Effective, apply to ASX to suspend trading in McGrath Shares with effect from the close of trading on the Effective Date;
 - (x) **removal from quotation:** if the Scheme becomes Effective, apply to ASX to have McGrath removed from the official list of ASX, and quotation of McGrath Shares on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following the Implementation Date (unless otherwise directed by the Bidder in writing);
 - (y) **proxy reports:** keep Bidder reasonably informed of the status of proxy forms received for the Scheme Meeting, including over the period commencing 10 Business Days before the Scheme Meeting and ending on the deadline for receipt of proxy appointments; and
 - (z) **implementation of Scheme:** if the Scheme becomes Effective, do all things contemplated of it under the Scheme and all other things (if any) necessary for McGrath to do to lawfully give effect to the Scheme including all things contemplated by, or reasonably required to give effect to, the Scheme and the orders of the Court approving the Scheme under section 411(4)(b) of the Corporations Act.

8.4 Bidder's obligations

Bidder must take all necessary steps to implement the Scheme on the terms of this deed as soon as is reasonably practicable and, without limiting the foregoing, must (i) subject to clause 8.1, use all reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with McGrath on a regular basis about its progress in that regard), and (ii) do each of the following:

- (a) **Bidder Information:** as soon as reasonably practicable after the date of this deed, prepare and promptly provide to McGrath the Bidder Information for inclusion in the Scheme Booklet and consent to the inclusion of that information in the Scheme Booklet (and Bidder must not unreasonably withhold or delay such consent);
- (b) **Scheme Booklet and Court documents:** promptly provide any assistance or information reasonably requested by McGrath in connection with preparation of the Scheme Booklet (including any updated or supplementary Scheme Booklet) and any documents required to be filed with the Court in respect of the Scheme, promptly review the drafts of the Scheme Booklet (including any updated or supplementary Scheme Booklet) prepared by McGrath and provide comments on those drafts in a timely manner and in good faith;



- (c) **Independent Expert's Report:** provide any assistance or information reasonably requested by McGrath or by the Independent Expert in connection with the preparation of the Independent Expert's Report to be sent together with the Scheme Booklet;
- (d) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (e) **Deed Poll:** by no later than the Business Day prior to the First Court Date, execute and deliver to McGrath the executed Deed Poll;
- (f) **accuracy of Bidder Information:** before the Regulator's Draft is lodged with ASIC, confirm in writing to McGrath that the Bidder Information in the Scheme Booklet is not misleading or deceptive in any material respect including by way of omission;
- (g) **due diligence and verification:** undertake appropriate due diligence and verification processes in relation to the Bidder Information;
- (h) **share transfer:** if the Scheme becomes Effective, Bidder must:
 - (1) accept a transfer of the Scheme Shares as contemplated by clause 6.3(c)(1); and
 - (2) execute instruments of transfer in respect of the Scheme Shares;
- (i) **Scheme Consideration:** if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration in the manner and amount contemplated by clause 6 and the terms of the Scheme and the Deed Poll;
- (j) **Rollco Shareholders' Deed:** procure that the Shareholders' Deed is executed by Rollco and its shareholders and that agreement remains in force from the time of its execution until the Implementation Date;
- (k) **certificate:** before the commencement of the hearing on the Second Court Date provide to McGrath for provision to the Court at that hearing a certificate (signed for and on behalf of Bidder) in the form of a deed (substantially in the form set out in Attachment 4) confirming (in respect of matters within Bidder's knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 5.1(c) (Court approval)) have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided by Bidder to McGrath by 4.00 pm on the date that is two Business Days prior to the Second Court Date;
- (l) **update Bidder Information:** until the date of the Scheme Meeting, promptly provide to McGrath any information that arises after the Scheme Booklet has been despatched that is necessary to ensure that the Bidder Information contained in the Scheme Booklet does not contain any material statement that is false or misleading in a material respect including because of any material omission from that statement, and complies with all applicable laws, regulations and policy;
- (m) **assistance:** up to (and including) the Implementation Date and subject to obligations of confidentiality owed to Third Parties and undertakings to Government Agencies, provide McGrath and its Related Persons with reasonable access to information of Bidder Group that McGrath reasonably requests for the purpose of preparation of the Scheme Booklet and implementation of the Transaction;
- (n) **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; and



- (o) **Tax ruling:** provide McGrath with such assistance and information relating to Bidder Group as may reasonably be requested by McGrath for the purpose of obtaining from the Australian Tax Office a class ruling in connection with the Transaction.

8.5 Conduct of business

- (a) Subject to clause 8.5(b), from the date of this deed up to and including the Implementation Date, and without limiting any other obligations of McGrath under this deed, McGrath must:
- (1) conduct, and must procure that each McGrath Group Member conducts, its business operations (including the business of the McGrath Group as a whole) in the ordinary and usual course and in a manner generally consistent with the manner in which such businesses and operations have been conducted in the 12 months before the date of this deed, including but not limited to, asset sales and disposals;
 - (2) comply, and must procure that each McGrath Group Member complies, in all material respects with all applicable authorisations (including real estate licence renewals), laws and regulations (including the Listing Rules);
 - (3) not enter into any line of business or other activities which the McGrath Group does not carry on as of the date of this deed;
 - (4) ensure that no McGrath Group Member enters into any agreement or give any legally binding commitment to sell any company owned office (including by way of conversion into a franchise);
 - (5) comply, and must procure that each McGrath Group Member complies, in all material respects with all material contracts to which it is party;
 - (6) use reasonable endeavours to ensure that no McGrath Prescribed Occurrence and no McGrath Regulated Event occurs and there is no occurrence within a McGrath Group Member's control that would constitute or be likely to constitute a McGrath Material Adverse Change;
 - (7) use, and must ensure that each McGrath Group Member uses, reasonable endeavours to:
 - (A) maintain the value of the businesses and assets of the McGrath Group;
 - (B) keep available the services of the directors, officers and management;
 - (C) maintain and preserve their relationships with Government Agencies, customers, suppliers and others having business dealings with any McGrath Group Member;
 - (D) maintain (and, where necessary, use reasonable efforts to renew) each of its material authorisations, accreditations and licenses applicable to each McGrath Group Member (including real estate licence renewals) and promptly notify Bidder if any renewal is not accepted by the relevant Government Agency;



- (E) subject to clause 10.3, maintain (and, where necessary, use reasonable efforts to renew) the policies of insurance held by the McGrath Group that are in force as at the date of this deed and promptly notify Bidder if any renewal proposal is not accepted by the relevant insurer;
 - (F) not enter into any line of business or other activity, in each case which is material, in which the McGrath Group is not engaged as of the date of this deed; and
 - (G) maintain adequate working capital and manage its cash flows in the ordinary course of business and consistent with past practices (including by ensuring that payments to suppliers are made in the ordinary course of business).
- (b) Nothing in clause 8.5(a) restricts the ability of McGrath to take any action:
- (1) which is required or expressly permitted by this deed, the Scheme or the transactions contemplated by them;
 - (2) which has been requested by, or consented to, by Bidder in writing (which agreement must not be unreasonably withheld or delayed);
 - (3) which is required by any applicable law, regulation or contract (but only to the extent that such contract was entered into prior to the date of this deed) or by a Government Agency;
 - (4) which is Fairly Disclosed in:
 - (A) the Disclosure Materials;
 - (B) an announcement made by McGrath or a McGrath Group Member to ASX prior to the date of this deed;
 - (C) a publicly available document lodged by McGrath or a McGrath Group Member with ASIC (which would be disclosed in a search of ASIC's records that are open to public inspection) prior to the date of this deed; or
 - (D) a publicly available document which would be disclosed in a search of:
 - (i) the PPS Register in relation to McGrath or a subsidiary of McGrath on 21 March 2024; or
 - (ii) the registry of the High Court, Federal Court, Federal Circuit Court, or the Supreme Courts of each Australian State or Territory in relation to McGrath or a Subsidiary of McGrath as agreed between McGrath and Bidder in writing as at the date of this deed (as relevant), on 12 March 2024;
 - (5) to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property, or a disease epidemic or pandemic), provided that, to the extent reasonably practicable having regard to the nature of the relevant emergency or disaster, McGrath has consulted with Bidder in good faith in respect of the proposal to take such action or not take such action (as applicable) and considers any reasonable comments or requests of Bidder in relation to such proposal in good faith;
 - (6) to reasonably and prudently respond to changes in market conditions, provided that McGrath has consulted with Bidder in good faith in respect of the proposal to take such action or not take such action (as



- applicable) and considers any reasonable comments or requests of Bidder in relation to such proposal in good faith; or
- (7) to reasonably and prudently respond to regulatory or legislative changes, provided that McGrath has consulted with Bidder in good faith in respect of the proposal to take such action or not take such action (as applicable) and considers any reasonable comments or requests of Bidder in relation to such proposal in good faith;
 - (8) which is reasonably required to allow McGrath to declare and pay the Permitted Dividend; or
 - (9) in connection with a Competing Proposal as permitted by clause 13.
- (c) If McGrath makes any request for the approval of Bidder for the purpose of clause 8.5(b)(2), Bidder will be taken to have given its approval to any request for the purpose of 8.5(b)(2) if Bidder has not notified McGrath in writing of its objection to the doing of that thing within 5 Business Days after receiving notification of the proposed action.

8.6 Implementation Committee

- (a) Each of McGrath and Bidder will, as soon as practicable after the date of this deed, notify the other party of its appointees to the Implementation Committee.
- (b) Without limiting clause 8.12, between (and including) the date of this deed and the Implementation Date, Implementation Committee will oversee implementation of the Scheme but, for the avoidance of doubt, the Implementation Committee is a consultative body only that will make recommendations to McGrath and Bidder.
- (c) Each of McGrath and Bidder must use all reasonable endeavours to procure that the Implementation Committee meets (whether in person or by way of other technology) no less than once a month, commencing on the one month anniversary of the date of this deed.

8.7 Appointment of directors

McGrath must, as soon as practicable on the Implementation Date, after the Scheme Consideration has been despatched to Scheme Shareholders in accordance with the terms of the Scheme, take all actions necessary to:

- (a) cause the appointment of the nominees of Bidder to the McGrath Board;
- (b) ensure that all directors on the McGrath Board, other than the Bidder nominees appointed pursuant to clause 8.7(a) and any existing McGrath Board Member which Bidder has agreed in writing will remain on the McGrath Board, resign in accordance with the constitution of McGrath; and
- (c) ensure that all directors on the boards of McGrath's Subsidiaries, other than any existing McGrath Subsidiary director which Bidder has agreed in writing will remain on the board of the relevant McGrath Subsidiary, resign in accordance with the constitution of the relevant McGrath Subsidiary and to cause the appointment of nominees of Bidder to those boards in accordance with the constitution of each relevant McGrath Subsidiary.

8.8 Change of control provisions

As soon as practicable after the date of this deed, McGrath and Bidder will co-operate to seek consents in contracts or property tenure documents (including, but not limited to,



leases and licences) to which a McGrath Group Member is party which Bidder has identified may be triggered by, or in connection with, the implementation of the Transaction (**Change of Control Requirements**). In respect of those contracts or property tenure documents so identified, McGrath and Bidder agree as follows:

- (a) McGrath and Bidder will, each acting reasonably, agree a proposed course of action to obtain any consents or waivers required in accordance with the terms of any identified Change of Control Requirements and then jointly initiate contact with the relevant counterparties and request that they provide any consents or waivers required. Bidder and its Related Persons must not contact any counterparties for this purpose without McGrath being present or without McGrath's prior written consent (which is not to be unreasonably withheld or delayed);
- (b) McGrath must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents or waivers as expeditiously as possible, including by promptly providing any information reasonably required by counterparties (but nothing in this clause requires McGrath to incur material external expense);
- (c) Bidder must provide any assistance reasonably requested by McGrath in connection with obtaining such consents or waivers; and
- (d) provided that McGrath has complied with this clause 8.8, a failure by a McGrath Group Member to obtain any third party consent or waiver in respect of a Change of Control Requirement will not constitute a breach of this deed by McGrath and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

8.9 McGrath Board Recommendation and Voting Intention

- (a) McGrath must use its best endeavours to procure that, subject to clause 8.9(c), the non-executive McGrath Board Members unanimously recommend that McGrath Shareholders vote in favour of the Scheme Resolution at the Scheme Meeting in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (or any update of, or any revision, amendment or supplement to, the Independent Expert's Report) (and continuing to conclude) that the Scheme is fair and reasonable to, and in the best interests of, McGrath Shareholders (**Recommendation**).
- (b) McGrath represents and warrants to Bidder that each non-executive McGrath Board Member has confirmed (by way of a unanimous resolution of the non-executive McGrath Board Members) that:
 - (1) he or she will act in accordance with this clause 8.9 and clause 13.5;
 - (2) his or her recommendation in respect of the Scheme is that McGrath Shareholders vote in favour of the Scheme Resolution at the Scheme Meeting; and
 - (3) he or she intends to vote, or cause to be voted, all Director McGrath Shares in respect of that McGrath Board Member in favour of the Scheme Resolution at the Scheme Meeting (**Voting Intention**),

in each case, the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (or any update of, or any revision, amendment or supplement to, the Independent Expert's Report) that the Scheme is fair and reasonable to, and in the best interests of, McGrath Shareholders.

- (c) McGrath must use its best endeavours to procure that the McGrath Board collectively, and the McGrath Board Members individually, do not adversely



change, withdraw, adversely modify or adversely qualify, or make any public statement that is inconsistent with (including by making a public statement supporting, endorsing or recommending a Competing Proposal and/or to the effect that he or she no longer supports the Scheme) its or their Recommendation or Voting Intention unless:

- (1) the Independent Expert provides a report to McGrath (including either the Independent Expert's Report or any update of, or any revision, amendment or supplement to, that report) that concludes that the Scheme is not fair and reasonable to, or not in the best interests of, McGrath Shareholders;
- (2) McGrath has received a Competing Proposal and the McGrath Board has determined, after the procedure in clause 13.5 has been complied with, that the Competing Proposal constitutes a Superior Proposal;
- (3) the adverse change, withdrawal, adverse modification or qualification in respect of a McGrath Director occurs because of a requirement by a court of competent jurisdiction or ASIC or the Takeovers Panel that the relevant McGrath Director abstains or withdraw from making a recommendation that McGrath Shareholders vote in favour of the Scheme after the date of this deed; or
- (4) the McGrath Board has determined, after receiving written legal advice from its external legal advisers, that the McGrath Board, by virtue of the directors' duties of the McGrath Board Members, is required to change, withdraw or modify its recommendation,

and McGrath has complied with its obligations under clause 13.

- (d) For the purposes of this clause 8.9, customary qualifications and explanations contained in the Scheme Booklet and any public announcements by McGrath in relation to a Recommendation and/or Voting Intention to the effect that the Recommendation is made and Voting Intention is held:

- (1) in the absence of a Superior Proposal;
- (2) in respect of any public announcement issued before the issue of the Scheme Booklet, 'subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is fair and reasonable to, and in the best interests of, McGrath Shareholders; and
- (3) in respect of the Scheme Booklet and any public announcements issued at the time of or after the issue of the Scheme Booklet, 'subject to the Independent Expert continuing to conclude that the Scheme is fair and reasonable to, and in the best interests of, McGrath Shareholders,

will not be regarded as a failure to make, or an adverse change, withdrawal, adverse modification or qualification of, a Recommendation or Voting Intention.

- (e) For the purpose of this clause 8.9, a statement by McGrath or the McGrath Board to the effect that the McGrath Board recommends that McGrath Shareholders vote in favour of the Scheme Resolution at the Scheme Meeting on the basis of the All-Cash Alternative and does not make a recommendation in relation to the Rollco Scrip Alternative will not contravene this clause 8.9.
- (f) Despite anything to the contrary in this clause 8.9, a statement made by McGrath or the McGrath Board to the effect that no action should be taken by McGrath Shareholders pending the assessment of a Competing Proposal by



the McGrath Board or the completion of the matching right process set out in clause 13.5 will not, by itself, contravene this clause 8.9.

- (g) For the avoidance of doubt, McGrath will not be in breach of any term of this deed, and will not be liable to Bidder under this deed, except in respect of the Break Fee contemplated by clause 15, solely as a result of a McGrath Director publicly (or otherwise) changing, withdrawing, modifying or qualifying his or her recommendation to vote in favour of the Scheme as permitted by clause 8.9(c)(4).

8.10 Conduct of Court proceedings

- (a) McGrath and Bidder are entitled to separate representation at all Court proceedings affecting the Transaction.
- (b) This deed does not give McGrath or Bidder any right or power to give undertakings to the Court for or on behalf of the other party without that party's written consent.
- (c) Each of McGrath and Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Transaction as contemplated by this deed.

8.11 Scheme Booklet content and responsibility

- (a) The Scheme Booklet will contain a responsibility statement to the effect that:
 - (1) Bidder is responsible for the Bidder Information contained in the Scheme Booklet;
 - (2) McGrath is responsible for the McGrath Information contained in the Scheme Booklet; and
 - (3) the Independent Expert is responsible for the Independent Expert's Report, and none of McGrath, Bidder or their respective directors or officers assumes any responsibility for the accuracy or completeness of the Independent Expert's Report.
- (b) If after a reasonable period of consultation, McGrath and Bidder are unable to agree on the form or content of the Scheme Booklet:
 - (1) where the determination relates to Bidder Information, Bidder will make the final determination as to the form and content of the Bidder Information; and
 - (2) in any other case, McGrath will make the final determination as to the form and content of the Scheme Booklet.
- (c) Bidder indemnifies each McGrath Indemnified Person against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that McGrath or any of the other McGrath Indemnified Parties suffers, incurs or is liable for arising out of any misleading or deceptive statement in, or omission from, the Bidder Information.

8.12 Access to information and management

- (a) Between (and including) the date of this deed and the Implementation Date, McGrath must, and must cause each other McGrath Group Member to provide to Bidder and Bidder Group Members and a reasonable number of their respective representatives (subject to any existing confidentiality obligations



owed to third parties) reasonable access to information, premises, Franchisees and such senior executives of any McGrath Group Member as reasonably requested by Bidder at mutually convenient times, and provide Bidder reasonable co-operation, for the sole purpose of:

- (1) the implementation of the Scheme;
- (2) Bidder obtaining an understanding, or furthering its understanding of the McGrath Group or its businesses or assets for the purpose of the Bidder Group developing plans for the transition of the business of the McGrath Group to Bidder or carrying on of the businesses of the McGrath Group following implementation of the Scheme which, for the avoidance of doubt, does not include ongoing due diligence on the McGrath Group; and
- (3) any other purpose agreed in writing between McGrath and Bidder (each acting reasonably),

provided that:

- (4) nothing in this clause 8.12 will require McGrath to:
 - (A) provide information concerning McGrath's Board's (including the Independent Board Committee's) and management's (a **Relevant Person**) consideration of the Scheme;
 - (B) except as required by clause 13, provide information concerning any actual, proposed or potential Competing Proposal (including a Relevant Person's consideration of any actual, proposed or potential Competing Proposal); or
 - (C) do anything which would cause unreasonable disruption to the operation of its business in the ordinary course;
 - (5) Bidder must:
 - (A) keep all information obtained by it as a result of this clause 8.12 confidential;
 - (B) provide Target with reasonable notice of any request for information or access; and
 - (C) comply with the reasonable requirements of Target in relation to any access granted;
 - (6) nothing in this clause 8.12 gives Bidder any rights to undertake further due diligence investigations, or any rights as to the decision making of any Bidder Group Member or its business;
 - (7) nothing in this clause 8.12 will require McGrath to provide information if to do so would or would be reasonably likely to:
 - (A) breach any applicable law, regulatory requirement, authorisation or court order; or
 - (B) result in a waiver or loss of legal professional privilege.
- (b) During the period from the date of this deed up to and including the Implementation Date, McGrath must promptly provide Bidder with:
- (1) all monthly financial reports provided to the McGrath Board;
 - (2) regular reports on the financial affairs of the McGrath Group in the form which is ordinarily used by McGrath, including the McGrath Group's monthly management accounts to Bidder in a timely manner; and



- (3) a copy of any material correspondence received from a Government Agency,

provided that compliance with this clause 8.12(b) would not, in the reasonable opinion of McGrath (acting in good faith), result in undue disruption to the McGrath Group's business, and provided that, without limitation to any of McGrath's obligations and covenants in clause 13, nothing in this clause 8.12(b) shall require McGrath to provide Bidder with any information concerning the Scheme, any proposal by Bidder at any time in relation to the acquisition of an interest in McGrath Shares or any actual, proposed or potential Competing Proposal (including a Relevant Person's consideration of any actual, proposed or potential Competing Proposal).

8.13 Appeal process

If the Court refuses to make any orders directing McGrath to convene the Scheme Meeting or approving the Scheme, McGrath 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 McGrath and Bidder agree otherwise under clause 8.13(a) or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.

9 Representations and warranties

9.1 Bidder's representations and warranties

Bidder represents and warrants to McGrath (in its own right and separately as trustee or nominee for each of the other McGrath Indemnified Parties) that each of the Bidder Representations and Warranties is true and correct.

9.2 Bidder's indemnity

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

9.3 McGrath's representations and warranties

McGrath represents and warrants to Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Indemnified Parties) that each of the McGrath Representations and Warranties is true and correct.

9.4 McGrath's indemnity

McGrath 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 from 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 McGrath Representations and Warranties.

9.5 Qualifications on McGrath's representations, warranties and indemnities

- (a) The McGrath Representations and Warranties made or given in clause 9.3 and the indemnity in clause 9.4, are each subject to matters that:
- (1) have been Fairly Disclosed in the Disclosure Materials;
 - (2) have been Fairly Disclosed in:
 - (A) an announcement by McGrath to ASX prior to the date of this deed;
 - (B) a publicly available document lodged by McGrath or a McGrath Group Member with ASIC (which would be disclosed in a search of ASIC's records that are open to public inspection) prior to the date of this deed; or
 - (C) a publicly available document which would be disclosed in a search of the PPS Register in relation to McGrath or a Subsidiary of McGrath on 21 March 2024 or the registry of the High Court, Federal Court, Federal Circuit Court, or the Supreme Courts of each Australian State or Territory in relation to McGrath or a Subsidiary of McGrath as agreed between McGrath and Bidder in writing as at the date of this deed (as relevant) on 12 March 2024;
 - (3) are expressly contemplated, required or permitted by this deed or the Scheme;
 - (4) are required by any applicable law, regulation, accounting standards or principles, contract (but only to the extent such contract was entered into before the date of this deed or otherwise in accordance with this deed) or by a Government Agency; or
 - (5) are within the actual knowledge of the Bidder as at the date of this deed.
- (b) Where a McGrath Representation and Warranty is given 'so far as McGrath is aware' or with a similar qualification as to McGrath's awareness or knowledge, McGrath's awareness or knowledge is limited to and deemed only to include those facts, matters or circumstances of which a Specified Individual is actually aware as at the date of this deed. Without limiting this clause 9.5(b), none of the Specified Individuals will bear any personal liability in respect of the McGrath Representations and Warranties or otherwise under this deed, except where such person has engaged in fraud.

9.6 Survival of representations and warranties

Each representation and warranty made or given in clause 9.1 or clause 9.3 (as applicable):

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



9.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 9.2 and 9.4):

- (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.

9.8 Timing of representations and warranties

Each representation and warranty made or given under clauses 9.1 or 9.3 is given at the date of this deed and repeated continuously thereafter until and including 8.00am on the Second Court Date unless that representation or warranty is expressed to be given at a particular time, in which case it is given at that time.

9.9 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 party, except for any representation or inducement expressly set out in this deed.

10 Releases

10.1 McGrath and McGrath directors and officers

- (a) Bidder:
 - (1) releases its rights; and
 - (2) agrees with McGrath that it will not make, and that after the Implementation Date it will procure that each McGrath Group Member does not make, any claim,
against any McGrath Indemnified Party (other than the McGrath Group) as at the date of this deed and from time to time in connection with:
 - (3) McGrath's execution or delivery of this deed;
 - (4) any breach of any representations and warranties of McGrath or any other McGrath Group Member in this deed;
 - (5) any disclosures containing any statement which is false or misleading whether in content or by omission; or
 - (6) any failure to provide information,



whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the McGrath Indemnified Party has engaged in fraud. For the avoidance of doubt, nothing in this clause 10.1(a) limits Bidder's rights to terminate this deed under clause 17.

- (b) Clause 10.1(a) is subject to any Corporations Act restriction and will be read down accordingly.
- (c) McGrath receives and holds the benefit of this clause 10.1 and any other indemnity granted under this deed to the extent it relates to each McGrath Indemnified Party as trustee for each of them.

10.2 Bidder and Bidder directors and officers

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

- (1) Bidder's execution and delivery of this deed;
- (2) any breach of any representations and warranties of Bidder or any other Bidder Group Member in this deed;
- (3) any disclosure containing any statement which is false or misleading whether in content or by omission; or
- (4) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has engaged in fraud. For the avoidance of doubt, nothing in this clause 10.2(a) limits McGrath's rights to terminate this deed under clause 17.

- (b) Clause 10.2(a) is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Bidder receives and holds the benefit of this clause 10.2 to the extent it relates to each Bidder Indemnified Party as trustee for each of them.

10.3 Deeds of indemnity and insurance

- (a) Subject to the Scheme becoming Effective and the Transaction completing, Bidder undertakes in favour of McGrath and each other McGrath Indemnified Party (other than an employee that is not a director or officer) that it will:
 - (1) for a period of seven years from the Implementation Date, ensure that the constitutions of McGrath and each other McGrath Group Member continues 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 directors and officers against any liability incurred by that person in their capacity as a director or officer of the company to any person other than a McGrath Group Member; and
 - (2) procure that McGrath and each other McGrath Group Member complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained, for a period of seven years from the retirement date of each director and officer.



- (b) Bidder acknowledges that notwithstanding any other provision of this deed, McGrath may, prior to the Implementation Date, enter into arrangement to secure directors and officers run-off insurance for up to such seven year period referred to in clause 10.3(a)(2) (**D&O Run-off Policy**) and that any actions to facilitate that insurance or in connection with such insurance will not be a McGrath Regulated Event or a McGrath Prescribed Occurrence or a breach of any provision of this deed, provided that:
- (1) the scope of cover of the D&O Run-off Policy must be on the same or substantially the same terms as the existing insurance policies in place for directors and officers of McGrath at the date of this deed; and
 - (2) the total cost of the D&O Run-off Policy may not exceed the amount separately agreed between the parties prior to the date of this deed.
- (c) The undertakings contained in clause 10.3(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (d) McGrath receives and holds the benefit of clause 10.3(a), to the extent it relates to the other McGrath Indemnified Parties, as trustee for each of them.

11 Public announcement

11.1 Announcement of the Transaction

Immediately after the execution of this deed, McGrath and Bidder will issue public announcements in a form previously agreed to in writing between them.

11.2 Public announcements

Subject to clause 11.3, no public announcement or public disclosure of or in relation to the Transaction or any other transaction the subject of this deed or the Scheme (**Proposed Public Announcement**) may be made by a McGrath Group Member or a Bidder Group Member other than in a form approved by each party in writing (such approval not to be unreasonably withheld or delayed). A party must provide the other party with a draft copy of any Proposed Public Announcement as soon as reasonably practicable before it is proposed that such Proposed Public Announcement is made, and must give the other party a reasonable opportunity to comment on the form and content of the draft Proposed Public Announcement and must take into account all reasonable comments from that party on the draft. For the avoidance of doubt, this clause 11.2 does not apply to any announcement or disclosure in connection with an actual, potential or proposed Competing Proposal.

11.3 Further announcements of the Transaction

McGrath and Bidder agree that Bidder may, at its sole discretion, make further announcements or statements in respect of the Transaction, provided such further announcements are consistent with the announcement contemplated by clause 11.1 and are either: (i) internal statements; or (ii) for reactive information purposes.

11.4 Required disclosure

Despite any provision of the Confidentiality Deed, where a party is required by applicable law or the Listing Rules to make any announcement or to make any disclosure in



connection with the Transaction or any other transaction the subject of this deed or the Scheme, it may do so despite clause 11.2 but must use all reasonable endeavours, to the extent practicable and lawful, to consult with the other party prior to making the relevant disclosure, other than where such disclosure relates to, or is in connection with, an actual, potential or proposed Competing Proposal.

12 Confidentiality

McGrath and Bidder acknowledge and agree that they continue to be bound by the Confidentiality Deed after the date of this deed. The rights and obligations of the parties under the Confidentiality Deed survive termination of this deed. To the extent of any inconsistency, this deed prevails.

13 Exclusivity

13.1 No existing discussions

McGrath represents and warrants to Bidder that:

- (a) as at the time of entry into this deed, McGrath is not in any negotiations or discussions with any person in relation to, or which could reasonably be expected to lead to, an actual, proposed or potential Competing Proposal; and
- (b) McGrath has not provided due diligence access to confidential information to a potential rival bidder in the 18 months preceding this deed.

13.2 No shop and no talk

During the Exclusivity Period, McGrath must not, and must ensure that its Related Persons and Related Bodies Corporate do not, directly or indirectly:

- (a) **(no shop)** solicit, invite, encourage or initiate any expression of interest, proposal or discussion in relation to, or which would reasonably be expected to lead to the making of, an actual, proposed or potential Competing Proposal or communicate to any person an intention to do anything referred to in this clause 13.2(a);
- (b) **(no talk)** subject to clause 13.3:
 - (1) negotiate or enter into, or offer or participate in any negotiations or discussions with any other person regarding an actual, proposed or potential Competing Proposal or any agreement, understanding or arrangement that may be reasonably expected to encourage or lead to a Competing Proposal, even if that person's Competing Proposal was not directly or indirectly solicited, invited encouraged or initiated by McGrath or any of its Related Bodies Corporate or Related Persons; or
 - (2) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 13.2(b); or
- (c) **(no due diligence)**: subject to clause 13.3, make available to any person any material non-public information in respect of any member of the McGrath Group, or any of their businesses, assets or operations, in connection with or



with a view to obtaining or which could reasonably be expected to lead to such person providing a Competing Proposal (**Non-public McGrath Information**).

13.3 Fiduciary exception

Clauses 13.2(b) and 13.2(c) do not prohibit any action or inaction by McGrath, any McGrath Group Member or any of their respective Related Persons, in relation to a bona fide actual, proposed or potential Competing Proposal, if:

- (a) the McGrath Board, acting in good faith, has determined:
 - (1) after consultation with its advisers and reputable external Australian legal advisers specialising in the area of corporate law, that the Competing Proposal could reasonably be expected to lead to a Superior Proposal; and
 - (2) after receiving written legal advice from its reputable external Australian legal advisers specialising in the area of corporate law compliance, that compliance with clause 13.2(b) or 13.2(c) (as applicable) would, or would be reasonably likely to, constitute a breach of any of the fiduciary or statutory duties of the directors of McGrath,

provided that the Competing Proposal was not brought about by a breach of this clause 13.

For the avoidance of doubt, the evaluation of any actual, proposed or potential Competing Proposal for the purposes of clause 13.3 is not a breach of this clause 13.

13.4 Notification of approaches

- (a) During the Exclusivity Period, McGrath must as soon as reasonably practicable (and in any event within 2 Business Days) notify Bidder in writing if it, any of its Related Bodies Corporate or any of their respective Related Persons, becomes aware of any:
 - (1) expression of interest, discussion or proposal made by any person to it or any of its Related Bodies Corporate or Related Persons in relation to an actual, proposed or potential Competing Proposal, and as part of that notification will provide all material details of the approach (including the key terms of any Competing Proposal); and
 - (2) request made by a Third Party for Non-public McGrath Information (other than where the McGrath Board believes, on reasonable grounds, that such request is not in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, any actual, proposed or potential Competing Proposal); or

whether direct or indirect, solicited or unsolicited, and in writing or otherwise (each, a **Notifiable Proposal**). For the avoidance of doubt, any of the acts described in paragraphs (1) to (2) may only be taken by McGrath, its Related Bodies Corporate or their respective Related Persons if permitted by clause 13.3.

- (b) A notification given under clause 13.4(a) must include:
 - (1) the identity of the Third Party that made, or any Third Party stated to be involved in, the Notifiable Proposal; and



- (2) all material terms and conditions of the Notifiable Proposal (including the offer price, form of consideration, proposed timing and conditions precedent),

in each case to the extent known by McGrath, a McGrath Group Member or any of their Related Persons.

13.5 Matching right

- (a) If, during the Exclusivity Period, McGrath receives a Competing Proposal, McGrath must:
- (1) not, and must procure that each of its Related Bodies Corporate or Related Persons do not, enter into any agreement, understanding or commitment (whether or not in writing) in respect of that Competing Proposal (other than a confidentiality agreement); and
 - (2) use its best endeavours to ensure that no member of the McGrath Board withdraws their Recommendation or Voting Intention, publicly recommends, supports or endorses or states that they intend to recommend, that Competing Proposal or a proposed or potential Competing Proposal or make a public statement to the effect that they may do so at a future point (provided that a statement that no action should be taken by McGrath Shareholders pending the assessment of the Competing Proposal by the McGrath Board or the completion of the matching right process set out in this clause 13.5 shall not, by that statement alone, contravene this clause 13.5),
- unless each of the following conditions have been satisfied:
- (3) the McGrath Board has made the determination contemplated by 13.3(a) (provided the Competing Proposal was not brought about by, or in respect of which there has not been, a material breach of this clause 13);
 - (4) McGrath has provided Bidder with a notice stating that it is given for the purposes of this clause 13.5 setting out:
 - (A) the identity of the Third Party that made, or any Third Party stated to be involved in, the Competing Proposal; and
 - (B) the information referred to in clause 13.4(b)(2);
 - (5) McGrath has given Bidder until the Cut Off Date to provide a matching or superior proposal to the terms of the Competing Proposal (**Bidder Counterproposal**); and
 - (6) either (as applicable):
 - (A) Bidder has not announced or otherwise formally proposed or provided to McGrath such a Bidder Counterproposal before the Cut Off Date; or
 - (B) Bidder has not taken any steps to amend the Bidder Counterproposal by the expiry of the further 3 clear Business Day period in 13.6(c)(2).
- (b) Each successive material improvement to any Competing Proposal will constitute a new Competing Proposal for the purposes of the requirements under clauses 13.4 and 13.5.



13.6 Matching or superior Bidder proposal

- (a) If Bidder announces or otherwise proposes or provides to McGrath a Bidder Counterproposal by the Cut Off Date, McGrath must procure that the McGrath Board promptly considers the Bidder Counterproposal and determines, in good faith, after consulting with McGrath's Financial Advisers and reputable external Australian legal advisers specialising in the area of corporate law, whether the Bidder Counterproposal would provide an outcome that is, or would reasonably be considered to be an outcome which is an equivalent or superior outcome to McGrath Shareholders as a whole compared with the Competing Proposal, taking into account all terms and conditions and other aspects of:
- (1) the Bidder Counterproposal (including the value and type of consideration, funding, any timing considerations, any conditions precedent, the identity, reputation and financial condition of the proponent, the ability of the proponent to complete the transactions contemplated by the Competing Proposal, and the probability of the Bidder Counterproposal being completed compared to the Competing Proposal and other relevant legal, financial, regulatory and other matters); and
 - (2) the Competing Proposal (including the matters set out in paragraphs (1) and (2) of the definition of "Superior Proposal"),
- (Matching or Superior Proposal)**, such determination to be made by the board within 3 Business Days of receipt of the Bidder Counterproposal.
- (b) If the McGrath Board determines that the Bidder Counterproposal is to a Matching or Superior Proposal, then:
- (1) McGrath must promptly, and in any event within 48 hours, notify Bidder of the determination in writing, stating reasons for that determination; and
 - (2) McGrath and Bidder must use their best endeavours to agree any amendments to this deed (and any other transaction documents required) and the contents of the Scheme Booklet which are reasonably necessary to reflect the Bidder Counterproposal and, once agreed:
 - (A) McGrath and Bidder must enter into an appropriate amending deed (and any other transaction documents required) to give effect to those amendments; and
 - (B) McGrath must use its best endeavours to ensure that the McGrath Board unanimously recommends the Bidder Counterproposal to McGrath Shareholders and does not recommend the applicable Competing Proposal,in each case as soon as reasonably practicable.
- (c) If the McGrath Board determines that the Bidder Counterproposal is not a Matching or Superior Proposal, then:
- (1) McGrath must promptly, and in any event within 48 hours, notify Bidder of the determination in writing, stating reasons for that determination;
 - (2) Bidder may take steps to amend the Bidder Counterproposal to address the reasons given for the McGrath Board's determination within a further period of 3 clear Business Days, in which case the



process in clauses 13.6(a) to 13.6(c) (inclusive) applies to that amended Bidder Counterproposal; and

- (3) McGrath must not, and must ensure that the McGrath Board does not, do any of the things referred to in clauses 13.5(a)(1) or 13.5(a)(2) before the expiry of the 3 clear Business Day period referred to in clause 13.6(c)(2).
- (d) For the purpose of these clauses 13.5 and 13.6:
 - (1) each new Competing Proposal or successive material variation or amendment to a Competing Proposal will constitute a new Competing Proposal; and
 - (2) each revised or amended Bidder Counterproposal (as contemplated in clause 13.6(c)(2)) will constitute a new Bidder Counterproposal,and the process set out in clauses 13.5 and 13.6 must again be followed prior to McGrath or the McGrath Board taking any of the actions referred to in clauses 13.5(a)(1) or 13.5(a)(2).
- (e) Despite any other provision in this deed, a statement by McGrath, McGrath Board, or any McGrath Director only to the effect that:
 - (1) the McGrath Board has determined that a Competing Proposal is a Superior Proposal and has commenced the matching right process set out in these clauses 13.5 and 13.6; or
 - (2) McGrath Shareholders should take no action pending the completion of the matching right process set out in these clauses 13.5 and 13.6,does not by itself:
 - (3) constitute an adverse change, withdrawal, adverse modification or adverse qualification of the recommendation by the McGrath Directors or an endorsement of a Competing Proposal;
 - (4) contravene this deed;
 - (5) give rise to an obligation to pay the Break Fee under clause 15.2; or
 - (6) give rise to a termination right under clause 17.1.

13.7 Compliance with law

- (a) If it is finally determined by a court of competent jurisdiction, or the Takeovers Panel, that the agreement by the parties under this clause 13 or any part of it:
 - (1) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the McGrath Board;
 - (2) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
 - (3) was, or is, or would be, unlawful for any other reason,then, to that extent (and only to that extent) McGrath will not be obliged to comply with that provision of clause 13.
- (b) The parties:
 - (1) must not make or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 13.7;



- (2) agree that if a Third Party makes an application to the Takeovers Panel or a court for or in relation to a declaration or determination regarding any provision of this clause 13, then each party must make submissions in the course of those proceedings supporting (to the fullest extent reasonably practicable) that no such declaration or determination should be made.

14 Usual provision of information

Nothing in this clause 13 prevents McGrath from:

- (a) providing any information to its Related Persons;
- (b) providing any information to any Government Agency;
- (c) providing any information required to be provided by any applicable law, including to satisfy its obligations under the Listing Rules or to any Government Agency;
- (d) providing any information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business; and
- (e) making presentations to, or responding to enquiries from, brokers, portfolio investors, analysts and other third parties, and engaging with financiers and potential financiers, in the ordinary course of business or promoting the merits of the Transaction.

15 Break Fee

15.1 Background to Break Fee

- (a) Bidder and McGrath acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, Bidder will incur significant costs, including those set out in clause 15.4.
- (b) In these circumstances, Bidder has requested that provision be made for the payments outlined in clause 15.2, without which Bidder would not have entered into this deed or otherwise agreed to implement the Scheme.
- (c) The McGrath Board believes, having taken advice from its external legal advisers, that the implementation of the Scheme will provide benefits to McGrath and that it is appropriate for McGrath to agree to the payments referred to in clause 15.2 in order to secure Bidder's participation in the Transaction.

15.2 Break Fee triggers

McGrath must pay the Break Fee to Bidder if:

- (a) during the Exclusivity Period, any McGrath director:
 - (1) fail to recommend the Scheme in the manner described in clause 8.9(a);
 - (2) withdraw or adversely change, adversely modify or adversely qualify their Recommendation or Voting Intention; or



- (3) makes a public statement:
 - (A) supporting, endorsing or recommending any Competing Proposal;
 - (B) to the effect that they no longer support the Scheme; or
 - (C) that otherwise indicates that they no longer recommend the Transaction or recommend that McGrath Shareholders accept or vote in favour of a Competing Proposal of any kind that is announced (whether or not such proposal is stated to be subject to any pre-conditions) during the Exclusivity Period,

in each case provided that Bidder has terminated this deed in accordance with clause 17 and unless:

- (4) the Independent Expert concludes in the Independent Expert's Report (or any update of, or revision, amendment or supplement to, that report) that the Scheme is not fair and reasonable to, or in the best interests of, McGrath Shareholders (except where the sole or dominant reason for that conclusion is the existence, announcement or publication of a Competing Proposal);
- (5) the failure to recommend, or the adverse change to or withdrawal or adverse modification or adverse qualification of a recommendation to vote in favour of the Scheme is required by clause 8.9(c)(3); or
- (6) McGrath is entitled to terminate this deed pursuant to clauses 17.1(a)(1), 17.1(a)(2) or clause 17.2(b), and has given the appropriate termination notice to Bidder,

provided that, for the avoidance of doubt, a statement made by McGrath or the McGrath Board only to the effect that:

- (7) no action should be taken by McGrath Shareholders pending the assessment of a Competing Proposal by the McGrath Board or the completion of the matching right process set out in clause 13.5;
- (8) the McGrath Board has determined that a Competing Proposal is a Superior Proposal and has commenced the matching right process set out in clause 13.5; or
- (9) the McGrath Board recommends that McGrath Shareholders vote in favour of the Scheme Resolution at the Scheme Meeting on the basis of the All-Cash Alternative and makes no recommendation in relation to the Rollco Scrip Alternative,

will not, by itself, require McGrath to pay the Break Fee to Bidder;

- (b) a Competing Proposal of any kind is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and, within 9 months of the date of such announcement, the Third Party or any Associate of that Third Party:
 - (1) completes a Competing Proposal of a kind referred to in any of paragraphs 2, 3 or 4 of the definition of Competing Proposal; or
 - (2) without limiting clause 15.2(b)(1) acquires (either alone or in aggregate) a Relevant Interest in more than 50% of the McGrath Shares under a transaction that is or has become wholly unconditional or otherwise acquires (either alone or in aggregate) Control of McGrath; or



- (c) Bidder has terminated this deed for breach pursuant to clauses 17.1(a)(1) or 17.2(a) and the Transaction does not complete.

For the avoidance of doubt and despite any other provision of this deed, the Break Fee will not be payable if this deed is terminated in the circumstances set out in clause 5.4 because any Condition Precedent is not satisfied or waived in accordance with clause 5.

15.3 Payment of Break Fee

- (a) A demand by Bidder for payment of the Break Fee under clause 15.2 must:
- (1) be in writing;
 - (2) be made after the occurrence of the event in that clause giving rise to the right to the payment of the Break Fee;
 - (3) state the circumstances which give rise to the demand; and
 - (4) nominate an account in the name of Bidder into which McGrath is to pay the Break Fee.
- (b) McGrath must pay the Break Fee into the account nominated by Bidder, without set-off or withholding, within 15 Business Days after receiving a demand for payment under clause 15.3(a) where Bidder is entitled under clause 15.2 to the Break Fee.

15.4 Basis of Break Fee

McGrath and Bidder acknowledge and agree that the amount of the Break Fee has been calculated to reimburse Bidder for costs including the following:

- (a) fees for legal, financial and other professional advice in planning and implementing the Transaction (excluding success fees);
- (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 by Bidder and Bidder's employees, advisers and agents in planning and implementing the Transaction; and
- (e) damage to Bidder's reputation associated with a failed transaction and the implications of that damage to Bidder's business,

in each case, incurred by Bidder directly or indirectly as a result of having entered into this deed and pursuing the Transaction, and McGrath and Bidder agree that:

- (f) the costs actually incurred by Bidder will be of such a nature that they cannot all be accurately ascertained; and
- (g) the genuine and reasonable pre-estimate of those costs would equal or exceed the Break Fee.

15.5 Compliance with law

- (a) This clause 15 does not impose an obligation on McGrath to pay the Break Fee to the extent (and only to the extent) that the obligation to pay the Break Fee:
- (1) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or



- (2) is determined to be unenforceable or unlawful (including by virtue of it being a breach of the fiduciary or statutory duties of the McGrath Board Members) by a court of competent jurisdiction,
- subject to all proper avenues of appeal and review, judicial and otherwise, having been exhausted.
- (b) If:
- (1) clause 15.5(a) applies; and
- (2) the Takeovers Panel or a court (as applicable) determines that an amount lower than the Break Fee does not constitute unacceptable circumstances or is not unenforceable (as applicable) (**Permitted Break Fee Amount**),
- then:
- (3) McGrath shall be required to pay the Permitted Break Fee Amount in accordance with clause 15.5(b); and
- (4) if the Break Fee has already been paid to Bidder, Bidder will refund to McGrath within ten Business Days after receipt of a written demand from McGrath any amount equal to the difference between the Break Fee and the Permitted Break Fee Amount to McGrath (unless otherwise required by the Takeovers Panel or a court of competent jurisdiction). For the avoidance of doubt, any part of the Break Fee that would not constitute unacceptable circumstances or that is not unenforceable or unlawful (as applicable) must be paid by McGrath.
- (c) The parties:
- (1) must not make or cause or permit to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 15.5(a); and
- (2) agree that if a Third Party makes an application to the Takeovers Panel or a court for or in relation to a declaration or determination regarding any provision of this clause 15, then each party must make submissions in the course of those proceedings supporting (to the fullest extent reasonably practicable) that no such declaration or determination should be made.

15.6 Break Fee payable only once

Where the Break Fee becomes payable to Bidder under clause 15.2 and is actually paid to Bidder in accordance with clause 15.3, McGrath will only ever be liable to pay the Break Fee once and Bidder cannot make any claim against McGrath for payment of any subsequent Break Fee.

15.7 Other Claims

Despite anything to the contrary in this deed, the maximum aggregate liability of McGrath for any claims under this deed is the Break Fee and in no event will the aggregate liability of McGrath for Claims under this deed and in connection with the Transaction or the Scheme exceed the Break Fee.



15.8 No Break Fee if Scheme Effective

Despite anything to the contrary in this deed, the Break Fee will not be payable to Bidder if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 15.2 and, if the Break Fee has already been paid, it must be refunded by Bidder within 10 Business Days after the Implementation Date.

16 Expense Reimbursement Amount

16.1 Background to Expense Reimbursement Amount

- (a) McGrath and Bidder acknowledge that, if they enter into this deed and the Transaction is subsequently not implemented, McGrath will incur significant costs, including those set out in clause 16.4.
- (b) Bidder and McGrath acknowledge that, in the circumstances referred to in clause 16.1(a), McGrath has requested that provision be made for the Expense Reimbursement Amount in accordance with this clause 16, without which McGrath would not have entered into this deed or otherwise agreed to implement the Scheme.
- (c) Bidder confirms, and represents and warrants to McGrath, that Bidder believes, having taken advice from its external legal advisers, that the implementation of the Scheme will provide benefits to Bidder and that it is appropriate for Bidder to agree to the Expense Reimbursement Amount in accordance with this clause 16 in order to secure McGrath's participation in the Transaction.
- (d) Bidder and McGrath must not make or cause or permit to be made any application to the Takeovers Panel or a court for or in relation to a declaration or determination that the Expense Reimbursement Amount is invalid or unenforceable.

16.2 Expense Reimbursement Amount triggers

Bidder must pay the Expense Reimbursement Amount to McGrath if McGrath has terminated this deed pursuant to clauses 17.1(a)(1) or 17.1(c) and the Transaction does not complete.

16.3 Payment of Expense Reimbursement Amount

- (a) A demand by McGrath for payment of the Expense Reimbursement Amount under clause 16.2 must:
 - (1) be in writing;
 - (2) be made after the occurrence of the event in that clause giving rise to the right to payment of the Expense Reimbursement Amount;
 - (3) state the circumstances which give rise to the demand; and
 - (4) nominate an account in the name of McGrath into which Bidder is to pay the Expense Reimbursement Amount.
- (b) Bidder must pay the Expense Reimbursement Amount into the account nominated by McGrath, without set-off or withholding, within 15 Business Days after receiving a demand for payment under clause 16.3(a) where McGrath is entitled under clause 16.2 to the Expense Reimbursement Amount.



16.4 Basis of Expense Reimbursement Amount

Bidder and McGrath acknowledge and agree that the amount of the Expense Reimbursement Amount has been calculated to reimburse McGrath for costs including the following:

- (a) fees for legal, financial and other professional advice in planning and implementing the Transaction (excluding success fees);
- (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 by McGrath and McGrath's employees, advisers and agents in planning and implementing the Transaction; and
- (e) damage to McGrath's reputation associated with a failed transaction and the implications of that damage to McGrath's business,

in each case, incurred by McGrath directly or indirectly as a result of having entered into this deed and pursuing the Transaction, and McGrath and Bidder agree that:

- (f) the costs actually incurred by McGrath will be of such a nature that they cannot all be accurately ascertained; and
- (g) the genuine and reasonable pre-estimate of those costs would equal or exceed the Expense Reimbursement Amount.

16.5 Expense Reimbursement Amount payable only once

Where the Expense Reimbursement Amount becomes payable to McGrath under clause 16.2 and is actually paid to McGrath, McGrath cannot make any claim against Bidder for payment of any subsequent Expense Reimbursement Amount.

16.6 Other Claims

Notwithstanding any other provision of this deed other than clause 16.7, the maximum aggregate liability of Bidder, KFA and Bayleys for any claims under this deed is the Expense Reimbursement Amount, and in no event will the aggregate liability of Bidder, KFA and Bayleys for Claims under this deed and in connection with the Transaction or the Scheme exceed the Expense Reimbursement Amount.

16.7 Claims under the Deed Poll or specific performance

Nothing in clause 16.6 or otherwise in this deed will limit Bidder or Rollco's liability under the Deed Poll or the ability of a party to seek an order for specific performance.

17 Termination

17.1 Termination

- (a) Either party may terminate this deed by written notice to the other party:
 - (1) other than in respect of a breach of either a Bidder Representation and Warranty or a McGrath Representation and Warranty (which are



- dealt with in clause 17.2), at any time before 8.00am on the Second Court Date, if the other party has materially breached this deed, the party entitled to terminate has given written notice to the party in breach of this deed setting out the relevant circumstances and stating an intention to terminate this deed, and the other party has failed to remedy the breach within ten Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given (in which case termination under this clause 17.1(a) will take effect at the expiry of that period);
- (2) in the circumstances set out in, and in accordance with, clause 5.4;
 - (3) if the Implementation Date for the Scheme will not occur, on or before the End Date; or
 - (4) if McGrath Shareholders have not agreed to the Scheme at the Scheme Meeting by the Requisite Majorities and notice is not given under clause 5.4(d).
- (b) Bidder may terminate this deed by written notice to McGrath at any time before 8.00am on the Second Court Date if:
- (1) in any circumstances (including where clause 8.9(c) applies), any McGrath Director:
 - (A) fails to recommend the Scheme in the manner described in clause 8.9(a);
 - (B) withdraw or adversely changes or adversely modifies or adversely qualifies their Recommendation or Voting Intention; or
 - (C) makes a public statement: (i) to the effect that they no longer supports the Scheme; or (ii) indicates that they no longer recommend the Transaction or recommends, supports or endorses another transaction including any Competing Proposal (but excluding a statement to the effect that no action should be taken by McGrath Shareholders pending assessment of a Competing Proposal by the McGrath Board or a statement in accordance with clause 13.5),
for any reason and whether or not permitted to do so under this deed, other than, in respect of McGrath Board Member, where that McGrath Director is required by a court of competent jurisdiction or ASIC or the Takeovers Panel to abstain or withdraw from making a recommendation that McGrath Shareholders vote in favour of the Scheme after the date of this deed; or
 - (2) in any circumstances, a McGrath Group Member enters into any definitive agreement or arrangement in relation to the implementation of a Competing Proposal. For the avoidance of doubt, any such definitive agreement or arrangement does not include a McGrath Group Member entering into a confidentiality agreement or like agreement for the sole or dominant purpose of providing Non-public McGrath Information in relation to an actual, proposed or potential Competing Proposal.
- (c) McGrath may terminate this deed by written notice to Bidder at any time before 8.00am on the Second Court Date if any McGrath Directors has adversely changed or withdrawn its recommendation as permitted under clause 8.9.



17.2 Termination for breach of representations and warranties

- (a) Bidder may, at any time prior to 8.00am on the Second Court Date, terminate this deed for breach of a McGrath Representation and Warranty only if:
- (1) Bidder has given written notice to McGrath setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
 - (2) the relevant breach continues to exist 10 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given under clause 17.2(a)(1); and
 - (3) the relevant breach is material in the context of the Scheme taken as a whole.
- (b) McGrath may, at any time before 8.00am on the Second Court Date, terminate this deed for breach of a Bidder Representation and Warranty only if:
- (1) McGrath has given written notice to Bidder setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
 - (2) the relevant breach continues to exist 10 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given under clause 17.2(b)(1); and
 - (3) the relevant breach is material in the context of the Scheme taken as a whole.
- (c) This deed is terminable if agreed to in writing by Bidder and McGrath.

17.3 Effect of termination

If this deed is terminated by either party under clauses 5.4, 17.1 or 17.2:

- (a) each party will be released from its obligations under this deed, except that this clause 17.3, and clauses 1, 9.5 to 9.9 (inclusive), 10.1, 10.2, 12, 18, 19, 20 and 21 (except clause 21.10), will survive termination and remain in force;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this deed (including in respect of the breach giving rise to termination, if applicable) or that otherwise accrued before termination of this deed; and
- (c) in all other respects, (but, for the avoidance of doubt, subject to clause 17.3(a)), all future obligations of the parties under this deed will immediately terminate and be of no further force and effect including any further obligations in respect of the Scheme.

17.4 Termination

Where a party has a right to terminate this deed, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this deed and the provision under which it is terminating this deed and otherwise complies with the requirements of the relevant clause of this deed.



17.5 No other termination

Neither party may terminate or rescind this deed except as permitted under clauses 5.4, 17.1 or 17.2.

18 Duty, costs and expenses

18.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or any transaction effected under this deed or the Scheme; and
- (b) indemnifies McGrath against any liability arising from its failure to comply with clause 18.1(a).

18.2 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, delivery and performance of this deed and the proposed, attempted or actual implementation of this deed and the Transaction.

18.3 Withholding tax

- (a) If Bidder is required by Subdivision 14-D of Schedule 1 of the Taxation Administration Act 1953 (Cth) (**Subdivision 14-D**) to pay amounts to the Australian Taxation Office in respect of the acquisition of McGrath Shares from certain Scheme Shareholders, Bidder is permitted to deduct the relevant amounts from the payment of the Scheme Consideration to those Scheme Shareholders, and remit such amounts to the Australian Taxation Office. The aggregate sum payable to Scheme Shareholders shall not be increased to reflect the deduction and the net aggregate sum payable to those Scheme Shareholders shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Shareholders.
- (b) McGrath agrees that Bidder may approach the Australian Taxation Office to obtain clarification as to the application of Subdivision 14-D to the Transaction and will provide all information and assistance that Bidder reasonably requires in making that approach. Bidder agrees:
 - (1) to provide McGrath a reasonable opportunity to review the form and content of all materials to be provided to the Australian Taxation Office, to take into account McGrath's comments on those documents and more generally in relation to Bidder's engagement with the Australian Taxation Office and to participate in any discussions and correspondence between Bidder and the Australian Taxation Office in connection with the application of Subdivision 14-D to the Transaction; and
 - (2) not to contact any McGrath Shareholders in connection with the application of Subdivision 14-D to the Transaction without McGrath's prior written consent.



- (c) McGrath and Bidder agree to consult in good faith as to the application of Subdivision 14-D, including taking into account any clarification provided by the Australian Taxation Office following the process described in clause 18.3(b). McGrath and Bidder agree to take all actions that they agree (each acting reasonably) are necessary or desirable following that consultation which may include, without limitation, making amendments to this deed, the Scheme and the Deed Poll to ensure that relevant representations are obtained from Scheme Shareholders.

19 GST

- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 19(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 19(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 19(b):
- (1) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as applicable;
 - (2) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
 - (3) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within seven days after receiving such notification, as applicable. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this deed if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.



- (g) Any term starting with a capital letter in this clause 19 that is not defined in this clause 19 has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

20 Notices

20.1 Form of Notice

A notice or other communication to a party under this deed (**Notice**) must be:

- (a) in writing and in English; and
- (b) addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by Notice).

20.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a day that is not a Saturday, Sunday or a public holiday or bank holiday in the place of receipt (**business hours period**), then, other than in respect of any Notice given on, and prior to 8.00am on, the Second Court Date, the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By email to the nominated email address	The first to occur of: <ol style="list-style-type: none"> 1 the sender receiving an automated message confirming delivery; or 2 two hours after the time that the email was sent (as recorded on the device from which the email was sent) provided that the sender does not, within the period, receive an automated message that the email has not been delivered.

20.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 20.2).



21 General

21.1 Governing law and jurisdiction

- (a) This deed is governed by the law in force in New South Wales, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed. Each party 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.

21.2 Service of process

Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of Notices under clause 20.

21.3 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.

21.4 Invalidity and enforceability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 21.4(a) does not apply where enforcement of the provision of this deed in accordance with clause 21.4(a) would materially affect the nature or effect of the parties' obligations under this deed.

21.5 Waiver

No party to this deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 21.5 are set out below.

Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this deed and includes the right to rely on this clause.



waiver includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

21.6 Variation

A variation of any term of this deed must be in writing and signed by the parties.

21.7 Assignment of rights

- (a) A party may not assign, novate, declare a trust over or otherwise transfer or deal with any of its rights or obligations under this deed without the prior written consent of the other party or as expressly provided in this deed.
- (b) A breach of clause 21.7(a) by a party shall be deemed to be a material breach for the purposes of clause 17.1(a)(1).
- (c) Clause 21.7(b) does not affect the construction of any other part of this deed.

21.8 Acknowledgement

Each party acknowledges that the remedy of damages may be inadequate to protect the interests of parties for a breach of this deed and that either party is entitled to seek and obtain, without limitation, injunctive relief or specific performance if either party breaches, or threatens to breach, this deed.

21.9 No third party beneficiary

This deed shall be binding on and inure solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed is intended to or shall confer on any other person, other than the Bidder Indemnified Parties and the McGrath Indemnified Parties, in each case to the extent set forth in clause 8.12(a)(7)(B) and clause 10, any third party beneficiary rights.

21.10 Further action to be taken at each party's own expense

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

21.11 Entire agreement

This deed (including the documents in the attachments to it), the Confidentiality Deed and any other document agreed by the parties in writing for the purposes of this clause 21.11 (each a **Relevant Document** and together the **Relevant Documents**) state all the express terms agreed by the parties in respect of their subject matter. The Relevant Documents set out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the parties and supersede all prior Conduct, discussions and negotiations in respect of their subject matter. Without limiting clause 9.9, no party has relied on or is relying on any other Conduct in entering into this deed and completing the transactions contemplated by it.



21.12 Counterparts

- (a) This deed may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument.
- (b) Subject to applicable law, a counterpart may be signed electronically and may be in hard copy or electronic form.

21.13 Relationship of the parties

- (a) Nothing in this deed gives a party authority to bind any other party in any way.
- (b) Nothing in this deed imposes any fiduciary duties on a party in relation to any other party.

21.14 Remedies cumulative

Except as provided in this deed and permitted by law, the rights, powers and remedies provided in this deed are cumulative with, and not exclusive of, the rights, powers and remedies provided by law independently of this deed.

21.15 Exercise of rights

- (a) Unless expressly required by the terms of this deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.



Schedules

Table of contents

Notice details	50
Definitions and interpretation	51
Bidder Representations and Warranties	72
McGrath Representations and Warranties	74
Capital structure	77



Schedule 1

Notice details

Name	Attention	Address	Email
McGrath	Howard Herman, Chief Financial Officer	Suite 2 02, Level 2, 19 Harris Street Pyrmont NSW 2009	HowardHerman@mcgrath.com.au
- copy to	Rebecca Maslen- Stannage, Partner	Herbert Smith Freehills, ANZ Tower, Level 33, 161 Castlereagh Street, Sydney NSW 2000	Rebecca.Maslen-Stannage@hsf.com
Bidder	Mike Bayley and James Patterson	Level 22, 123 Pitt St, Sydney NSW 2000	mike.bayley@bayleys.co.nz James.Patterson@au.knightfrank.com
KFA	James Patterson	Level 22, 123 Pitt St, Sydney NSW 2000	James.Patterson@au.knightfrank.com
Bayleys	Mike Bayley	30 Gaunt Street, Auckland Central, Auckland 1010, New Zealand	mike.bayley@bayleys.co.nz
- copy (such copy not constitute notice) to	Alastair Corrigall	Level 35, Tower Two, International Towers Sydney, 200 Barangaroo Avenue NSW 2000	ACorrigall@gtlaw.com.au

Schedule 2

Definitions and interpretation

1.1 Definitions

Term	Meaning
AASB	Australian Accounting Standards Board.
All-Cash Alternative	has the meaning given in the Scheme.
ASIC	the Australian Securities and Investments Commission.
Associate	has the meaning set out in section 12 of the Corporations Act, as if subsection 12(1) of the Corporations Act included a reference to this deed and McGrath was the designated body.
ASX	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
Bidder Group	Rollco, Bidder and each of their respective Subsidiaries, and a reference to a Bidder Group Member is to any one of them.
Bidder Indemnified Parties	each Bidder Group Member and their respective directors, officers and employees.
Bidder Information	information regarding the Bidder Group provided by Bidder to McGrath in writing for inclusion in the Scheme Booklet, including: <ol style="list-style-type: none"> 1 information about Bidder, other Bidder Group Members, the businesses of the Bidder Group, Bidder's interests and dealings in McGrath Shares, Bidder's intentions for McGrath and McGrath's employees, and funding for the Scheme; 2 the information required to be included in the Scheme Booklet to meet the prospectus disclosure test in the Corporations Act and ASIC guidance with respect to Rollco and the Rollco Scrip Alternative; and 3 any other information required under the Corporations Act, Corporations Regulations or RG 60 to enable the Scheme Booklet to be prepared that the parties agree is 'Bidder



Term	Meaning
	<p>Information' and that is identified in the Scheme Booklet as such.</p> <p>For the avoidance of doubt, the Bidder Information excludes the McGrath Information, the Independent Expert's Report and any description of the taxation effect of the Transaction on Scheme Shareholders prepared by an external adviser to McGrath.</p>
Bidder Representations and Warranties	the representations and warranties of Bidder set out in Schedule 3.
Break Fee	\$955,065.
Business Day	a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, Australia.
Claim	<p>any claim, demand, legal proceedings or cause of action (including any claim, demand, legal proceedings or cause of action:</p> <ol style="list-style-type: none">1 based in contract, including breach of warranty;2 based in tort, including misrepresentation or negligence;3 under common law or equity; or4 under statute, including the Australian Consumer Law (being Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth) (CCA)) or Part VI of the CCA, or like provision in any state or territory legislation), <p>in any way relating to this deed or the Transaction, and includes a claim, demand, legal proceedings or cause of action arising under an indemnity in this deed.</p>
Competing Proposal	<p>any proposal, offer, expression of interest, agreement, arrangement or transaction (whether existing before, on or after the date of this deed), which, if entered into or completed substantially in accordance with its terms), would result in a Third Party (either alone or together with any Associate(s)):</p> <ol style="list-style-type: none">1 directly or indirectly acquiring or having the right to acquire (i) a Relevant Interest or Voting Power in, or (ii) a legal, beneficial or economic interest (including by way of an equity swap, contract for difference of similar transaction or arrangement) in, or (iii) control of, 20% or more of the McGrath Shares or the securities in any McGrath Group Member;2 acquiring Control (as determined in accordance with section 50AA of the Corporations Act, but disregarding sub-section 50AA(4)) of McGrath;



Term	Meaning
	<p>3 directly or indirectly acquiring or becoming the holder of, or otherwise acquiring or having a right to acquire, a legal, beneficial or economic interest in, or control of, all of McGrath's business or assets or the business or assets of the McGrath Group;</p> <p>4 otherwise directly or indirectly acquiring or merging with McGrath; or</p> <p>5 require McGrath to abandon, or otherwise fail to proceed with, the Transaction,</p> <p>whether by way of takeover bid, members' or creditors' scheme of arrangement, reverse takeover, shareholder approved acquisition, capital reduction, buy back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement, recapitalisation, refinancing or other transaction or arrangement.</p> <p>For the avoidance of doubt, each successive material modification or variation of any proposal, agreement, arrangement or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.</p>
Condition Precedent	each of the conditions set out in clause 5.1.
Confidentiality Deed	the Confidentiality Deed between McGrath, Knight Frank Australia Holdings Pty Ltd (ACN 114 923 938) and BCL Aus Holdings Limited (NZ company number 8958610) dated 14 February 2024.
Consortium	the consortium comprising KFA and BCL Aus Holdings Limited (NZ company number 8958610) (a wholly-owned subsidiary of Bayleys) and, unless the context requires otherwise, includes Bidder.
Consortium Member	a member of the Consortium and, unless the context requires otherwise, includes Bidder.
Consultation Notice	has the meaning given in clause 5.4(a).
Control	has the meaning given in section 50AA of the Corporations Act.
Corporations Act	the <i>Corporations Act 2001</i> (Cth), as modified or varied by ASIC.



Term	Meaning
Corporations Regulations	the <i>Corporations Regulations 2001</i> (Cth).
Court	the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and McGrath.
Cut Off Date	means the date that is 5 Business Days after the date of the provision of the information referred to in clause 13.5(a)(4).
D&O Run-off Policy	has the meaning given to that term in clause 10.3(b)(2).
Deed Poll	a deed poll in the form of Attachment 3 under which Bidder and Rollco each covenants in favour of the Scheme Shareholders to perform the obligations attributed to Bidder and Rollco under the Scheme.
Determination Date	<ol style="list-style-type: none">1 31 May 2024 or, if changed in accordance with clause 8.2(e), 30 June 2024; or2 such other date as is agreed by McGrath and Bidder.
Director McGrath Share	any McGrath Share: <ol style="list-style-type: none">1 held by or on behalf of a McGrath Board Member; or2 listed as an indirect interest in the latest Appendix 3X or Appendix 3Y lodged by McGrath with ASX in respect of each McGrath Board Member.
Disclosure Letter	a letter identified as such provided by McGrath to Bidder and countersigned by Bidder prior to entry into this deed.



Term	Meaning
Disclosure Materials	<ol style="list-style-type: none">1 the documents and information contained in the data room made available by McGrath to Bidder and its Related Persons, the index of which has been initialled by, or on behalf of, the parties for identification;2 written responses from McGrath and its Related Persons to requests for further information made by Bidder and its Related Persons, the index of which has been initialled by, or on behalf of, the parties for identification; and3 the Disclosure Letter.
EBITDA	underlying earnings before interest, tax, depreciation and amortisation (on a post-AASB 16 basis).
Effective	when used in relation to the Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to the Scheme.
Effective Date	the date on which the Scheme becomes Effective.
Election	has the meaning given in the Scheme.
Election Form	has the meaning set out in clause 6.4(a).
Election Time	has the meaning given in the Scheme.
Encumbrance	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	<ol style="list-style-type: none">1 30 June 2024 or, if extended in accordance with clause 8.2(e), 31 July 2024; or2 such other date as agreed in writing by McGrath and Bidder.
Estimated Transaction Costs	has the meaning given in clause 6.7(a)(4).
Exclusivity Period	the period from and including the date of this deed to the earlier of:



Term	Meaning
	<ol style="list-style-type: none">1 the date of termination of this deed;2 the End Date; and3 the Implementation Date.
Expense Reimbursement Amount	\$955,065.
Fairly Disclosed	a reference to 'Fairly Disclosed' means disclosed to Bidder or any of its Related Persons, to a sufficient extent, in sufficient detail, and to a sufficient extent, so as to enable a reasonable bidder (or one of its Related Persons) experienced in transactions similar to the Transaction to identify the nature and scope of the relevant matter, event or circumstance (including, in each case, that the potential financial effect of the relevant matter, event or circumstance was reasonably ascertainable from the information disclosed).
Financial Adviser	any financial adviser retained by a McGrath Group Member in relation to the Transaction from time to time.
Financial Indebtedness	<p>any debt or other monetary liability (whether actual or contingent), together with all interest, fees and penalties accrued thereon, in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:</p> <ol style="list-style-type: none">1 interest or non-interest bearing loan or other financing liability or obligation, including an overdraft or any other liability in the nature of borrowed money (whether secured or unsecured);2 bill, bond, debenture, note or similar instrument;3 acceptance, endorsement or discounting arrangement;4 guarantee or letter of credit;5 finance or capital lease;6 agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service; or7 obligation to deliver goods or provide services paid for in advance by any financier.
First Court Date	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard, with such hearing being the First Court Hearing .



Term	Meaning
Franchise Agreement	a franchise agreement between a McGrath Group Member and a Franchisee (among others) in respect of the grant by a McGrath Group Member to the Franchisee of a non-exclusive franchise to establish and operate a McGrath office on the terms set out therein.
Franchisee	a franchisee under a Franchise Agreement.
Government Agency	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian (including ASIC and the Takeovers Panel).
Implementation Committee	a committee comprised of two senior McGrath executives and two senior Bidder Group Member executives, and other persons as agreed by McGrath and Bidder.
Implementation Date	the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as McGrath and Bidder agree in writing or is ordered by the Court or required by ASX.
Independent Expert	the independent expert in respect of the Scheme appointed by McGrath to prepare the Independent Expert's Report.
Independent Expert's Report	the report to be issued by the Independent Expert in connection with the Scheme, setting out the Independent Expert's opinion whether or not the Transaction is fair and reasonable to, and in the best interests of, McGrath Shareholders and the reasons for holding that opinion.
Ineligible Foreign Shareholder	means a Scheme Shareholder whose address shown in the McGrath Share Register on the Scheme Record Date is a place outside Australia, unless McGrath determines that it is lawful and not unduly onerous or impracticable to provide that Scheme Shareholder with Rollco Shares under the Rollco Scrip Alternative when the Scheme becomes Effective.
Insolvency Event	means, in relation to an entity: <ol style="list-style-type: none">1 the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity (other than where the order is set aside within 14 days);



Term	Meaning
	<ol style="list-style-type: none">2 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;3 the entity executing a deed of company arrangement;4 the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this deed;5 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); or6 the entity being deregistered as a company or otherwise dissolved.
Listing Rules	the official listing rules of ASX.
McGrath Board	the board of directors of McGrath and a McGrath Board Member means any director of McGrath comprising part of the McGrath Board.
McGrath Consolidated Tax Group	the consolidated group of which McGrath is the head company (where 'consolidated group' and 'head company' have the same meaning as in the Tax Act).
McGrath Equity Incentives	performance rights issued to certain executives and agents of McGrath under a long term incentive plan as part of their employment agreements, as set out in Schedule 5.
McGrath Group	McGrath and each of its Subsidiaries, and a reference to a McGrath Group Member is to McGrath or any of its Subsidiaries.
McGrath Indemnified Parties	McGrath Group Members and each of their respective directors and officers (solely in their capacity as director and officer of the applicable McGrath Group Members) and employees.
McGrath Information	all information in the Scheme Booklet, including, but not limited to: <ol style="list-style-type: none">1 information regarding the McGrath Group prepared by McGrath for inclusion in the Scheme Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the Corporations Regulations; and2 any other information that is material to the making of a decision by McGrath Shareholders whether or not to vote in



Term	Meaning
	<p>favour of the Scheme, being information that is within the knowledge of each of the McGrath Board Members,</p> <p>other than the Bidder Information, the Independent Expert's Report or any description of the taxation effect of the Transaction on Scheme Shareholders prepared by an external adviser to McGrath.</p>
McGrath Material Adverse Change	<p>either:</p> <ol style="list-style-type: none">1 Franchisees that together represent 15% of the aggregate franchise fees of the McGrath Group in the 12 months ending 31 December 2023 terminating, purporting to terminate or giving notice to the McGrath Group of their intention to terminate or not to renew their applicable Franchise Agreement on or after the date of this deed; or2 an event, change, condition, matter, circumstance or thing occurring (i) on or after the date of this deed; or (ii) before the date of this deed but which only becomes known to Bidder or McGrath, or is only announced or publicly disclosed, after the date of this deed (each a Specified Event) which, whether individually or when aggregated with all events, changes, conditions, matters, circumstances or things of a like kind that have occurred (each, a Similar Specified Event), has had or would be reasonably likely to will have a material adverse effect on the business, assets, liabilities, financial position or profitability of the McGrath Group taken as a whole; <p>other than those events, changes, conditions, matters, circumstances or things:</p> <ol style="list-style-type: none">3 Fairly Disclosed in:<ul style="list-style-type: none">• the Disclosure Materials;• an announcement made by McGrath to ASX prior to the date of this deed;• a publicly available document lodged by McGrath or a McGrath Group Member with ASIC (which would be disclosed in a search of ASIC's records) prior to the date of this deed; or• a publicly available document which would be disclosed in a search of the PPS Register in relation to McGrath or a Subsidiary of McGrath on 21 March 2024, or the public records maintained by the High Court, the Federal Court, the Federal Circuit Court, or the Supreme Courts in each Australian State and Territory in relation to McGrath or a Subsidiary of McGrath as agreed between McGrath and Bidder in writing as at the date of this deed, had each such search been conducted on 12 March 2024;4 within the actual knowledge of the Bidder as at the date of this deed;5 required by, or as a result of any change in, any applicable law, regulation, accounting standards or accepted accounting principles or order or policy of a Government Agency, applicable to Australian businesses generally;



Term	Meaning
	<p>6 arising from changes in economic or business conditions (including changes to interest rates, exchange rates or financial markets);</p> <p>7 arising from any act of terrorism, outbreak or escalation of war (whether or not declared), major hostilities, civil unrest, act of god, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, other natural disaster or adverse weather conditions, or outbreak or escalation of any disease epidemic or pandemic (including the outbreak, escalation or any impact of, the Coronavirus or COVID-19 pandemic); or</p> <p>8 relating to costs and expenses incurred by McGrath associated with the Scheme process or Transaction.</p> <p>For the purposes of determining whether a McGrath Material Adverse Change has occurred, the parties must take into account any right to insurance, contribution or indemnification available to a McGrath Group Member.</p>
McGrath Prescribed Occurrence	<p>other than as:</p> <p>1 required or permitted by this deed, the Scheme or the transactions contemplated by either;</p> <p>2 Fairly Disclosed in:</p> <ul style="list-style-type: none">• the Disclosure Materials;• an announcement made by McGrath to ASX prior to the date of this deed;• a publicly available document lodged by McGrath or a McGrath Group Member with ASIC (which would be disclosed in a search of ASIC records) prior to the date of this deed; or <p>3 agreed to in writing by Bidder; or</p> <p>the occurrence of any of the following:</p> <p>4 McGrath converting all or any of its shares into a larger or smaller number of shares;</p> <p>5 a member of the McGrath Group resolving to reduce its share capital in any way;</p> <p>6 a member of the McGrath Group:</p> <p>7 entering into a buy-back agreement; or</p> <p>8 resolving to approve the terms of a buy-back agreement under the Corporations Act;</p> <p>9 a member of the McGrath Group issuing shares, or granting an option over its shares, or agreeing to make such an issue or grant such an option, other than:</p> <ul style="list-style-type: none">• to a directly or indirectly wholly-owned Subsidiary of McGrath; or• the issue of shares upon a conversion or vesting of the McGrath Equity Incentives;

Term	Meaning
	<p>10 a member of the McGrath Group issuing or agreeing to issue securities convertible into shares;</p> <p>11 a member of the McGrath Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;</p> <p>12 a member of the McGrath Group granting a Security Interest, or agreeing to grant a Security Interest, in the whole, or a substantial part, of its business or property other than a lien which arises by operation of law or legislation securing an obligation that is not yet due; or</p> <p>13 an Insolvency Event occurs in relation to a member of the McGrath Group.</p>
McGrath Registry	Link Market Services Limited ABN 54 083 214 537 in its capacity as provider of registry services in respect of the McGrath Share Register.
McGrath Regulated Event	<p>other than as:</p> <ol style="list-style-type: none"> 1 required or permitted by this deed, the Scheme or the transactions contemplated by either; 2 Fairly Disclosed in: <ul style="list-style-type: none"> • the Disclosure Materials; or • an announcement made by McGrath to ASX prior to the date of this deed; or • a publicly available document lodged by McGrath or a McGrath Group Member with ASIC (which would be disclosed in a search of ASIC records) prior to the date of this deed; 3 agreed to in writing by Bidder; or <p>the occurrence of any of the following:</p> <ol style="list-style-type: none"> 4 a McGrath Group Member reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares (other than to meet or settle obligations in respect of McGrath Equity Incentives); 5 other than the Permitted Dividend, McGrath announcing, making, declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members (whether in cash or in specie); 6 a member of the McGrath Group making any change to its constitution; 7 a member of the McGrath Group: <ul style="list-style-type: none"> • acquiring or disposing of; or • agreeing to acquire or dispose of,



Term	Meaning
	any business, assets, entity or undertaking, other than in the ordinary course of business;
8	a member of the McGrath Group entering into a contract or commitment restraining a member of the McGrath Group from competing with any person or conducting activities in any market;
9	a member of the McGrath Group: <ul style="list-style-type: none">entering into any contract or commitment (including in respect of Financial Indebtedness) requiring payments by the McGrath Group in excess of \$250,000 (individually or other than in the ordinary course of business in aggregate) other than any payment required by law;without limiting the foregoing, agreeing to incur or incurring capital expenditure of more than \$250,000 (individually or other than in the ordinary course of business in aggregate);waiving any material third party default where the financial impact on the McGrath Group will be in excess of \$250,000 (individually or other than in the ordinary course of business in aggregate); oraccepting as a compromise of a matter less than the full compensation due to a member of the McGrath Group where the financial impact of the compromise on the McGrath Group is more than \$250,000 (individually or other than in the ordinary course of business in aggregate);
10	a member of the McGrath Group entering into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, other than in respect of the McGrath Equity Incentives;
11	a member of the McGrath Group entering into, or resolving to enter into, a transaction with any related party of McGrath (other than a related party which is a member of the McGrath Group), as defined in section 228 of the Corporations Act;
12	a member of the McGrath Group (i) entering into a new employment, consulting, severance or similar agreement or arrangement or (ii) materially altering, varying or amending any employment, consulting, severance or similar agreement or arrangement with one or more of its officers, directors, other executives or employees, or accelerating or otherwise materially increasing compensation or benefits for any of the above, in each case other than pursuant to: <ul style="list-style-type: none">contractual arrangements in effect on the date of this deed and which are contained in the Disclosure Materials; orMcGrath's policies and guidelines in effect on the date of this deed and which are contained in the Disclosure Materials, provided that the total compensation and benefits offered under to a person under a new agreement or arrangement under (i) is no greater than \$250,000, and that the aggregate of all



Term	Meaning
	increases in compensation or benefits to a person under (ii) is no greater than \$75,000 per person;
	13 a member of the McGrath Group paying any of its officers, directors, other executives or employees a termination or retention payment, other than in accordance with contractual arrangements in effect on the date of this deed and which are contained in the Disclosure Materials;
	14 a member of the McGrath Group entering into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this deed and which are contained in the Disclosure Materials;
	15 a member of the McGrath Group changing any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards;
	16 a member of the McGrath Group doing anything that would result in a change in the McGrath Consolidated Tax Group; or
	17 notice of any material investigation, prosecution, arbitration, litigation or dispute threatened against a member of the McGrath Group which could reasonably be expected to give rise to a liability for the McGrath Group in excess of \$250,000 (Material Proceedings) and for the avoidance of doubt which is not frivolous or vexatious, or circumstances arising which could reasonably be expected to give rise to any Material Proceedings. For the avoidance of doubt, Material Proceedings do not include any liability relating to an investigation, prosecution, arbitration, litigation or dispute to the extent that an insurer has agreed to cover the liability under an insurance policy maintained by a member of the McGrath Group.
McGrath Representations and Warranties	the representations and warranties of McGrath set out in Schedule 4, as each is qualified by clause 9.5.
McGrath Share	a fully paid ordinary share in the capital of McGrath.
McGrath Shareholder	each person who is registered as the holder of a McGrath Share in the McGrath Share Register.
McGrath Share Register	the register of members of McGrath maintained in accordance with the Corporations Act.
Net Cash Reserves	cash and cash equivalents, comprising cash at bank and short term deposits (in each case held by a financial institution in the name of, and on behalf of, a McGrath Group Member) with an original



Term	Meaning
	maturity of nine months or less, subject to any adjustment under clause 6.7(a)(5).
Non-public McGrath Information	has the meaning given to that term in clause 13.2(b).
Notifiable Proposal	has the meaning given to that term in clause 13.4.
Operating Rules	the official market operating rules of ASX Settlement Pty Limited (ABN 49 008 504 532) (as the holder of a licence to operate a clearing and settlement facility), as amended, varied or waived from time to time.
Paid Transaction Costs	has the meaning given in clause 6.7(a)(5)(C).
PPSA	the <i>Personal Property Securities Act 2009</i> (Cth).
PPS Register	the register established under the PPSA.
Recommendation	has the meaning given to that term in clause 8.9(a).
Permitted Dividend	a dividend permitted to be paid in accordance with clause 6.7.
RG 60	Regulatory Guide 60 issued by ASIC in September 2020.
Registered Address	in relation to a McGrath Shareholder, the address shown in the McGrath Share Register as at the Scheme Record Date.
Regulator's Draft	the draft of the Scheme Booklet in a form which is provided to ASIC for approval pursuant to subsection 411(2) of the Corporations Act.
Related Bodies Corporate	has the meaning set out in section 50 of the Corporations Act.



Term	Meaning
Related Person	in respect of a party or Rollco or its Related Bodies Corporate, each director, officer, employee, adviser, agent or representative of that party or Related Body Corporate.
Relevant Interest	has the meaning given in sections 608 and 609 of the Corporations Act.
Requisite Majorities	<p>in relation to the Scheme Resolution to be put to McGrath Shareholders at the Scheme Meeting, the resolution being passed by:</p> <ol style="list-style-type: none">1 a majority in number (more than 50%) of McGrath Shareholders who are present and voting at the Scheme Meeting, either in person or by proxy, attorney or in the case of a corporation its duly appointed corporate representative; and2 at least 75% of the votes cast on the resolution by McGrath Shareholders, who are present and voting at the Scheme Meeting, either in person or by proxy, attorney or in the case of a corporation its duly appointed corporate representative.
Rollco	RPAA Investments Limited (ACN 676 033 346).
Rollco Constitution	the constitution of Rollco in the form set out in Attachment 6 or such other form as agreed in writing by McGrath and Bidder.
Rollco Scrip Alternative	has the meaning given in the Scheme.
Rollco Share	a fully paid ordinary share in Rollco (each having the rights set out in the Rollco Constitution and the Shareholders' Deed) to be issued to Scheme Shareholders who elect to receive the Rollco Scrip Alternative under the Scheme and Rollco Share means any such share.
Scheme	the members' scheme of arrangement under Part 5.1 of the Corporations Act between McGrath and the Scheme Shareholders under which all of the Scheme Shares will be transferred to Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration, the form of which is attached as Attachment 2 (or such other form as agreed in writing by Bidder and McGrath), together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and consented to by the Bidder in accordance with clause 6.2.



Term	Meaning
Scaleback Arrangements	has the meaning given in the Scheme.
Scheme Booklet	<p>the scheme booklet to be prepared by McGrath in respect of the Scheme pursuant to section 412 of the Corporations Act and in accordance with the terms of this deed (including clause 8.3(a)) to be despatched to the McGrath Shareholders and which must include or be accompanied by:</p> <ul style="list-style-type: none">• a copy of the Scheme;• an explanatory statement complying with the requirements of the Corporations Act, the Corporations Regulations and RG 60;• the Independent Expert's Report;• a copy or summary of this deed;• a copy of the executed Deed Poll;• a notice(s) of meeting;• a proxy form(s);• an Election Form;• Shareholders' Deed; and• the Rollco Constitution.
Scheme Consideration	<p>the consideration to be provided by Bidder to each Scheme Shareholder for the transfer to Bidder of each Scheme Share, being for each McGrath Share held by a Scheme Shareholder as at the Scheme Record Date:</p> <ol style="list-style-type: none">1 the All-Cash Alternative; or2 the Rollco Scrip Alternative.
Scheme Meeting	the meeting of McGrath Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on the Scheme Resolution and includes any meeting convened following any adjournment or postponement of that meeting.
Scheme Record Date	the time and date for determining entitlements to receive the Scheme Consideration, 7.00pm on the third Business Day after the Effective Date or such other time and date as McGrath and Bidder agree in writing.
Scheme Resolution	the resolution to approve the Scheme to be considered by McGrath Shareholders at the Scheme Meeting.



Term	Meaning
Scheme Security Consideration Documents	<ol style="list-style-type: none">1 the Shareholders' Deed; and2 the Rollco Constitution.
Scheme Shares	all McGrath Shares held by the Scheme Shareholders as at the Scheme Record Date.
Scheme Shareholder	a holder of McGrath Shares recorded in the McGrath Share Register as at the Scheme Record Date.
Second Court Date	the first day on which an application made to the Court for an order under paragraph 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 or appeal is heard, with such hearing being the Second Court Hearing .
Security Interest	has the meaning given in section 12 of the PPSA.
Shareholders' Deed	the Shareholders' Deed in relation to Rollco to be entered into by the shareholders of Rollco on substantially the terms set out in Attachment 5, or in such other form as agreed in writing by McGrath and Bidder.
Specified Individual	each of John McGrath and Howard Herman.
Subsidiary	<p>has the meaning given in Division 6 of Part 1.2 of the Corporations Act, provided that an entity will also be taken to be a Subsidiary of another entity if it is controlled by that entity (as 'control' is defined in section 50AA of the Corporations Act) and, without limitation:</p> <ol style="list-style-type: none">1 a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and2 an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.
Superior Proposal	<p>a bona fide, written Competing Proposal:</p> <ol style="list-style-type: none">1 of the kind referred to in any of paragraphs 2, 3 or 4 of the definition of Competing Proposal; and2 not resulting from a breach by McGrath of any of its obligations under clause 13 of this deed (it being understood that any actions by the Related Persons of McGrath not permitted by



Term	Meaning
	<p>clause 13 will be deemed to be a breach by McGrath for the purposes hereof),</p> <p>that the McGrath Board, acting in the best interests of McGrath Shareholders and in good faith, and in order to satisfy what the McGrath Board considers to be the McGrath Directors' statutory or fiduciary duties (after receiving written legal advice from its reputable external Australian legal advisers specialising in the area of corporate law and written financial advice from its Financial Adviser), determines:</p> <p>3 is reasonably capable of being valued and completed in a reasonable timeframe in accordance with its terms, taking into account all terms, conditions and other aspects of the Competing Proposal, including, but not limited to:</p> <ul style="list-style-type: none">(a) the identity, reputation and financial condition of the party making the Competing Proposal;(b) the ability of the party making the Competing Proposal to consummate the transactions contemplated by the Competing Proposal; and(c) relevant legal, financial, regulatory and other matters; and <p>4 would, if completed substantially in accordance with its terms, result in a transaction that is more favourable to McGrath Shareholders (as a whole) than the Transaction (and, if applicable, than the Transaction as amended or varied following application of the matching right set out in clause 13.5),</p> <p>in each case taking into account all terms and conditions and other aspects of:</p> <p>5 the Competing Proposal (including the value and type of consideration, funding, any timing considerations, any conditions precedent, the identity, reputation and financial condition of the proponent, the ability of the proponent to complete the transactions contemplated by the Competing Proposal and the probability of the Competing Proposal being completed compared to the Transaction and relevant legal, financial, regulatory and other matters (including whether the Break Fee is payable); and</p> <p>6 The Transaction (including the matters described in paragraph (5) above in respect of the Transaction).</p>
Takeovers Panel	the Australian Takeovers Panel.
Tax Act	the <i>Income Tax Assessment Act 1997</i> (Cth).
Third Party	a person other than Bidder and any other Bidder Group Member.



Term	Meaning
Timetable	the indicative timetable for the implementation of the Transaction set out in Attachment 1.
Trading Day	has the meaning given to that term in the Listing Rules.
Transaction	the acquisition of the Scheme Shares by Bidder through implementation of the Scheme in accordance with the terms of this deed.
Voting Intention	has the meaning given to that term in clause 8.9(b)(3).

2 Interpretation

2.1 Interpretation

In this deed:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency, as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to this deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to the lawful currency of Australia;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney, Australia;
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1.1 of this Schedule 2, has the same meaning when used in this deed;



- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this deed will be construed adversely to a party because that party was responsible for the preparation of this deed or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (p) a reference to a body (including an institute, association or authority), other than a party to this deed, whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (q) a reference to an agreement other than this deed includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (r) a reference to liquidation or insolvency includes appointment of an administrator, a reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, bankruptcy, or a scheme, compromise or arrangement with creditors (other than solely with holders of securities or derivatives), or any similar procedure or, where applicable, changes in the constitution of any partnership or Third Party, or death;
- (s) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (t) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (u) if an act prescribed under this deed to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day; and
- (v) a reference to the Listing Rules and the Operating Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

2.2 Interpretation of inclusive expressions

Specifying anything in this deed after the words 'include' or 'for example' or similar expressions does not limit what else is included.

2.3 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.



2.4 Listing requirements included as law

A listing rule or business rule of a securities exchange will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to a party.

2.5 Obligation to use best or reasonable endeavours

A reference to a party using or obligation on a party to use its best endeavours or reasonable endeavours or all reasonable endeavours does not oblige that party to:

- (a) pay money:
 - (1) in the form of an inducement or consideration to a third party to procure something (other than the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing); or
 - (2) in circumstances that are commercially onerous or unreasonable in the context of this deed;
- (b) provide other valuable consideration to or for the benefit of any person; or
- (c) agree to commercially onerous or unreasonable conditions.



Schedule 3

Bidder Representations and Warranties

Bidder represents and warrants to McGrath (in its own right and separately as trustee or nominee for each of the other McGrath Indemnified Parties) that:

- (a) **Bidder Information:** the Bidder Information provided for inclusion in the Scheme Booklet, as at the date the Scheme Booklet is despatched to McGrath Shareholders, will not be misleading or deceptive in any material respect (with any statement of belief or opinion being honestly held and formed on a reasonable basis), including by way of omission;
- (b) **basis of Bidder Information:** the Bidder Information:
 - (1) will be provided to McGrath in good faith and on the understanding that McGrath and each other McGrath Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and determining to proceed with the Transaction; and
 - (2) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60, applicable Takeovers Panel guidance notes and the Listing Rules,

and all information provided by or on behalf of Bidder to the Independent Expert will be prepared and 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;

- (c) **new information:** it will, as a continuing obligation, provide to McGrath all further or new information which arises after the Scheme Booklet has been despatched to McGrath 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);
- (d) **validly existing:** it is a validly existing corporation registered under the laws of its place of incorporation;
- (e) **authority:** the execution and delivery of this deed by Bidder has been properly authorised by all necessary corporate action of Bidder, and Bidder has taken or will take all necessary corporate action to authorise the performance of this deed and the transactions contemplated by this deed;
- (f) **power:** it has full capacity, corporate power and lawful authority to execute, deliver and perform this deed and to carry out the transactions contemplated by this deed;
- (g) **no default:** the execution and performance of this deed does or will conflict with or result in the breach of or a default under:
 - (1) any provision of Bidder's constitution; or
 - (2) any writ, order or injunction, judgment, law, ruling or regulation to which it is party or subject or by which it or any other Bidder Group Member is bound,

and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;



- (h) **deed binding:** this deed is a valid and binding obligation of Bidder, enforceable in accordance with its terms;
- (i) **Insolvency Event or regulatory action:** no Insolvency Event has occurred in relation to it or another Bidder Group Member, nor has any regulatory action of any nature been taken of which Bidder is aware that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Deed Poll;
- (j) **Rollco Shares:** on issue, each Rollco Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest, or any third party right;
- (k) **Rollco issued capital:** unless agreed with McGrath, on or prior to the Implementation Date:
 - (1) no Rollco Share will be issued other than as Rollco Scrip Alternative;
 - (2) no ordinary share in the capital of Rollco will be issued at an issue price that is less than the All-Cash Alternative; and
 - (3) Rollco will not have issued or agreed to issue any other securities, options, performance rights or instruments which are still outstanding (or become outstanding) and which may convert into Rollco Shares;
- (l) **Incorporation:** Rollco is a company incorporated on 22 March 2024, which will not have undertaken any business activity, including not having taken on any material liabilities other than those expressly required by this deed, on or prior to the Implementation Date;
- (m) **Reasonable basis:** as at the date of this deed, Bidder has a reasonable basis to expect that it will have sufficient financing to satisfy its obligations to provide the Scheme Consideration in accordance with the terms of this deed, the Scheme and the Deed Poll; and
- (n) **Financing:** at 8.00am on the Second Court Date and on the Implementation Date, Bidder will have sufficient financing available to it on an unconditional basis (other than, in respect of the Second Court Date only, any conditions relating to the approval of the Scheme by the Court, or procedural or documentary matters which can only be satisfied or performed after the Second Court Date) to enable Bidder to satisfy its obligations to provide the Scheme Consideration in accordance with the terms of this deed, the Scheme and the Deed Poll.



Schedule 4

McGrath Representations and Warranties

McGrath represents and warrants to Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Indemnified Parties) that:

- (a) **McGrath Information:** the McGrath Information contained in the Scheme Booklet, as at the date the Scheme Booklet is despatched to McGrath Shareholders, will not contain any statement which is 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 from that statement;
- (b) **basis of McGrath Information:** the McGrath Information:
 - (1) 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 purposes of determining to proceed with the Transaction; and
 - (2) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60, and the Listing Rules,and all information provided by McGrath to the Independent Expert will, as at the date that information is provided, be prepared and 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;
- (c) **new information:** it will, as a continuing obligation (but in respect of the Bidder Information, only to the extent that Bidder provides McGrath with updates to the Bidder Information), ensure that the Scheme Booklet is updated or supplemented to include all further or new information which arises after the Scheme Booklet has been despatched to McGrath Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive (including by way of omission);
- (d) **validly existing:** it is a validly existing corporation registered under the laws of its place of incorporation;
- (e) **authority:** the execution and delivery of this deed by McGrath has been properly authorised by all necessary corporate action of McGrath, and McGrath has taken or will take all necessary corporate action to authorise the performance by McGrath of this deed and the transactions contemplated by this deed;
- (f) **power:** it has full capacity, corporate power and lawful authority to execute, deliver and perform this deed;
- (g) **no default:** the execution and performance of this deed does or will conflict with or result in the breach of or a default under:
 - (1) any provision of McGrath's constitution; or
 - (2) any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other McGrath Group Member is bound;



and McGrath is not otherwise bound by any agreement or deed that would prevent or restrict McGrath from entering into and/or performing this deed;

- (h) **deed binding:** this deed is a valid and binding obligation of McGrath, enforceable in accordance with its terms;
- (i) **continuous disclosure:** as at the date of this deed, McGrath has complied, and is in compliance, in all material aspects with its continuous disclosure obligations under Listing Rule 3.1 and other than this Transaction, it is not relying on the carve-out in Listing Rule 3.1A to withhold any information from public disclosure;
- (j) **capital structure:** its capital structure, including all issued securities as at the date of this deed, is as set out in Schedule 5 and it has not issued or granted (or agreed to issue or grant) any other securities (including McGrath Shares and McGrath Equity Incentives), options, warrants, performance rights or other instruments which are still outstanding and may convert into (or give the holder the right to be issued) McGrath Shares other than as set out in Schedule 5 and no McGrath Group Member is under any obligation to issue or grant, and no person has any right to require or call for the issue or grant of, any McGrath Shares, McGrath Equity Incentives, options, warrants, performance rights or other securities or instruments in such McGrath Group Member which are still outstanding and may convert (or give the holder the right to be issued) into McGrath Shares;
- (k) **interest:** the Disclosure Materials set out full details of any company, partnership, trust, joint venture, body corporate or other enterprise in which McGrath or another McGrath Group Member owns or otherwise holds any interest;
- (l) **Insolvency Event or regulatory action:** no Insolvency Event has occurred in relation to it or another McGrath Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Scheme;
- (m) **asset sale and disposals:** since the 31 December 2023, McGrath has not, outside the ordinary course of business, undertaken any asset sales or disposals; and
- (n) **Disclosure Materials:** it has collated and made available to Bidder, the Consortium Members and their respective Related Persons all of the Disclosure Materials to Bidder and its Related Persons in good faith for the purposes of Bidder, the Consortium Members and their respective Related Persons undertaking due diligence in McGrath Group and:
 - (1) the Disclosure Materials:
 - (A) have been collated with all reasonable care and skill;
 - (B) as far as McGrath is aware, are accurate in all material respects and not materially misleading (including by omission);
 - (2) as far as McGrath is aware, McGrath has not withheld from the Disclosure Materials any information which, if disclosed, would reasonably be expected to be material to a reasonable and sophisticated buyer's evaluation of the McGrath Group and the merits of the Transaction; and



- (3) McGrath has disclosed in the Disclosure Materials all amounts payable by a McGrath Group Member to its Financial Advisers in respect of the Transaction.

For the purpose of subparagraph (n), McGrath does not make any representation or warranty as to the accuracy of a forecast, prediction or projection, or forward looking statement, in respect of the future financial position or prospects of the McGrath Group at the date of this deed (**McGrath Group Forecast**) or that any McGrath Group Forecast will be achieved;

- (o) **compliance:** so far as McGrath is aware, the McGrath Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Government Agencies having jurisdiction over it and has all material licenses, permits and authorisations necessary for it to conduct the business of the McGrath Group as it has been conducted in the 12 months prior to the date of this deed;
- (p) **regulatory approvals:** so far as McGrath is aware, it does not require any approval, consent, clearance, waiver, ruling, relief, confirmation, exemption, declaration or notice from any Government Agency in order to execute and perform this deed, other than, for the avoidance of doubt, from ASIC and the Court, as contemplated by this deed; and
- (q) **no material default:** so far as McGrath is aware, no McGrath Group Member is in default under any material contract, agreement, document or instrument binding on it or its assets, where such default would, or would be reasonably likely to, have an adverse effect on McGrath Group as a whole that is material.



Schedule 5

Capital structure

Security	Total number on issue
McGrath Shares	159,177,508 fully paid ordinary shares, of which 2,171,601 shares are held by Pacific Custodian Pty Limited in trust for the McGrath Employee Equity Incentive Plan to satisfy share allocation upon vesting of performance rights.
McGrath Equity Incentives	3,244,365 performance rights



Bidder

Signed sealed and delivered by
RPAH Holdings Pty Ltd
by

sign here ► 
Company Secretary/Director

print name Kevin David Coppel

sign here ►  James Winston Patterson (Mar 24, 2024 09:31 GMT+10)
Director

print name James Winston Patterson

KFA

Signed sealed and delivered by
**Knight Frank Australia Holdings
Pty Ltd**
by

sign here ► 
Company Secretary/Director

print name Kevin David Coppel

sign here ►  James Winston Patterson (Mar 24, 2024 09:31 GMT+10)
Director

print name James Winston Patterson

Bayleys

Signed sealed and delivered by
Bayley Corporation Limited
by its authorised signatory and in the
presence of:

sign here ►  Ken MacRae (Mar 24, 2024 10:40 GMT+13)
Witness

print name Ken MacRae

sign here ►  Mike Bayley (Mar 24, 2024 10:26 GMT+13)
Authorised signatory

print name Mike Bayley



Attachment 1

Indicative Timetable

Event	Date
Scheme Booklet provided to ASIC in draft	12 April 2024
First Court hearing	7 May 2024
Determination Date	31 May 2024
Scheme Meeting	11 June 2024
Second Court hearing	14 June 2024
Effective Date	17 June 2024
Scheme Record Date	20 June 2024
Implementation Date	27 June 2024



HERBERT
SMITH
FREEHILLS

Attachment 2

Scheme of arrangement



HERBERT
SMITH
FREEHILLS

Scheme of arrangement - share scheme

McGrath Limited

Scheme Shareholders



Scheme of arrangement – share scheme

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth)

Between the parties

McGrath Limited ACN 608 153 779 of 55 Pymont Street, Pymont
NSW 2009 (**McGrath**)

The Scheme Shareholders

1 Definitions, interpretation and scheme components

1.1 Definitions

Schedule 1 contains definitions used in this Scheme.

1.2 Interpretation

Schedule 1 contains interpretation rules for this Scheme.

1.3 Scheme components

This Scheme includes any schedule to it.

2 Preliminary matters

- (a) McGrath is a public company limited by shares, registered in Victoria, Australia, and has been admitted to the official list of the ASX. McGrath Shares are quoted for trading on the ASX.
- (b) Bidder is a proprietary company limited by shares registered in Victoria, Australia.
- (c) Rollco is an unlisted public company limited by shares registered in Victoria, Australia.
- (d) If this Scheme becomes Effective:
 - (1) Bidder and Rollco must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with their respective obligations under the terms of this Scheme and the Deed Poll; and



- (2) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder and McGrath will enter the name of Bidder in the Share Register in respect of the Scheme Shares.
- (e) McGrath and Bidder have agreed, by executing the Implementation Deed, to implement this Scheme.
- (f) This Scheme attributes actions to Bidder and Rollco but does not itself impose an obligation on them to perform those actions. Bidder and Rollco have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will have no force or effect (and will not become Effective) until, the satisfaction of each of the following conditions precedent:

- (a) all the conditions in clause 5 of the Implementation Deed (other than the condition in clause 5.1(c) in the Implementation Deed relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Implementation Deed by 8.00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Bidder and McGrath;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Bidder and McGrath having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date McGrath and Bidder agree in writing).

3.2 Certificate

- (a) McGrath and Bidder will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived.

3.3 End Date

This Scheme will lapse and be of no further force or effect if:



- (a) the Effective Date does not occur on or before the End Date; or
 - (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms,
- unless McGrath and Bidder otherwise agree in writing.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

McGrath must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible after the Court approves this Scheme and in any event by 5.00pm on the first Business Day after the day on which the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 5.3(b), 5.3(c) and 5.4, the Scaleback Arrangements and Bidder having provided McGrath with written confirmation of the provision of the Scheme Consideration, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares 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 McGrath as attorney and agent for Scheme Shareholders under clause 8.5), by:
 - (1) McGrath delivering to Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by McGrath; and
 - (2) Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to McGrath for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(2), but subject to the stamping of the Scheme Transfer (if required), McGrath must enter, or procure the entry of, the name of Bidder in the Share Register as the registered holder of all the Scheme Shares.

5 Scheme Consideration

5.1 Provision of Scheme Consideration

- (a) The Scheme Consideration in respect of each Scheme Share is either:
 - (1) the All-Cash Alternative; or
 - (2) the Rollco Scrip Alternative.
- (b) Each Scheme Shareholder is entitled to receive either the All-Cash Alternative or the Rollco Scrip Alternative in respect of each Scheme Share held by that Scheme Shareholder, subject to the terms of this Scheme.



5.2 Election

- (a) A Scheme Shareholder, other than an Ineligible Foreign Shareholder, may make an election to receive either the All-Cash Alternative or the Rollco Scrip Alternative, or a combination of both, for all of their Scheme Shares (**Election**) by validly completing the Election Form, such Election being subject to the terms of this Scheme including without limitation clauses 5.2(b), 5.5, 5.6 and 5.9.
- (b) Rollco must not issue any Rollco Scrip Alternative under this Scheme to or in respect of any Ineligible Foreign Shareholder. Accordingly, no Ineligible Foreign Shareholder may make a valid Election to receive the Rollco Scrip Alternative (and any such purported Election by or on behalf of an Ineligible Foreign Shareholder is void and of no effect), and neither Bidder nor Rollco is under any obligation to issue or procure the issue of the Rollco Scrip Alternative to any Ineligible Foreign Shareholder.
- (c) Subject to clause 5.2(i), for an Election to be valid:
- (1) the Scheme Shareholder must not be an Ineligible Foreign Shareholder;
 - (2) the Scheme Shareholder must complete and sign the Election Form in accordance with the instructions in the Scheme Booklet and the terms and conditions set out in the Election Form; and
 - (3) the Election Form must be received by the McGrath Registry by the Election Time at the address specified by McGrath in the Scheme Booklet and on the Election Form.
- (d) A Scheme Shareholder that makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form (such form to be requested from the McGrath Registry), provided such replacement Election Form is received by the McGrath Registry by the Election Time.
- (e) If:
- (1) a valid Election is not made by a Scheme Shareholder;
 - (2) the Scheme Shareholder is an Ineligible Foreign Shareholder; or
 - (3) no Election is made by a Scheme Shareholder,
- then that Scheme Shareholder will be deemed to have elected to receive All-Cash Alternative in respect of all of their Scheme Shares.
- (f) Subject to clause 5.2(i) and the Scaleback Arrangements, if a Scheme Shareholder makes a valid Election to receive the Rollco Scrip Alternative in respect of only some of its Scheme Shares, and makes no Election or an invalid Election in respect of the remainder of its Scheme Shares, the Scheme Shareholder will be deemed to have elected to receive the Rollco Scrip Alternative in respect of all of its Scheme Shares and not only those Scheme Shares for which the Scheme Shareholder made a valid Election to receive the Rollco Scrip Alternative.
- (g) Subject to clause 5.2(i), if a Scheme Shareholder makes a valid Election to receive the All-Cash Alternative in respect of only some of its Scheme Shares, and makes no Election or an invalid Election in respect of the remainder of its Scheme Shares, the Scheme Shareholder will be deemed to have elected to receive the All-Cash Alternative in respect of all of its Scheme Shares and not only those Scheme Shares for which the Scheme Shareholder made a valid Election to receive the All-Cash Alternative.



- (h) Subject to this clause 5.2, 5.4 and the Scaleback Arrangements, if a Scheme Shareholder makes a valid Election, that Election will be deemed to apply in respect of that Scheme Shareholder's entire registered holding of Scheme Shares at the Scheme Record Date, regardless of whether the Scheme Shareholder's holding of Scheme Shares at the Scheme Record Date is greater or less than the Scheme Shareholder's holding at the time it made its Election.
- (i) In the manner considered appropriate by McGrath (acting reasonably after consultation with the Bidder and the McGrath Registry), a Scheme Shareholder who holds one or more parcels of McGrath Shares as trustee, nominee or custodian for, or otherwise on account of, another person, may make separate Elections in relation to each of those parcels of Scheme Shares, and if it does so will be treated as a separate Scheme Shareholder in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holdings), provided that if, at the Scheme Record Date, it holds fewer McGrath Shares than it held at the time it made the Election, then, unless it has at the time of any sale of McGrath Shares notified McGrath whether the McGrath Shares sold relate to any such separate Election (and if so which separate Election the McGrath Shares sold relate to), it will be treated as not having made a valid Election in respect of any of its McGrath Shares (or will be treated in any other manner that Bidder and McGrath agree is fair to the McGrath Shareholder, in all the circumstances acting reasonably).
- (j) Subject to clauses 5.2(k) and 5.2(l), an Election Form will not be valid unless it is completed and received in accordance with the procedures set out in clause 5.2(c).
- (k) McGrath will determine, in its sole discretion (after consulting with Bidder in good faith), all questions as to the correct completion of an Election Form, and time of receipt of an Election Form. McGrath is not required to communicate with any Scheme Shareholder prior to making this determination. The determination of McGrath will be final and binding on the Scheme Shareholder.
- (l) Notwithstanding clause 5.2(c), with the prior written consent of Bidder (such consent not to be unreasonably withhold or delayed), McGrath may at any time and without further communication to the relevant Scheme Shareholder, deem any Election Form it receives from a Scheme Shareholder to be a valid Election in respect of the relevant Scheme Shares, even if a requirement for a valid Election has not been complied with.

5.3 Provision of the All-Cash Alternative

- (a) Bidder must by no later than the Business Day before the Implementation Date, deposit, or procure the deposit, in cleared funds an amount equal to the aggregate amount of the All-Cash Alternative payable to all Scheme Shareholders in accordance with this Scheme into an Australian dollar denominated trust account with an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)) operated by McGrath as trustee for the Scheme Shareholders (**Trust Account**), provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account. The obligation of Bidder to provide, or procure the provision of, the All-Cash Alternative to Scheme Shareholders under this Scheme will be satisfied by the Bidder complying with its obligations under this clause 5.3(a).
- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.3(a), McGrath must pay or procure the payment of the All-Cash Alternative from the Trust Account, by paying or procuring the payment to each Scheme Shareholder who:



- (1) does not make an Election;
- (2) does not make a valid Election;
- (3) makes or is deemed to make a valid Election to receive the All-Cash Alternative in respect of all (or some) of that Scheme Shareholders' Scheme Shares (including Ineligible Foreign Shareholders in accordance with clause 5.2(e)(2)); or
- (4) makes a valid Election to receive the Rollco Scrip Alternative, to the extent scaled back under the Scaleback Arrangements determined in accordance with the terms of this Scheme.

such amount of cash as is due to that Scheme Shareholder in respect of all of that Scheme Shareholder's Scheme Shares other than those in respect of which the Scheme Shareholder made a valid Election to receive the Rollco Scrip Alternative.

- (c) The obligations of McGrath under clause 5.3(b) will be satisfied by McGrath (in its absolute discretion, and despite any election referred to in clause 5.3(c)(1) or authority referred to in clause 5.3(c)(2) made or given by the Scheme Shareholder):
 - (1) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the McGrath Registry to receive dividend payments from McGrath 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;
 - (2) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to McGrath; or
 - (3) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.6).
- (d) To the extent that, following satisfaction of McGrath's obligations under clause 5.3(b), there is a surplus in the amount held by McGrath as trustee for the Scheme Shareholders in the Trust Account referred to in that clause, that surplus must be paid by McGrath to Bidder.

5.4 Provision of Rollco Scrip Alternative

- (a) Subject to clauses 5.2 and 5.9 and the Scaleback Arrangements, before 12.00pm (or such other time as Bidder and McGrath may agree in writing) on the Implementation Date, Rollco must:
 - (1) issue the Rollco Scrip Alternative to each Scheme Shareholder who has made a valid Election, or is otherwise deemed to have validly elected, to receive the Rollco Scrip Alternative in accordance with the Scheme in respect of that Scheme Shareholder's Scheme Shares other than those in respect of which the Scheme Shareholder made a valid Election to receive the All-Cash Alternative; and



- (2) procure that the name and address of each Scheme Shareholder to whom the Rollco Scrip Alternative is issued in accordance with clause 5.4(a)(1) is entered in the Rollco Register in respect of the Rollco Scrip Alternative to which it is entitled under the Scheme (either directly or through the Nominee to hold as bare trustee for the relevant Scheme Shareholders as contemplated by clause 5.4(b) and the Shareholders' Deed).
- (b) The Rollco Scrip Alternative in respect of which a Scheme Shareholder is entitled under clause 5.4(a) will be issued either:
 - (1) directly to that Scheme Shareholder (such that the Scheme Shareholder will be the legal holder of the relevant Rollco Scrip Alternative) if that Scheme Shareholder's Rollco Scrip Alternative represents 5% or more of total Rollco Shares; or
 - (2) pursuant to and in accordance with the terms of the Shareholders' Deed, to the Nominee to hold as bare trustee for that Scheme Shareholder (such that the Scheme Shareholder will be the beneficial holder but not the legal holder of the relevant Rollco Scrip Alternative) if that Scheme Shareholder's Rollco Scrip Alternative represents less than 5% of total Rollco Shares.
- (c) On or before the date that is five Business Days after the Implementation Date, Rollco must send, or procure the sending of, a certificate or other holding statement to each Scheme Shareholder and (if applicable) the Nominee entitled to receive Rollco Scrip Alternative under this Scheme, reflecting the issue of such Rollco Scrip Alternative, by express post to their Registered Address or as otherwise validly directed by the relevant Scheme Shareholder or the Nominee (as applicable).

5.5 Scaleback arrangements

- (a) If the Aggregate Scrip Election is less than or equal to the Maximum Scrip Threshold, each Scheme Shareholder who has made a valid Election to receive the Rollco Scrip Alternative will receive the Rollco Scrip Alternative the subject of their valid Elections in full, subject to the other conditions in this Scheme.
- (b) If the Aggregate Scrip Election exceeds the Maximum Scrip Threshold, each Scheme Shareholder (or Nominee on that Scheme Shareholder's behalf) who has made a valid Election to receive the Rollco Scrip Alternative will receive:
 - (1) the Rollco Scrip Alternative in respect of the number of Scheme Shares calculated in accordance with the formula below only (**Scaleback Shares**).
$$\text{Scaleback Shares} = A \times (B / C)$$
where:
 - A** is the number of Scheme Shares the subject of the Scheme Shareholder's valid Election to receive the Rollco Scrip Alternative;
 - B** is the Maximum Scrip Threshold;
 - C** is the Aggregate Scrip Election; *plus*
 - (2) the All-Cash Alternative for:
 - (A) each Scheme Share they hold; *less*
 - (B) the number of Scheme Shares held by the Scheme Shareholder in respect of which the Scheme Shareholder



will receive the Rollco Scrip Alternative as calculated in accordance with clause 5.5(b)(1) above.

- (c) Where the calculation of the Scaleback Shares in respect of a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to receive the Rollco Scrip Alternative in relation to a fraction of a share, the fractional entitlement will be rounded to the nearest whole number, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number, and any such fractional entitlement of 0.5 or more being rounded up to the nearest whole number.

5.6 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.3(c), any of the All-Cash Alternative payable in respect of those Scheme Shares is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of McGrath, the holder whose name appears first in the Share Register as at the Scheme Record Date or to the joint holders;
- (b) any Rollco Scrip Alternative to be issued under this Scheme must be issued to and registered in the names of the joint holders or, if Rollco Scrip Alternative is issued to the Nominee to hold as bare trustee for the joint holders (as contemplated by clause 5.4), the joint holders will have joint beneficial ownership of that Rollco Scrip Alternative; and
- (c) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of McGrath (or, in the case of clause 5.4(c), Bidder), the holder whose name appears first in the Share Register as at the Scheme Record Date or to the joint holders.

5.7 Splitting

- (a) If Bidder is of the opinion, formed reasonably, that several Scheme Shareholders, each of which holds McGrath Shares which results in a fractional entitlement to Scheme Consideration have, before the Scheme Record Date, been party to a shareholding splitting or division (or some other abusive or improper conduct) in an attempt to obtain an advantage by reference to the rounding provided for in the calculation of each Scheme Shareholder's entitlement to the Scheme Consideration, Bidder may direct McGrath to give notice to those Scheme Shareholders:

- (1) setting out the names and Registered Addresses of all of them;
- (2) stating that opinion; and
- (3) attributing to one of them specifically identified in the notice the McGrath Shares held by all of them,

and, after the notice has been so given, the Scheme Shareholder specifically identified in the notice shall, for the purposes of this Scheme, be taken to hold all those McGrath Shares and each of the other Scheme Shareholders whose names are set out in the notice shall, for the purposes of this Scheme, be taken to hold no McGrath Shares. Bidder, in complying with the other provisions of this Scheme relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of this Scheme.



5.8 Unclaimed monies

- (a) McGrath may cancel a cheque issued under this clause 5 if the cheque:
 - (1) is returned to McGrath; or
 - (2) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to McGrath (or the McGrath Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), McGrath must reissue a cheque that was previously cancelled under this clause 5.7.
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in sections 7 and 8 of the *Unclaimed Money Act 1995* (NSW)), but any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

5.9 Orders of a court or Government Agency

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

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by McGrath in accordance with this clause 5, then McGrath shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents McGrath from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibited by applicable law, McGrath shall be entitled to (as applicable):
 - (1) retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration; and
 - (2) direct Rollco not to issue, or to issue to a trustee or nominee, any Rollco Scrip Alternative that Scheme Shareholder would otherwise be entitled to under clause 5.4,

until such time as provision of the Scheme Consideration in accordance with this clause 5 is permitted by that (or another) order or direction or otherwise by law.

5.10 Status of the Rollco Scrip Alternative

Subject to this Scheme becoming Effective, Rollco and Bidder must:

- (a) issue (or procure the issue of) the Rollco Scrip Alternative required to be issued under this Scheme on terms such that each share forming part of the Rollco Scrip Alternative will rank equally in all respects with each existing share (if any) of the same class and will have the rights set out in the Rollco Constitution and the Shareholders' Deed; and



- (b) ensure that each such share is duly and validly issued in accordance with all applicable laws, the Rollco Constitution and the Shareholders' Deed, fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)).

5.11 Withholding

If Bidder determines, having regard to legal or other professional advice, that Bidder is either:

- (a) required by law to:
 - (1) withhold any amount from a payment to a Scheme Shareholder; or
 - (2) not issue a security (or any securities) to a Scheme Shareholder; or
- (b) liable to pay an amount to the Commissioner of Taxation under section 14-200 of Schedule 1 to *Taxation Administration Act 1953* (Cth) (amounts required to be paid for CGT non-resident withholding) in respect of the acquisition of Scheme Shares from a Scheme Shareholder,

then Bidder is entitled to:

- (c) withhold the relevant amount before making the payment to the Scheme Shareholder; or
- (d) not issue the relevant security (or securities) to the Scheme Shareholder until permitted to do so,

(and payment of the reduced amount or issue of the reduced number of securities shall be taken to be full payment of the relevant amount for the purposes of this Scheme, including clause 5.1).

Bidder must pay any amount (or issue any security) so withheld to the relevant taxation authority within the time permitted by law, and, if requested in writing by the relevant Scheme Shareholder, provide a receipt or other appropriate evidence (or procure the provision of such receipt or other evidence) of such payment (or issue of any security) to the relevant Scheme Shareholder.

6 Dealings in McGrath Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in McGrath 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 McGrath Shares before the Scheme 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 before the Scheme Record Date at the place where the Share Register is kept,

and McGrath 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



after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) McGrath must register registrable transmission applications or transfers of the Scheme Shares that are received in accordance with clause 6.1(b) before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires McGrath to register a transfer that would result in a McGrath Shareholder holding a parcel of McGrath Shares that is less than a 'marketable parcel' (for the purposes of this clause 6.2(a) 'marketable parcel' has the meaning given in the Operating Rules).
- (b) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or otherwise deal with, or purport or agree to dispose of or otherwise deal with, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and McGrath shall be entitled to disregard any such disposal or other dealing.
- (c) For the purpose of determining entitlements to the Scheme Consideration, McGrath must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been provided to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for McGrath Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Scheme Record Date as documents of title in respect of those McGrath Shares and, as from that date, each entry current at that date on the Share Register (other than entries on the Share Register in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the McGrath Shares relating to that entry.
- (e) McGrath must provide, or procure the provision of, details of any final Election made by a McGrath Shareholder to the Bidder, within two Business Days after the Election Time, including the name and Registered Address of each McGrath Shareholder who has made a valid Election and the Rollco Scrip Alternative that Rollco must issue to that McGrath Shareholder to meet its obligations under the Scheme in accordance with that McGrath Shareholder's valid Election (subject to the terms of this Scheme).
- (f) As soon as possible on or after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme Record Date, McGrath will ensure that details of the names, Registered Addresses and holdings of McGrath Shares for each Scheme Shareholder as shown in the Share Register are available to Bidder in the form Bidder reasonably requires.
- (g) Without limiting McGrath's obligations under clauses 6.2(e) and 6.2(f), McGrath must provide, or procure the provision, to Bidder, such other information as Bidder may reasonably require in connection with the provision of the Scheme Consideration to the Scheme Shareholders in accordance with this Scheme.

7 Quotation of McGrath Shares

- (a) McGrath must apply to ASX to suspend trading on the ASX in McGrath Shares with effect from the close of trading on the Effective Date.

- (b) On a date after the Implementation Date to be determined by Bidder, McGrath must apply:
 - (1) for termination of the official quotation of McGrath Shares on the ASX; and
 - (2) to have itself removed from the official list of the ASX.

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) McGrath 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 McGrath has consented to in accordance with clause 8.1(a).

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
 - (1) agrees to the transfer of their McGrath Shares together with all rights and entitlements attaching to those McGrath Shares in accordance with this Scheme;
 - (2) agrees to the variation or modification of the rights attached to their McGrath Shares constituted by or resulting from this Scheme;
 - (3) to the extent they are to receive Rollco Scrip Alternative as Scheme Consideration, agrees to become a shareholder of Rollco and to be bound by the Rollco Constitution and the Shareholders' Deed;
 - (4) to the extent they are to receive Rollco Scrip Alternative as Scheme Consideration and the Rollco Scrip Alternative is issued to the Nominee to hold as bare trustee for the Scheme Shareholder (as contemplated by clause 5.4), agrees to be bound by the Nominee Deed;
 - (5) agrees to, on the direction of Bidder, destroy any holding statements or share certificates relating to their McGrath Shares;
 - (6) who holds their McGrath Shares in a CHESS Holding agrees to the conversion of those McGrath Shares to an Issuer Sponsored Holding and irrevocably authorises McGrath to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion; and
 - (7) acknowledges and agrees that this Scheme binds McGrath and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to McGrath and Bidder on the Implementation Date, and appointed and authorised McGrath as its attorney and agent to warrant to Bidder on the Implementation Date, that:



- (1) all their McGrath Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to transfer their McGrath Shares to Bidder together with any rights and entitlements attaching to those shares; and
 - (2) they have no existing right to be issued any McGrath Shares, options, performance rights exercisable into McGrath Shares, convertible notes in McGrath or any other McGrath securities.
- (c) McGrath undertakes that it will provide the warranty in clause 8.2(b) to Bidder as agent and attorney of each Scheme Shareholder.

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 to Bidder will, at the time of transfer of them to Bidder, vest in Bidder free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.3(b), 5.3(c), 5.4 and the Scaleback Arrangements, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by McGrath of Bidder in the Share Register as the holder of the Scheme Shares.

8.4 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.3(b), 5.3(c), 5.4 and the Scaleback Arrangements, and until McGrath registers Bidder as the holder of all Scheme Shares in the Share Register, each Scheme Shareholder:

- (a) 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 or document;
- (b) must not, and undertakes to Bidder not to, attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 8.4(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.



8.5 Authority given to McGrath

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints McGrath and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Bidder and Rollco, and McGrath undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder and Rollco on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints McGrath and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of 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 (without limitation) executing:
 - (1) the Scheme Transfer; and
 - (2) any deed or other document required by McGrath or Bidder that causes each Scheme Shareholder entitled to the Rollco Scrip Alternative under this Scheme to be bound by the Rollco Constitution, the Shareholders' Deed and the Nominee Deed (as applicable),

and McGrath accepts each such appointment. McGrath 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, secretaries or employees (jointly, severally or jointly and severally).

8.6 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Government Agency), all instructions, notifications or elections by a Scheme Shareholder to McGrath that are binding or deemed binding between the Scheme Shareholder and McGrath relating to McGrath or McGrath Shares, including instructions, notifications or elections relating to:

- (a) whether dividends are to be paid by cheque or into a specific bank account;
- (b) payments of dividends on McGrath Shares; and
- (c) notices or other communications from McGrath (including by email),

will be deemed from the Implementation Date (except to the extent determined otherwise by Bidder in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to Bidder and to be a binding instruction, notification or election to, and accepted by, Bidder in respect of the Rollco Scrip Alternative issued to that Scheme Shareholder until that instruction, notification or election is revoked or amended in writing addressed to Bidder at its registry.

8.7 Binding effect of Scheme

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



9 General

9.1 Stamp duty

Bidder will:

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

9.2 Consent

Each of the Scheme Shareholders consents to McGrath doing all things necessary or incidental to, or to give effect to, the implementation of this Scheme, whether on behalf of the Scheme Shareholders, McGrath or otherwise.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to McGrath, 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 McGrath's registered office or at the office of the McGrath Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a McGrath Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them 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

McGrath must do all things and execute all documents (whether on its own behalf or on behalf of each Scheme Shareholder) necessary to give full effect to this Scheme and the transactions contemplated by it.

9.6 No liability when acting in good faith

Each Scheme Shareholder agrees that none of McGrath, Bidder or Rollco, nor any director, officer, secretary or employee of any of McGrath, Bidder or Rollco shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Schedule 1

Definitions and interpretation

1 Definitions

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

Term	Meaning
Aggregate Scrip Election	the total number of Scheme Shares the subject of all valid Elections to receive the Rollco Scrip Alternative made by the Election Time in accordance with the terms of this Scheme.
All-Cash Alternative	A\$0.60 cash for each Scheme Share held by a Scheme Shareholder.
ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
Bidder	RPAA Holdings Pty Ltd (ACN 676 034 101)
Business Day	a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, Australia.
CHESS	the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.
CHESS Holding	has the meaning given in the Settlement Rules.
Corporations Act	the <i>Corporations Act 2001</i> (Cth), as modified or varied by ASIC.
Court	the Supreme Court of New South Wales, or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and McGrath.



Term	Meaning
Deed Poll	the deed poll in the form set out in Attachment 1, under which Bidder and Rollco each covenant in favour of the Scheme Shareholders to perform the obligations attributed to Bidder and Rollco under this Scheme.
Effective	when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the Court order made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.
Effective Date	the date on which this Scheme becomes Effective.
Election	has the meaning given in clause 5.2(a).
Election Form	the form issued by McGrath under which each McGrath Shareholder (other than any Ineligible Foreign Shareholders) is requested to elect to receive either the Rollco Scrip Alternative or the All-Cash Alternative, or a combination of both in respect of all of their McGrath Shares, subject to the terms of this Scheme.
Election Time	7.00pm on the date which is five Business Days before the date of the Scheme Meeting, or such other date as Bidder and McGrath agree in writing.
End Date	has the meaning given in the Implementation Deed.
Government Agency	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), 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.
Implementation Date	the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as agreed in writing by McGrath and Bidder.
Implementation Deed	the scheme implementation deed dated 24 March 2024 between McGrath, Bidder, KFA and Bayleys relating to the implementation of this Scheme.



Term	Meaning
Ineligible Foreign Shareholder	a Scheme Shareholder whose address shown in the Share Register on the Scheme Record Date is a place outside Australia, unless McGrath and Bidder agree in writing that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with the Rollco Scrip Alternative if the Scheme Shareholder so elects under this Scheme.
Issuer Sponsored Holding	has the meaning given in the Settlement Rules.
Maximum Scrip Threshold	the number of Scheme Shares which represents 35% of total Scheme Shares or such other number of Scheme Shares agreed between McGrath and Bidder in writing.
McGrath	McGrath Limited ACN 608 153 779
McGrath Registry	Link Market Services Limited ABN 54 083 214 537.
McGrath Share	a fully paid ordinary share in the capital of McGrath.
McGrath Shareholder	each person who is registered as the holder of a McGrath Share in the McGrath Share Register.
McGrath Share Register	the register of members of McGrath maintained in accordance with the Corporations Act.
Nominee	has the meaning given in the Shareholders' Deed.
Nominee Deed	has the meaning given in the Shareholders' Deed.
Operating Rules	the official operating rules of ASX.
Registered Address	in relation to a McGrath Shareholder, the address shown in the Share Register as at the Scheme Record Date.
Rollco	RPAI Investments Limited (ACN 676 033 346).



Term	Meaning
Rollco Constitution	the constitution of Rollco.
Rollco Register	the register of shareholders maintained by Rollco or its agent.
Rollco Scrip Alternative	one fully paid ordinary share in Rollco for each Scheme Share in respect of which a valid Election is made in accordance with this Scheme, subject to the Scaleback Arrangements and the other conditions in this Scheme.
Scaleback Arrangements	the scaleback arrangements set out in clause 5.5.
Scaleback Shares	has the meaning given in clause 5.5(b).
Scheme	this scheme of arrangement under Part 5.1 of the Corporations Act between McGrath and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by McGrath and Bidder.
Scheme Booklet	the scheme booklet published by McGrath in respect of the Scheme pursuant to section 412 of the Corporations Act and dated [insert date].
Scheme Consideration	<p>the consideration to be provided by Bidder to each Scheme Shareholder for the transfer to Bidder of each Scheme Share, being for each McGrath Share held by a Scheme Shareholder as at the Scheme Record Date:</p> <ol style="list-style-type: none">1 the All-Cash Alternative; or2 the Rollco Scrip Alternative, <p>subject to the terms of this Scheme.</p>
Scheme Meeting	the meeting of the McGrath Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.
Scheme Record Date	7.00pm on the third Business Day after the Effective Date or such other time and date as agreed in writing by McGrath and Bidder.



Term	Meaning
Scheme Shareholder	a McGrath Shareholder as at the Scheme Record Date.
Scheme Shares	all McGrath Shares held by the Scheme Shareholders as at the Scheme Record Date.
Scheme Transfer	a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder as transferee, which may be a master transfer of all or part of the Scheme Shares.
Second Court Date	the first day on which an application made to the Court for an order under paragraph 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 or appeal is heard.
Settlement Rules	the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd.
Share Register	the register of members of McGrath maintained by McGrath or the McGrath Registry in accordance with the Corporations Act.
Shareholders' Deed	the Shareholders' Deed in relation to Rollco to be entered into by the shareholders of Rollco on substantially the terms set out in Attachment 5 of the Implementation Deed, or in such other form as agreed between McGrath and Bidder.
Subsidiary	<p>has the meaning given in Division 6 of Part 1.2 of the Corporations Act, provided that an entity will also be taken to be a Subsidiary of another entity if it is controlled by that entity (as 'control' is defined in section 50AA of the Corporations Act) and, without limitation:</p> <ol style="list-style-type: none">1 a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and2 an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.
Trust Account	has the meaning given in clause 5.3(a).



2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney, New South Wales;
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1 of this Schedule 1, has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day; and



- (s) a reference to the Operating Rules or the Settlement Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

3 Interpretation of inclusive expressions

Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.



HERBERT
SMITH
FREEHILLS

Attachment 1

Deed Poll



HERBERT
SMITH
FREEHILLS

Attachment 3

Deed poll



HERBERT
SMITH
FREEHILLS

Deed

Share Scheme Deed Poll

RPAH Holdings Pty Ltd

RPAH Investments Limited



Share Scheme Deed Poll

Date ►

This deed poll is made

By **RPAA Holdings Pty Ltd**
ACN 676 034 101 of Level 29, 120 Collins Street, Melbourne VIC
3000
(Bidder)
and
RPAA Investments Limited
ACN 676 033 346 of Level 29, 120 Collins Street, Melbourne VIC
3000
(Rollco)

in favour of each person registered as a holder of fully paid ordinary shares in
McGrath Limited ACN 608 153 779 (**McGrath**) in the Share Register
as at the Scheme Record Date.

Recitals

- 1 McGrath and Bidder entered into the Implementation Deed.
- 2 In the Implementation Deed, Bidder agreed to make this deed poll
and to procure that Rollco make this deed poll.
- 3 Bidder and Rollco are making this deed poll for the purpose of
covenanting in favour of the Scheme Shareholders to perform the
actions and obligations attributed to each of them under the
Implementation Deed and the Scheme.

This deed poll provides as follows:

1 Definitions and interpretation

1.1 Definitions

- (a) The meanings of the terms used in this deed poll are set out below.

Term	Meaning
First Court Date	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.
Implementation Deed	the scheme implementation deed entered into between McGrath and Bidder dated 24 March 2024.
McGrath	McGrath Limited ACN 608 153 779.
Rollco Share	a fully paid ordinary share in the capital of Rollco.
Scheme	the scheme of arrangement under Part 5.1 of the Corporations Act between McGrath and the Scheme Shareholders, the form of which is set out in Attachment 1 (or such other form as agreed in writing by McGrath and Bidder), subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and consented to by Bidder in accordance with clause 6.2 of the Implementation Deed.

- (b) Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

1.2 Interpretation

Sections 2, 3 and 4 of Schedule 1 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

1.3 Nature of deed poll

Bidder and Rollco acknowledge 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 McGrath 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 and Rollco.

2 Conditions to obligations

2.1 Conditions

This deed poll and the obligations of Bidder and Rollco under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination

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

- (a) the Implementation Deed is terminated in accordance with its terms; or
 - (b) the Scheme has not become Effective on or before the End Date,
- unless Bidder, Rollco and McGrath otherwise agree in writing.

2.3 Consequences of termination

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

- (a) Bidder and Rollco are released from their obligations to further perform this deed poll except those obligations under clause 7.1; and
- (b) each Scheme Shareholder retains the rights they have against Bidder and Rollco in respect of any breach of this deed poll which occurred before it was terminated.

3 Scheme obligations

3.1 Undertaking to provide Scheme Consideration and perform other actions

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

- (a) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme by:
 - (1) in relation to the All-Cash Alternative, by no later than the Business Day before the Implementation Date, depositing, or procuring the deposit of, in cleared funds an amount equal to the aggregate amount of the All-Cash Alternative payable to all Scheme Shareholders in accordance with the Scheme into the Trust Account, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account;
 - (2) in relation to the Rollco Scrip Alternative, on the Implementation Date, and subject to the Scaleback Arrangements, issue, or procure the issue of, the Rollco Scrip Alternative to each Scheme Shareholder (or the Nominee, as the case may be) entitled to receive the Rollco Scrip Alternative; and



- (b) undertake all other actions, and give each acknowledgement, representation and warranty (if any), attributed to each of them under the Scheme, in each case subject to and in accordance with the terms of the Scheme.

3.2 Rollco Shares to rank equally

Each of Bidder and Rollco covenants in favour of each Scheme Shareholder that the Rollco Shares which are issued to each Scheme Shareholder in accordance with the Scheme will:

- (a) rank equally in all respects with all existing Rollco Shares and will have the rights set out in the Rollco Constitution and the Shareholders' Deed;
- (b) be duly and validly issued in accordance with applicable laws and the Rollco Constitution and the Shareholders' Deed; and
- (c) be issued fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)).

4 Warranties

Each of Bidder and Rollco represents and warrants in favour of each Scheme Shareholder, in respect of itself, that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has full capacity, corporate power and lawful authority to execute, deliver and 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 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 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 and Rollco have fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.



6 Notices

6.1 Form of Notice

A notice or other communication in respect of this deed poll (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to Bidder and Rollco in accordance with the details set out below (or any alternative details nominated by Bidder or Rollco by Notice).

	Bidder	RollCo
Attention	Mike Bayley and James Patterson	Mike Bayley and James Patterson
Address	Level 22, 123 Pitt St, Sydney NSW 2000	Level 22, 123 Pitt St, Sydney NSW 2000
Email address	mike.bayley@bayleys.co.nz James.Patterson@au.knightfrank.com	mike.bayley@bayleys.co.nz James.Patterson@au.knightfrank.com

6.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), in the place nominated by the addressee as its address in clause 6.1(b), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By express post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	The first to occur of: <ol style="list-style-type: none"> 1 when the recipient's email server generates a message to the sender confirming that the email has been delivered to that server ("delivery receipt"), or

- at the time that the recipient “read” the email as stated in an automated message received by the sender (“**read receipt**”);
- 2 the time that the recipient confirms receipt of the email by reply email to the sender; and
 - 3 four hours after the time that the email is sent (as recorded on the device from which the email was sent) unless the sender receives, within that four hour period, an automated message that the email has not been delivered.
-

6.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 6.2).

7 General

7.1 Stamp duty

Bidder:

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

7.2 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in New South Wales, Australia.
- (b) Bidder and Rollco irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. Bidder and Rollco 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.

7.3 Waiver

- (a) Bidder and Rollco may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) No Scheme Shareholder may rely on words or conduct of Bidder or Rollco as a waiver of any right unless the waiver is in writing and signed by Bidder or



Rollco, as appropriate. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

- (c) The meanings of the terms used in this clause 7.3 are set out below.

Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this deed poll and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

7.4 Variation

A provision of this deed poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by McGrath in writing; or
- (b) if on or after the First Court Date, the variation is agreed to by McGrath in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

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

7.5 Cumulative rights

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

7.6 Assignment

- (a) The rights created by this deed poll are personal to Bidder, Rollco and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder or Rollco.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

7.7 Joint and several obligations

Bidder and Rollco are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

7.8 Further action

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



HERBERT
SMITH
FREEHILLS

Attachment 1

Scheme

Attached



Signing page

Executed as a deed poll

Signed sealed and delivered by
RPAA Holdings Pty Ltd
by

sign here ► _____
Company Secretary/Director

sign here ► _____
Director

print name _____

print name _____

Signed sealed and delivered by
RPAA Investments Limited
by

sign here ► _____
Company Secretary/Director

sign here ► _____
Director

print name _____

print name _____



HERBERT
SMITH
FREEHILLS

Attachment 4

Conditions Precedent certificate

Conditions precedent certificate

McGrath Limited (**McGrath**) and RPAA Holdings Pty Ltd (**Bidder**) certify and confirm (in each case in respect of matters within their knowledge) and agree that each of the conditions precedent:

- 1 in clause 5.1 (other than the condition in clause 5.1(c) relating to Court approval) of the scheme implementation deed dated 24 March 2024 between McGrath, Bidder, Knight Frank Australia Holdings Pty Ltd and Bayley Corporation Limited (**Implementation Deed**) has been satisfied or is hereby waived by the relevant party (or parties) to the Implementation Deed in accordance with the terms of the Implementation Deed; and
- 2 in clauses 3.1(a) and (b) of the scheme of arrangement between McGrath and the relevant McGrath shareholders which appears in Annexure [1] of McGrath's scheme booklet dated [insert date] has been satisfied.

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

Dated:

Executed as a deed

McGrath

Signed sealed and delivered by

McGrath Limited

by

sign here ► _____
Company Secretary/Director

print name _____

sign here ► _____
Director

print name _____

Bidder

Signed sealed and delivered by
RPAH Holdings Pty Ltd
by

sign here ► _____
Company Secretary/Director

print name _____

sign here ► _____
Director

print name _____



HERBERT
SMITH
FREEHILLS

Attachment 5

Shareholders' Deed

Shareholders' Deed

RPAA Investments Limited

ACN 676 033 346

Contents

	Page	
1	Defined terms and interpretation	1
1.1	Definitions in the Dictionary	1
1.2	Interpretation	1
1.3	Effectiveness of deed	1
1.4	Precedence of this deed	1
1.5	Capital Structure	1
1.6	Objectives	2
2	Business and management of the Company	2
2.1	Function of the Board	2
2.2	Delegation and management	2
2.3	Business Plan and Budget	3
2.4	New Business Plans	3
2.5	Board fails to adopt Business Plan or Budget	3
2.6	Shareholders' resolutions	3
2.7	Reserved matters	4
3	Board	4
3.1	Minimum and maximum number of Directors	4
3.2	Appointment of Directors	4
3.3	Eligibility and vacation of office	4
3.4	Directors' interests	4
3.5	Directors acting in interests or at direction of nominating Shareholder	5
3.6	Voting entitlements of Directors	6
3.7	Alternate Directors	6
3.8	Observer	6
3.9	Directors' expenses	7
3.10	Directors' and officers' insurance	7
3.11	Shareholder obligations	7

4	Board meetings	7
	4.1 Meetings	7
	4.2 Quorum	8
	4.3 Board Decisions	8
	4.4 Circulating resolutions of Directors	8
5	Audit and reporting obligations	8
	5.1 Information to Investor Shareholders	8
	5.2 Information to Non-Investor Shareholders	9
	5.3 Legal professional privilege	9
	5.4 Confidentiality	10
6	Management Equity Plan	10
7	Distributions to Shareholders	10
8	Issue of Securities	10
	8.1 No obligation to provide further funding	10
	8.2 New Securities	10
	8.3 Permitted issues	11
	8.4 No requirement to prepare disclosure document	11
9	Pro rata issue of Securities	12
	9.1 Pro rata offer to Shareholders	12
	9.2 Basis of issue	12
10	Dealing with Securities	13
	10.1 Restrictions on Disposal	13
	10.2 Permitted Transfers	13
	10.3 Ceasing to be Permitted Transferee	13
11	Exit Event	13
	11.1 Investor Shareholders	13
	11.2 Cooperation	14
12	Drag rights	14
	12.1 Right to give Drag Notice	14

12.2	Contents of Drag Notice	14
12.3	Effect of Drag Notice	14
12.4	Withdrawal of Drag Notice	15
12.5	Power of attorney	15
13	Tag along rights	16
13.1	Invitation to Tag	16
13.2	Contents of Invitation to Tag	16
13.3	Exercise of a Tag Option	17
13.4	Effect of exercise of Tag Option	17
13.5	Power of attorney	18
14	IPO	18
14.1	IPO	18
14.2	Company's obligations	19
14.3	Power of attorney	19
15	Compulsory acquisition or transfer	19
15.1	Shareholder Default	19
15.2	Small Holdings	20
15.3	Fair Value	21
15.4	Suspension of rights	22
15.5	Other remedies	22
15.6	Authorisations	22
16	Restraint on Shareholders	22
16.1	Restraint	22
16.2	Acknowledgement	23
16.3	Deletion of restrictions	23
16.4	Severance	23
16.5	Permitted exceptions	23
16.6	Injunctive Relief	24
17	Nominee arrangements	24

17.1	Interpretation	24
17.2	Intended operation of this clause	24
17.3	General	24
17.4	Beneficial Holders	25
17.5	Dealings in Securities	26
17.6	Legal title to remain with Nominee	26
17.7	Dividends	27
17.8	Indemnity and liability of Nominee	27
17.9	Limitation of Nominee's liability	28
17.10	Indemnity from Beneficial Holders	30
18	Confidential Information	31
18.1	Confidentiality obligations	31
18.2	Permitted disclosure	31
18.3	Other exceptions	32
18.4	Ceasing to hold Securities	32
18.5	Public announcements	33
18.6	Damages not an adequate remedy	33
19	GST	33
20	Representations and warranties	34
20.1	Capacity representations and warranties	34
20.2	Continuing obligation	34
21	Term	34
21.1	Commencement	34
21.2	Certain provisions continue	35
22	Resolution of disputes	35
22.1	No proceedings	35
22.2	Notice of Dispute	35
22.3	Best efforts to resolve Dispute	35
22.4	Termination of Dispute resolution process	35

22.5	Breach of this clause	35
23	Limitation of liability – trustee	36
24	Accession Deed Poll	37
24.1	New Shareholder	37
24.2	Transferees	37
25	Notices and other communications	37
26	General	38
26.1	Variation and waiver	38
26.2	No merger	38
26.3	Further steps	38
26.4	Entire agreement	38
26.5	Counterparts	38
26.6	Powers of attorney	39
27	Shareholders' relationship	39
27.1	Shareholder not liable for another party	39
27.2	Relationship between Shareholders	39
27.3	Authority of Shareholders	40
27.4	No fiduciary duties	40
27.5	No responsibility for tax	40
27.6	No partnership	40
28	Governing law	40
28.1	Governing law	40
28.2	Jurisdiction	40
Schedule 1	Dictionary	41
Schedule 2	Board Reserved Matters	52

Date:

Parties

- 1 **RPA Investments Limited** (ACN 676 033 346) of Level 29, 120 Collins Street, Melbourne VIC 3000 (the **Company**)
- 2 **Knight Frank Australia Holdings Pty Ltd** (ACN 114 923 938) of Level 29, 120 Collins Street, Melbourne VIC 3000 (**KFA**)
- 3 **BCL Aus Holdings Limited** (NZ company number 8958610) of 30 Gaunt Street, Auckland Central, Auckland 1010, New Zealand (**BCL**)

The parties agree

1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1, has the meaning given to it in the Dictionary;
- (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act; and
- (c) which is defined in the GST Law, but not defined in the Dictionary or the Corporations Act, has the meaning given to it in the GST Law.

1.2 Interpretation

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

1.3 Effectiveness of deed

This deed comes into effect on the Implementation Date.

1.4 Precedence of this deed

Where this deed and the Constitution deal with the same or a similar topic differently:

- (a) this deed prevails in relation to that topic; and
- (b) if a Shareholder gives the Company a notice specifying the difference and requesting an amendment to the Constitution that will remove that difference, each Shareholder must take all necessary steps to amend the Constitution to make the Constitution consistent with this deed.

1.5 Capital Structure

- (a) As at the date of this deed:
 - (i) the only Shareholders in the Company are the Investor Shareholders in equal proportions; and

- (ii) the only securities on issue in the capital of the Company are the Ordinary Shares.
- (b) Prior to the Implementation Date of the Scheme, the Investor Shareholders will subscribe for additional Ordinary Shares in the Company on a proportional basis pursuant to clause 8.3(b).
- (c) On the Implementation Date of the Scheme, the Company will issue Ordinary Shares to shareholders of the Target by way of the Scheme.

1.6 Objectives

The primary objectives of the Company are to:

- (a) operate, carry on and grow the business of the Group, in a proper and efficient manner in accordance with sound business practice and so as to give effect to the Business Plan; and
- (b) maximise the sustainable value of the Group in line with the direction and strategy of the Group as determined by the Board from time to time in accordance with this deed.

2 Business and management of the Company

2.1 Function of the Board

The function of the Board is to govern the management of the Group. Subject to clause 2.6 and the Corporations Act, the Board may do all things necessary or desirable in connection with this function including:

- (a) determining the overall business strategy and direction for the Group;
- (b) reviewing and approving annual business plans and budgets; and
- (c) determining any other matter in relation to the Group.

2.2 Delegation and management

- (a) The Board will be responsible for the day-to-day management and operation of the Business.
- (b) The Board may:
 - (i) establish one or more committees and delegate to such committee members matters which are part of the day-to-day management of the Group, provided that at least one Nominee Director appointed by each Investor Shareholder and the Non-Investor Shareholder(s) is represented on any such committee; and
 - (ii) delegate matters that are part of the day-to-day management of the Group to persons or committees of persons as it considers appropriate and in accordance with customary governance practices.
- (c) The Board may, in its absolute discretion and at any time, amend, revoke or replace any delegation made to senior management.

2.3 Business Plan and Budget

The Company must ensure that the Group conducts its Business in each Financial Year in accordance with the Business Plan and Budget approved and adopted by the Board by way of Investor Board Approval for that Financial Year, or as may be amended by the Board from time to time. Any material deviation from or variation to the Business Plan and Budget throughout the Financial Year must have prior Investor Board Approval.

2.4 New Business Plans

Each Investor Shareholder must exercise its rights as an Investor Shareholder to ensure:

- (a) at least one month before the beginning of each Financial Year, the management of the Company submits to the Board and each Investor Shareholder a draft Business Plan and Budget to be considered and approved by the Board by way of Investor Board Approval; and
- (b) the Board are to work with management to finalise and approve the Business Plan and Budget within one month of commencement of the following Financial Year.

2.5 Board fails to adopt Business Plan or Budget

If a Business Plan or Budget is not endorsed and approved under clause 2.4, then until such time as a new Business Plan or Budget has been so endorsed and approved, the Board and the Company must conduct (and the Investor Shareholders must procure that the Company conducts) the Business in accordance with the existing Business Plan and Budget, except that:

- (a) any one off item in the Business Plan or Budget which was, at the time of the development of the relevant Business Plan or Budget, intended to apply only to the previous Financial Year is excluded; and
- (b) any item in the existing Business Plan or Budget which is a recurring cost will be varied in accordance with the following formula;

$$P = \frac{A \times C}{B}$$

where:

P = means the cost payable in accordance with the following period;

A = means the cost payable in accordance with the previous Business Plan or Budget;

B = means the CPI last published before the commencement of the period applicable to the previous Business Plan or Budget; and

C = means the CPI last published after the end of the period applicable to the previous Business Plan or Budget.

2.6 Shareholders' resolutions

Subject to applicable law and the terms of this deed, all resolutions by Shareholders will be made by the affirmative vote of a Simple Majority Resolution.

2.7 Reserved matters

The Company must not do nor commit to do, and must procure that no Group Company does or commits to do, and the parties must use all voting rights and any other powers of control available to them (whether as a Shareholder, through a Director or otherwise) to procure that no Group Company does, or commits to do:

- (a) a thing listed in Part A of Schedule 2 without Investor Board Approval; or
- (b) a thing listed in Part B of Schedule 2 without Special Board Approval,

and, for the avoidance of doubt, where a thing is listed in Part A and Part B of Schedule 2, both Investor Board Approval and Special Board Approval will be required for that thing.

3 Board

3.1 Minimum and maximum number of Directors

The Board must consist of a minimum of five Directors and a maximum of ten Directors, or such greater number approved by Investor Board Approval.

3.2 Appointment of Directors

- (a) Each Shareholder who, together with the Shareholders who qualify as its Permitted Transferees, holds at least 10% of the Ordinary Shares (collectively with those other Shareholders) is entitled to appoint, remove and replace one Director to the Board for each 10% of Shares held (each such Director being a **Nominee Director**).
- (b) No other Shareholder has the right to appoint, remove or replace any Director.
- (c) The Chairperson of the Board may be appointed, removed and replaced by Investor Board Approval.
- (d) One or more independent Directors may be appointed, removed and replaced by Investor Board Approval.

3.3 Eligibility and vacation of office

A Director must (and his or her appointing Shareholder must procure that he or she) immediately vacate their office and shall be automatically removed if he or she is disqualified from managing a corporation or has been or is convicted of or charged with an indictable offence.

3.4 Directors' interests

- (a) A Director is not disqualified (solely by virtue of being a Director) from holding any office or place of profit, including any office or place of profit with a Shareholder or its Affiliates. For the avoidance of doubt, a Director may:
 - (i) be or become a director of or otherwise hold office or a place of profit in any entity promoted by a Shareholder or its Affiliates or in which a Shareholder or its Affiliates may be interested; and
 - (ii) contract or make any arrangement with a Shareholder or its Affiliates.

- (b) If the Board is required to consider any:
 - (i) Related Party Transaction involving a Director or Shareholder (or their respective Affiliates);
 - (ii) matter related to the enforcement of the rights of the Company or any other Group Company against, or litigation involving, a Director or Shareholder (or their respective Affiliates); or
 - (iii) matter in which a Director has a material personal interest,

but excluding any matter in respect of which all Shareholders are affected in substantially the same way, then the relevant Director or the Directors nominated by that Shareholder (as the case may be):

 - (iv) must, prior to or at the Board meeting at which the relevant matter is to be considered and / or voted on, disclose to the Board:
 - (A) that this clause 3.4(b) applies; and
 - (B) to the extent that such disclosure would not breach any duty of confidence or similar obligation that the Director or Shareholder (as the case may be) is subject to, the nature and extent of the interest of the Director or Shareholder (or their respective Affiliates) in the relevant matter and its relation to the affairs of the Company or any other Group Company;
 - (v) are entitled to receive information regarding, and participate in discussions and deliberations of the Board in relation to, the relevant matter, to the extent that doing so does not unfairly or unreasonably prejudice the interests of the Company or any other Group Company;
 - (vi) are not entitled to vote on any resolution of the Board in relation to the relevant matter to the extent such voting gives rise to a conflict of interest for those Directors; and
 - (vii) notwithstanding clause 3.4(b)(vi) above, those Directors are entitled to give their consent or approval for the sole purpose of meeting any applicable Investor Board Approval or Special Board Approval requirement.

3.5 Directors acting in interests or at direction of nominating Shareholder

Subject to applicable law

- (a) a Director:
 - (i) may disclose to their nominating Shareholder(s) any information obtained in the Director's capacity as a Director;
 - (ii) may have regard (including exclusive regard) to, represent and/or act in the interests of their nominating Shareholder(s) or its Affiliates in priority to the interests of the other Shareholders and/or the Company, in performing their duties or exercising any power, right or discretion as a Director in relation to any Group Company; and
 - (iii) may act on the directions and in the interests of their nominating Shareholder(s) or its Affiliates and their direct and indirect investors (if any)

in performing their duties or exercising any power, right or discretion as a Director in relation to any Group Company,

and a Director who does any of the things described in this clause 3.5 will not, for that reason alone, be in breach of their duties to the Company or any Group Company; and

- (b) where a Shareholder gives directions to its nominated Director and as a result that Shareholder is considered to be involved in the management of any Group Company or to be a de facto Director, the Shareholders agree that the appointing Shareholder will not, in giving such directions, have any obligation to represent or take into consideration the interests of any other Shareholder and may act solely in its own interests.

3.6 Voting entitlements of Directors

- (a) Subject to clauses 3.6(b) and 4.3, each Director is entitled to one vote.
- (b) Nominee Directors are entitled to a number of votes calculated as:
 - (i) the number of Ordinary Shares held by the Shareholder (together with Shareholders who qualify as its Permitted Transferees) who appointed the Nominee Director; *divided by*
 - (ii) the number of Nominee Directors appointed by that Shareholder (together with those Shareholders who qualify as its Permitted Transferees) that are present at that Board meeting and able to vote on the applicable resolution.
- (c) The Chairperson will not have a casting vote.

3.7 Alternate Directors

- (a) Each Director may appoint an alternate to represent him or her at meetings of the Board.
- (b) That person may be appointed by notice in writing to the Company signed by the appointor and that person need not be approved by resolution of the Directors, provided that any alternate may not be a person who is disqualified from managing a corporation or has been or is convicted of or charged with an indictable offence.
- (c) An alternate director will be entitled to attend and vote at meetings of the Board and to be counted in determining whether a quorum is present, without the need for such alternate to be approved by the Board.

3.8 Observer

- (a) Each Shareholder entitled to appoint a Director under clause 3.2 may from time to time appoint and remove one person as an observer to the Board, provided that the Shareholder must notify the Company of any such nomination.
- (b) An observer has the right to be notified of and attend Board meetings (and receive copies of all Board papers) but does not have the right to vote or speak nor the right to be counted in a quorum.
- (c) An Shareholder must procure that any observer that it appoints complies with the same confidentiality obligations that apply to that Shareholder under this deed.

3.9 Directors' expenses

- (a) Any Director that is not:
 - (i) a Nominee Director; or
 - (ii) an employee of the Group,is entitled to a Director's fee as determined by the Board by Special Board Approval, from time to time.
- (b) A Nominee Director is not entitled to any Director's fees, unless otherwise agreed by Special Board Approval.
- (c) The Company will reimburse all reasonable and substantiated travel, accommodation or similar third party costs and expenses incurred by Directors in attending to the Business of the Group, including attending Board meetings, if incurred in accordance with the Company's relevant policies and procedures as approved by the Board from time to time.

3.10 Directors' and officers' insurance

- (a) The Company must, to the fullest extent permitted by law, purchase and maintain insurance for each Director against any liability incurred by the Director as an officer of any Group Company including liability for negligence, and for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal on policy terms approved by the Board on terms reasonably available in the market and appropriate for the operation of the Group and its business.
- (b) The Company must procure that each Group Company enters into a deed of access and indemnity with each of its directors under which the relevant Group Company indemnifies the relevant director to the maximum extent permitted by law and gives the relevant director a right to have access to and make copies of all board papers, records and minutes of the Group Company in respect of the period during which the relevant director is or was a director of the Group Company.

3.11 Shareholder obligations

- (a) Each Shareholder must, and must exercise its rights as a Shareholder to, ensure the Board is composed, and its meetings are conducted, in accordance with this clause 3.
- (b) Each Shareholder must, and must exercise its rights as a Shareholder to, ensure the board and operation of each Subsidiary of the Company acts in accordance with the decisions of the Board.

4 Board meetings

4.1 Meetings

- (a) The Board must meet at least quarterly, unless otherwise determined by the Board.
- (b) A Director may convene a meeting of the Board at any time by at least two weeks' notice to the other Directors, which notice must include:

- (i) an agenda for the meeting, if that detail is known by the convening Director; and
 - (ii) any proposed resolutions to the extent it relates to a thing requiring Special Board Approval.
- (c) A meeting of the Board may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion. The Directors need not be all physically present in the same place. A Director who participates in a meeting in accordance with this paragraph is treated as being present and entitled to vote at the meeting.

4.2 Quorum

- (a) The quorum for a meeting of the Board (**Board Meeting**) is at least one Nominee Director appointed by each Shareholder who (together with the Shareholders who qualify as its Permitted Transferees) has appointed a Nominee Director pursuant to clause 3.2(a).
- (b) If a quorum is not present within 30 minutes of the time set for the meeting, the meeting will be adjourned to the same time and place two weeks later and notice reconvening the adjourned meeting must be promptly given to all Directors and the quorum at the reconvened meeting will be satisfied by one Nominee Director appointed by each Investor Shareholder who, together with the Investor Shareholders who qualify as its Permitted Transferees, has appointed one or more Nominee Directors.

4.3 Board Decisions

Subject to applicable law and the terms of this deed, all actions or resolutions of the Board will be made by the affirmative vote of a Simple Majority Resolution.

4.4 Circulating resolutions of Directors

- (a) The Directors may pass a resolution without a Directors' meeting being held if all of the Directors entitled to vote on the resolution sign a written document containing a statement that they are in favour of the resolution set out in the document.
- (b) The resolution is passed when the last Director signs the document.
- (c) Two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document.
- (d) An emailed portable document format (**PDF**) document containing the text of the document expressed to have been signed by a Director and sent to the other Directors is a document signed by that Director at the time of its receipt by the last of the other Directors.

5 Audit and reporting obligations

5.1 Information to Investor Shareholders

- (a) The Company must (and the Shareholders must exercise their rights to procure that the Company), and must procure that each Group Company and the CEO and CFO from time to time, promptly deliver to, or as directed by, any Investor Shareholder:

- (i) within 90 days after the end of a Financial Year, a copy of the audited statement of financial position, statement of financial performance and a statement of cash flows for each Group Company for each Financial Year, including details of accounting policies applied and any deviation from the applicable Accounting Standards; and
 - (ii) within 10 Business Days after the end of each calendar month, a copy of the management accounts for each Group Company.
- (b) The Company must provide such other financial and other information relating to the Company or any other Group Companies) as an Investor Shareholder may request, including any information required by any financiers or prospective financiers of the Company or any other Group Companies and any information as may be reasonably requested or required by the Shareholders to enable them to prepare their Tax returns.
- (c) The Company must (and the Shareholders must exercise their rights to procure that the Company) provide to each Investor Shareholder, upon request, full access to:
- (i) visit and inspect the assets and property of the Company or any other Group Company;
 - (ii) inspect and take copies of documents relating to the Business or the Company or any other Group Company; and
 - (iii) discuss the affairs, finances and accounts of the Company and any other Group Company with the Company's officers, employees, agents, consultants, auditor or advisers),

in each case at all reasonable times and on reasonable notice to the relevant Group Company.

5.2 Information to Non-Investor Shareholders

- (a) Any Non-Investor Shareholder may request a copy of the most recent annual audited accounts of the Company and its Related Bodies Corporate and the Company must provide the requested information to that Non-Investor Shareholder within a reasonable time of the request (which must not be more than 20 Business Days after such request).
- (b) The Company must promptly provide to each Non-Investor Shareholder that (together with the Shareholders who qualify as its Permitted Transferees) holds at least 5% of the Ordinary Shares, copies of all information provided to Investor Shareholders pursuant to clauses 5.1(a) and 5.1(b).
- (c) For the avoidance of doubt, subject to law, a Non-Investor Shareholder is not entitled to any information relating to the Company or any other Group Company other than as set out in this clause 5.

5.3 Legal professional privilege

Anything subject to legal professional privilege will not be provided to an Investor Shareholder under clause 5.1 or a Non-Investor Shareholder under clause 5.2, except where the thing can be provided in a manner that will not waive legal professional privilege.

5.4 Confidentiality

Any information disclosed under this clause 5 is Confidential Information that is given subject to clause 18.

6 Management Equity Plan

- (a) If the Scheme becomes effective, the Board may adopt a Management Equity Plan (to be approved by way of Investor Board Approval) and may invite Managers of any Group Company to participate in the Management Equity Plan and subscribe for Management Shares.
 - (b) The Board must at all times ensure that, unless approved by Investor Board Approval, the maximum number of Management Shares granted under a Management Equity Plan does not exceed 10% of the total number of Securities in the Company (on a fully diluted basis).
-

7 Distributions to Shareholders

- (a) Subject to the Corporations Act, a decision to declare or determine a Dividend and the amount of any Dividend will be determined at the sole discretion of the Board and must be approved by Investor Board Approval.
 - (b) The intention of the Investor Shareholders is for the Board to declare and the Company to pay two or more Dividends in each Financial Year, comprising in aggregate at least 50% of the Company's net profit after tax for that Financial Year. The Investor Shareholders will consider more frequent Dividends where possible.
-

8 Issue of Securities

8.1 No obligation to provide further funding

- (a) Except as otherwise provided in this deed, no Shareholder is obliged to provide any further funding (by way of debt or equity, guarantee or otherwise) to the Group.
- (b) Nothing in this deed constitutes an undertaking by a Shareholder:
 - (i) to make any loan or give any other financial accommodation to or for the benefit of the Company or any Group Company;
 - (ii) to give any guarantee or indemnity in respect of any obligation or liability of the Company or any Group Company; or
 - (iii) to acquire or subscribe for any Securities of the Company or any Group Company.

8.2 New Securities

The Company must not issue any Securities unless the issue is:

- (a) a permitted issue, as set out in clause 8.3;
- (b) a pro rata issue, as set out in clause 9; or

- (c) approved by the Board with Special Board Approval.

8.3 Permitted issues

The Company may issue Securities if the issue is approved by the Board with Investor Board Approval and is:

- (a) **(emergency funding)** to one or more Investor Shareholders, or their respective Affiliates, if the Board determines (acting reasonably), after having first bona fide considered other means of financing, that an injection of funds:
 - (i) is necessary or desirable in order to ensure that a Group Company does not breach (or ceases to breach (where a breach is already subsisting) or is prevented from breaching (where the Board reasonably believes in good faith that a breach is reasonably likely to occur)) a covenant or condition of its external finance facilities;
 - (ii) is otherwise required by its external financiers in writing and the Board considers in good faith that the requirement is reasonable; or
 - (iii) is necessary to ensure that a Group Company does not become insolvent, such issuance being an **Emergency Issue**), and provided that the process set out in clause 9 is implemented as soon as reasonably practicable after the Emergency Issue, *mutatis mutandis* as though the Emergency Issue were in satisfaction of a pro rata offer to Shareholders in accordance with clause 9, so as to give each other Shareholder the opportunity to either subscribe for, or acquire from one or more of the Investor Shareholders who participated in the Emergency Issue, Securities on the same terms as the Emergency Issue, to maintain or restore their Relevant Proportion prior to the Emergency Issue;
- (b) **(Scheme Related Issuances)** the issue of:
 - (i) Ordinary Shares to the Investor Shareholders to provide funding to finance the payment of the cash consideration under the Scheme to Target shareholders or repay the debts of the Target in place prior to implementation of the Scheme, such Ordinary Shares to be issued at an issue price of \$0.60 per share; and
 - (ii) Ordinary Shares provided for in the SID;
- (c) **(Manager)** an issue of Management Shares to a Manager (or an Affiliate of a Manager) pursuant to any Management Equity Plan;
- (d) **(acquisitions/mergers)** an issue of Securities in respect of the bona fide, arm's length acquisition of, or merger with, a company, or the acquisition of a company, business, franchise or assets, by a Group Company; or
- (e) **(IPO)** an issue of Securities pursuant to an IPO.

8.4 No requirement to prepare disclosure document

Any person's rights to be offered Securities and / or to subscribe for Securities (whether under this clause 8 or otherwise) are subject to those rights not requiring the Company to issue a disclosure document (including a prospectus) or a product disclosure statement, undertake any registration or filing with any Government Agency or take any comparable action, whether under Chapter 6D or Chapter 7 of the Corporations Act or any

comparable legislation in any other jurisdiction, unless the Company (with the Board's approval) agrees otherwise. For the avoidance of doubt, neither the Company nor any other party will be in breach of this document if it fails to offer any Securities to any person, or give any notice which would constitute an offer of any Securities to any person, in circumstances where such offer or issue of Securities would require the taking of any action described in this clause 8.4.

9 Pro rata issue of Securities

9.1 Pro rata offer to Shareholders

- (a) The Board may resolve to issue Securities (other than an issue in accordance with clause 8.3), on the basis that those Securities are offered to all Shareholders in accordance with this clause 9 in their Respective Proportion.
- (b) For the avoidance of doubt, this clause 9 does not apply to Management Shares.

9.2 Basis of issue

The Company must ensure that the issue is conducted on the following basis:

- (a) the Company must serve notice on each Shareholder (**Issue Notice**) specifying:
 - (i) the proposed terms of issue;
 - (ii) the issue price per new Security;
 - (iii) the total number of new Securities to be issued;
 - (iv) the number and type of new Securities for which the Shareholder would need to subscribe to maintain its Relevant Proportion;
 - (v) the date on which acceptance of the offer by the Shareholder (or its nominated Affiliate) must be received by the Company, which shall be no earlier than 30 calendar days after the date of the Issue Notice (**Acceptance Period**); and
 - (vi) the date on which subscription monies for the new Securities must be paid to the Company (being not less than 5 Business Days after the date of the Issue Notice);
- (b) the issue must be for cash and the new Securities must be offered on the same terms to each Shareholder (or its nominated Affiliate) on a pro rata basis in their Relevant Proportions in accordance with this clause 9; and
- (c) in the event a Shareholder (**Non-contributing Shareholder**) does not take up its entitlement within the Acceptance Period, other Shareholders may give notice to the Company and the Non-contributing Shareholder that it (**Accepting Shareholder**) (or its nominated Affiliate) wishes to subscribe for those new Securities that were not taken up by the Non-contributing Shareholder, in which case that Accepting Shareholder (or its nominated Affiliate) may subscribe for the new Securities not taken up by the Non-contributing Shareholder (and those new Securities will be issued to one or more of the Shareholders (or their respective nominated Affiliates, as the case may be)). If there is more than one Accepting Shareholder, each Accepting Shareholder will be offered its Relevant Proportion of

the new Securities (calculated as between Accepting Shareholders only) not taken up by a Non-contributing Shareholder.

10 Dealing with Securities

10.1 Restrictions on Disposal

A Shareholder must not Dispose of any of its Securities unless:

- (a) the Disposal is expressly permitted or provided for in clause 10, 11, 13, 14 or 15; and
- (b) the provisions of clause 24 are complied with.

10.2 Permitted Transfers

Subject to clauses 10.1 and 10.3, the following Disposals are permitted:

- (a) **(Investor Shareholders)** Shareholders may transfer some or all of its shares to one or all of the Investor Shareholders at any time, on terms agreed with all of the Investor Shareholders (acting jointly).
- (b) **(Shareholder default)** pursuant to clause 15;
- (c) **(Small holdings)** pursuant to clause 15.2; or
- (d) **(Permitted Transferee)** subject to clause 24.2, a Shareholder may Transfer all or any of its Securities to a person who is, at the time of Transfer, a Permitted Transferee of that Shareholder.

10.3 Ceasing to be Permitted Transferee

If a person to whom Securities are Transferred under clause 10.2 (**Holder**) ceases to be a Permitted Transferee of the transferor (**Transferor**), the Holder must immediately upon ceasing to be a Permitted Transferee:

- (a) Transfer its entire legal and beneficial interest in the relevant Securities back to the Transferor; or
- (b) Transfer its entire legal and beneficial interest in the relevant Securities to another Permitted Transferee of the Transferor,

provided that a Holder does not cease to be a Permitted Transferee of the Transferor merely because the Transferor is terminated in accordance with its terms or otherwise ceases to exist.

11 Exit Event

11.1 Investor Shareholders

The Investor Shareholders (acting jointly only) may at any time initiate or pursue an Exit Event.

11.2 Cooperation

Each Shareholder and each Relevant Individual will, as considered reasonably necessary or desirable by the Company in connection with the Exit Event, use reasonable commercial endeavours to support the Exit Event proposed by the Investor Shareholders.

12 Drag rights

12.1 Right to give Drag Notice

- (a) Subject to clause 12.2 and clause 12.3, if the Investor Shareholders propose to sell all or a proportion of their Securities to a Buyer the Investor Shareholders (**Dragging Shareholders**) may give a Drag Notice to each Non-Investor Shareholder and Management Shareholder (**Dragged Shareholder**) (with a copy to the Company).
- (b) Each Investor Shareholder will pay to each other Shareholder \$1.00 for the creation of the rights under this clause. The consideration due under this clause 12.1(b) will be offset by the consideration due under clause 13.1(b).

12.2 Contents of Drag Notice

- (a) A Drag Notice must state:
 - (i) the identity of the proposed Third Party Buyer (except where the identity of the Third Party Buyer is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO);
 - (ii) the number of and class of Securities proposed to be sold by the Dragging Shareholders and the percentage of the total number of Shares held by the Dragging Shareholders proposed to be sold (the **Drag Proportion**);
 - (iii) the sale price for each Security (except where the sale price is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO) (**Drag Price**) to be sold by the Dragging Shareholders (which need not be cash consideration) and any other terms of the proposed sale by the Dragging Shareholders to the Third Party Buyer (**Drag Sale Terms**); and
 - (iv) that the Dragging Shareholders requires the Dragged Shareholder to sell the Drag Proportion of the Shareholder's Securities (**Dragged Shares**) to the Third Party Buyer at the Drag Price per Security and on terms no less favourable to the Shareholder than the terms contained in the Drag Sale Terms.

12.3 Effect of Drag Notice

If a Drag Notice is given (and has not been withdrawn pursuant to clause 12.3(d)), then:

- (a) each Dragged Shareholder must sell its Dragged Shares to the Third Party Buyer on the terms stated in the Drag Notice;
- (b) the parties must do all things and execute such documentation as is reasonably necessary or is reasonably required by the Dragging Shareholders to effect the proposed sale to the Third Party Buyer, subject to the sale agreement complying with the provisions of clause 12.3(d);

- (c) the Dragging Shareholders must not complete the proposed sale to the Third Party Buyer unless at the same time, the Third Party Buyer offers to buy all the Dragged Shares of the Dragged Shareholders on the terms stated in the Drag Notice;
- (d) the Dragging Shareholders may require each Dragged Shareholder (and their Relevant Individual, if applicable) to give reasonable representations, warranties and indemnities having regard to the market standard for transactions of that nature, under any agreements relating to the purchase of such Dragged Shares, the Business or the Group, provided that:
 - (i) any such representations, warranties and indemnities are given on an equivalent basis and subject to the same liability regime as to those given by the Dragging Shareholders, which must be:
 - (A) on a several (but not joint) basis;
 - (B) in respect of liability for warranties (other than warranties in relation to title and capacity), given by Shareholders in their Relevant Proportion; and
 - (C) in respect of liability for warranties in relation to title and capacity, given by Shareholders in respect of their Securities only; and
 - (ii) the liability of each Dragged Shareholder (and its Representative, if applicable) arising from a breach of any such representations and warranties is limited to the proportion of the consideration actually received by the Dragged Shareholder (and its Relevant Individual, if applicable) in connection with the purchase of such Dragged Shares; and
- (e) the Dragging Shareholders must use their best endeavours to procure that warranty and indemnity insurance is obtained to minimise any exposure to all Shareholders on terms in line with prevailing market practice, provided such insurance is available at a reasonable cost. Any cost associated with that warranty and indemnity insurance will be shared on a pro-rata basis by all Shareholders, other than where such cost is borne by the Company, the Third Party Buyer or any of their respective Related Bodies Corporate.

12.4 Withdrawal of Drag Notice

- (a) A Drag Notice may be withdrawn by the Dragging Shareholders at any time by written notice to each holder of Dragged Shares (with a copy to the Company).
- (b) If the Drag Notice is withdrawn but the Dragging Shareholders intend to continue with the sale of all or a proportion of its (or their) Securities to a Third Party Buyer, then, the Dragging Shareholders must give each Dragged Shareholder an Invitation to Tag in respect of the Securities proposed to be sold, as contemplated by clause 13.1.

12.5 Power of attorney

On default by a Dragged Shareholder of their obligations under this clause 12, that Dragged Shareholder irrevocably appoints the Company as its attorney in accordance with clause 26.6 to perform its obligations under this clause 12.

13 Tag along rights

13.1 Invitation to Tag

- (a) Subject to clause 13.2 and 13.3, if the Investor Shareholders propose to:
 - (i) sell 40% or more of their Securities to a Third Party Buyer in a single transaction or series of related transactions (including all prior disposals by the Investor Shareholders to Third Party Buyers); or
 - (ii) sell or list any portion of their Shares in an IPO,

(**Tagging Shareholders**) and the Tagging Shareholders have not (if applicable) issued a Drag Notice pursuant to clause 12 (or has withdrawn such Drag Notice), the Tagging Shareholders must give an Invitation to Tag to each Non-Investor Shareholder (**Tagged Shareholders**) (with a copy to the Company).
- (b) Each Shareholder will pay to each Investor Shareholder \$1.00 for the creation of the rights under this clause. The consideration due under this clause 13.1(b) will be offset by the consideration due under clause 12.1(b).

13.2 Contents of Invitation to Tag

- (a) An Invitation to Tag must state:
 - (i) the identity of the proposed Third Party Buyer (except where the identity of the Third Party Buyer is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO);
 - (ii) to the extent applicable, the maximum number of Securities the Tagging Shareholders wishes to sell to the Third Party Buyer (**Maximum Tag Threshold**);
 - (iii) the number of Securities proposed to be sold by the Tagging Shareholders (**Tagging Shareholders' Sale Shares**) and the percentage of the total number of Securities held by the Tagging Shareholders proposed to be sold (in each case, a **Tag Proportion** of the relevant class of Security, as applicable);
 - (iv) the sale price for each Security (except where the sale price is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO) (**Tag Price**) to be sold by the Tagging Shareholders (which need not be cash consideration) and any other terms of the proposed sale by the Tagging Shareholder(s) to the Third Party Buyer (**Tag Terms**);
 - (v) that the Tagged Shareholder has an option (**Tag Option**) to direct the Tagging Shareholders to include in the sale to the Third Party Buyer the Tag Proportion of the Tagged Shareholder's Securities (the **Tagged Shares**), at the Tag Price per Security and on terms no less favourable to the Tagged Shareholder than the terms contained in the Tag Terms. Any securities to be issued to the Tagging Shareholders and the Tagged Shareholders as consideration for any Transfer of Securities under this clause 13 must be the same class, including with the same economic and voting rights; and
 - (vi) the period during which the Tag Option may be exercised, which must not be less than 20 Business Days from the date of the Invitation to Tag.

13.3 Exercise of a Tag Option

- (a) A Tag Option may be exercised by notice in writing to the Tagging Shareholders (with a copy to the Company) within the exercise period stated in the Invitation to Tag.
- (b) Subject to clause 13.3(c), any exercise of a Tag Option must be for all Tagged Shares and is irrevocable. Unless the Tagged Shareholders agree otherwise, the Tagging Shareholders may not sell any of its Securities to the Third Party Buyer pursuant to the offer to which the Invitation to Tag relates if the Third Party Buyer does not agree to purchase the Tag Proportion of each Tagged Shareholder's Securities.
- (c) Where, following the exercise of the Tag Option, the sum of the Tagged Shares and the Tagging Shareholders' Sale Shares would exceed the Maximum Tag Threshold, the Tagging Shareholders may elect in its sole discretion to reduce the number of the Tagging Shareholders' Sale Shares (which, for the avoidance of doubt, will result in a reduction of the Tag Proportion as set out in the Invitation to Tag).

13.4 Effect of exercise of Tag Option

If a Tagged Shareholder exercises its Tag Option:

- (a) the Tagged Shareholder must sell all Tagged Shares to the Third Party Buyer on the terms stated in the Invitation to Tag;
- (b) the parties must do all things and execute such documentation as is reasonably necessary or is reasonably required by the Tagging Shareholders to effect the proposed sale to the Third Party Buyer, subject to the sale agreement complying with the provisions of clause 13.4(d);
- (c) the Tagging Shareholders must not complete the proposed sale to the Third Party Buyer unless at the same time, the Third Party Buyer offers to buy all the Tagged Shares of each Tagged Shareholder for which a valid notice of exercise has been provided on the terms stated in the Invitation to Tag; and
- (d) the Tagging Shareholders may require each Tagged Shareholder (and their Relevant Individual) to give reasonable representations, warranties and indemnities under any agreements relating to the purchase of such Tagged Shares, the Business or the Group, provided that:
 - (i) such representations, warranties and indemnities are given on an equivalent basis to and subject to the same liability regime as those given by the Tagging Shareholders, which must be:
 - (A) on a several (but not joint) basis;
 - (B) in respect of liability for warranties (other than warranties in relation to title and capacity), given by Shareholders in their Relevant Proportion; and
 - (C) in respect of liability for warranties in relation to title and capacity, given by Shareholders in respect of their Securities only;
 - (ii) the liability of each Tagged Shareholder (and its Relevant Individual, if applicable) arising from a breach of any such representations, warranties

and indemnities is limited to the proportion of the consideration actually received by the Tagged Shareholder (and its Relevant Individual, if applicable); and

- (iii) the Tagging Shareholders must use their best endeavours to procure that warranty and indemnity insurance is obtained to minimise any exposure to all Shareholders on terms in line with prevailing market practice, provided such insurance is available at a reasonable cost. Any cost associated with that warranty and indemnity insurance will be shared on a pro-rata basis by all Shareholders, other than where such cost is borne by the Third Party Buyer.

13.5 Power of attorney

On default by a Tagged Shareholder of their obligations under this clause 13, that Tagged Shareholder irrevocably appoints the Company as its attorney in accordance with clause 26.6 to perform its obligations under this clause 13.

14 IPO

14.1 IPO

If following the initiation of an Exit Event pursuant to clause 11.1 the Board (by Investor Board Approval) wishes to pursue an IPO, each other Shareholder will, as considered necessary or desirable by the Board in connection with the IPO:

- (a) sell down or retain as part of the IPO such interests in the Company (or the entity being listed) as the Investor Shareholders are selling down or retaining;
- (b) enter into any reasonable escrow arrangements in relation to their Securities as may reasonably be required by the relevant Securities Exchange or the Board (having regard to the advice of the underwriters, joint lead managers or financial advisors to the IPO) and provided such escrow arrangements are no less favourable to the Shareholder than those agreed to by the Investor Shareholders;
- (c) to the extent necessary or desirable, each Shareholder holding (together with Shareholders who qualify as its Permitted Transferees) more than 5% of the Securities will in good faith:
 - (i) assist the Company in preparing a prospectus or similar disclosure document;
 - (ii) provide all reasonable assistance necessary to obtain requisite Securities Exchange and shareholder approvals for the IPO;
 - (iii) provide all reasonable assistance for marketing activities, including road shows; and
 - (iv) take all actions reasonably required by the Company in order to effect a restructure of the Company or buyback, exchange or conversion of some or all of its Securities (which may involve the exchange of Securities in the Company for securities in a different entity which is to be listed), provided that no Shareholder is materially disadvantaged by that process,

in each case to achieve an IPO on the terms and structure identified by the Board.

14.2 Company's obligations

Without limiting the generality of clause 14.1, the Company must:

- (a) pay the costs of preparing the prospectus (or other relevant offer document), advisory fees, underwriting commissions (if any), expenses of due diligence investigations, Securities Exchange fees, fees of the relevant regulatory authorities, legal fees, expert's fees, printing expenses and postage expenses; and
- (b) use its best endeavours to satisfy all terms and conditions of admission to listing imposed by the Securities Exchange.

14.3 Power of attorney

In consideration of each Non-Investor Shareholder entering into this deed, a Non-Investor Shareholder that has received a notice from the Board requiring an action contemplated under clause 14.1 in connection with the IPO irrevocably appoints the Company, upon its default of an obligation under clause 14.1, to be its attorney in accordance with clause 26.6 to perform its obligations under clause 14.1.

15 Compulsory acquisition or transfer

15.1 Shareholder Default

- (a) If a Shareholder or its Relevant Individual, commits an Event of Default (**Defaulting Shareholder**), the Board (excluding the Defaulting Shareholder and any Director or observer nominated by that Defaulting Shareholder, each of whom must not be present or participate in any deliberations, decision or vote of the Board in connection with such Event of Default) may determine that all or any portion of the Defaulting Shareholder's Securities shall be sold to:
 - (i) Investor Shareholders in their Relevant Proportion;
 - (ii) the Company; or
 - (iii) a Third Party Buyer (as determined by the Board) subject to any right of pre-emption exercised by the Investor Shareholders to purchase all or a portion of the Defaulting Shareholder's Securities sold,in accordance with this clause 15.1.
- (b) A determination of the Board under clause 15.1(a) must be notified to a Defaulting Shareholder within 20 Business Days of the Event of Default occurring.
- (c) The purchase price for the Securities under this clause 15.1 will be an amount equal to:
 - (i) in the case of an Event of Default under paragraph (a) of the definition of that term, the Fair Value of those Securities; or
 - (ii) in the case of an Event of Default under either paragraphs (b) or (c) of the definition of that term, 85% of the Fair Value of those Securities.

15.2 Small Holdings

- (a) After the first anniversary of the Implementation Date, the Board may at any time serve a written notice (**Small Holding Disposal Notice**) on a Small Shareholder that it requires the Small Shareholder to Dispose of all of its Small Holding Securities on the terms in this clause 15.2.
- (b) For the avoidance of doubt, under this clause 15.2, Small Shareholders may be requested by the Board to Dispose of their Small Holding Securities at different times and in different manners subject to:
 - (i) the price per Small Holdings Securities being the Fair Value of those Shares at the date of the relevant Small Holding Disposal Notice; and
 - (ii) no Small Shareholder being required to Dispose of only some of its Securities.
- (c) Small Holding Disposal Notices may be given at multiple times.
- (d) A Small Holding Disposal Notice must state:
 - (i) how the Board requires the Small Shareholder to Dispose of its Small Holding Securities, including whether the Small Holding Securities will be bought-back, redeemed, cancelled (including by way of capital reduction) and / or transferred to another Shareholder or third party nominated by the board;
 - (ii) the Fair Value per Security comprising of the Small Holding Securities the subject of the Small Holding Disposal Notice and the methodology for calculating the relevant per share value of the Securities comprising of the Small Holding Securities;
 - (iii) the date or dates on which the Disposal of the Small Shareholder's Small Holding Securities will be completed.
- (e) If a Small Holding Disposal Notice is given, each Small Shareholder must Dispose of its Small Holding Securities on the terms stated in the Small Holding Disposal Notice given by the Company in accordance with clause 15.2(c).
- (f) A Small Holding Disposal Notice is revocable and may be amended by the Company (in each case, with the consent of the Board) and by written notice to the relevant Small Shareholder) without the consent of the Small Shareholder.
- (g) The Company and all Shareholders:
 - (i) must take all actions requested by the Board to give effect to the transactions contemplated by a Small Holding Disposal Notice; and
 - (ii) must enter into and execute all documents as required by the Board in connection with and to give effect to a Small Holding Disposal Notice.
- (h) Completion of the transactions the subject of a Small Holding Disposal Notice must occur on the date or dates specified in the relevant Small Holding Disposal Notice or any other date determined by the Board and notified to the relevant Small Shareholder.

- (i) Each Small Shareholder irrevocable appoints the Company as its attorney in accordance with clause 26.6 on default of its obligations under this clause 15.2.

15.3 Fair Value

- (a) Where this deed requires a determination of Fair Value, the Board must, within 5 Business Days of the date on which the need for valuation arises, appoint an appropriate independent professional valuer (which must be one of PricewaterhouseCoopers, KPMG, Ernst & Young or Deloitte, unless otherwise agreed by Investor Board Approval) (**Valuer**) to:
 - (i) determine the Fair Value in accordance with this clause 15.3; and
 - (ii) as soon as reasonably practicable and, in any event, no later than 20 Business Days following the Valuer's appointment, provide a report to the Company setting out the results of its valuation, including its determination of the Fair Value of Securities, expressed as a per Security price, and an explanation of the methodologies used to conduct the valuation.
- (b) The Board must instruct the Valuer to determine the Fair Value:
 - (i) as at the date on which the need for valuation arises;
 - (ii) on the basis that a seller of Securities is a willing (but not anxious) seller dealing at arm's length with a willing (but not anxious) buyer for the Securities;
 - (iii) without taking into account any element of control that a Shareholder may obtain as a result of acquiring all or part of another Shareholder's Securities in addition to the Shareholder's existing Securities;
 - (iv) if the Group is then carrying on business as a going concern, on the assumption that it continues to do so;
 - (v) taking into account the historical financial performance of the Group and the profit, strategic positioning, future prospects and undertakings of the Business;
 - (vi) by performing the valuation in accordance with accounting principles and practice generally accepted in Australia and applied consistently;
 - (vii) on the assumption that all Securities have the same value; and
 - (viii) taking into account any other matter (not inconsistent with the above) that the Valuer considers is appropriate.
- (c) The Company and each Shareholder must provide all information reasonable requested by the Valuer.
- (d) The Valuer acts as an independent expert and not as an arbitrator when valuing Securities.
- (e) The Valuer's report provided under clause 15.3(a)(ii) is binding on the Company and each Shareholder in the absence of manifest error.
- (f) The Company must pay the costs of the Valuer.

15.4 Suspension of rights

If an Event of Default occurs (or is occurring) in respect of a Shareholder then from that date until such time as the Event of Default ceases to exist or there is a Transfer of Securities as contemplated by clause 15.1:

- (a) any Nominee Director appointed by the Defaulting Shareholder is not entitled to vote at a meeting of the Board or exercise any other rights granted to the Director under this document or at law;
- (b) the Defaulting Shareholder is not entitled to vote at a meeting of Shareholders or exercise any other rights granted to a Shareholder under this document or at law; and
- (c) in the case of an Event of Default under either paragraphs (b) or (c) of the definition of that term, any distributions or dividends paid by the Company that would be payable to the Defaulting Shareholder must be retained by the Company unless the Board resolves otherwise (and for the avoidance of doubt, the Nominee Director of the Defaulting Shareholder will be conflicted from any such decision).

15.5 Other remedies

The rights and remedies contained in this clause are in addition to and not to the exclusion of any other rights or remedies that a party may have against a party in default of this deed.

15.6 Authorisations

The parties must do all things necessary to ensure that the Company may acquire any Shares as contemplated by this clause 15.

16 Restraint on Shareholders

16.1 Restraint

For the purposes of promoting the commercial objectives of the Group and the Business, each Restrained Party undertakes to the Company that during the Restraint Period, that Restrained Party will not, and must procure that each of their respective Affiliates will not:

- (a) be involved within the Restraint Area in any capacity in any business or activity which:
 - (i) sells, markets or manages Australian residential real estate (excluding residential development sites);
 - (ii) provides Australian residential mortgage broking services;
 - (iii) trains Australian residential real estate agents;
 - (iv) provides auction services in the Australian residential sector; or
 - (v) offers the same or substantially similar products or services within Australia as those offered by the business or any Group Company;

- (b) directly or indirectly solicit any person who was a customer, client or supplier of the Business or any Group Company in the preceding 12 months prior to the end of the Restraint Period;
- (c) directly or indirectly entice or endeavour to entice from any Group Company any person who is, or was during the then preceding 12 months, an employee, consultant or officer in a managerial role of any Group Company; or
- (d) at any time, act in any way which may harm or prejudice the reputation or good name of the Business or Group Company.

16.2 Acknowledgement

Each Restrained Party acknowledges that:

- (a) the Restraint is reasonable in the circumstances and necessary to protect the goodwill of the Business;
- (b) damages are not an adequate remedy if the Relevant Individual or Restrained Party breaches this clause 16;
- (c) it has had the opportunity to receive independent legal advice as to the operation and effect of this clause 16; and
- (d) this clause 16 survives termination of this deed.

16.3 Deletion of restrictions

If any part of the Restraint goes beyond what is reasonable in the circumstances and necessary to protect the goodwill of the Business but would be reasonable and necessary if any activity were deleted or a period or area were reduced, then the Restraint applies with that activity deleted or period or area reduced by the minimum amount necessary to make the Restraint reasonable in the circumstances.

16.4 Severance

Each part of the Restraint has effect as a separate and severable restriction and is to be enforced accordingly.

16.5 Permitted exceptions

The restriction in clause 16.1 does not prevent any Restrained Party or their respective Restrained Affiliates from:

- (a) holding (directly or through an Affiliate) in aggregate up to 5% of the shares in any entity listed on any Securities Exchange;
- (b) continuing to hold (directly or through an Affiliate) any interest that a Shareholder held as at the Implementation Date;
- (c) in the case of the Investor Shareholders, continuing to operate their respective businesses in the manner in which they are conducted as at the date of this deed; and
- (d) doing anything with the prior written consent of the Company.

16.6 Injunctive Relief

The Company or any Shareholder may apply for injunctive relief if it believes a Restrained Party is likely to breach this clause 16 or if a Restrained Party has breached or threatened to breach this clause 16.

17 Nominee arrangements

17.1 Interpretation

In this clause the following definitions apply unless the context otherwise requires:

Expense means any liability, cost, expense, loss or damage.

Nominee Indemnity Provision means clauses set out in the Nominee Deed in relation to the matters set out in clauses 17.9(d) and 17.9(e) of this Deed.

Obligations means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Nominee under or in respect of this document or the Nominee Deed.

Overhead Cost means overhead expenses, including rent, office maintenance and salaries.

Relevant Trust has the meaning given in clause 17.9(b).

17.2 Intended operation of this clause

- (a) The parties confirm that the principle to which this clause 17 is intended to give effect is that the voting, economic and other interests of a Non-Investor Shareholder or Management Shareholder under this Deed and in respect of the Non-Investor Shareholder's or Management Shareholder's holding of Securities should, assuming that the Nominee, Non-Investor Shareholder and Management Shareholder act in accordance with this deed and the Nominee Deed, be neither enhanced nor impaired as a consequence of appointing the Nominee as bare trustee in respect of the Non-Investor Shareholder's or Management Shareholder's Securities. For the avoidance of doubt, no Investor Shares will be held through the Nominee.
- (b) Each party must take all actions within its power and authority, including giving relevant instructions to the Nominee, and in case of a Beneficial Holder, exercising its rights in its capacity as appointer of the Nominee as bare trustee for it, to give effect to the principle in clause 17.2(a).
- (c) Clauses 17.3 to 17.7 (inclusive) are to be interpreted subject to, and in a manner consistent with, the principle outlined in clause 17.2(a).

17.3 General

- (a) The Company will appoint a Nominee to hold the legal title to certain Securities.
- (b) Unless otherwise determined by the Board by Investor Board Approval and subject to clause 17.3(c), each Non-Investor Shareholder or Management Shareholder will hold its Securities through the Nominee.

- (c) Any Non-Investor Shareholder that holds more than 5% of Securities will be entitled to hold its Securities directly and not through the Nominee.
- (d) The parties acknowledge that following appointment of a Nominee under clause 17, some parties to this Deed:
 - (i) have rights and obligations under this Deed as Shareholders; but
 - (ii) do not hold legal title to Securities and are instead Beneficial Holders in relation to Securities held by the Nominee as bare trustee on their behalf as contemplated by the Nominee Deed.
- (e) The provisions in this clause 17 (subject to any changes reasonably required by the Nominee and accepted by the Company) apply in these cases.
- (f) To the extent that the provisions of this clause 17 require amendment under clause 17.3(e) following appointment of a Nominee (in accordance with the principle outlined in clause 17.2(a), the Board may amend this clause 16 (and make any additional necessary consequential changes to this Deed).

17.4 Beneficial Holders

- (a) Where a Shareholder is a Beneficial Holder, then for the purposes of any references in this Deed to the Shareholder's Securities, or to Securities held by the Shareholder (or any similar expression), the Shareholder is to be regarded as holding its Beneficial Shares. For the avoidance of doubt (but without limitation):
 - (i) in the context of any requirement that an act be approved by Shareholders holding at least a given percentage of all Securities, Shareholders who are Beneficial Holders are to be treated as holding their Beneficial Shares; and
 - (ii) a requirement that a Shareholder maintain a minimum shareholding applies in relation to a Shareholder who is a Beneficial Holder by reference to the number of its Beneficial Shares;
- (b) The Nominee is not itself to be regarded for the purposes of this Deed as a 'Shareholder' in respect of, or to otherwise hold, Securities which it holds as bare trustee for Beneficial Holders.
- (c) Clauses 17.4(a) and 17.4(b) do not apply in relation to clause 7. The parties recognise that the Nominee, as registered owner of the Securities it holds on behalf of the Beneficial Holders, is the person legally entitled to voting rights and dividends in respect of those Securities and that the Nominee is to be regarded as the relevant 'Shareholder' (to the exclusion of the relevant Beneficial Holders) for the purposes of clauses 4 and 7. However, the parties acknowledge:
 - (i) instructions may be given by each Beneficial Holder to the Nominee under the Nominee Deed in relation to voting and other dealings in respect of the Beneficial Holder's Beneficial Shares; and
 - (ii) directions may be given by each Beneficial Holder to the Nominee in relation to dividends as provided in clause 17.7 below.
- (d) Obligations on Shareholders who are Beneficial Holders to exercise voting rights or take other steps as registered holder of Securities are to be interpreted as obligations to ensure that the Nominee takes the relevant steps (at the Beneficial

Holder's direction, or by the Company on behalf of the Beneficial Holder, acting under power of attorney, or otherwise).

- (e) The Nominee agrees that it will comply with the terms of the Nominee Deed in relation to each Beneficial Holder's Beneficial Shares for the benefit of the relevant Beneficial Holder, as though each Beneficial Holder was a party to a separate Nominee Deed in place of the Company.
- (f) The Nominee agrees that it will comply with the terms of the Nominee Deed in relation to each Beneficial Holder's Beneficial Shares for the benefit of the relevant Beneficial Holder, as though each Beneficial Holder was a party to a separate Nominee Deed in place of the Company.

17.5 Dealings in Securities

- (a) Clause 10 applies to a Shareholder who is a Beneficial Holder so that (for the avoidance of doubt) restrictions on Disposing of the Shareholder's Securities include any dealings in its beneficial interest in its Beneficial Shares and any dealings in the legal title to those Securities by the Nominee (at the Beneficial Holder's direction, or by the Company on behalf of the Beneficial Holder acting under power of attorney, or otherwise).
- (b) Where this Deed contemplates the sale, purchase or transfer of some or all of a Shareholder's Securities, the relevant provisions apply in relation to a Shareholder who is a Beneficial Holder so that references to the sale, purchase or transfer of the Shareholder's Securities are to be construed as references to:
 - (i) the sale, purchase or transfer by the Shareholder of its beneficial interest in its Beneficial Shares; and
 - (ii) (without limiting clause 17.6 below in circumstances where the Nominee is to retain legal title to the relevant Securities) the Shareholder procuring the concurrent transfer of legal title in those Beneficial Shares by the Nominee,and obligations on Shareholders who are Beneficial Holders to offer Securities for sale, purchase, or transfer are to be construed in a corresponding manner.
- (c) In the context of a transferor who is a Beneficial Holder, the relevant Securities transfer form must be executed by the Nominee as registered holder.
- (d) Where this Deed permits any party to issue, transfer or sell Securities to any person, that includes permission to issue, transfer or sell Securities to the Nominee as bare trustee for the relevant person.
- (e) The restrictions on transfer in this Deed do not apply to prevent the transfer of bare legal title in Securities held by the Nominee as bare trustee for Beneficial Holders to a replacement trustee, as contemplated by the Nominee Deed.
- (f) Each Shareholder and Management Shareholder who is a Beneficial Holder irrevocably appoints the Company as its attorney in accordance with clause 26.6 on default by it of performance of its obligations under this clause 17.5.

17.6 Legal title to remain with Nominee

- (a) A Shareholder who is a Beneficial Holder must not without the consent of the Board direct the Nominee to Transfer (or otherwise procure the Transfer of) legal title to any of its Beneficial Shares to itself.

- (b) Unless the Board agrees otherwise in writing, a Shareholder who is a Beneficial Holder may transfer Securities to a Permitted Transferee under clause 10.2 on the basis that the Nominee is directed to hold legal title to the relevant Securities as bare trustee on behalf of the transferee (ie the Shareholder may only transfer the beneficial interest in its Beneficial Shares without a transfer of legal title).
- (c) Each party who is a Beneficial Holder irrevocably directs the other parties that if the Beneficial Holder becomes entitled to receive any additional Securities whether by way of issue or transfer (and whether under this Deed or otherwise), then unless the Company has consented to another holding arrangement in relation to the relevant transaction, the issue or transfer must be made in favour of the Nominee on the basis that the Securities are to be held by the Nominee as bare trustee for the Beneficial Holder.
- (d) In relation to issues of Securities:
 - (i) an offer to a Shareholder who is a Beneficial Holder to participate in an issue of Securities or other equity securities on the basis that legal title to the relevant Securities will be issued to the Nominee as bare trustee for the Beneficial Holder will not be regarded for that reason alone as being on different terms from the terms offered to other Shareholders in circumstances where other Shareholders will receive legal and beneficial ownership; and
 - (ii) clauses 8 and 9 apply in relation to an issue of Securities to the Nominee as bare trustee for a Beneficial Holder by reference to the ability of the Company to make an offer of the beneficial interest in the Securities to the relevant Beneficial Holder.
- (e) Each party who is a Beneficial Holder must give all necessary directions to the Nominee to ensure compliance with this clause 17.6.
- (f) Each Non-Investor Shareholder irrevocably appoints the Company as its attorney in accordance with clause 26.6 on default by it of performance of its obligations under this clause 17.6.

17.7 Dividends

- (a) The parties acknowledge that the Nominee Deed entitles each Shareholder who is a Beneficial Holder to act as the Nominee's attorney in relation to the matters stated in the Nominee Deed, including giving directions to the Company in respect of the payment of dividends.
- (b) Each Shareholder who is a Beneficial Holder directs the Company to pay dividends in respect of Securities which are that Shareholder's Beneficial Shares directly to the Shareholder as Beneficial Holder. This clause does not affect the right of any party to change the direction from time to time.

17.8 Indemnity and liability of Nominee

- (a) Pursuant to the terms of the Nominee Deed, the Nominee must, to the maximum extent permitted by law, and notwithstanding any other provision of this Deed, act on the direction of the Beneficial Holders under a power of attorney or otherwise, to the intent that each Beneficial Holder exercises day-to-day control over the operation of the trust under which its Beneficial Shares are held.

- (b) Each party who is a Beneficial Holder agrees to be bound by the terms of the Nominee Deed which contemplate that the Beneficial Holder:
 - (i) indemnifies the Nominee for or in respect of any Expense which the Nominee pays, suffers, incurs or is liable for arising out of or in connection with; and
 - (ii) covenants with the Nominee not to claim, sue or take any action against the Nominee in relation to,

anything done by the Nominee at the direction of or on behalf of the Beneficial Holder, or by reason of the Beneficial Holder's Beneficial Shares being registered in the name of the Nominee.
- (c) The indemnity and covenant in clause 17.8(b) does not apply to:
 - (i) any Expense which arises as a result of the Nominee's (or any of its officers', employees', or agents') fraud, negligence, dishonesty, wilful misconduct, breach of any of its obligations under this Deed or the Nominee Deed or breach of trust; or
 - (ii) the Overhead Costs of the Nominee, fees of a Related Body Corporate of the Nominee as custodian of the Nominee and fees of a subcustodian, nominee or other delegate of such a custodian of the Nominee; or
 - (iii) the extent that the Nominee is entitled to recover and is actually indemnified for any such Expenses or Overhead Costs by the Company under the terms of the Nominee Deed or from the assets of the relevant trust under the terms of the Nominee Deed.
- (d) Each party acknowledges that the Nominee is obliged to act in accordance with the directions of the Beneficial Holders in relation to their respective Beneficial Shares. Any breach of this Deed that arises out of the Nominee complying with a direction given by a Beneficial Holder in relation to that Beneficial Holder's Beneficial Shares (Directed Breach) is to be construed for all purposes as a breach by the relevant Beneficial Holder and not by the Nominee, and, without limitation:
 - (i) the Nominee is released from any claim, action, demand, suit or proceeding for damages, debt, specific performance or any other remedy in respect of any Directed Breach; and
 - (ii) each party (other than the Nominee) covenants not to claim, sue or take any action against the Nominee in respect of any Directed Breach.
- (e) Each indemnity given by a Beneficial Holder in this clause 17.8:
 - (i) is an additional, separate and independent obligation of the Beneficial Holder and no one indemnity limits the generality of any other indemnity; and
 - (ii) survives termination of this Deed and the Nominee Deed.

17.9 Limitation of Nominee's liability

- (a) This limitation of the Nominee's liability applies despite any other provisions of this deed and extends to all Obligations of the Nominee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.

- (b) Subject to clauses 17.9(h) and 17.9(i), the Nominee will be bound by this document only in its capacity as trustee of each trust created under the Nominee Deed (each a Relevant Trust) and in no other capacity.
- (c) Subject to clauses 17.9(h) and 17.9(i) the parties (other than the Nominee) acknowledge that the Nominee incurs the Obligation solely in its capacity as trustee of each Relevant Trust and that the Nominee will cease to have any Obligation under this document which arises after the time the Nominee ceases to be a legal holder of the relevant Beneficial Shares as trustee of the Relevant Trust.
- (d) Subject to clauses 17.9(h) and 17.9(i), the Nominee will not be liable to pay or satisfy any Obligations except to the extent that the Nominee is actually indemnified under the Nominee Indemnity Provisions or to the extent that and at the time the Nominee would, if the Nominee exercised its entitlement to be indemnified in respect of that liability under the Nominee Indemnity Provisions.
- (e) Subject to clauses 17.9(g) and 17.9(i), the parties (other than the Nominee) may enforce their rights against the Nominee arising from the non-performance of the Obligations only to the extent of the Nominee's right to be indemnified under the Nominee Indemnity Provisions.
- (f) Subject to clauses 17.9(h) and 17.9(i), if a party (other than the Nominee) does not recover all money owing to it arising from the non-performance of the Obligations, it may not seek to recover the shortfall by:
 - (i) bringing proceedings against the Nominee in its personal capacity or
 - (ii) applying to have the Nominee put into administration or wound up or applying to have a receiver or similar person appointed to the Nominee or proving in the administration or winding up of the Nominee.
- (g) Subject to clauses 17.9(h) and 17.9(i), each party (other than the Nominee) waives its rights and releases the Nominee from any personal liability whatsoever, in respect of any loss or damage:
 - (i) which it may suffer as a result of any:
 - (A) breach by the Nominee of any of its Obligations;
 - (B) or non-performance by the Nominee of the Obligations; and
 - (ii) which cannot be paid or satisfied out of the proceeds of the indemnities given under the Nominee Indemnity Provisions.
- (h) The parties acknowledge that the whole of this document is subject to this clause 17.9 and that the Nominee shall in no circumstances be required to satisfy any liability of the Nominee arising under, or for non-performance or breach of any Obligations out of any funds, property or assets other than the proceeds of the indemnities given under the Nominee Indemnity Provisions as and when they are available to the Nominee to be applied in exoneration for such liability provided that, subject to clause 17.9(i), if the liability of the Nominee arising under, or for non-performance or breach of any Obligations is not fully satisfied out of the proceeds of the indemnities given under the Nominee Indemnity Provisions due to the negligence, breach of any obligations under the Nominee Deed or breach of trust (excluding any breach that arises as a result of any fraud, dishonesty or wilful misconduct) by the Nominee or any of its officers, employees or agents in the performance of the Nominee's duties as trustee of the Relevant Trusts, the

Nominee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability, but will not be liable to pay an amount that is greater than the amount that the Nominee would have been able to recover under the Nominee Indemnity Provisions in relation to the relevant liability if its right to be indemnified under the Nominee Indemnity Provisions had not been prejudiced.

- (i) Clause 17.9(b) to 17.9(h) do not apply to any damages suffered by or amounts owing to another party which result from a breach or non-performance of an Obligation by the Nominee to the extent that those damages or amounts owing are not satisfied because the right of the Nominee to be indemnified under the Nominee Indemnity Provisions is prejudiced as a result of any fraud, dishonesty, or wilful misconduct by the Nominee or any of its officers, employees or agents in the performance of the Nominee's duties as trustee of the Relevant Trusts.
- (j) The parties (other than the Nominee) agree that no act or omission of the Nominee (including any related failure to satisfy any Obligations) will constitute fraud, negligence, breach of trust, breach of any obligations under the Nominee Deed, dishonesty or wilful misconduct of the Nominee or of any of its officers, employees or agents for the purposes of this clause 17.9 to the extent to which the act or omission was caused or contributed to by any failure of a party to this Deed (other than the Nominee) or any other person (other than an officer, employee or agent of the Nominee) to fulfil its obligations relating to the Relevant Trusts or by any other act or omission of a party to this Deed (other than the Nominee) or any other person (other than an officer, employee, or agent of the Nominee).
- (k) No attorney, agent, or other person appointed in accordance with this document has authority to act on behalf of the Nominee in a way which exposes the Nominee to any personal liability (except in accordance with the provisions of clause 17.9) and no act or omission of such a person will be considered fraud, negligence, dishonesty, wilful misconduct, breach of any obligations under the Nominee Deed or breach of trust by the Nominee or an officer, agent or employee of the Nominee for the purposes of this clause 17.9.

17.10 Indemnity from Beneficial Holders

- (a) If the Company suffers, incurs or is liable to the Nominee for any Expenses arising out of or in connection with any Securities held by the Nominee on behalf of a Beneficial Holder, subject to clause 17.10(b), the relevant Beneficial Holder must indemnify the Company in respect of those Expenses.
- (b) The Company agrees with each Beneficial Holder that it will meet the Nominee's out-of-pocket expenses and any internal costs of the Nominee relating to actions and directions by the Beneficial Holder in relation to its Beneficial Shares in the ordinary course. This does not apply in relation to Expenses that would have been incurred in comparable circumstances by the Beneficial Holder had it been the registered holder of the relevant Securities.
- (c) For the avoidance of doubt, clause 17.10(b) does not apply in relation to:
 - (i) any Taxes or duties in relation to any Securities or dealings in Securities; or
 - (ii) any expenses or liabilities arising in connection with any action or direction by a Beneficial Holder which is in breach of any legal or contractual obligation (including a breach of this Deed),

nor is it intended to require the Company to meet Expenses incurred as a result of actions or directions by a Beneficial Holder that are unreasonable or otherwise

outside the ordinary course (for example persistent requests for copies of the register of Beneficial Holders or other documents beyond what would reasonably be expected).

18 Confidential Information

18.1 Confidentiality obligations

Subject to clauses 18.2 and 18.3, each party must:

- (a) use the Confidential Information only for the purposes of the Business or in connection with the exercise of its rights or performance of its obligations under this deed and includes using such information to make decisions regarding its investment in the Company (including through its Directors);
- (b) keep the Confidential Information confidential and not disclose it or allow it to be disclosed to a Third Party; and
- (c) take or cause to be taken reasonable precautions necessary to maintain the confidentiality of the Confidential Information.

18.2 Permitted disclosure

- (a) A Shareholder may disclose Confidential Information to:
 - (i) Its Relevant Individual or an Affiliate of that Shareholder;
 - (ii) its Representatives who have a need to know (and only to the extent that each has a need to know) for the purpose of assisting the Shareholder and provided they are aware that the Confidential Information must be kept confidential and are subject to appropriate confidentiality obligations;
 - (iii) in respect of the Investor Shareholders only:
 - (A) to an existing or proposed debt or equity financier (or its advisers) to the Company, any of its Related Bodies Corporate or an Investor Shareholder, and to any of their respective directors, employees and professional advisers, provided in each case that they are aware that the Confidential Information must be kept confidential and are subject to appropriate confidentiality obligations;
 - (B) in connection with or as part of an IPO; or
 - (C) to a prospective buyer of Securities or a buyer of the Business who gives an appropriate confidentiality deed poll for the benefit of the Company.
 - (iv) with the prior written consent of the Board, unless the Confidential Information relates only to certain Shareholder(s) (or an Affiliate), in which case with the prior written consent of the party to whom the Confidential Information relates,

and provided that a Shareholder must not disclose any Confidential Information to any person other than its Relevant Individual who is Involved within the Restrained Area in any capacity in any business or activity which (x) sells, markets or manages Australian residential real estate (excluding residential development

sites), provides Australian residential mortgage broking services, trains Australian residential real estate agents or provides auction services in the Australian residential sector; or (y) the same or substantially similar products or services as those offered by the Business of any Group Company, but which will not prevent disclosure to such person where that person is a Third Party Buyer under this deed.

- (b) Where a Shareholder discloses Confidential Information under clause 18.2(a):
 - (i) it must ensure that such disclosee complies with the terms of this clause 18 as if it were the Shareholder; and
 - (ii) the Shareholder is responsible to each other party for any act or omission of the disclosee that would have breached this deed if the act or omission had been by the Shareholder.

18.3 Other exceptions

The obligations of confidentiality under this clause 18 do not extend to information that:

- (a) is disclosed to a party to this deed, but at the time of disclosure is rightfully known to or in the possession or control of the party and not subject to an obligation of confidentiality on the party;
- (b) is public knowledge (but not because of a breach of this deed or any other obligation of confidence);
- (c) must be disclosed by law or order of any court, tribunal, authority or regulatory body or in connection with the enforcement of this deed or by the rules of a relevant stock exchange (provided that the requirement to disclose did not result from a voluntary act on behalf of the person who is seeking to disclose), in which case, if practicable to do so, it shall give as much notice as is reasonable in all the circumstances to, and shall consult (to the fullest extent practicable in the circumstances) with, the other parties.

18.4 Ceasing to hold Securities

- (a) If a Shareholder ceases to hold Securities, it must on request from the Company immediately destroy all documents or other materials containing or referring to the Confidential Information that are in its power or control, including any information disclosed by it under clause 18.2(a) and subject to clause 18.4(b).
- (b) Clause 18.4(a) does not apply to the extent that a Shareholder (or its Affiliate or Representative to whom Confidential Information has been disclosed under clause 18.2(a)) is required by law or order of any court, tribunal, authority or regulatory body or in connection with the enforcement of this deed or by the rules of a relevant stock exchange, or professional indemnity insurance policy or any applicable professional standards, to retain any Confidential Information, or to that Confidential Information that such Shareholder reasonably retains under its internal document retention policies.
- (c) The rights and obligations of a Shareholder under this clause 18 continue to apply to a Shareholder even after it ceases to hold Securities.

18.5 Public announcements

A party must not make or authorise a press release or other public statement relating to the subject matter or terms of this deed unless:

- (a) it has the approval of the Board; or
- (b) it is required by law or order of any court, tribunal, authority or regulatory body or in connection with the enforcement of this deed or the listing rules of a relevant stock exchange, in which case, if practicable to do so, it shall give as much notice as is reasonable in all the circumstances to, and shall consult (to the fullest extent practicable in the circumstances) with, the Board.

18.6 Damages not an adequate remedy

Without prejudice to any other rights or remedies, the Shareholders acknowledge that damages may not be an adequate remedy for any breach of this clause 18.

19 GST

- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with subparagraph (e)(i) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 19(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice within the same month where reasonably practicable and, in any event, no later than 14 days after the time of payment of the Additional Amount.
- (d) If for any reason (including, without limitation, the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 19(b):
 - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
 - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
 - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within the same month where reasonably practicable and, in any event, no later than 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within the same month where reasonably practicable and, in any event, no later

than 14 days after becoming aware of the occurrence of the Adjustment Event.

- (e) Despite any other provision in this deed:
 - (i) if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred before the Additional Amount is calculated; and
 - (ii) no Additional Amount is payable under clause 19(b) in respect of a Supply to which section 84-5 of the GST Law applies.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term in this clause that is capitalised and not defined in this deed has the same meaning as in the GST Law.

20 Representations and warranties

20.1 Capacity representations and warranties

Each Shareholder severally represents and warrants that:

- (a) they have full power and authority to enter into and perform their obligations under this deed;
- (b) they have taken all necessary action to authorise the execution, delivery and the performance of this deed; and
- (c) this deed constitutes their legal, valid and binding obligations, enforceable in accordance with the deed's terms.

20.2 Continuing obligation

The representations and warranties given under clause 20.1 are continuing obligations for the term of this deed.

21 Term

21.1 Commencement

This deed comes into effect on the date of this deed and, subject to clause 21.2, remains in effect until:

- (a) with respect to a Shareholder, the Shareholder has transferred all of their Securities in a manner contemplated by this deed;

- (b) with respect to a Relevant Individual, when none of the Relevant Individual's Affiliates holds any Securities, and such cessation has occurred in a manner permitted by this deed;
- (c) the parties agree to terminate this deed;
- (d) the Company goes into liquidation;
- (e) completion of an Exit Event occurs; or
- (f) all Securities on issue are held by one person.

21.2 Certain provisions continue

The termination of this deed with respect to a party does not affect:

- (a) any obligation of that party which accrued prior to that termination and which remains unsatisfied; and
- (b) clauses 16 or 20 or any other provision of this deed which is expressed to come into effect on, or to continue in effect after, termination of this deed.

22 Resolution of disputes

22.1 No proceedings

A party must not start court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this deed (**Dispute**) unless it has complied with this clause 22.

22.2 Notice of Dispute

A party claiming that a Dispute has arisen must give each party to the Dispute notice setting out details of the Dispute.

22.3 Best efforts to resolve Dispute

Each party to the Dispute (**Disputant**) must use its best efforts to resolve the Dispute within 20 Business Day after the notice is given under clause 22.2 (or any longer period agreed by the Disputants) (**Dispute Period**) which must include a good faith meeting held between senior representatives of the Disputants.

22.4 Termination of Dispute resolution process

If, within 10 Business Days after the end of the Dispute Period, the Disputants have failed to resolve the Dispute, a Disputant that has complied with clause 22.4 may terminate the dispute resolution process by giving notice to each other Disputant.

22.5 Breach of this clause

If a Disputant breaches clauses 22.1 to 22.5 (inclusive), each other Disputant does not have to comply with those clauses in respect of the relevant Dispute.

23 Limitation of liability – trustee

- (a) This clause 22 applies to each party that enters into this deed in a capacity as a trustee (**Trustee**) of a Trust (**Trust**).
 - (i) The parties acknowledge and agree that each Trustee enters into and performs this deed and the transactions contemplated by it in its capacity (as trustee of the applicable Trust and in no other capacity, including in respect of any past and future conduct (including omissions) relating to this deed or the transactions contemplated by it.
 - (ii) A liability arising under or in connection with this deed is limited to and can be enforced against the relevant Trustee only to the extent to which it can be satisfied out of the property of the relevant Trust out of which the relevant Trustee is actually indemnified for the liability.
 - (iii) If those assets are insufficient, the other parties will not seek to recover any shortfall by bring proceedings against the relevant Trustee personally and may not seek the appointment of a liquidator, administrator, receiver or similar person to the relevant Trustee or prove in any liquidation, administration or arrangement of or affecting the relevant Trustee.
 - (iv) Each other party waives its rights and releases the relevant Trustee from any personal liability whatsoever in respect of any loss or damage which cannot be paid or satisfied out of the assets of the relevant Trust.
 - (v) This limitation of liability applies despite any other provision of this deed and extends to all liabilities and obligations of the relevant Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
 - (vi) No party to this deed may sue the relevant Trustee in any capacity other than as trustee of the relevant Trust. This clause shall not apply to any obligation or liability of the relevant Trustee to the extent that it is not satisfied out of the assets of the relevant Trust because under the trust deed establishing the relevant Trust or by operation of law there is a reduction in the extent of the relevant Trustee's indemnification out of the assets of the relevant Trust as a result of the relevant Trustee's fraud, gross negligence, breach of trust or dishonesty.
 - (vii) Under or in connection with this deed, no party to this deed may:
 - (A) bring proceedings against the relevant Trustee that are inconsistent with the limitations set out in this clause 22; or
 - (B) take steps to have the relevant Trustee placed into any form of insolvency administration. The preceding sentence does not preclude appointing a receiver in respect of the assets of the relevant Trust.

24 Accession Deed Poll

24.1 New Shareholder

- (a) The Company may only issue Securities to a person not a party to this deed if the person (**New Shareholder**) has executed and delivered to the Company an Accession Deed Poll (except for an issue in connection with an IPO).
- (b) If the New Shareholder is a Manager or an Affiliate of a Manager, the Manager must also execute and deliver to the Company an Accession Deed Poll as a Relevant Individual of the New Shareholder.

24.2 Transferees

A Shareholder who wishes to Dispose of any of its Securities must ensure that any proposed transferee executes and delivers an Accession Deed Poll to the Company (except in the case of an IPO or where the proposed transferee is already a Shareholder) prior to such Disposal.

25 Notices and other communications

- (a) A notice, consent or other communication under this deed:
 - (i) must be in legible writing and in English;
 - (ii) must be addressed to the Shareholder to whom it is to be given to the postal address or email address as notified by that Shareholder for the purposes of this clause;
 - (iii) must be signed by the sender (if an individual) or an authorised representative of the sender;
 - (iv) must be either:
 - (A) delivered by hand or sent by pre-paid ordinary mail (by airmail if sent to or from a place outside Australia) to the party's address; or
 - (B) sent by email to the Shareholder's email address; and
 - (v) is deemed to be received by the party in accordance with clause 25(b).
- (b) A notice, consent or other communication under this deed is deemed to be received:
 - (i) if delivered by hand, when delivered to the Shareholder;
 - (ii) if sent by post, on the 3rd Business Day after the date of postage, or if to or from a place outside Australia, on the 7th Business Day after the date of postage; or
 - (iii) if sent by email:
 - (A) when the sender receives an automated message confirming delivery; or

- (B) 5 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first,

but if the delivery or receipt is on a day which is not a Business Day or is after 5.00 pm (Shareholder's time) it is deemed to be received at 9.00 am on the following Business Day.

- (c) Notices sent by email need not be marked for attention in a particular way and are taken to be signed by the named sender.

26 General

26.1 Variation and waiver

- (a) Subject to applicable laws and clause 26.1(b), this deed may be amended by the Board with Special Board Approval. Each party is bound by any variation of this deed made pursuant to this clause and notified to the party.
- (b) Where an amendment would adversely affect the rights of:
 - (i) one or more of the Investor Shareholders, the variation must be in writing and signed by each Investor Shareholder; and
 - (ii) the Non-Investor Shareholders, the variation must be in writing and signed by Non-Investor Shareholders holding (in aggregate) more than 75% of the Securities held by Non-Investor Shareholders.
- (c) A provision of this deed, or a right created under it, may not be waived except in writing, signed by the party or parties to be bound.

26.2 No merger

The warranties, undertakings and indemnities in this deed do not merge on termination of this deed.

26.3 Further steps

Each party agrees, at its own expense, to do anything reasonably requested by another party to give effect to the provisions of this deed and the transactions contemplated by it.

26.4 Entire agreement

This deed and the Constitution constitute the entire agreement of the parties about the subject matter and supersede all previous agreements, understandings and negotiations on that subject matter.

26.5 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to the deed. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed is the date of the deed.

26.6 Powers of attorney

- (a) Each appointment of an attorney by a Shareholder or Relevant Individual under clauses 12.5, 13.5, 14.3, 15.2(i) and 17.5(f) (**Appointor**) is made on the following terms:
- (i) the Appointor irrevocably appoints the Company as its attorney to complete and execute such instruments and resolutions for and on its behalf as the attorney thinks necessary to give effect to any of the transactions contemplated by the relevant clause;
 - (ii) the Appointor agrees to ratify and confirm whatever the attorney lawfully does, or causes to be done, under the appointment;
 - (iii) the Appointor agrees to indemnify the attorney against all Claims, demands and costs arising in any way in connection with the lawful exercise of all or any of the attorney's powers and authorities under that appointment except in respect of Claims, demands and costs arising as a result of that attorney's fraud, negligence or wilful default; and
 - (iv) the Appointor agrees to deliver to the Company on demand any power of attorney, instrument of transfer or other instruments as the Company may require for the purposes of any of the transactions contemplated by the relevant clause.
- (b) Whenever an Appointor appoints an attorney under clauses 12.5, 13.5, and 14.3, it hereby appoints the Company as its agent as follows:
- (i) the Company will hold the purchase moneys on trust for the Appointor;
 - (ii) receipt by the Company of the purchase moneys will be good discharge of the buyer's obligation to the Appointor and the buyer will not be bound to see to the application of it; and
 - (iii) the Company must pay the purchase moneys to the Appointor on surrender of the relevant share certificates or other instruments of ownership (as appropriate for Securities other than shares),

and if the relevant default relates to the provision of share certificates, the Appointor indemnifies the buyer against any Claims, demands and costs arising in any way in connection with the non-provision of those share certificates.

27 Shareholders' relationship

27.1 Shareholder not liable for another party

Each Shareholder is responsible for its obligations under this deed and is not liable for any obligation of another party.

27.2 Relationship between Shareholders

Except where this deed expressly states otherwise, this deed does not create any relationship between the Shareholders under which a Shareholder:

- (a) is liable generally for the acts or omissions of another Shareholder; or

- (b) may share profits.

27.3 Authority of Shareholders

A Shareholder:

- (a) may not hold itself out as a partner of, or principal or agent or trustee of another Shareholder;
- (b) except where this deed expressly states otherwise, does not have authority to act for, or to create or assume any responsibility or obligation on behalf of another Shareholder; and
- (c) the rights, duties, obligations and liabilities of a Shareholder is in every case several, and not joint nor joint and several and, in any event, does not constitute a partnership between the Shareholders.

27.4 No fiduciary duties

Nothing in this deed gives rise to or is intended to give rise to any fiduciary duties between Shareholders or between a Shareholder and the Company.

27.5 No responsibility for tax

No party is responsible for the other party's obligations under the income tax laws of any applicable jurisdiction.

27.6 No partnership

Nothing in this deed is intended, or shall be deemed, to establish a partnership between the parties.

28 Governing law

28.1 Governing law

This deed is governed by the law in force in New South Wales.

28.2 Jurisdiction

Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

1 Dictionary

In this deed:

Acceptance Period has the meaning given to that term in 9.2(a)(v).

Accession Deed Poll means a deed poll in the form of Attachment A.

Accounting Standards means:

- (a) accounting standards approved under the Corporations Act and its requirements about the preparation and contents of account; and
- (b) Australia's equivalent to the International Financial Reporting Standards as approved by the Australia Accounting Standards Board.

Additional Amount has the meaning given in clause 19(b).

Affiliate means with respect to any person:

- (a) any other person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, such first person; and
- (b) in respect of a person or Shareholder that is an individual, also includes:
 - (i) any Family Company or Family Trust of that person; and
 - (ii) any self-managed superannuation fund for that individual, the trustee of which is that individual, that individual and their spouse, or a Family Company of that individual.

Amount Incurred has the meaning given in clause 19(e).

Appointor has the meaning given in clause 26.6(a).

Auditor means the auditor of the Group approved by the Board from time to time.

BCL means BCL AUS Holdings Limited.

Beneficial Holders means a person on whose behalf the Nominee holds Securities as bare trustee.

Beneficial Shares in relation to a Beneficial Holder, means the Securities held by the Nominee as bare trustee for that Beneficial Holder.

Board means all or some of the Directors acting as the board of the Company.

Board Meeting has the meaning in clause 4.2.

Board Reserved Matters includes all of the matters set out in Schedule 2.

Budget means a budget, included consolidated profit and loss account, balance sheet and cash flow statement for the Group.

Business means the business of the Group.

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

Business Plan means the 3 year programme current from time to time for the conduct of the Business during the current and next 2 Financial Years, including the Budget for the current and next Financial Years.

CEO means the person appointed as the chief executive officer of the Company from time to time.

CFO means the person appointed as the chief financial officer of the Company from time to time.

Chairperson means the person appointed as Chairperson of the Board under clause 3.2(c) of this deed.

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.

Confidential Information means:

- (a) any information belonging to or about the Group, or a Shareholder or its Affiliates;
- (b) any information relating to a Transaction Document or any transaction contemplated by a Transaction Document;
- (c) all data bases, source codes, methodologies, manuals, artwork, advertising manuals, trade secrets and all financial, accounting, marketing and technical information, customer and supplier lists, know-how, technology, operating procedures and other information, used by or relating to the Group and its transactions and affairs;
- (d) all notes and reports incorporating or derived from the material referred to in paragraphs (a) or (b); and
- (e) all copies of the material referred to in paragraphs (a) to (c),

but excludes any information that:

- (f) is in, or becomes part of, the public domain other than through breach of this deed or an obligation of confidence owed to a Group Company; or
- (g) was already known to it at the time of disclosure by the Company or a Shareholder, other than as a result of a breach of an obligation of confidentiality; or
- (h) a party acquires from a source other than the Company or a Shareholder, where the source is entitled to disclose it.

Consideration has the meaning given in clause 19(a).

Constitution means the constitution of the Company from time to time.

Control has the meaning in section 50AA of the Corporations Act, and **Controlled** has a corresponding meaning except that, in addition, an entity controls a second entity if the

first entity would be taken to control the second entity but for section 50AA(4) of the Corporations Act. Without limiting the preceding sentence, an entity also Controls a Fund if it has the power, or controls (directly or indirectly) an entity with the power, to replace the trustee or legal representative of the Fund.

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

CPI means the Consumer Price Index (all groups – weighted average of eight capital cities) published by the Australian Bureau of Statistics.

Directors means all or some of the directors of the Company from time to time, including any Nominee Director and any independent Director.

Dispose in relation to a person and any property means:

- (a) to sell, offer for sale, transfer, assign, surrender, gift, create an Encumbrance or option over, declare oneself a trustee of or part with the benefit of or otherwise dispose of that property (or any direct or indirect legal or beneficial interest in or over any rights in respect of any part of it);
- (b) to do anything which has the effect of placing a person in substantially the same position as if the person has done any of the things specified in paragraph (a); or
- (c) to attempt to do any of the things specified in paragraph (a),

and **Disposal** has a corresponding meaning.

Dispute has the meaning given in clause 22.1.

Disputant has the meaning given in clause 22.2.

Drag Notice means a notice given in accordance with clause 12.2.

Drag Price has the meaning given in clause 12.2.

Drag Sale Terms has the meaning given in clause 12.2.

Dragged Shares has the meaning given in clause 12.2.

Dragged Shareholder has the meaning given in clause 12.1.

Dragging Shareholder has the meaning given in clause 12.1.

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit à prendre, easement or any other security arrangement or any other arrangement having the same effect or any agreement to create any of them.

Event of Default means, in relation to a Non-Investor Shareholder:

- (a) that Shareholder or their Relevant Individual becomes the subject of an Insolvency Event;
- (b) that Shareholder or their Relevant Individual breaches a material provision of this deed (expressly including any breach of the restraint provision in clause 16) which cannot be remedied or which remains unremedied for the period prescribed by the

Board (which may not be less than 10 Business Days) following such notification;
or

- (c) there is either:
 - (i) a change in Control in relation to that Shareholder and a person who has Control as a result of that change was not a Permitted Transferee of that Shareholder immediately prior to the change in Control; or
 - (ii) a Shareholder ceases to be a Permitted Transferee and does not comply with the provisions of clause 10.3.

Exit Event or **Exit** means:

- (a) an IPO; or
- (b) a Share Sale; or
- (c) a Trade Sale.

Fair Value means the amount determined by a Valuer in accordance with clause 15.3.

Family Company means a body corporate which:

- (a) the individual (either alone or with their spouse or, if applicable, Relevant Individual) Controls (directly or indirectly) and where all of the shares in the body corporate are owned, legally and beneficially, by the individual, their Relevant Individual and/or Relatives of the individual and/or Relevant Individual and/or trustees of a Family Trust of the individual; or
- (b) is otherwise associated with the individual and approved by the Company (with Board approval).

Family Trust means a trust which:

- (a) the individual and/or their Relevant Individual Controls (either alone or with their spouse) (directly or indirectly) and where all the beneficiaries or potential beneficiaries are the individual, their Relevant Individual and/or their Relatives and/or charities; or
- (b) is otherwise associated with the individual and approved by the Company (with Board approval).

Financial Year means the 12-month period starting on 1 July and ending on 30 June each year (or other dates as the Board approves).

Government Agency means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity. It includes ASIC and ASX (and any other stock exchange).

Group means the Company and each of its Subsidiaries and other controlled entities from time to time.

Group Company means a member of the Group from time to time.

GST has the same meaning as in the GST Law.

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

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the *A New Tax System (Goods and Services Tax) Regulations 1999* (Cth).

Implementation Date has the meaning given to that term in the SID.

Initiating Party has the meaning given to that term in clause 11.2.

Initial Acceptance Period has the meaning given in clause 9.2(a)(vi).

Insolvency Event means:

- (a) a “controller” (as defined in section 9 of the Corporations Act), manager, trustee, administrator or similar officer is appointed in respect of a person or any asset of a person;
- (b) a liquidator or provisional liquidator is appointed in respect of a corporation;
- (c) any application (not being an application withdrawn or dismissed within 7 days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:
 - (i) appointing a person referred to in paragraphs (a) or (b);
 - (ii) winding up a corporation; or
 - (iii) proposing or implementing a scheme of arrangement;
- (d) any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or their estate;
- (e) a moratorium of any debts of a person, a personal insolvency agreement or any other assignment, composition or arrangement (formal or informal) with a person’s creditors or any similar proceeding or arrangement by which the asset of a person are subjected conditionally or unconditionally to the control of that person’s creditors or a trustee, is ordered, declared or agreed to, or is applied for and the application is not withdrawn or dismissed within 7 days;
- (f) a person becomes, or admits in writing that it is, is declared to be, or is deemed under any applicable law to be, insolvent or unable to pay its debts; or
- (g) any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of a person.

Investor Board Approval means a Simple Majority Resolution of the Board, including the approval of at least one Nominee Director appointed by each Investor Shareholder.

Investor Shareholder means each of:

- (a) KFA and any of its Permitted Transferees that hold Shares from time to time; and
- (b) BCL and any of its Permitted Transferees that hold Shares from time to time.

Invitation to Tag means in respect of the Shareholders, an invitation in the form contemplated by clauses 13.1 and 13.2.

Involved includes direct or indirect involvement as a principal, agent, partner, employee, shareholder, unitholder, director, trustee, beneficiary, manager, contractor, subcontractor, consultant, advisor or financier.

IPO means an initial public offering of shares in the Company, shares in any Subsidiary or shares in a company of which the Company is or will be a wholly owned subsidiary in conjunction with an application for the quotation of those shares on the Securities Exchange.

Issue Notice has the meaning given in clause 9.2(a).

KFA means Knight Frank Australia Holdings Pty Ltd.

Management Equity Plan means any management equity plan adopted by the Board from time to time under which the Company may issue Management Shares or other Securities to Managers of the Company.

Management Shareholder means a holder of Management Shares or other Securities issued under the Management Equity Plan (but only with respect only to their holding of such Management Shares or Securities) that is:

- (a) a Manager;
- (b) an Affiliate of a Manager; or
- (c) a person that the Board agrees in writing to treat as a "Management Shareholder",

and who is or becomes a party to this Deed as a "Management Shareholder" by executing an Accession Deed.

Management Share means a security issued to a Management Shareholder under the terms of a Management Equity Plan adopted by the Company.

Manager means a person that is:

- (a) invited by the Board to participate in a Management Equity Plan; and
- (b) an employee, executive director or non-executive director of any Group Company at the time the Manager (or any Affiliate of the Manager) becomes a Management Shareholder,

and who is or becomes a party to this Deed as a "Relevant Individual" of a Management Shareholder by executing an Accession Deed Poll.

Maximum Tag Threshold has the meaning given in clause 13.2(a)(ii).

New Shareholder has the meaning given in clause 24.1.

Nominee means an independent third party trustee company appointed by the Company under clause 17 to hold Shares on bare trust pursuant to the terms of the Nominee Deed and clause 17.

Nominee Deed means the nominee deed to be entered between the Company and the Nominee in the form reasonably required by the Nominee in accordance with its usual business practices and accepted by the Company.

Nominee Director has the meaning given to that term in clause 3.2(a).

Non-contributing Shareholder has the meaning given in clause 9.2(c).

Non-Investor Shareholder means a Shareholder in the Company that is not an Investor Shareholder or a Management Shareholder.

Ordinary Share means a fully paid ordinary share in the Company.

Permitted Transferee of a Shareholder means:

- (a) an Affiliate of the Shareholder; and
- (b) in relation to a Shareholder who is a trustee, custodian, responsible entity or general partner of a trust or partnership, also includes any person who is a replacement trustee, custodian, responsible entity or general partner of the same trust or partnership,

and, for the avoidance of doubt, where an 'Affiliate' of the Shareholder is a Family Trust, the trustee of that trust and the beneficiaries of the Family Trust will also be deemed a Permitted Transferee provided the applicable Securities are 100% beneficially held by the Family Trust.

Recipient has the meaning given in clause 19(b).

Related Body Corporate has the meaning given in the Corporations Act, interpreted so that 'subsidiary' has the meaning given to that term in this deed.

Related Party has the meaning given in the Corporations Act.

Related Party Transaction means an agreement or arrangement between the Company or another Group Company and:

- (a) a Director or their Affiliate; or
- (b) a Shareholder or its Affiliate,

but excluding:

- (c) a deed of indemnity, insurance and access (or similar document) on customary terms and conditions between a Director and the Company or another Group Company; and
- (d) any agreement or arrangement in relation to the Transfer of Securities in accordance with the terms of this deed.

Relatives means a spouse, former spouse, mother, father, brother, sister or child.

Relevant Individual means:

- (a) in relation to a Non-Investor Shareholder, the person nominated by the Company as their Relevant Individual (if any) as at the date that Non-Investor Shareholder begins to hold Securities;

- (b) in relation to a Management Shareholder who is issued Securities pursuant to a Management Equity Plan, the person nominated by the Company at the date of issue of Management Shares as their Relevant Individual; and
- (c) in relation to any Shareholder who acquires Shares as a Permitted Transferee of a Shareholder that has a Relevant Individual, the person who is the Relevant Individual of the transferor.

Relevant Proportion means when used in relation to:

- (a) all Shareholders, the proportions which their respective Shareholdings bear to all of the issued Securities; and
- (b) less than all the Shareholders, the proportions which their respective Shareholdings bear to their aggregate holdings of issued Securities.

Representative means, in relation to an entity, an employee, officer, director or adviser of that entity.

Representative Member has the same meaning as in the GST Law.

Restrained Party means:

- (a) a Shareholder who holds more than 5% of the Securities in the Company from time to time; and
- (b) a Shareholder who is a franchisee of the Group (or an Affiliate of a franchisee of the Group).

Restraint Area means:

- (a) Australia;
- (b) if the area in (a) above is held to be unenforceable, New South Wales, Victoria and Queensland;
- (c) if the area in (b) above is held to be unenforceable, New South Wales and Victoria;
- (d) if the area in (c) above is held to be unenforceable, New South Wales; or
- (e) such lesser geographic area as determined by the Board from time to time (which may be a determination in respect of specific Shareholders only).

Restraint Period means the period commencing on the Implementation Date (or the date of execution and delivery of the Accession Deed Poll, in the case of a Restrained Party that is not a party as at the date of this deed) and ending on the date that is 12 months after the date on which the Restrained Party and its Permitted Transferees cease to hold any Securities, or such shorter period as determined by the Board with Investor Board Approval.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act under which a Group Company acquires 100% of the issued shares in the Target.

Securities Exchange means the Australian Securities Exchange or any other securities or stock exchange approved by the Board.

Security has the meaning in section 92(3) of the Corporations Act, and includes Ordinary Shares, Management Shares and / or any other securities issued by the Company from time to time.

Share Sale means a sale of all of the Securities in the Company to a Third Party.

Shareholder means a holder of Securities in the Company.

Shareholding means a Shareholder's holding of Securities.

SID means the scheme implementation deed between the Target, RPAA Holdings Pty Ltd (ACN 676 034 101), Knight Frank Australia Holdings Pty Ltd and Bayley Corporation Limited dated 24 March 2024.

Simple Majority Resolution means:

- (a) in the case of a resolution of members, approval of Shareholders that together hold more than 50% of the total votes of all Shareholders present (in person or by proxy) at the meeting of Shareholders and who are entitled to vote on the resolution concerned; and
- (b) in the case of a resolution of Directors, approval of Directors that together hold more than 50% of the total votes of all Directors who attend the relevant Board meeting and who are entitled to vote on the resolution concerned.

Small Holding means a shareholding in the Company of \$10,000 or less (based on the value of a Security implied on the Implementation Date) and, in relation to a Beneficial Holder holding through the Nominee, includes those Beneficial Holders who hold \$10,000 or less (based on the value of a Security implied on the Implementation Date).

Small Holding Disposal Notice has the meaning given to that term in clause 15.2.

Small Holding Securities means the securities that constitute a Small Holding.

Small Shareholder means a Shareholder which holds a Small Holding.

Special Board Approval means:

- (a) a Simple Majority Resolution of the Board;
- (b) the approval of at least one Nominee Director appointed by each Investor Shareholder; and
- (c) where there are one or more Nominee Directors appointed by Non-Investor Shareholders, the approval of at least one of those Nominee Directors.

Subsidiary means each subsidiary of the Company, as that term is defined in Part 1.2 Division 6 of the Corporations Act.

Supplier has the meaning given in clause 19(b).

Supply has the same meaning as in the GST Law.

Tag Option has the meaning given in clause 13.2(a)(iv).

Tag Price has the meaning given in clause 13.2(a)(ii).

Tag Proportion has the meaning given in clause 13.2(a)(ii).

Tag Terms has the meaning given in clause 13.2(a)(ii).

Tagged Shares has the meaning given in clause 13.2(a)(iv).

Tagged Shareholder has the meaning given in clause 13.1.

Tagging Shareholder has the meaning given in clause 13.1.

Target means McGrath Limited (ACN 608 153 779).

Taxes means taxes, levies, imposts, charges and duties imposed by any authority (including stamp and transaction duties) together with any related interest, penalties, fines and expenses in connection with them.

Third Party means a party other than the Shareholder or an Affiliate of the Shareholder.

Third Party Buyer means a buyer (or a proposed buyer) of Securities who is a Third Party in relation to the seller (or proposed seller) of those Securities.

Trade Sale means the sale of:

- (a) all or substantially all of the operating Group Companies; or
- (b) the whole or substantially all of the Business,

in each case to a Third Party.

Transaction Documents means:

- (a) this deed;
- (b) the Constitution; and
- (c) any other agreement or document that the Investor Shareholders agree is a Transaction Document.

Transfer means to give, sell, transfer, alienate, assign, lease, licence, grant an option over, create or declare a trust over, part with the benefit of, or otherwise dispose of or deal with any legal or equitable interest in something, including a Security.

Trust has the meaning given to that term in clause 22.

Trustee has the meaning given to that term in clause 22.

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 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including, but not limited to, 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 party, schedule or attachment to this deed;
 - (vi) this deed includes all schedules and attachments to it;
 - (vii) dollars, \$, A\$ or AUD is a reference to the lawful currency of Australia;
 - (viii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced; and
 - (ix) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing.
- (g) an agreement on the part of two or more persons binds them 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 relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a 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; and
- (k) if there is any conflict between the body of this deed and its schedules or attachments the terms of the main body of this deed will prevail.

Schedule 2 Board Reserved Matters

PART A – Investor Board Approval Matters

- 1 **(Business Plan or Budget)** adopt a Business Plan or Budget or amend an approved Business Plan or Budget;
- 2 **(Unusual agreements)** enter into, vary or terminate any agreement, arrangement or understanding outside, or which is not reasonably incidental to, the Business Plan;
- 3 **(Shareholder approval matters)** take any action or approve any matter which at law requires approval by the Shareholders in general meeting;
- 4 **(Unbudgeted Cost)** incur any capital or operational commitments or expenditures in excess of \$250,000, other than those included in a current approved Budget;
- 5 **(Financing)** enter into any financing or refinancing, the creation of any charge, security interest or encumbrance over any assets or property of a Group Company or the making of any loan to any person or entity or the giving of any guarantee or indemnity, in each case in excess of \$250,000;
- 6 **(Executive Appointment)** appoint or remove the CEO, CFO or other executive level management, or materially change the terms of engagement, role or responsibilities of those positions;
- 7 **(Subsidiary)** any Group Company establishing or incorporating a new subsidiary;
- 8 **(Accounting Rules)** make any material change to the accounting policy of a Group Company;
- 9 **(Bank accounts)** make any change to the signatories for operating the bank facilities of the Group Companies;
- 10 **(Chair)** appoint or remove a chair of the Board;
- 11 **(Auditor)** change the auditor of the Company or any Group Company;
- 12 **(Power of attorney)** grant a power of attorney by any Group Company;
- 13 **(Delegate)** delegate any powers to a committee of the Board;
- 14 **(Litigation)** commence or settle any litigation, arbitration or other proceedings which involve a liability (excluding legal fees) in excess of \$250,000;
- 15 **(Independent Director)** appoint or remove any independent Director;
- 16 **(Distribution Policy)** make any change to the dividend or distribution policy implemented by the Board from time to time;
- 17 **(Financial Assistance)** give a loan or any other financial assistance to a Director of the Company or an associate of a Director, or vary the terms of an existing loan or other financial assistance previously given to a Director of the Company or an associate of a Director;
- 18 **(Remuneration)** increase or decrease any remuneration payable to a Director;
- 19 **(Change in business)** make any fundamental change to the nature and scope of the Business of any Group Company;

- 20 **(Offshore operations)** establish any business or grant any franchise outside of Australia;
- 21 **(M&A)** mergers, acquisitions and disposals of securities, land, property or other assets involving consideration in excess of \$250,000 (whether in one transaction or a series of transactions) or any transaction that requires the issue of scrip consideration;
- 22 **(Exit Event)** make a decision to proceed with investigating and preparing for an exit event and the ultimate decision to proceed with the exit event; and
- 23 **(Initial public offer)** make a decision to proceed with investigating and preparing for an IPO and the ultimate decision to proceed with the IPO.

Part B – Special Board Approval Matters

- 1 **(Related Party Transactions)** enter into, materially amend, terminate or initiate a related party transaction with any Shareholder, other than on terms which are no less favourable than arms' length terms or in the ordinary course of business;
- 2 **(Liquidation)** liquidation or winding up of the Company or any Group Company which holds at least 5% of the Group's total assets or contributes at least 5% of the Group's total revenue;
- 3 **(Capital Structure)** any:
 - (a) issue of a new class of shares, other than in accordance with this deed;
 - (b) buy-back, redemption, purchase or cancellation of any shares or reduction of share capital in the Company which is not on a pro rata basis or in accordance with any Management Equity Plan; or
 - (c) any variation of the rights of any class of shares in the Company; and
- 4 **(Change to Constitution)** any amendment to the Constitution or any other constituent documents of the Company.

Execution page

Executed as a deed

[To be inserted]

Attachment A Accession Deed Poll

Date:

Parties

- 1 **[Insert name of acceding party]** of **[insert address]** (**Acceding Party**)
- 2 **[Insert name of acceding party]** of **[insert address]** (**Relevant Individual**)]
- 3 **[Insert name of discontinuing party]** of **[insert address]** (**Discontinuing Party**)

The parties agree in favour of and for the benefit of each and all of the following:

- (A) the parties to the shareholders' deed (**Shareholders' Deed**) dated **[insert]** made among RPAA Investments Limited (ACN 676 033 346) (**Company**) and the Investor Shareholders (as defined in the Shareholders' Deed); and
 - (B) all persons who are or subsequently become shareholders of the Company, (collectively, the **Continuing Parties**).
-

1 Defined terms and interpretation

1.1 Defined terms

Words and expressions used in this deed poll have the same meaning as those used in the Shareholders' Deed (as amended, varied, novated or supplemented from time to time), unless the context otherwise requires.

1.2 Interpretation

Clauses 1 and 2 of Schedule 2 of the Shareholders' Deed apply in the interpretation of this deed poll.

2 Accession

- (a) Subject to the terms of this deed poll, the Acceding Party accedes to the Shareholders' Deed as if it were an original party to the Shareholders' Deed as a[n] [Investor Shareholder / Non-Investor Shareholder / Management Shareholder] on and from the date that the Acceding Party is registered as a holder of Securities (**Accession Date**).
 - (b) [Subject to the terms of this deed poll, the Relevant Individual accedes to the Shareholders' Deed as if it were an original party to the Shareholders' Deed as a Relevant Individual of the Acceding Party on and from the Accession Date.]
 - (c) [Subject to clauses 3 and 4, the Discontinuing Party ceases to be a party to the Shareholders' Deed on and from the Accession Date.]
-

3 Parties to be bound

- (a) [Each of t/T]he Acceding Party [and the Relevant Individual] undertake[s] to be bound by all the terms of the Shareholders' Deed from the Accession Date as if the

definition of “[Investor Shareholder / Non-Investor Shareholder / Management Shareholder]” included the Acceding Party and the definition of “Relevant Individual” included the Relevant Individual.

- (b) [Without limiting clause 3(a), the Acceding Party is bound by all the terms of the Shareholders’ Deed from the Accession Date as if each reference to the Discontinuing Party in the Shareholders’ Deed were a reference to the Acceding Party and not to the Discontinuing Party.]

4 [Acceding party not subject to pre-accession liabilities]

[The Discontinuing Party indemnifies the Acceding Party for any liabilities of the Discontinuing Party arising from or in connection with the Shareholders’ Deed which accrued prior to the Accession Date or which relate to any act or omission prior to the Accession Date.]

5 [No further rights and release from obligations]

[With effect from the Accession Date, the Discontinuing Party:

- (a) agrees and acknowledges that it has no further rights against any of the Continuing Parties under the Shareholders’ Deed other than rights that arise before the Accession Date; and
- (b) releases each Continuing Party from all obligations and liabilities under the Shareholders’ Deed other than obligations and liabilities that arise before the Accession Date.]

6 Representations and warranties

- (a) The Acceding Party [and the Discontinuing Party each] represent[s] and warrant[s] the following to each other party and to each Continuing Party:
 - (i) **registration:** if a body corporate, it is duly registered and validly existing under the laws of the country of its registration;
 - (ii) **power and authority:** it has the power and authority to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by the Shareholders’ Deed;
 - (iii) **action:** it has taken all necessary action to authorise the entry into and performance of, this deed poll and to carry out the transactions contemplated by the Shareholders’ Deed;
 - (iv) **binding obligation:** this deed poll constitutes legal, valid and binding obligations on it; and
 - (v) **no contravention:** neither the execution and performance by it of this deed poll nor any transaction contemplated under the Shareholders’ Deed will violate in any respect any provision of:
 - (A) its constituent documents; or

- (B) any other applicable law, document, agreement or other arrangement binding upon it or its assets.
- (b) The Relevant Individual represents and warrants the following to each other party and to each Continuing Party:
- (i) **power and authority:** it has the power and authority to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by the Shareholders' Deed;
 - (ii) **action:** it has taken all necessary action to authorise the entry into and performance of, this deed poll and to carry out the transactions contemplated by the Shareholders' Deed;
 - (iii) **binding obligation:** this deed poll constitutes legal, valid and binding obligations on it; and
 - (iv) **no contravention:** neither the execution and performance by it of this deed poll nor any transaction contemplated under the Shareholders' Deed will violate in any respect any provision of any applicable law, document, agreement or other arrangement binding upon it or its assets.
-

7 General

7.1 Address of Acceding Party for notices

For the purposes of the Shareholders' Deed the address of the Acceding Party [and Relevant Individual] to which all notices must be delivered in accordance with clause 25 of the Shareholders' Deed is:

[insert Acceding party's name]

Address: **[insert address]**

Email: **[insert email address]**

Attention: **[insert name]**

7.2 Governing law

This deed poll is governed by the law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

7.3 Further steps

Each party agrees, at its own expense, to do anything reasonably requested by another party or any Continuing Party to give effect to the provisions of this deed poll and the transactions contemplated by it.

7.4 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

7.5 Counterparts

This deed poll may consist of a number of copies, each signed by one or more parties to the deed poll. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed is the date of the deed poll.

7.6 Liability for expenses

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this deed poll.

7.7 Amendment

This deed poll can only be amended or replaced by another document executed by the parties and each Continuing Party.

7.8 [Relevant Individual

For the purposes of the Shareholders' Deed, the Acceding Party's Relevant Individual is [*insert name*]. If the Acceding Party ceases to be an Affiliate of the Relevant Individual, the Acceding Party must immediately transfer all of the Securities held by it to an Affiliate of the Relevant Individual.]

Attachment A to Accession Deed Poll

[*Annex copy*]



HERBERT
SMITH
FREEHILLS

Attachment 6

Rollco constitution

Constitution

RPAI Investments Limited
(A public company limited by shares)

Contents

	Page	
1	Dictionary	1
2	Shareholders' Deed applies	1
2.1	Relationship between constitution and Shareholders' Deed	1
2.2	Director acting in compliance with Shareholders' Deed	1
3	Share capital	2
3.1	Shares	2
3.2	Certificates	2
3.3	Preference shares	2
3.4	Joint holders of shares	2
3.5	Equitable interests in shares	3
4	Calls, forfeiture, indemnities, lien and surrender	3
4.1	Calls	3
4.2	Proceedings for recovery of calls	4
4.3	Payments in advance of calls	5
4.4	Forfeiture of partly paid shares	5
4.5	Indemnity for payments by the Company	6
4.6	Lien on shares	7
4.7	Surrender of shares	8
4.8	General provisions applicable to a sale, reissue or other disposal of shares	8
4.9	Interest payable by member	9
5	Transfer and transmission of shares	9
5.1	Transfer of shares	9
5.2	Power to decline registration of transfers	10
5.3	Transmission of shares	10
6	General meetings	11
6.1	Convening of general meetings	11
6.2	Notice of general meetings	11

6.3	Quorum at general meetings	12
6.4	Chair of general meetings	13
6.5	Use of technology at general meetings	13
6.6	Conduct of general meetings	14
6.7	Decisions at general meetings	14
6.8	Voting rights	15
6.9	Representation at general meetings	16
6.10	Resolutions without meetings	18
6.11	Resolutions of single member company	19
7	Directors	19
7.1	Appointment and removal of directors	19
7.2	Vacation of office	20
7.3	Remuneration of directors	20
7.4	Director need not be a member	20
7.5	Interested directors	20
7.6	Powers and duties of directors	22
7.7	Proceedings of directors	23
7.8	Convening of meetings of directors	23
7.9	Notice of meetings of directors	23
7.10	Quorum at meetings of directors	25
7.11	Chair and deputy chair of directors	25
7.12	Decisions of directors	26
7.13	Written resolutions	26
7.14	Alternate directors	27
7.15	Committees of directors	28
7.16	Delegation to individual directors	28
7.17	Validity of acts	28
8	Executive officers	29
8.1	Managing directors	29
8.2	Deputy managing directors	29

8.3	Executive directors	29
8.4	Secretaries	29
8.5	Provisions applicable to all executive officers	29
9	Seals	30
9.1	Adoption of common Seal	30
9.2	Safe custody of Seal	30
9.3	Use of Seal	30
9.4	Duplicate Seal	31
9.5	Share Seal or certificate Seal	31
9.6	Sealing and signing of certificates	31
10	Dividends and reserves	31
10.1	Dividends	31
10.2	Capitalisation of profits	33
10.3	Ancillary powers	33
10.4	Reserves	34
10.5	Dividend reinvestment plans	34
10.6	Dividend selection plans	34
10.7	Capital reductions	35
10.8	Shares in another body corporate	35
11	Winding up	35
11.1	Distribution of surplus	35
11.2	Division of property	36
12	Minutes and records	36
12.1	Minutes	36
12.2	Proxies	37
12.3	Polls	37
12.4	Signing of minutes	37
12.5	Minutes as evidence	37
12.6	Inspection of records	37
13	Indemnity and insurance	37

13.1	Persons to whom rules 13.2 and 13.4 apply	37
13.2	Indemnity	38
13.3	Extent of Indemnity	38
13.4	Insurance	38
13.5	Advances	38
13.6	Savings	38
13.7	Deed	39
14	Notices	39
14.1	Notices by the Company to members	39
14.2	Notices by the Company to directors	40
14.3	Notices by members or directors to the Company	40
14.4	Notices to members outside Australia	40
14.5	Time of service	40
14.6	Other communications and documents	41
14.7	Notices in writing	41
15	General	41
15.1	Currency	41
15.2	Submission to jurisdiction	41
15.3	Prohibition and enforceability	41
Schedule 1	Dictionary	42

1 Dictionary

- (a) A capitalised term or expression which is defined in the Dictionary in Schedule 1 has the meaning given to it in the Dictionary.
- (b) The interpretation clause in Schedule 1 sets out the rules of interpretation which apply to this constitution and clarifies the effect of the Corporations Act on this constitution.
- (c) In this constitution, unless the contrary intention appears:
 - (i) a word or expression defined in the Shareholders' Deed (but not defined in this constitution) has the same meaning when used in this constitution; and
 - (ii) a word or expression defined in the Shareholders' Deed and also defined in this constitution has the meaning given to it by the defined term in this constitution.

2 Shareholders' Deed applies

2.1 Relationship between constitution and Shareholders' Deed

Upon adoption of the Shareholders' Deed, this constitution has effect subject to the Shareholders' Deed. To the extent that this constitution and the Shareholders' Deed deal with the same or a similar topic differently, the Shareholders' Deed prevails and the members must do everything within their power to amend this constitution to remove any such difference.

2.2 Director acting in compliance with Shareholders' Deed

Where rule 2.1 applies and a director acts in accordance with the Shareholders' Deed:

- (a) the fact that the director has acted in accordance with the Shareholders' Deed:
 - (i) is taken to be an act that is in the best interest of the Company as a whole; and
 - (ii) is not taken to be a breach of any duty owned by that director to the Company or a breach of this constitution;
- (b) neither the Company nor the members may take any steps to pursue the director for a breach of duty if the only basis for the breach is conduct permitted by this rule; and
- (c) if, contrary, to paragraph (a), the conduct is a breach of duty or a breach of this constitution, to the extent permitted by law, each member must take all steps necessary to:
 - (i) consent to, excuse, ratify or authorise the breach; and
 - (ii) otherwise release the director from any liability arising from the breach of duty or this constitution.

3 Share capital

3.1 Shares

- (a) Subject to this constitution and the Shareholders' Deed, the directors have the right to issue shares or grant options over shares to any person and they may do so on the conditions they think fit.
- (b) Shares referred to in rule 3.1(a) may have preferred, deferred or other special rights or special restrictions about dividends, voting, return of capital, participation in the property of the Company on a winding up or otherwise, as the directors think fit.
- (c) This rule must not be construed so as to adversely affect any special rights of holders of any shares or class of shares.

3.2 Certificates

- (a) Each member is entitled without payment to receive a certificate for shares issued as required under the Corporations Act.
- (b) The directors may order lost, damaged or defaced share certificates be cancelled and, if necessary, replaced by new share certificates.

3.3 Preference shares

Subject to section 254A(2) of the Corporations Act, the Company may issue preference shares from time to time.

3.4 Joint holders of shares

Where two or more persons are registered as the holders of a share, they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) the Company is not bound to register more than three of those persons as joint holders of the share;
- (b) each of those persons and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which are required to be made in respect of the share;
- (c) subject to rule 3.4(b), on the death of any one of them, the Company is entitled to recognise the survivor or survivors as the only person or persons who have any title to the share;
- (d) any one of those persons may give effective receipts for any dividend, interest or other distribution or payment in respect of the share;
- (e) any one of them may appoint a proxy under rule 6.9 in respect of the share;
- (f) where the Corporations Act requires the number of members to be counted, they are to be counted as one member; and
- (g) the Company is not bound to issue more than one certificate for the share and delivery of a certificate to any one of those persons is sufficient delivery to all of them.

3.5 Equitable interests in shares

- (a) The Company may treat the registered holder of a share as the absolute owner of that share.
- (b) The Company is not bound by or compelled in any way to recognise an equitable, contingent, future, partial or other right or interest in a share or unit of a share, even if the Company has notice of that right or interest.
- (c) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (d) Nothing in rule 3.5(c) limits rule 3.5(a).

4 Calls, forfeiture, indemnities, lien and surrender

4.1 Calls

- (a) Subject to this constitution and the Shareholders' Deed and the terms on which any shares are issued, the directors may make calls on the members for any money unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times.
- (b) Subject to the Shareholders' Deed:
 - (i) when the directors issue shares they may differentiate between the holders as to the amount of calls to be paid and the times of payment;
 - (ii) the directors may require a call to be paid by instalments;
 - (iii) on receipt of at least 14 days' notice, a member on whom a call is made in accordance with this constitution must pay to the Company the amount called on that member's shares at the time or times and place specified;
 - (iv) a call is to be taken as having been made when the resolution of the directors authorising the call was passed;
 - (v) the directors may revoke a call, postpone a call or extend the time for payment;
 - (vi) a call is not invalidated by the non-receipt of a notice of a call or the accidental omission to give notice of a call to any member;
 - (vii) if a sum called on a share is not paid in full by the day appointed for payment, the directors may determine that the person from whom the sum is due must pay:
 - (A) interest on the unpaid amount from the date appointed for payment of the sum to the date of actual payment, at a rate determined under rule 4.9; and
 - (B) any costs, expenses or damages incurred by the Company in relation to the non-payment or late payment of the sum;
 - (viii) any sum unpaid on a share that, by the terms of issue of the share, becomes payable on issue or at a fixed date:

- (A) is to be treated for the purposes of this constitution as if that sum was payable under a call duly made and notified; and
- (B) must be paid on the date on which it is payable under the terms of issue of the share; and
- (ix) the directors may, to the extent permitted by law, waive or compromise all or any part of any payment due to the Company under the terms of issue of a share or under this rule 4.1.
- (c) A member on whom a call is made in accordance with this constitution must pay to the Company the amount called on that member's shares at the time or times and place specified.
- (d) A call is to be taken as having been made when the resolution of the directors authorising the call was passed.
- (e) The directors may revoke a call or postpone a call or extend the time for payment.
- (f) A call is not invalidated by the non-receipt of a notice of a call or the accidental omission to give notice of a call to any member.
- (g) If a sum called on a share is not paid in full by the day appointed for payment, the person from whom the sum is due must pay:
 - (i) interest on the unpaid amount from the date appointed for payment of the sum to the date of actual payment, at a rate determined under rule 4.9; and
 - (ii) any costs, expenses or damages incurred by the Company in relation to the non-payment or late payment of the sum.
- (h) The directors may, to the extent permitted by law, waive or compromise all or any part of any payment due to the Company under the terms of issue of a share or under this rule 4.1.

4.2 Proceedings for recovery of calls

- (a) In an action or other proceedings for the recovery of a call, or interest or costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:
 - (i) the name of the defendant is entered in the register as the holder or one of the holders of the share in respect of which the call is claimed;
 - (ii) the resolution making the call is recorded in the minute book; and
 - (iii) notice of the call was given to the defendant in accordance with this constitution,

is conclusive evidence of the debt and it is not necessary to prove the appointment of the directors who made the call or any other matter.

- (b) In rule 4.2(a), "defendant" includes a person against whom a set-off or counter-claim is alleged by the Company and "proceedings for the recovery of a call" is to be construed accordingly.

4.3 Payments in advance of calls

- (a) The directors may accept from a member the whole or a part of the amount unpaid on a share even though no part of that amount has been called.
- (b) The directors may authorise payment by the Company of interest on the whole or any part of an amount accepted under rule 4.3(a), until the amount becomes payable, at a rate agreed between the directors and the member paying the amount.
- (c) The directors may repay to a member all or any part of the amount accepted under rule 4.3(a) on or before the date on which the call for such amount is due to be paid.

4.4 Forfeiture of partly paid shares

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the directors may serve a notice on that member requiring payment of the unpaid amount, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the Company by reason of the non-payment or late payment of the call or instalment.
- (b) A notice under rule 4.4(a) must name a place and a day for payment. The day must be at least 10 Business Days after the date of service of the notice.
- (c) The notice must state that the shares on which the call was made are liable to be forfeited if the whole amount payable is not paid by the time and at the place specified in the notice.
- (d) If a member does not comply with a notice under rule 4.4(a), the shares to which the notice relates may be forfeited by a resolution of the directors. Forfeiture includes all dividends, interest and other amounts payable by the Company on the forfeited shares and not actually paid before the forfeiture.
- (e) Where a share has been forfeited:
 - (i) notice of the resolution must be given to the member in whose name the share was registered immediately before the forfeiture; and
 - (ii) an entry of the forfeiture, with the date, must be made in the register of members.
- (f) Failure to give the notice or to make the entry required under rule 4.4(e) does not invalidate the forfeiture.
- (g) The directors may:
 - (i) sell or otherwise dispose of a share which has been forfeited on the terms and in the manner the directors think appropriate;
 - (ii) at any time before a sale or disposal, cancel the forfeiture of a share on the terms the directors think appropriate; and
 - (iii) reissue a share which has been forfeited, with or without any money paid on the share by any former holder being credited as paid and on the other terms and in the manner the directors think appropriate.

- (h) A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay, and must immediately pay, to the Company:
 - (i) all calls, instalments, interest, costs, expenses and damages owing in respect of the shares at the time of the forfeiture; and
 - (ii) interest on so much of the amount payable under rule 4.4(h)(i) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under rule 4.9.
- (i) Subject to this constitution, the forfeiture of a share extinguishes all interest in, and all claims and demands against the Company in respect of, the forfeited share and all other rights incident to the share.
- (j) The directors may:
 - (i) exempt a share from all or any part of this rule 4.4; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this rule 4.4.

4.5 Indemnity for payments by the Company

- (a) A member or, if the member is dead, the member's legal personal representative, must indemnify the Company against any liability which the Company has under any law to make a payment for or on account of that member including in respect of:
 - (i) shares held by that member, solely or jointly;
 - (ii) a transfer or transmission of shares by a member; or
 - (iii) dividends, bonuses or other money due or payable or which may become due or payable to the member.
- (b) Rule 4.5(a) includes, without limitation, a payment arising from:
 - (i) the death of that member;
 - (ii) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member; or
 - (iii) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member.
- (c) The member or, if the member is dead, the member's legal personal representative, must pay to the Company immediately on demand:
 - (i) the amount required to reimburse the Company for a payment described in rule 4.5(a); and
 - (ii) interest on any part of that amount which is unpaid from the date the Company makes the payment until the date the Company is reimbursed in full for that payment, at a rate determined under rule 4.9.

- (d) This rule 4.5 is in addition to any right or remedy the Company may have under the law which requires it to make the payment.
- (e) The directors may:
 - (i) exempt a share from all or any part of this rule 4.5; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this rule 4.5.

4.6 Lien on shares

- (a) To the extent permitted by law, the Company has a first and paramount lien on:
 - (i) each partly paid share for all due and unpaid calls and instalments in respect of that share;
 - (ii) each share registered in the name of a holder for all money presently payable by the holder or the holder's estate to the Company; and
 - (iii) each share for any amounts the Company may be required by law to pay, and has paid, in respect of that share.
- (b) The Company's lien on a share extends to all dividends payable in respect of the share and to the proceeds of sale of the share.
- (c) The directors may sell a share on which the Company has a lien in any manner they think fit where:
 - (i) an amount in respect of which a lien exists under this rule 4.6 is presently payable;
 - (ii) the Company has, not less than 14 Business Days before the date of the sale, given to the registered holder of the share a notice in writing setting out the amount in respect of which a lien exists under this rule 4.6 and is presently payable, and demanding payment of that amount; and
 - (iii) as at the date of the sale, the amount remains unpaid.
- (d) The directors may do all things necessary or desirable to protect any lien, charge or other right to which the Company may be entitled under any law or under this constitution.
- (e) Registration by the Company of a transfer of shares on which the Company has a lien releases the Company's lien in so far as it relates to sums owing by the transferor or any predecessor in title, without giving notice of its claim to the transferee.
- (f) The directors may:
 - (i) exempt a share from all or any part of this rule 4.6; and
 - (ii) waive or compromise all or any part of any payment due to the Company under this rule 4.6.

4.7 Surrender of shares

- (a) The directors may accept a surrender of a share by way of compromise of any claim as to whether or not that share has been validly issued or in any other case where the surrender is within the powers of the Company.
- (b) Any share surrendered under rule 4.7(a) may be sold, reissued or otherwise disposed of in the same manner as a forfeited share.

4.8 General provisions applicable to a sale, reissue or other disposal of shares

- (a) A reference in this rule 4.8 to a disposal of shares under this constitution is a reference to:
 - (i) any sale, reissue or other disposal of a forfeited share under rule 4.4(g) or a surrendered share under rule 4.7; and
 - (ii) any sale of a share on which the Company has a lien under rule 4.6(c).
- (b) Where any shares are disposed of under this constitution, the directors may:
 - (i) receive the purchase money or consideration given for the shares on the disposal;
 - (ii) effect a transfer of the shares and, if necessary, execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the disposal; and
 - (iii) register as the holder of the shares the person to whom the shares have been disposed of.
- (c) The title of a person to whom shares are disposed of under this constitution is not affected by an irregularity or invalidity in connection with that disposal.
- (d) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only and is against the Company exclusively.
- (e) The proceeds of a disposal of shares under this constitution must be applied in the payment of:
 - (i) first, the expenses of the disposal;
 - (ii) secondly, all amounts presently payable by the former holder whose shares have been disposed of; and
 - (iii) finally, but subject to any lien under rule 4.6 for money not presently payable, any remaining proceeds must be paid to the former holder as soon as practicable. The former holder must first deliver to the Company the certificate for the shares that have been disposed of or any other proof of title as the directors may accept.
- (f) Until the proceeds of a disposal of a share sold by the Company are claimed or otherwise disposed of according to law, the directors may invest the proceeds in any other way for the benefit of the Company.

- (g) The Company is not required to pay interest on money payable to a former holder under this rule 4.8.
- (h) A statement in writing signed by a director or secretary of the Company to the effect that a share in the Company has been:
 - (i) duly forfeited under rule 4.4(d);
 - (ii) duly sold, reissued or otherwise disposed of under rules 4.4(g) or 4.7; or
 - (iii) duly sold under rule 4.6(c),

on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the Company to forfeit, sell, reissue or otherwise dispose of the share.

4.9 Interest payable by member

- (a) For the purposes of rules 4.1(g)(i), 4.1(g)(ii) and 4.5(c)(ii), the rate of interest payable to the Company is:
 - (i) if the directors have fixed a rate, that rate; or
 - (ii) in any other case, 10% per annum.
- (b) Interest payable under rules 4.1(g)(i), 4.1(g)(ii) and 4.5(c)(ii) accrues daily and may be capitalised monthly or at other intervals as the directors think fit.

5 Transfer and transmission of shares

5.1 Transfer of shares

- (a) Subject to this constitution, the Shareholders' Deed and the rights or restrictions attached to any shares or class of shares, a member may transfer all or any of the member's shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.
- (c) The Company must not charge a fee for the registration of a transfer of shares.
- (d) An instrument of transfer referred to in rule 5.1(a) must be signed by or on behalf of both the transferor and the transferee unless the transfer:
 - (i) relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (ii) is a sufficient transfer of marketable securities for the purposes of the Corporations Act.
- (e) An instrument of transfer referred to in rule 5.1(a) must be duly stamped if required by law to be stamped.

- (f) An instrument of transfer referred to in rule 5.1(a) must be lodged for registration at the registered office of the Company, or at such other place as the directors determine, accompanied by any evidence which the directors require to prove the title of the transferor or the transferor's right to the shares including the share certificate, if any, and to prove the right of the transferee to be registered as the owner of the shares.
- (g) Subject to the powers vested in the directors under rule 5.2, where the Company receives an instrument of transfer complying with rules 5.1(d), 5.1(e) and 5.1(f), the Company must register the transferee named in the instrument as the holder of the shares to which it relates.
- (h) The Company may retain any registered instrument of transfer received by the Company under rule 5.1(f) for any period as the directors think fit.
- (i) Except in the case of fraud, the Company must return any instrument of transfer received under rule 5.1(f) which the directors decline to register to the person who deposited it with the Company.
- (j) The directors may, to the extent permitted by law, waive all or any of the requirements of this rule 5.1.

5.2 Power to decline registration of transfers

The directors must decline to register any transfer of shares unless that transfer is permitted by the Shareholders' Deed.

5.3 Transmission of shares

- (a) In the case of the death of a member, the only persons the Company will recognise as having any title to the member's shares or any benefits accruing in respect of those shares are:
 - (i) the legal personal representative of the deceased, where the deceased was a sole holder; and
 - (ii) the survivor or survivors, where the deceased was a joint holder.
- (b) Nothing in rule 5.3(a) releases the estate of a deceased member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share as a result of a Transmission Event may elect:
 - (i) to be registered as the holder of the share by signing and serving on the Company a notice in writing stating that election; or
 - (ii) to have some other person nominated by that person registered as the transferee of the share by executing or otherwise effecting a transfer of the share to that other person,

after producing any evidence the directors require to prove that person's entitlement to the share, including the certificate for the share.
- (d) The provisions of this constitution relating to the right to transfer, and the registration of transfers of, shares apply, so far as they can and with the changes

as are necessary, to any transfer under rule 5.2 and 5.3 as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the share.

- (e) If two or more persons become jointly entitled to a share under a Transmission Event, on registration as the holders of the share, those persons are taken to hold the share as joint tenants subject to this rule 5.3.
- (f) Despite rule 5.3(a), the directors may register a transfer of shares signed by a member before a Transmission Event even though the Company has notice of the Transmission Event.

6 General meetings

6.1 Convening of general meetings

- (a) A general meeting may be convened by:
 - (i) the directors by resolution of the board;
 - (ii) the directors upon request by members in accordance with section 249D of the Corporations Act; or
 - (iii) members or the court in accordance with sections 249E, 249F and 249G of the Corporations Act.
- (b) A general meeting requested by members in accordance with section 249D of the Corporations Act must be convened by the directors in accordance with section 249D of the Corporations Act.
- (c) Subject to rule 6.1(e), the directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five Business Days before the time at which the general meeting was to be held to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the Company.
- (d) A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- (e) A general meeting convened under section 249D of the Corporations Act may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the member or members who requested it.

6.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Corporations Act and in the manner authorised by rule 14.1 to each person who is at the date of the notice:

- (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the Company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and, excepted as provided in rule 6.2(c), state the general nature of the business to be transacted at the meeting and any other matters required under the Corporations Act.
- (c) It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of the annual financial report and the reports of the directors and auditor, the election of directors or the appointment or fixing of the remuneration of the auditor of the Company.
- (d) A person may waive notice of any general meeting by notice in writing to the Company.
- (e) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 6.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
- (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 6.2(c); or
 - (B) has notified or notifies the Company of the person's agreement to that act, matter, thing or resolution by notice in writing to the Company.
- (f) A person's attendance at a general meeting:
- (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

6.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) A quorum consists of:
- (i) if the number of members entitled to vote is two or more, members together holding 50% of the total number of voting shares; or
 - (ii) if only one member is entitled to vote, that member,

present at the meeting.

- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or
 - (ii) in any other case:
 - (A) the meeting stands adjourned to the day, and at the time and place, as the directors determine, or if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

6.4 Chair of general meetings

- (a) The chair of directors must preside as chair at each general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) If at a general meeting:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting,

the directors present may elect a person present to chair the meeting.
- (c) Subject to rules 6.4(a) and 6.4(b), if at a general meeting:
 - (i) a chair has not been previously elected by the directors; or
 - (ii) a previously elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the members present must elect as chair of the meeting another person who is present and willing to act.

6.5 Use of technology at general meetings

- (a) Subject to the Corporations Act and this constitution, the contemporaneous linking together by a form of technology of a number of members sufficient to constitute a quorum constitutes a general meeting.
- (b) Where a general meeting is held at two or more venues using any form of technology:
 - (i) a member participating in the meeting is taken to be present in person at the meeting;

- (ii) the provisions of this constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to general meetings held using that technology; and
 - (iii) the meeting is to be taken to be held at the place determined by the chair provided that at least one of the members present at the meeting was at the place for the duration of the general meeting.
- (c) If the technology used in rule 6.5(b) encounters a technical difficulty, whether before or during the general meeting, which results in a member not being able to participate in the meeting, the chair may, subject to the Corporations Act and rule 6.3:
 - (i) allow the meeting to continue; or
 - (ii) adjourn the meeting either for a reasonable period of time as may be required to fix the technology or to such other date, time and location as the chair of the meeting considers appropriate.
- (d) For the avoidance of doubt, where the chair has allowed the general meeting to continue in accordance with rule 6.5(c)(i), any resolution passed at that meeting is valid.

6.6 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.
- (b) The chair of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special resolution, or as otherwise provided in the Shareholders' Deed, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting and any such decision is for all purposes a decision of the members.
- (b) The chair may vote in his or her capacity as a member, but the chair has no casting vote in the case of an equality of votes on a proposed resolution.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before a vote by show of hands is taken or before or immediately after the declaration of the result of the show of hands:
 - (i) by the chair of the meeting;
 - (ii) by at least five members present and entitled to vote on the relevant resolution; or

- (iii) by a member or members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (h) The demand for a poll may be withdrawn.

6.8 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (i) on a show of hands, every member present has one vote;
 - (ii) on a poll, every member present has:
 - (A) one vote for each fully paid share held by the member and in respect of which the member is entitled to vote; and
 - (B) a fraction of a vote for each partly paid share held by the member and in respect of which the member is entitled to vote, equivalent to the proportion which the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share; and
 - (iii) for the purposes of rule 6.8(a)(ii)(B), an amount paid on a share in advance of a call is to be ignored.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member the following rules apply to a vote taken on a show of hands:
 - (i) the person is entitled to one vote only despite the number of members the person represents; and
 - (ii) the person's vote will be taken as having been cast for all the members the person represents.
- (c) A joint holder may vote at any meeting in person or by proxy, attorney or Representative as if that person was the sole holder. If more than one joint holder

tenders a vote, only the vote of the holder whose name appears first in the register of members counts.

- (d) The parent or guardian of an infant member may vote at a general meeting on evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.
- (e) A person entitled to a share as a result of a Transmission Event may vote at a general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, before the meeting, the directors have:
 - (i) admitted that person's right to vote at that meeting in respect of the share; or
 - (ii) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 5.3(c),and any vote tendered by that person must be accepted to the exclusion of the vote of the registered holder of the share.
- (f) Where a member holds any share on which any call due and payable to the Company has not been duly paid:
 - (i) that member is only entitled to be present at a general meeting and vote if other shares are held by that member on which no call is then due and payable; and
 - (ii) upon a poll, that member is not entitled to vote in respect of that share but may vote in respect of any other shares held upon which no call is then due and payable.
- (g) An objection to the qualification of a person to vote at a general meeting:
 - (i) must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
 - (ii) must be referred to the chair of the meeting, whose decision is final.
- (h) A vote not disallowed by the chair of a meeting under rule 6.8(g) is valid for all purposes.

6.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person or, where a member is a body corporate, by its Representative;
 - (ii) by proxy or, if the member is entitled to cast two or more votes at the meeting, by not more than two proxies; or
 - (iii) by not more than two attorneys.
- (b) A proxy, attorney or Representative may be a member of the Company but does not have to be a member.

- (c) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the Corporations Act or in the appointment, an appointment of a proxy, attorney or Representative will be taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
 - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (iv) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (v) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting. The chair may delegate his or her powers under this rule 6.9(e) to any person.
- (f) Where a member appoints two proxies or attorneys to vote at the same general meeting and the authority of one is not conditional on the other failing to attend or vote, the following rules apply:
 - (i) where the appointment does not specify the proportion or number of the member's votes each proxy or attorney may exercise, each proxy or attorney may exercise half of the member's votes;
 - (ii) on a show of hands, neither proxy or attorney may vote; and
 - (iii) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (g) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.

- (h) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:
 - (i) at the registered office of the Company, the fax number at its registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) by the time specified in the notice of meeting.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
 - (i) a Transmission Event occurring in relation to the appointer; or
 - (ii) the revocation of the instrument or of the authority under which the instrument was executed,

if no notice in writing of the Transmission Event or revocation has been received by the Company by the time and at one of the places at or in the manner in which the instrument appointing the proxy or attorney is required to be received under rule 6.9(h).
- (j) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 6.9(h).
- (k) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.
- (l) The Company must include with a notice of meeting a proxy form which must provide for the appointer:
 - (i) to vote for or against each resolution; and
 - (ii) to appoint proxies of the appointer's choice, but may specify who is to be appointed as proxy if the appointer does not choose.

6.10 Resolutions without meetings

- (a) Subject to rule 6.10(c), the Company may pass a resolution without a general meeting being held, if all of the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) For the purposes of rule 6.10(a):
 - (i) the document may be sent to members in any manner described in rule 14;
 - (ii) the resolution is passed when the last member signs;
 - (iii) separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy;

- (iv) a signature of a member transmitted to the Company by facsimile or email is sufficient evidence of signature; and
- (v) where a share is held jointly, each joint member must sign.
- (c) Rule 6.10(a) does not apply to a resolution to remove an auditor.
- (d) Where a document is signed in accordance with rule 6.10(a) the document is to be taken as a minute of the passing of the resolution.

6.11 Resolutions of single member company

If the Company has only one member, the Company may pass a resolution by the member recording it and signing the record. That record is to be taken as a minute of the passing of that resolution.

7 Directors

7.1 Appointment and removal of directors

- (a) Subject to the Shareholders' Deed, there must be:
 - (i) at least five directors; and
 - (ii) subject to rule 7.1(d), not more than 10 directors.
- (b) The directors in office on the date that this constitution was adopted by the Company continue in office but on the terms and conditions set out in this constitution.
- (c) Subject to the Shareholders' Deed, the Company may by resolution increase or reduce the maximum number of directors.
- (d) If the Shareholders' Deed is in force, then without limiting rule 7.2, a director may only be appointed or removed in accordance with the applicable provisions of the Shareholders' Deed. Otherwise:
 - (i) the Company may by resolution appoint or remove a director; and
 - (ii) the directors may appoint any natural person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution or the Shareholders' Deed.
- (e) Subject to rule 7.1 of this constitution, the Shareholders' Deed and the terms of any agreement entered into between the Company and the relevant director, a director holds office until the director dies or is removed from office pursuant to rule 7.1(d)(i).
- (f) A shareholder or group of shareholders entitled to appoint a director under the Shareholders' Deed is entitled to appoint an observer. Except for the right to attend Board meetings, an observer does not have any other rights equivalent to the rights of a Director, including any right to participate in Board discussion, vote on Board resolutions or require the Board to follow any advice or direction.

7.2 Vacation of office

The office of a director becomes vacant:

- (a) in circumstances prescribed by the Corporations Act;
- (b) in circumstances prescribed by the Shareholders' Deed;
- (c) if the director:
 - (i) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or
 - (ii) resigns by notice in writing to the Company.

7.3 Remuneration of directors

Subject to the Shareholders' Deed:

- (a) directors are entitled to be paid all reasonable travelling and other expenses properly incurred by them in connection with the affairs of the Company, including attending and returning from general meetings of the Company or meetings of the directors or of committees of the directors; and
- (b) a director is entitled to remuneration out of the funds of the Company as determined by the directors.

7.4 Director need not be a member

- (a) A director is not required to hold any shares in the Company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even if he or she is not a member of the Company.

7.5 Interested directors

- (a) If:
 - (i) the Shareholders' Deed is in force; and
 - (ii) the Shareholders' Deed includes provisions governing the rights and obligations of interested or conflicted directors,then:
 - (iii) those provisions will apply as if set out in this rule 7.5; and
 - (iv) the remainder of this rule 7.5 will continue to apply to the extent that it is not inconsistent with the terms of the Shareholders' Deed.
- (b) A director may hold any other office or place of profit, other than auditor, in the Company or a related body corporate in conjunction with his or her directorship. A director may be appointed to that office or place of profit on the terms as to remuneration, tenure of office and otherwise as the directors think fit.

- (c) A director of the Company may be a director or other officer of:
 - (i) a related body corporate;
 - (ii) a body corporate promoted by the Company; or
 - (iii) a body corporate in which the Company is interested, as shareholder or otherwise,

or be otherwise interested in any of those bodies corporate. A director is not accountable to the Company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.

- (d) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company as the directors think fit. This includes voting in favour of any resolution appointing a director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or may be about to be appointed, a director or other officer of that other body corporate.
- (e) Subject to the Shareholders' Deed, a director is not disqualified merely because of being a director from contracting with the Company in any respect including, without limitation:
 - (i) holding any office or place of profit with a shareholder or an affiliate of a shareholder;
 - (ii) selling any property to, or purchasing any property from, the Company;
 - (iii) lending any money to, or borrowing any money from, the Company with or without interest and with or without security;
 - (iv) guaranteeing the repayment of any money borrowed by the Company for a commission or profit;
 - (v) underwriting or guaranteeing the subscription for securities in the Company or in a related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (vi) being employed by the Company or acting in any professional capacity, other than auditor, on behalf of the Company.
- (f) No contract made by a director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (g) No director contracting with the Company or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

- (h) Subject to rules 7.5(i) and 7.5(j), a director who is in any way interested in a contract or arrangement or proposed contract or arrangement may, despite that interest:
 - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things; and
 - (iii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement.
- (i) Rule 7.5(h) does not apply if, and to the extent that, it would be contrary to the Corporations Act.
- (j) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the Company or a related body corporate. Any regulations made under this rule 7.5(j) bind all directors and apply in addition to any obligations imposed on the directors by the Corporations Act to disclose interests to the Company.

7.6 Powers and duties of directors

- (a) Subject to the Shareholders' Deed, the directors are responsible for managing the business of the Company and may exercise to the exclusion of the Company in general meeting all the powers of the Company which are not required, by the Corporations Act or this constitution or the Shareholders' Deed, to be exercised by the Company in general meeting.
- (b) Without limiting rule 7.6(a) and subject to the Shareholders' Deed, the directors may exercise all the powers of the Company to borrow or otherwise raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures, give any indemnities or guarantees, or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the Company.
- (d) The directors may pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by it.
- (e) Subject to the Shareholders' Deed, the directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the Company for the purposes, for the period and on the conditions as they think fit;
 - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;

- (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (iv) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the Company at any time, with or without cause.
- (f) A power of attorney may contain provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

7.7 Proceedings of directors

- (a) The directors may hold meetings for the despatch of business and adjourn and otherwise regulate their meetings as required by the Shareholders' Deed and, in other cases, as they think fit.
- (b) Subject to the Corporations Act, the contemporaneous linking together by a form of technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors held using a form of technology.
- (c) A meeting by telephone or other electronic means is taken to be held at the place where the chair of the meeting is or at such other place the chair of the meeting decides on, as long as at least one of the directors involved was at the place for the duration of the meeting.
- (d) A director taking part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs whereby one or more director has ceased to participate, the chair may adjourn the meeting until the difficulty is remedied or may, provided a quorum of directors remains present, continue with the meeting.

7.8 Convening of meetings of directors

- (a) If the Shareholders' Deed is in force and contains provisions relating to the convening of meetings of directors, matters relating to the convening of meetings of directors are to be determined in accordance with the applicable provisions of the Shareholders' Deed. Otherwise, the remainder of this rule 7.8 applies.
- (b) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (c) A secretary must, on the requisition of a director, convene a meeting of the directors.

7.9 Notice of meetings of directors

- (a) If the Shareholders' Deed is in force and contains provisions relating to the convening of meetings of directors, matters relating to the convening of meetings of directors are to be determined in accordance with the applicable provisions of the Shareholders' Deed. Otherwise, the remainder of this rule 7.9 applies.
- (b) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:

- (i) a director, other than a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under rule 7.14 by a director on leave of absence approved by the directors.
- (c) A notice of a meeting of directors:
- (i) must specify the date, time and place of the meeting (and if the meeting is to be held in two or more places the technology that will be used to facilitate this);
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may be given in person or by post, or, subject to the Corporations Act, by a form of technology; and
 - (iv) is taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (d) A director or alternate director may waive notice of a meeting of directors by notifying the Company to that effect in person or by post, or by a form of technology.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director or an alternate director appointed by the director:
 - (A) waives notice of that meeting under rule 7.9(d); or
 - (B) notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, or by a form of technology; or
 - (iii) the director or an alternate director appointed by the director attended the meeting.
- (f) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the alternate director or the director who appointed the alternate director:
 - (A) waives notice of that meeting under rule 7.9(d); or
 - (B) notifies the Company of his or her agreement to that act, matter, thing or resolution personally or by post, or by a form of technology; or

- (iii) the alternate director or the director who appointed the alternate director attended the meeting.
- (g) Attendance by a person at a meeting of directors waives any objection that person and:
 - (i) if the person is a director, an alternate director appointed by that person; or
 - (ii) if the person is an alternate director, the director who appointed that person as alternate director,may have to a failure to give notice of the meeting.

7.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) If the Shareholders' Deed is in force, a quorum for a meeting of directors is as set out in the applicable provisions of the Shareholders' Deed. Otherwise, a quorum consists of:
 - (i) if the directors have fixed a number for the quorum, that number of directors; and
 - (ii) in the case of a company with a single director, that director; or
 - (iii) in any other case, two directors.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an emergency or for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the Company.

7.11 Chair and deputy chair of directors

- (a) The directors may elect one of the directors to the office of chair of directors and may determine the period for which that director is to be chair of directors.
- (b) The chair of directors must preside as chair at each meeting of directors, if present within 10 minutes after the time appointed for the holding of the meeting and willing to act.
- (c) If at a meeting of directors:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting,the directors present must elect one of themselves to be chair of the meeting or part of the meeting.

- (d) Subject to rules 7.11(b) and 7.11(c), if at a meeting of directors:
 - (i) there is no deputy chair of directors;
 - (ii) the deputy chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting or of part of the meeting; or
 - (iii) the deputy chair of directors is present within that time but is not willing to act as chair of the meeting or part of the meeting,

the directors present must elect one of themselves to be chair of the meeting or part of the meeting.

7.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) If the Shareholders' Deed is in force, questions arising at a meeting of directors must be decided in accordance with the applicable provisions of the Shareholders' Deed (including in respect of reserved matters). Otherwise, questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) Subject to rule 7.12(d), in the case of an equality of votes upon any proposed resolution, the chair of the meeting has a casting vote in addition to any vote the chair has in his or her capacity as a director.
- (d) In the case of an equality of votes on a proposed resolution:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been lost.

7.13 Written resolutions

- (a) An act, matter or thing is taken to have been done or a resolution passed by a meeting of the directors, if a document containing a statement to that effect is assented to in accordance with the applicable provisions of the Shareholders' Deed as a written resolution of directors, or without limiting this rule 7.13(a), by all of the directors other than:
 - (i) a director on leave of absence approved by the directors;
 - (ii) a director who disqualifies himself or herself from considering the act, matter or thing in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
 - (iii) a director who the directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

and the directors who assent to the document would have constituted a quorum at a meeting held to consider that act, matter, thing or resolution and the proposed resolutions was circulated to all directors.

- (b) The act, matter or thing is taken to have been done or the resolution passed when the document is last assented to by a director.
- (c) Two or more separate documents in identical terms each of which is assented to by one or more directors are to be taken as constituting one document.
- (d) A director may signify assent to a document by signing the document or by notifying the Company of the director's assent in person or by post, fax, telephone or other method of written, audio or audio visual communication or other form of technology.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to in accordance with this rule 7.13, the document is to be taken as a minute of a meeting of directors.

7.14 Alternate directors

- (a) If:
 - (i) the Shareholders' Deed is in force; and
 - (ii) the Shareholders' Deed includes provisions governing the appointment and rights and obligations of alternate directors,then:
 - (iii) those provisions will apply as if set out in this rule 7.14; and
 - (iv) the remainder of this rule 7.14 will continue to apply to the extent that it is not inconsistent with the terms of the Shareholders' Deed.
- (b) A director may, with the approval of the directors, appoint a person to be the director's alternate director for a period which the director thinks fit.
- (c) An alternate director may be a member or a director of the Company but need not be a member or a director.
- (d) One person may act as alternate director to more than one director.
- (e) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.
- (f) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (g) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of that power by the alternate director is to be taken to be the exercise of the power by the appointer.
- (h) The office of an alternate director is vacated if and when the appointer vacates office as a director.

- (i) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (j) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the Company has received notice in writing of the appointment or termination.
- (k) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
- (l) In determining whether a quorum is present at a meeting of directors, a director or an alternate director who attends the meeting is to be counted once only.
- (m) An alternate director is entitled to be paid the remuneration which the directors think fit, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.
- (n) An alternate director is not entitled to be remunerated by the Company for his or her services as alternate director except as provided in rule 7.14(m).
- (o) An alternate director, while acting as a director, is responsible to the Company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

7.15 Committees of directors

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with the changes as are necessary, to meetings and resolutions of a committee of directors.

7.16 Delegation to individual directors

- (a) The directors may resolve to delegate any of their powers to one director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.

7.17 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

8 Executive officers

8.1 Managing directors

- (a) Subject to the Shareholders' Deed, the directors may appoint one or more of the directors to the office of managing director.
- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.

8.2 Deputy managing directors

- (a) The directors may appoint one or more of the directors to the office of deputy managing director.
- (b) A deputy managing director's appointment as deputy managing director automatically terminates if the deputy managing director ceases to be a director.

8.3 Executive directors

- (a) A reference in this rule 8.3 to an executive director is a reference to a director who is also an officer of the Company or of a related body corporate in a capacity other than director, managing director or deputy managing director.
- (b) The directors may confer on an executive director any title they think fit.
- (c) Unless the directors decide otherwise, the terms on which an executive director is appointed will provide that the executive director's appointment:
 - (i) as a director automatically terminates if the executive director ceases to be an officer of the Company or of a related body corporate in a capacity other than director; or
 - (ii) as an officer of the Company or of a related body corporate in a capacity other than director automatically terminates if the executive director ceases to be a director.

8.4 Secretaries

- (a) The directors must appoint at least one secretary and may appoint additional secretaries.
- (b) The directors may appoint one or more assistant secretaries.
- (c) Any director may also be the secretary or a secretary of the Company.

8.5 Provisions applicable to all executive officers

- (a) A reference in this rule 8.5 to an executive officer is a reference to a managing director, deputy managing director, executive director, secretary or assistant secretary appointed under this rule 8.

- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors think fit.
- (c) The remuneration payable by the Company to an executive officer who is also a director must not include a commission on operating revenue or a percentage of operating revenue.
- (d) Subject to any contract between the Company and the relevant executive officer, an executive officer of the Company may be removed or dismissed by the directors at any time, with or without cause.
- (e) The directors may:
 - (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by the directors;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (f) An executive officer is not required to hold any shares to qualify for appointment.
- (g) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

9 Seals

9.1 Adoption of common Seal

- (a) The directors may determine that the Company have a common Seal or that the Company no longer have a common Seal, and may revoke a determination made under this rule 9.1(a).
- (b) Rules 9.2, 9.3, 9.4, 9.5 and 9.6 only apply if the Company has a common Seal.

9.2 Safe custody of Seal

The directors must provide for the safe custody of the Seal.

9.3 Use of Seal

- (a) The Seal must be used only by the authority of the directors or a committee of the directors authorised by the directors to authorise the use of the Seal.
- (b) The authority to use the Seal may be given before or after the Seal is used.

- (c) Subject to rule 9.3(b) and rule 9.6, until the directors otherwise determine, the fixing of the Seal to a document must be witnessed by a director and by another director, a secretary or another person appointed by the directors to witness that document or a class of documents in which that document is included.

9.4 Duplicate Seal

- (a) The Company may have for use in place of its common Seal outside the state or territory where its common Seal is kept one or more duplicate Seals, each of which must be a replica of the common Seal of the Company with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (b) A document sealed with a duplicate Seal is to be taken as having been sealed with the common Seal of the Company.

9.5 Share Seal or certificate Seal

- (a) The Company may have for use on certificates for securities of the Company in place of its common Seal one or more duplicate Seals, each of which must be a replica of the common Seal of the Company with the addition on its face of the words "share seal" or "certificate seal".
- (b) A certificate for securities of the Company sealed with a share Seal or certificate Seal is to be taken as having been sealed with the common Seal of the Company.

9.6 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the Seal and the signature of any director, secretary or other person is to be printed on or affixed to any certificates for securities in the Company by some mechanical or other means.

10 Dividends and reserves

10.1 Dividends

- (a) Subject to the Corporations Act, the Shareholders' Deed and this constitution, the directors may pay any interim and final dividends as, in their judgment, the financial position of the Company justifies.
- (b) The directors may pay any dividend required to be paid under the terms of issue of a share.
- (c) The payment of a dividend does not require confirmation by a general meeting.
- (d) Subject to any rights or restrictions attached to a share or class of shares:
 - (i) all dividends in respect of a share must be paid in the proportion which the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share;
 - (ii) all dividends must be apportioned and paid proportionately to the amount paid during any portion or portions of the period in respect of which the dividend is paid;
 - (iii) for the purposes of rules 10.1(d)(i) and 10.1(d)(ii), an amount paid on a share in advance of a call is to be ignored; and

- (iv) interest is not payable by the Company in respect of any dividend.
- (e) The directors may fix a record date in respect of a dividend.
- (f) A dividend in respect of a share must be paid to the person who is registered, or entitled under rule 5.1(g) to be registered, as the holder of the share:
 - (i) where the directors have fixed a record date in respect of the dividend, on that date; or
 - (ii) where the directors have not fixed a record date in respect of that dividend, on the date the dividend is paid,

and a transfer of a share that is not registered, or left with the Company for registration in accordance with rule 5.1(f), on or before that date is not effective, as against the Company, to pass any right to the dividend.

- (g) The directors when fixing the amount and time for payment of a dividend may:
 - (i) direct payment of the dividend wholly or partly by the distribution of specific assets, including fully paid shares or other securities of the Company or of another body corporate, either generally or to specific shareholders; and
 - (ii) direct that the dividend be paid to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source or generally.
- (h) The directors may deduct from any dividend payable to a member all sums of money presently payable by the member to the Company and apply the amount deducted in or towards satisfaction of the money owing.
- (i) Where a person is entitled to a share as a result of a Transmission Event, the directors may, but are not obliged to, retain any dividends payable on that share until that person becomes registered as the holder of the share or transfers it.
- (j) Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque and sent by post:
 - (i) to the address of the holder as shown in the register of members, or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in that register; or
 - (ii) to such other address as the holder or joint holders in writing directs or direct.

This rule 10.1(j) does not adversely affect any other method of payment the directors may adopt.

- (k) A cheque sent under rule 10.1(j) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs in writing and is sent at the member's risk.
- (l) For the avoidance of doubt, this rule 10.1 does not prohibit the directors from determining that dividends be paid on shares of one class but not another class and at different rates for different classes of shares.

10.2 Capitalisation of profits

- (a) Subject to the Shareholders' Deed and any rights or restrictions attached to any shares or class of shares, the directors may capitalise and distribute among such of the members as would be entitled to receive dividends and in the same proportions, any amount:
- (i) forming part of the undivided profits of the Company;
 - (ii) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the Company;
 - (iii) arising from the realisation of any assets of the Company; or
 - (iv) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
- (i) in paying up in full any unissued shares in or other securities of the Company;
 - (ii) in paying up any amounts unpaid on shares or other securities held by the members;
 - (iii) partly as specified in rule 10.2(b)(i) and partly as specified in rule 10.2(b)(ii); or
 - (iv) in any other way permitted by the Corporations Act,
- and that application must be accepted by the members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.
- (c) Rules 10.1(d), 10.1(e) and 10.1(f) apply, so far as they can and with any necessary changes, to a capitalisation of an amount under this rule 10.2 as if references in those rules to a dividend and to the date a dividend is paid were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this rule 10.2 respectively.

10.3 Ancillary powers

- (a) The directors may do any of the following things to give effect to a resolution for the satisfaction of a dividend in the manner set out in rule 10.1(g)(i) or by the capitalisation of an amount under rule 10.2:
- (i) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation and, in particular, where shares or other securities in the Company are or would otherwise be issuable in fractions:
 - (A) determine that fractions are to be disregarded or are to be rounded down to the nearest whole number;
 - (B) determine that fractions are to be rounded up to the nearest whole number; or
 - (C) make cash payments in respect of the fractional entitlement;

- (ii) fix the value for distribution of any specific assets;
- (iii) pay cash or issue shares or other securities to any members in order to adjust the rights of all parties;
- (iv) vest any specific assets, cash, shares or other securities in a trustee on such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
- (v) authorise any person to make, on behalf of all the members entitled to any further shares or other securities as a result of the distribution or capitalisation, an agreement with the Company or another body corporate providing, as appropriate:
 - (A) for the issue to them of further shares or other securities as fully paid; or
 - (B) for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in this rule 10.3(a)(v) is effective and binding on all members concerned.

- (b) If the Company distributes to a member shares or other securities in the Company or another body corporate or a trust, the member appoints the Company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.

10.4 Reserves

- (a) Subject to this constitution, the directors may set aside out of the profits of the Company reserves or provisions for any purpose as they think fit.
- (b) The setting aside of an amount as a reserve or provision does not require the directors to keep the amount separate from other assets of the Company or prevent the amount being used in the business of the Company, invested as the directors think fit or subsequently distributed to members.

10.5 Dividend reinvestment plans

- (a) The directors may implement a dividend reinvestment plan on the terms they think fit under which the whole or any part of a dividend due to members who participate in the plan on their shares or any class of shares may be applied in subscribing for securities of the Company or of a related body corporate.
- (b) The directors may amend, suspend or terminate a dividend reinvestment plan implemented by them.

10.6 Dividend selection plans

- (a) The directors may implement a dividend selection plan on the terms they think fit under which participants may elect in respect of all, or part, of their shareholdings:
 - (i) to receive a dividend from the Company paid wholly or partly out of a particular fund or reserve or out of profits derived from a particular source; or

- (ii) to forego a dividend from the Company in place of another form of distribution from the Company or another body corporate or a trust.
- (b) The directors may amend, suspend or terminate any dividend selection plan implemented by them.

10.7 Capital reductions

The Company may reduce its share capital by any of the means authorised by the Corporations Act, subject to the provisions of that law. The Company may reduce its share capital in any way that is not otherwise authorised by law, including by way of an in specie distribution of the assets of the Company (including any shares, options or other securities in another body corporate), if the reduction:

- (a) is fair and reasonable to the members of the Company as a whole;
- (b) does not materially prejudice the Company's ability to pay its creditors; and
- (c) is approved by members in accordance with section 256C of the Corporations Act.

10.8 Shares in another body corporate

Where the Company, pursuant to a reduction of its share capital in accordance with rule 10.7, distributes shares, options or other securities in another body corporate to members:

- (a) the members of the Company will be deemed to have agreed to become members of that body corporate; and
- (b) each of the members appoints the Company or any of the directors as its agent to execute any transfer or other document required to effect the distribution of shares, options or other securities to that member.

11 Winding up

11.1 Distribution of surplus

Subject to this constitution, the Shareholders' Deed and to the rights or restrictions attached to any shares or class of shares:

- (a) if the Company is wound up and the property of the Company is more than sufficient:
 - (i) to pay all of the debts and liabilities of the Company; and
 - (ii) the costs, charges and expenses of the winding up,

the excess must be divided among the members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 11.1(a), any amount unpaid on a share is to be treated as property of the Company;

- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 11.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 11.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the Company.

11.2 Division of property

- (a) If the Company is wound up, the liquidator may, with the sanction of a special resolution:
 - (i) divide among the members the whole or any part of the property of the Company; and
 - (ii) determine how the division is to be carried out as between the members or different classes of members.
- (b) A division under rule 11.2(a) may be otherwise than in accordance with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 11.2(a) is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Corporations Act.
- (d) If any of the property to be divided under rule 11.2(a) includes securities with a liability to calls, a person entitled under the division to any of the securities may within 10 Business Days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 11.2 adversely affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 10.3 applies, so far as it can and with necessary changes, to a division by a liquidator under rule 11.2(a) as if references in rule 10.3(a) to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 11.2(a) respectively.

12 Minutes and records

12.1 Minutes

The directors must cause minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees of the directors; and
- (c) resolutions passed by directors without a meeting,

to be recorded and entered in books kept for that purpose, within one month after the meeting is held or the resolution is passed.

12.2 Proxies

The directors must ensure that the Company records in the minutes of a meeting in respect of each resolution in the notice of meeting:

- (a) the total number of proxy votes exercisable by all validly appointed proxies; and
- (b) how many proxy votes were for, against or abstained from the resolution or allowed the proxy to vote at the proxy's discretion.

12.3 Polls

If a poll is taken on a resolution, in addition to the information in rules 12.1 and 12.2, the minutes must also record the total number of votes cast on the poll, and the number of votes for, against and abstaining from that resolution.

12.4 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting within a reasonable time after the meeting.
- (b) Minutes of the passing of a resolution without a meeting or the making of a declaration must be signed by a director within a reasonable time after the resolution is passed.

12.5 Minutes as evidence

A minute that is recorded and signed in accordance with rules 12.1 and 12.4 is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

12.6 Inspection of records

- (a) Subject to the Corporations Act, the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the Company or any of them will be open to the inspection of members other than directors.
- (b) A member other than a director does not have the right to inspect any books, records or documents of the Company except as provided by law or authorised by the directors.

13 Indemnity and insurance

13.1 Persons to whom rules 13.2 and 13.4 apply

Rules 13.2 and 13.4 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 8.3(a)) of the Company;
- (b) to such other officers or former officers of the Company or of its related bodies corporate as the directors in each case determine; and

- (c) if the directors so determine, to any auditor or former auditor of the Company or of its related bodies corporate.

13.2 Indemnity

The Company must indemnify to the extent permitted by law, each person to whom this rule 13.2 applies for all losses or liabilities incurred by the person as an officer or, if the directors so determine, an auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

13.3 Extent of Indemnity

The indemnity in rule 13.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 13.2 applies even though that person may have ceased to be an officer or auditor of the Company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule;
- (c) operates only to the extent that the loss or liability is not covered by insurance; and
- (d) is enforceable without the person to whom this rule 13 applies first having to incur any expense or make any payment.

13.4 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 13 applies against any liability incurred by the person as an officer or auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

13.5 Advances

The Company may, to the extent permitted by law, make a payment (either by way of advance, loan or otherwise) to a person to whom this rule 13.5 applies for the legal costs and expenses incurred by him or her in defending Proceedings for a liability incurred in his or her capacity as a director or secretary provided that the legal costs and expenses are not of a kind that the Company is prohibited from indemnifying a person against under law at the time that payment is made and the director or secretary is obliged to repay the legal costs and expenses to the extent that they become legal costs and expenses of a kind that the Company is prohibited from indemnifying a person against under law.

13.6 Savings

Nothing in rules 13.2 or 13.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or

- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those rules do not apply.

13.7 Deed

Without limiting a person's right under this rule 13, the Company may enter into a deed agreeing with the person to give effect to the rights of the person conferred by this rule 13 or the exercise of a discretion under this rule 13, on such terms and conditions as the directors think fit, as long as they are not inconsistent with this rule 13.

14 Notices

14.1 Notices by the Company to members

- (a) A notice may be given by the Company to a member:
 - (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or such other address, or by fax or email to such fax number or email address as the member has supplied to the Company for the giving of notices; or
 - (ii) if the member does not have a registered address and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company.
- (b) A notice may be given by the Company to the joint holders of a share by giving the notice in the manner authorised by rule 14.1(a) to the joint holder first named in the register of members in respect of the share.
- (c) A notice may be given by the Company to a person entitled to a share as a result of a Transmission Event by serving it or sending it in the manner authorised by rule 14.1(a)(i) addressed to the name or title of the person, at or to the address, fax number or email address supplied to the Company for the giving of notices to that person, or if no address, fax number or email address has been supplied, at or to the address, fax number or email address to which the notice might have been sent if the relevant Transmission Event had not occurred.
- (d) The fact that a person has supplied a fax number or email address for the giving of notices does not require the Company to give any notice to that person by fax or email.
- (e) A notice given to a member in accordance with rules 14.1(a) or 14.1(b) is, despite the occurrence of a Transmission Event and whether or not the Company has notice of that occurrence:
 - (i) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (ii) sufficient service on any person entitled to the shares as a result of the Transmission Event.
- (f) A notice given to a person who is entitled to a share as a result of a Transmission Event is sufficient service on the member in whose name the share is registered.
- (g) Any person who, because of a transfer of shares, becomes entitled to shares registered in the name of a member is bound by every notice which, before that

person's name and address is entered in the register of members in respect of those shares, is given to the member in accordance with this rule 14.1.

- (h) A certificate signed by a director or secretary of the Company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

14.2 Notices by the Company to directors

Subject to this constitution, a notice may be given by the Company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address, or by fax or email to such fax number or email address as the director or alternate director has supplied to the Company for the giving of notices.

14.3 Notices by members or directors to the Company

Subject to this constitution, a notice may be given by a member, director or alternate director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by fax or email to the principal fax number or a nominated email address at the registered office of the Company.

14.4 Notices to members outside Australia

A notice to be sent to a member outside Australia and its external territories must be sent by airmail, fax or email, or in another way that ensures it will be received quickly.

14.5 Time of service

- (a) Where a notice is served personally, service of the notice is taken to be effected when delivered.
- (b) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, on the third Business Day after the date of postage, or if to a place outside Australia, on the seventh Business Day after the date of postage.
- (c) Where a notice is sent by fax, the notice is to be taken to be given on receipt by the sender of an acknowledgement or transmission report confirming delivery, generated by the machine from which the fax was sent.
- (d) Where a notice is sent by electronic mail, service of the notice is taken to be effected if the sender receives a confirmation of delivery and is taken to be given on the Business Day after the day on which it is sent.
- (e) Where the Company gives a notice under rule 14.1(a)(ii) by exhibiting it at the registered office of the Company, service of the notice is to be taken to be effected when the notice was first so exhibited.

14.6 Other communications and documents

Rules 14.1 to 14.5 (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

14.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by fax, email or another form of written communication.

15 General

15.1 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the Company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

15.2 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the registered office of the Company is located, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

15.3 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place is, in that place, ineffective only to the extent to which it is void, illegal or unenforceable.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

1 Dictionary

In this constitution:

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in New South Wales.

Company means RPAA Investments Limited (ACN 676 033 346).

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

Representative, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Corporations Act.

Seal means any common seal, duplicate seal, share seal or certificate seal of the Company.

Shareholders' Deed means the shareholders' deed of the Company as amended from time to time.

Transmission Event means:

- (a) in respect of a member of the Company who is an individual:
 - (i) the death of the member;
 - (ii) the bankruptcy of the member; or
 - (iii) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (b) in respect of a member of the Company who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.

2 Interpretation

2.1 General

- (a) A reference in this constitution to a partly paid share is a reference to a share on which there is an amount unpaid.
- (b) A reference in this constitution to a call or an amount called in respect of a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date.
- (c) A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative.
- (d) Where a provision of this constitution establishes an office of chair, the chair may be referred to as a chairman or chairwoman, as the case requires.

- (e) A reference in this constitution in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (f) In this constitution, headings, bold type and underlinings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;
 - (iii) the words 'such as', 'including', 'particularly' and similar expressions are not used as nor intended to be interpreted as words of limitation;
 - (iv) words used to denote persons generally or importing a natural person include any Company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (v) a reference to a person includes that person's successors and legal personal representatives;
 - (vi) a rule, term, party or schedule is a reference to a rule or term of, or party or schedule to this constitution;
 - (vii) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (viii) 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.

2.2 Application of the Corporations Act

- (a) This constitution is to be interpreted subject to the Corporations Act.
- (b) In this constitution, unless the contrary intention appears:
 - (i) a word or expression defined or given a meaning in the Corporations Act has the same meaning when used in this constitution in a similar context; and
 - (ii) "section" means a section in the Corporations Act.

2.3 Exercise of powers

- (a) The Company may exercise in any manner permitted by the Corporations Act any power which, under the Corporations Act, a Company limited by shares may exercise if authorised by its constitution.
- (b) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.

- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (ii) subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (iii) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (iv) the delegation may include the power to delegate;
 - (v) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and

- (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

2.4 Replaceable rules not to apply

The replaceable rules applicable to a public Company contained in the Corporations Act from time to time do not apply to the Company.