

VERDANT MINERALS AND CD CAPITAL ENTER INTO SCHEME IMPLEMENTATION AGREEMENT

Verdant Minerals Ltd (ASX: VRM) today announces that it has entered into a scheme implementation agreement (**SIA**) relating to the acquisition by CD Capital Natural Resources Fund III LP (**CD Capital**), of all of the issued shares in VRM, other than any shares held by Washington H. Soul Pattinson and Company Limited (**WHSP**) or in which WHSP has a relevant interest, by scheme of arrangement under the *Corporations Act 2001* (Cth) (**Scheme**).

Should the Scheme be implemented, VRM shareholders (other than WHSP) will receive \$0.032 per VRM share held as at the Scheme record date. This values VRM at \$40,509,700 on a fully-diluted basis (i.e. assuming options that are "in the money" at a VRM share price of \$0.032 are exercised), and represents:

- a 113% premium to the closing price of VRM's shares on 8 March 2019 of \$0.015, being the last trading day before this announcement;
- a 110% premium to VRM's 30-day VWAP up to the last trading day before this announcement of \$0.0152;
- a 92% premium to VRM's 6 month VWAP up to the last trading day before this announcement of \$0.0167; and
- a 76% premium to VRM's 12 month VWAP up to the last trading day before this announcement of \$0.0182.

Accordingly, the Scheme represents an opportunity for VRM shareholders (other than WHSP) to realise immediate value for their VRM shares at a significant premium to VRM's recent trading price.

Commenting on the Scheme, VRM's Managing Director, Chris Tziolis, said *"The offer from CD Capital, a London based Private Equity Firm, represents a 113% premium to VRM's current share price and so is demonstrably accretive to our shareholders on the basis of the company's share price and market capitalisation. The advancement of the Ammaroo Phosphate Project will require significant capital which, at the market capitalisation and share price prior to the offer, is highly unlikely to be raised from existing shareholders and without very significant dilution. Subject to an independent expert's report and in the absence of a superior competing proposal, I have voted with my fellow independent directors to recommend CD Capital's proposal to VRM's shareholders."*

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DIRECTORS – James Whiteside | Jason Conroy | Robert Cooper | Chris Tziolis, MD

MAJOR PROJECTS – Ammaroo Rock Phosphate | Karinga Lakes Sulphate of Potash

VRM – CD Capital Scheme Implementation Agreement

The Independent Board Committee unanimously recommends the Scheme

VRM has formed a committee of independent directors, comprised of James Whiteside, Jason Conroy and Chris Tziolis (**Independent Board Committee**), to consider the proposed Scheme¹. The members of the Independent Committee unanimously recommend that VRM shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is fair and reasonable to, and in the best interests of, VRM shareholders.

Subject to the above qualifications, each member of the Independent Board Committee intends to vote all of the VRM shares held or controlled by them in favour of the Scheme.

WHSP consents to the Scheme

Should the Scheme be implemented, CD Capital will hold approximately 67% of the shares in VRM and WHSP will continue to hold approximately 33% of the shares in VRM. At this time, it is anticipated that VRM would be de-listed from ASX. CD Capital, WHSP and VRM have entered into a shareholders' agreement to govern the management of the company which will come into effect following implementation of the Scheme (**Shareholders' Agreement**).

WHSP has provided a letter to VRM stating that it intends to consent to the Scheme on the terms and conditions of the SIA, in the absence of a superior proposal and provided the deed of irrevocable undertaking entered into by WHSP in favour of CD Capital is not terminated in accordance with its terms.

Scheme Implementation Agreement

A copy of the SIA entered into between VRM and CD Capital is attached to this announcement.

The Scheme is subject to a number of customary conditions including VRM shareholder and court approval, no material adverse change occurring between the date of the SIA and the Second Court Hearing, and the Independent Expert concluding (and continuing to conclude) that the Scheme is fair and reasonable to, and in the best interests of, VRM shareholders.

The SIA also contains customary exclusivity provisions including no shop and no talk restrictions, a notification obligation and a matching right, with a customary carve out to ensure VRM's independent directors can continue to comply with their fiduciary and statutory duties.

¹ Rob Cooper, the fourth VRM director, is not considered independent of WHSP and accordingly an independent board committee was formed.

VRM – CD Capital Scheme Implementation Agreement

Loan facility

VRM and CD Capital have also entered into a short term loan facility agreement. Under this agreement, CD Capital will advance an aggregate of \$800,000 in three tranches to VRM for the purposes of funding VRM's transaction costs in connection with the Scheme and for general working capital purposes. Interest will be payable on the amount drawn by VRM under this facility at a rate of 6% per annum, and the facility will mature in 12 months.

Indicative timetable and next steps

VRM shareholders do not need to take any action in relation to the Scheme at this stage. An indicative timetable for the implementation of the Scheme is set out below, but this is subject to change.

Milestone	Indicative Date
Lodge Scheme Booklet (and Independent Expert's Report) with ASIC	5 April 2019
First Court Hearing	29 April 2019
Dispatch of Scheme Booklet and Independent Expert's Report to VRM shareholders	30 April – 6 May 2019
Meeting of VRM shareholders to approve Scheme	5 June 2019
Second Court Hearing	6 June 2019
Lodge court order approving the Scheme with ASIC (Effective Date)	7 June 2019
Record Date	17 June 2019
Implementation Date	24 June 2019

VRM will keep shareholders informed of any material developments in relation to the Scheme.

Advisers to VRM

VRM is being advised by Ashurst in relation to the Scheme.

Advisers to CD Capital

CD Capital is being advised by EY Law in relation to the Scheme.

- ENDS -

VRM – CD Capital Scheme Implementation Agreement

For Further Information Please Contact



Chris Tziolis

Managing Director

Verdant Minerals Ltd.

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About Verdant Minerals (ASX: VRM)

Verdant Minerals is focused on the discovery, development and operation of fertiliser and industrial mineral projects, located in close proximity to existing transport infrastructure, focused on the Northern Territory of Australia.

The Company's portfolio of projects includes:

- Developing the 100% owned world class Ammaroo Phosphate Project located approx. 200km south-east of Tennant Creek and 300km north-east of Alice Springs in the Northern Territory;
- Sulphate of Potash projects in the Northern Territory; and
- The Dingo Hill Silica Project in the Northern Territory, which has the potential to produce high purity quartz.

About CD Capital

CD Capital is a global private equity natural resources and mining fund. CD Capital has a track record of successfully identifying and investing in world-class mining and resource assets at the growth equity stage, and has a team comprised of industry insiders with decades of experience and relationships.

For further information about CD Capital, please contact Investor Relations at IR@CD-Capital.com or on +44 207 389 1450.

VRM – CD Capital Scheme Implementation Agreement

Forward Looking Statements

This announcement has been prepared by Verdant Minerals Ltd). It is not intended to be and does not constitute an offer to sell, or a solicitation of an offer to buy or sell securities in the Issuer.

This announcement does not constitute a recommendation to invest in the Verdant Minerals assets, nor investment, accounting, financial, legal, tax or other advice and does not take into consideration the investment objectives, financial situation or particular needs of any recipient of the announcement (Recipient). Before making an investment decision, Recipients should (a) conduct their own independent investigations and analysis of the Issuer and the information set out in the announcement, (b) rely entirely on such investigations and analysis and not on this announcement in relation to their assessment of the Issuers and (c) form their own opinion as to whether or not to invest in the relevant securities.

The announcement contains information on Verdant Minerals and its activities which are current as at the date of this announcement. The information in this announcement is general in nature and does not purpose to be complete nor does it purport to contain all of the information that a prospective investor may require in evaluating a possible investment in the Issuer or that would be required in a prospectus or a product disclosure statement prepared in accordance with the Corporations Act. To the maximum extent permitted by law, Verdant Minerals and its related bodies corporate, and each of those parties' officers, employees, agents, advisers and associates (each a Relevant Person) is, or may be taken to be, under any obligation to correct, update or revise the announcement.

Any forward-looking statements (including forecasts) included in this announcement are not representations as to future matters and should not be relied upon by Recipients. The statements are based on a large number of assumptions about future events and are subject to significant uncertainties and contingencies, many of which are outside the control of the Issuers. No representation is made that any forecast or future event will be achieved. Actual results may vary significantly from the forecasts. Each Recipient should make its own enquiries and investigations regarding the assumptions, uncertainties and contingencies which may affect the assets of the Issuers.

To the maximum extent permitted by law, each Relevant Person makes no representation or warranty (express or implied) as to the currency, accuracy, reasonableness or completeness of the information, statements and opinions expressed in this announcement (Information). To the maximum extent permitted by law, all liability in respect of the Information is expressly excluded, including without limitation any liability arising from fault or negligence, for any direct, indirect or consequential loss or damage arising from the use of the Information or otherwise. No responsibility is accepted by any Relevant Person, for any of the Information, any omission from this announcement or for any action taken by the Recipient or any other person on the basis of the Information.



SCHEME IMPLEMENTATION AGREEMENT

Dated 11 March 2019

CD Capital Natural Resources Fund III LP (LP No DM-80426) (“Bidder”)

Verdant Minerals Ltd (ACN 122 131 622) (“Target”)

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Details

Parties	Bidder and Target	
Bidder	Name	CD Capital Natural Resources Fund III LP
	LP No	DM-80426
	Formed in	Cayman Islands
	Address	C/- CD Asset Management Limited DMS House, 20 Genesis Close PO Box 2587 KY1 1103 Cayman Islands
	Email	carmel@cd-capital.com
	Attention	Carmel Danielle
	Target	Name
ACN		122 131 622
Formed in		Victoria
Address		Unit 20 90 Frances Bay Drive Stuart Park NT 0820
Email		ctziolis@verdantminerals.com.au
Attention		Chris Tziolis
<i>With a copy to:</i>		barnold@verdantminerals.com.au Bruce Arnold

Governing law Victoria, Australia

- | | | |
|-----------------|----------|---|
| Recitals | A | Target and Bidder have agreed that Bidder will acquire the Scheme Shares by means of a members' scheme of arrangement under Part 5.1 of the Corporations Act. |
| | B | At the request of Bidder, Target intends to propose the Scheme and issue the Scheme Booklet. |

- C Target and Bidder have agreed to implement the Scheme on the terms and conditions of this document.
- D WHSP intends to consent to the Scheme on the terms and conditions of this document.

General terms

1. Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

ASIC means the Australian Securities & Investments Commission.

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

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

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

Bidder Group means Bidder and its Subsidiaries (excluding each member of the Target Group).

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

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

Business Day means a business day as defined in the Listing Rules and a day, not being a Saturday, Sunday or public holiday in the Cayman Islands.

Claim means, in relation to a party, a demand, claim, action or proceeding made or brought against the party, however arising and whether present or future.

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

- (a) directly or indirectly acquire an interest or Relevant Interest in or become a holder of more than 20% of the Target Shares (other than as custodian, nominee or bare trustee);
- (b) acquire control of the Target or a material member of the Target Group, within the meaning of section 50AA of the Corporations Act;

- (c) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in all of a substantial part of the assets of or business conducted by the Target Group; or
- (d) otherwise acquire or merge (including by reverse takeover bid or dual listed company structure) with the Target Group.

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

Controller has the meaning it has in the Corporations Act.

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

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

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

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

Deed Poll means a deed poll in the form of Annexure C to this document, or in such other form as agreed in writing between Bidder and Target.

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

Disclosed means fairly disclosed:

- (a) by the Target or its Representatives in writing to Bidder or its Representatives prior to the date of this document;
- (b) in the data room made available by the Target to the Bidder Group prior to the date of this document; or
- (c) in any announcement made by Target on ASX between 3 years prior to the date of this document and the date of this document.

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

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

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

End Date means the date that is 4 months after the date of this document or such other date as is agreed by Bidder and Target in writing.

Exclusivity Period means the period from and including the date of this document to the earlier of:

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

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

FIRB means the Foreign Investment Review Board.

First Court Date means the first day on which an application made to the Court in accordance with clause 5.2(g) for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is heard.

Implementation Date means the 5th Business Day following the Record Date or such other date as the Target and Bidder agree in writing.

Incoming Directors means the persons to be appointed directors of the Target on the Implementation Date as notified by Bidder to the Target before the Second Court Date.

Independent Directors means James Whiteside, Jason Conroy and Chris Tziolis as at the date of this document, and any other Target Director from time to time who such individuals consider to be free of any interest, position, association or influence that might influence, or might reasonably be perceived to influence, in a material respect, his or her capacity to bring an independent judgment on decisions before the board in relation to the Scheme and to act in the best interests of the Target and the Target Shareholders generally in relation to the Scheme.

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

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update or supplementary report, stating whether or not, in the Independent Expert's opinion, the Scheme is fair and reasonable to, and in the best interests of Scheme Shareholders.

A person is **Insolvent** if:

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

that person under the law of any jurisdiction.

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

Local Agent means Ernst & Young, 200 George St, Sydney, NSW 2000

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

Material Adverse Effect means a Specified Event which has, has had, or is reasonably likely to have, either individually or when aggregated with any Specified Events of a similar kind or category, the effect of:

- (a) the value of consolidated net assets of the Target Group (taken as a whole) being reduced by at least A\$3,500,000 against what it would have been but for that Specified Event;

but does not include a Specified Event:

- (b) occurring as a result of any matter, event or circumstance required or permitted by this document or the Scheme or the transaction contemplated by either;
- (c) occurring with the written consent of Bidder; or
- (d) resulting from a change in generally accepted accounting principles or the interpretation of them.

Options means all outstanding options issued by the Target Group to acquire Target Shares.

Option Cancellation Deeds means each deed to be entered into between the Target and an Optionholder (in the form agreed between Bidder and the Target in writing) pursuant to which:

- (a) the Optionholder agrees, subject to the receipt of all necessary ASX waivers and to the Scheme becoming Effective, to the cancellation of all of its Options with effect from the Effective Date; and
- (b) the Target agrees to pay, or procure the payment of, the Option Consideration in respect of the Optionholder's Options to the Optionholder on the Implementation Date.

Option Consideration means:

- (a) in respect of an Option for which the Scheme Consideration is greater than the exercise price, the amount equal to the Scheme Consideration less the exercise price in respect of that Option; and
- (b) in respect of an Option for which the Scheme Consideration is less than or equal to the exercise price, an amount to be determined by the Target, provided that the aggregate amount to be paid to the holders of all such Options must not exceed \$25,000,

in each case unless otherwise agreed in writing by Bidder and the Target.

Optionholder means each person who is the holder of one or more Options.

Outgoing Director means each director of the Target in office immediately before the Implementation Date who Bidder has notified to the Target before the Second Court Date are to retire from office on the Implementation Date.

Proposed Transaction means the proposed acquisition of the Scheme Shares by Bidder by way of a scheme of arrangement.

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

Record Date means 5.00pm on the fifth Business Day following the Effective Date or such other date as the Target and Bidder agree in writing.

Register means the share register of the Target and **Registry** has a corresponding meaning.

Regulator's Draft means the draft of the Scheme Booklet which is to be provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.

Regulatory Authority includes:

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

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

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

Representative means, in relation to a party:

- (a) a Related Body Corporate;
- (b) a director, officer, employee of, consultants to, and individuals seconded to work for, the party or any of the party's Related Bodies Corporate; or
- (c) an adviser to the party or any of the party's Related Bodies Corporate, where an "adviser" means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant who provides advisory services in a professional capacity and who has been engaged by that entity.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act under which the Scheme Shares will be transferred to Bidder on the terms and conditions substantially in the form of Annexure B, or such other terms and conditions agreed in writing between Bidder and Target, together with any amendment or modification made pursuant to section 411(6) of the Corporations Act.

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

Scheme Consideration means AUD \$0.032 cash per Scheme Share held by a Scheme Participant, payable by Bidder for the transfer of Scheme Shares held by a Scheme Participant to Bidder.

Scheme Meeting means the meeting to be convened by the Court at which Scheme Shareholders will vote on the Scheme.

Scheme Participants means each person who is a Scheme Shareholder at the Record Date.

Scheme Share means all Target Shares other than any Target Shares held by WHSP or in which WHSP has a Relevant Interest.

Scheme Shareholder means a holder of Scheme Shares.

Second Court Date means the day on which the Court makes an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme.

Specified Event means an act of war, terrorism or coup which may result in the current government ceasing to rule Australia or the Northern Territory or nationalisation (in part or whole) of assets or some other similar fundamental change to the government in Australia or the Northern Territory as a whole or the ownership of resources that results in a diminution of a majority of the value of the Target to Bidder due directly to the assets of the Target being located in Australia;

Standard Tax Condition means any condition included in the list of conditions published on the FIRB website at https://firb.gov.au/files/2016/05/Tax_conditions.pdf as at the date of this document.

Subsidiary of an entity means another entity which:

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

Superior Proposal means a bona fide written proposal of the kind referred to in the definition of “Competing Transaction” which a majority of the Independent Directors, acting in good faith, including after taking advice from the Target's legal advisers, determines:

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

Target Board means the board of directors of the Target.

Target Constitution means the constitution of the Target.

Target Consolidated Tax Group means the consolidated tax group of which the Target is the head company (where ‘consolidated group’ and ‘head company’ have the same meaning as in the Tax Act).

Target Group means the Target and its Subsidiaries.

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

Target Information means all information contained in the Scheme Booklet other than the Bidder Information, the Independent Expert's Report and any other report or opinion prepared by an external adviser to the Target.

Target Prescribed Event means any of the following events:

- (a) **(conversion)** the Target converts all or any of its shares into a larger or smaller number of shares;
- (b) **(reduction of share capital)** the Target or another member of the Target Group resolves to reduce its share capital in any way or resolves to reclassify, combine, split

or redeem or repurchase directly or indirectly any of its shares;

- (c) **(buy-back)** the Target or another member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** the Target makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie) except as otherwise approved in writing by Bidder;
- (e) **(issuing or granting shares or options)** any member of the Target Group:
 - (i) issues shares;
 - (ii) grants an option over its shares; or
 - (iii) agrees to make such an issue or grant such an option;
- (f) **(financial accommodation)** other than in the ordinary course of business, any member of the Target Group provides financial accommodation other than to members of the Target Group in excess of A\$50,000 (individually or in aggregate);
- (g) **(derivatives)** any member of the Target Group enters into an agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except:
 - (i) derivative instruments including foreign exchange hedging entered into in the ordinary course of business and consistent with past practice or in relation to the payment of a distribution by the Target; or
 - (ii) in connection with the rolling over or renewals of existing positions in the ordinary course of business;
- (h) **(securities or other instruments)** any member of the Target Group issues or agrees to issue securities or other instruments convertible into shares or debt securities;
- (i) **(constitution)** the Target adopts a new constitution or modifies or repeals the Target Constitution or a provision of it, other than as agreed between the Target and Bidder in writing;
- (j) **(disposals)** any member of the Target Group disposes, or agrees to dispose of the whole or a substantial part of its business or property;
- (k) **(acquisitions, disposals or tenders)** any member of the Target Group
 - (i) acquires or disposes of;
 - (ii) agrees to acquire or dispose of; or
 - (iii) offers, proposes, announces a bid or tenders for,

any business, assets, entity or undertaking the value of which exceeds \$25,000 other than in the ordinary course of business (individually or in aggregate);
- (l) **(Encumbrances)** any member of the Target Group creates, or agrees to create, any Encumbrance over, or declares itself the trustee of, the whole or a substantial part of

its business or property;

- (m) **(employment arrangements)** other than the payment of the Option Consideration to any Optionholder, any member of the Target Group:
 - (i) increases the remuneration of, or otherwise varies the employment arrangements with, any of its directors or employees whose total employment cost exceeds \$25,000;
 - (ii) accelerates the rights of any of its directors or employees to compensation or benefits of any kind (including under any Target executive or employee share plans) whose total employment cost exceeds \$50,000; or
 - (iii) pays any of its directors or employees whose total employment cost exceeds \$50,000 a termination or retention payment (otherwise than in accordance with an existing contract in place at the date of this document);
- (n) **(accounting policies)** any member of the Target Group changes any accounting policy other than any change required by applicable accounting standards;
- (o) **(tax)** any member of the Target Group does anything that would result in a change in the Target Consolidated Tax Group;
- (p) **(commitments and settlements)** any member of the Target Group:
 - (i) other than in the ordinary course of business, entering into a contract or commitment restraining a member of the Target Group from competing with any person or conducting activities in any market;
 - (ii) enters into any contract or commitment (other than any contract or commitment which was under negotiation as at the date of this document, provided that any such contract or commitment is entered into in substantially the form Disclosed) involving revenue or expenditure of more than \$50,000 over the term of the contract or commitment;
 - (iii) (without limiting the above) enters into any contract or commitment (other than those which have been Disclosed and are entered into on terms substantially similar to those as Disclosed) relating to the same matter or project involving revenue or expenditure which exceeds \$50,000 in aggregate over the term of the contracts or commitments;
 - (iv) terminates or amends in a material manner any contract material to the conduct of the Target Group's business or which involves revenue or expenditure of more than \$50,000 over the term of the contract; or
 - (v) accepting as a settlement or compromise of a material matter (relating to an amount in excess of \$25,000) less than the full compensation due to the Target or a Subsidiary of the Target; or

(Insolvency) the Target or any of its Related Bodies Corporate becomes Insolvent,

provided that a Target Prescribed Event will not occur where the relevant event:

- (q) is expressly required or permitted by this document, the Scheme, or otherwise required by law or any order of a Court or Regulatory Authority;
- (r) has been Disclosed to Bidder;
- (s) has been disclosed by the Target to ASX within the 3 year period ending on the date of this document; or

- (t) has been approved in writing by Bidder (such approval not to be unreasonably withheld, conditioned or delayed).

Target Representations and Warranties means the representations and warranties of the Target set out in clause 11.1.

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

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

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

Timetable means the timetable set out in Schedule 1 or as otherwise agreed between Bidder and the Target.

Third Party means a person other than a member of the Bidder Group or the Target Group.

Transaction Implementation Committee means a committee to be made up of:

- (a) the chief executive officer of each of the Target and Bidder (or their respective delegates); and
- (b) such other persons as Bidder and the Target may agree in writing from time to time.

Transaction Document means this document and each of the following:

- (a) the Scheme;
- (b) the Deed Poll;
- (c) the Scheme Booklet; and
- (d) the any other document in connection with the Scheme that Bidder and Target agree in writing should be regarded as a "Transaction Document".

Treasurer means the Treasurer of the Commonwealth of Australia from time to time, or his or her delegate.

WHSP means Washington H. Soul Pattinson and Company Limited (ACN: 000 002 728).

1.2 **General interpretation**

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

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (e) a reference to "**person**" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;

- (f) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Sydney time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to "**law**" includes common law, principles of equity and legislation (including regulations);
- (j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (k) a reference to "**regulations**" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (l) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (m) a reference to anything (including an amount) is a reference to the whole and each part of it;
- (n) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (o) if a party must do something under this document on or by a given day that is not a Business Day, that thing must be done by the next Business Day; and
- (p) if a party does something under this document after 5.00pm on any day, it is taken to be done on the next Business Day.

1.3 **Inconsistent agreements**

- (a) Subject to clause 1.3(b), if a provision of this document is inconsistent with a provision of another Transaction Document, the provisions of this document prevail to the extent of the inconsistency.
- (b) From the time:
 - (i) the Deed Poll is executed, the provisions of the Deed Poll prevail over the provisions of this document to the extent of any inconsistency between them; and
 - (ii) the Scheme becomes Effective, the provisions of the Scheme prevail over the provisions of this document and the Deed Poll to the extent of any inconsistency between them.

1.4 **Fairly disclosed**

For the purposes of this document, a fact, matter or circumstance has been 'fairly disclosed' if the information has been disclosed such that a sophisticated purchaser or investor in Bidder's position would be expected to realise and understand the context, substance, importance and materiality of that information.

2. Agreement to propose and implement Scheme

2.1 **Target to propose Scheme**

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

2.2 Agreement to implement Scheme

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

3. Conditions Precedent

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of the parties with respect to the implementation of the Scheme (including the obligations of Bidder under clause 4.3) are not binding, until each of the following Conditions Precedent are satisfied or waived to the extent and in the manner set out in this clause.

Condition Precedent		Party entitled to benefit	Party responsible
(a)	(Shareholder approval) Scheme Shareholders approve the Scheme by the requisite majorities at the Scheme Meeting in accordance with the Corporations Act.	Cannot be waived	Target
(b)	(Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.	Cannot be waived	Target
(c)	(ASIC and ASX) as at 8:00am on the Second Court Date, ASIC and ASX have issued or provided, and not withdrawn, all approvals, consents and waivers which the Bidder and the Target agree in writing are reasonably necessary or desirable to implement the Transaction.	Both	Both
(d)	(Regulatory intervention) no Court or Regulatory Authority has issued or taken steps to issue an order, temporary restraining order, preliminary or permanent injunction, decree or ruling or taken any action enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Scheme and no such order, decree, ruling, other action or refusal is in effect as at 8.00am on the Second Court Date.	Both	Both
(e)	(FIRB Approval) One of the following occurs by 8:00am on the Second Court Date: (i) the day that is 10 days after the end of the decision period mentioned in section 77 of FATA passes without an order prohibiting the acquisition of Scheme Shares by Bidder having been made under section 67 or 68 of FATA; (ii) if an interim order has been made under section 68 of FATA to prohibit the acquisition of Scheme Shares by Bidder, the end of the period specified in such order passes without any final order being made; or (iii) Bidder receives a no objection notice (within the meaning of FATA) in respect of the acquisition of Scheme Shares by Bidder, such notice being unconditional or subject only to: (A) Standard Tax Conditions; and / or	Bidder	Bidder

	Condition Precedent	Party entitled to benefit	Party responsible
	(B) any conditions other than Standard Tax Conditions which are acceptable to Bidder acting reasonably.		
(f)	(Independent Expert's Report) the Independent Expert issues its report which concludes that the Scheme is fair and reasonable and in the best interests of Scheme Shareholders before the Scheme Booklet is registered by ASIC under the Corporations Act, and does not change its conclusions or qualify or withdraw its report prior to 8:00am on the Second Court Date.	Target	Target
(g)	(No Material Adverse Effect) no Material Adverse Effect occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(h)	(Options) by 8:00am on the Second Court Date, each Optionholder has either: (i) entered into an Option Cancellation Deed in respect of all Options held by such Optionholder; or (ii) exercised all Options held by such Optionholder.	Bidder	Both

3.2 Reasonable endeavours

- (a) Each of the Target and Bidder agree to use reasonable endeavours to procure that:
- (i) each of the Conditions Precedent for which it is a party responsible (as noted in clause 3.1):
 - (A) is satisfied as soon as practicable after the date of this document; and
 - (B) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
 - (ii) there is no occurrence within its control or the control of its Subsidiaries that would prevent the Condition Precedent for which it is a party responsible being satisfied.
- (b) Without limiting clause 3.2(a):
- (i) Bidder must:
 - (A) as soon as practicable, and in any event within 14 Business Days, following the date of this document, provide the proposed form of the application to be submitted to FIRB for the purposes of satisfying the Condition Precedent in clause 3.1(e) to Target for its review, and consider in good faith any comments provided by Target in respect of such application in accordance with clause 3.2(b)(ii);
 - (B) lodge the application with FIRB as soon as practicable and no later than 3 Business Days following receipt of any comments from Target in accordance with clause 3.2(b)(ii), and provide a copy of the lodged application to the Target;

- (C) pay the relevant application fee in respect of its FIRB application as soon as practicable after lodgment of such application; and
 - (D) keep Target reasonably updated, and provide Target with all material information, relating to the status of Bidder's application to FIRB and correspondence between Bidder and FIRB in relation to the Condition Precedent in clause 3.1(e); and
- (ii) Target must provide any comments it has in relation to Bidder's proposed form of FIRB application to Bidder, or otherwise inform Bidder that it has no comments in relation to such application, within 3 Business Days after the Bidder provides such application to Target.
- (c) For the avoidance of doubt, the Target will not be in breach of its obligations under clause 3.2(a)(i) or clause 3.2(a)(ii) to the extent that it takes an action or omits to take an action in response to a Competing Transaction as permitted by clause 9.

3.3 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by the party or parties entitled to the benefit of that Condition Precedent as noted in clause 3.1 and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.3 may do so in its absolute discretion.
- (c) If either the Target or Bidder waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause 3.3, then:
 - (i) subject to clause 3.3(c)(ii), that waiver precludes that party from suing the other for any breach of this document arising as a result of the breach or non-fulfilment of that Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that Condition Precedent; but
 - (ii) if the waiver of the Condition Precedent is itself conditional and the other party:
 - (A) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with clause 3.3(c)(i); or
 - (B) does not accept the condition, the Condition Precedent has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
 - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.4 Notices in relation to Conditions Precedent

Bidder and the Target must:

- (a) **(notice of satisfaction)** promptly notify the other of satisfaction of a Condition Precedent and must keep the other informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent;

- (b) **(notice of failure)** immediately give written notice to the other of a breach or non-fulfilment of a Condition Precedent, or of any event which will prevent a Condition Precedent being satisfied; and
- (c) **(notice of waiver)** upon receipt of a notice given under clause 3.4(b), give written notice to the other party as soon as possible (and in any event within 5 Business Days or any shorter period ending at 5.00pm on the day before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of any Condition Precedent resulting from the occurrence of that event, specifying the Condition Precedent in question.

3.5 **Consultation on failure of Condition Precedent**

If:

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

Bidder and the Target must consult in good faith with a view to determine whether:

- (d) the Scheme may proceed by way of alternative means or methods;
- (e) to adjourn or change the date of an application to the Court for an order approving the Scheme to another date agreed in writing between Bidder and Target (such date to be no later than 5 Business Days before the End Date); or
- (f) to extend the relevant time for satisfaction of the Condition Precedent or the End Date,

provided that neither party shall be under any obligation to agree to any alternative means for implementing the Scheme or any change to the date of an application to the Court, time for satisfaction of a Condition Precedent or the End Date.

3.6 **Failure to agree**

If Bidder and the Target are unable to reach agreement in writing under clause 3.5 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):

- (a) subject to clause 3.3(b), either party may terminate this document (and that termination will be in accordance with clause 12.1(h)(i)); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this document (and that termination will be in accordance with clause 12.1(h)(ii)),

in each case before 8.00am on the Second Court Date. A party will not be entitled to terminate this document under this clause 3.6 if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of a breach of this document by that party or a deliberate act or omission of that party.

4. Outline of Scheme

4.1 Scheme

The Target must propose a scheme of arrangement under which:

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

4.2 Scheme Consideration

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

4.3 Payment of Scheme Consideration

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

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

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

4.4 Options

- (a) The Target must use reasonable endeavours to procure that each Optionholder enters into an Option Cancellation Deed prior to the Second Court Date.
- (b) Bidder covenants in favour of the Target (in its own right and as trustee for each Optionholder) that, subject to the Scheme becoming Effective and by no later than the Implementation Date, they will pay, procure the payment of, or provide the Target with sufficient funds to pay, the Option Consideration payable to each Optionholder who has executed an Option Cancellation Deed on the Implementation Date.

4.5 No amendment to the Scheme without consent

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

5. Implementation

5.1 General obligations

The Target and Bidder must each:

- (a) use all reasonable endeavours and commit necessary resources; and

- (b) procure that its officers and advisers work in good faith and in a timely and co-operative fashion with the other party,

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

5.2 Target's obligations

Subject to any change of recommendation by the Target Board that is permitted by clause 6, the Target must take all reasonable steps to implement the Scheme on a basis consistent with this document and as soon as reasonably practicable, and in particular must:

- (a) **(announce directors' recommendation)** following execution of this document, announce, in a form agreed between the Target and Bidder in writing (on the basis of statements made to the Target by each member of the Target Board) that:
 - (i) the Independent Directors intend to unanimously recommend to Scheme Participants that the Scheme be approved; and
 - (ii) each Independent Director who holds Scheme Shares intends to vote Scheme Shares that he or she directly or indirectly owns or controls in favour of the Scheme,subject to:
 - (iii) the Independent Expert concluding, and continuing to conclude, that the Scheme is fair and reasonable to, and in the best interests of, the Scheme Shareholders; and
 - (iv) there being no Superior Proposal.
- (b) **(preparation of Scheme Booklet)** subject to clauses 5.2(d)(i) and 5.3(a), as soon as practicable after the date of this document, prepare and dispatch the Scheme Booklet:
 - (i) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules; and
 - (ii) which includes a statement by the Independent Directors:
 - (A) unanimously recommending that Scheme Shareholders vote in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is fair and reasonable to, and in the best interests of, Scheme Shareholders and there being no Superior Proposal; and
 - (B) that each Independent Director who holds Scheme Shares intends to vote Scheme Shares that he or she directly or indirectly owns or controls in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is fair and reasonable to, and in the best interests of, Scheme Shareholders and there being no Superior Proposal;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide any assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare its report for the Scheme Booklet as soon as practicable;
- (d) **(consultation with Bidder)** consult with Bidder as to the content and presentation of:
 - (i) the Scheme Booklet, which includes:

- (A) allowing Bidder a reasonable opportunity to review and make comments on successive substantive drafts of the Scheme Booklet before the Regulator's Draft is finalised (accepting that any review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to Bidder);
 - (B) taking any reasonable comments made by Bidder into account in good faith when producing the Regulator's Draft; and
 - (C) providing to Bidder a draft of the Regulator's Draft at least two Business Days before the Regulator's Draft is provided to ASIC; and
- (ii) documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating processes, affidavits, submissions and draft minutes of Court orders), and consider in good faith any comments on, or suggested amendments to, those documents from Bidder prior to filing those documents with the Court;
- (e) **(lodgement of Regulator's Draft)**
 - (i) no later than 14 days before the First Court Date, provide the Regulator's Draft to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder immediately thereafter; and
 - (ii) keep Bidder reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Bidder in good faith prior to taking any steps or actions to address those material issues (provided that, where those issues relate to Bidder Information, the Target must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld);
 - (f) **(section 411(17)(b) statement)** apply to ASIC for the production of a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
 - (g) **(Court application)** apply to the Court for an order under section 411(1) of the Corporations Act directing the Target to convene the Scheme Meeting;
 - (h) **(send Scheme Booklet)** send the Scheme Booklet to Scheme Shareholders as soon as practicable after the Court orders the Target to convene the Scheme Meeting;
 - (i) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, the Target becomes aware:
 - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Scheme Shareholders under any applicable law but was not included in the Scheme Booklet,

promptly consult with Bidder in good faith as to the need for, and the form of, any supplementary disclosure to Scheme Shareholders, and make any disclosure that the Target considers reasonably necessary in the circumstances, having regard to applicable laws and to ensure that there would be no breach of clause 11.1(g) if it applied as at the date that information arose;
 - (j) **(Scheme Meeting)** convene the Scheme Meeting to agree to the Scheme in accordance with any orders made by the Court pursuant to section 411(1) of the Corporations Act;

- (k) **(Court approval)** subject to all Conditions Precedent other than paragraph (b) in clause 3.1 being satisfied or waived in accordance with this document, apply to the Court for an order approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (l) **(Conditions Precedent certificate)** at the hearing on the Second Court Date, provide to the Court:
 - (i) a certificate confirming (in respect of matters within the Target's knowledge) whether or not the Conditions Precedent for which it is responsible, as noted in clause 3.1 (other than paragraph (b)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Bidder by 5.00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Bidder under clause 5.3(f);
- (m) **(lodge copy of Court order)** lodge with ASIC an office copy of the Court order approving the Scheme as approved by the Scheme Shareholders at the Scheme Meeting in accordance with section 411(10) of the Corporations Act no later than 5pm on the Business Day after that office copy is received (or any later date agreed in writing by Bidder);
- (n) **(Register)** close the Register as at the Record Date to determine the identity of Scheme Participants and their entitlements to Scheme Consideration;
- (o) **(instruments of transfer)** subject to Bidder satisfying their obligations under clause 4.3, on the Implementation Date:
 - (i) execute proper instruments of transfer and effect the transfer of Scheme Shares to Bidder in accordance with the Scheme; and
 - (ii) register all transfers of Scheme Shares held by Scheme Participants to Bidder;
- (p) **(suspension of trading)** apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date;
- (q) **(listing)** take all reasonable steps to maintain the Target's listing on ASX, notwithstanding any suspension of the quotation of the Target Shares, up to and including the date referred to in clause 5.2(p); and
- (r) **(other steps)** do all other things necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

5.3 Bidder's obligations

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

- (a) **(Bidder Information)** prepare and promptly provide to the Target for inclusion in the Scheme Booklet the Bidder Information (in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules) and consent to the inclusion of that information in the Scheme Booklet;
- (b) **(further Bidder Information)** promptly provide to the Target any further or new Bidder Information as may arise after the Scheme Booklet has been sent to Scheme Shareholders and until the date of the Scheme Meeting as may be necessary to ensure that the Bidder Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and to ensure that there would be

no breach of clause 11.3(g) if it applied as at the date on which such further or new Bidder Information arose;

- (c) **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (d) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its counsel, Bidder must undertake (if requested by the Court) to do all things and take all steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this document and the Scheme;
- (e) **(Deed Poll)** by no later than 5:00pm on the date being two Business Days before the First Court Date, sign and deliver the Deed Poll to the Target;
- (f) **(Conditions Precedent certificate)** before 8.00am on the Second Court Date, provide to the Target for provision to the Court at the hearing on that date a certificate confirming (in respect of matters within Bidder's knowledge) whether or not the Conditions Precedent for which Bidder is responsible, as noted in clause 3.1 (other than paragraph (b)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to the Target by 5.00pm on the Business Day prior to the Second Court Date;
- (g) **(Share transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 4.3(a);
- (h) **(Scheme Consideration)** if the Scheme becomes Effective, pay or procure the payment of the Scheme Consideration in the manner and amount contemplated by clause 4.3(b) and the terms of the Scheme.

5.4 **Scheme Booklet responsibility statement**

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

- (a) the Target has prepared, and is responsible for, the content of the Scheme Booklet other than, to the maximum extent permitted by law, the Bidder Information, the Independent Expert's Report or any other report or letter issued to the Target by a third party; and
- (b) Bidder has prepared, and is responsible for, the Bidder Information in the Scheme Booklet (and no other part of the Scheme Booklet).

5.5 **Disagreement on content of Scheme Booklet**

If Bidder and Target disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement in writing is not reached after reasonable consultation, then:

- (a) if the disagreement relates to the form or content of the Bidder Information contained in the Scheme Booklet, the Target will make any amendments as Bidder reasonably requires; and
- (b) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the Target Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.

5.6 **Verification**

- (a) Bidder and the Target must undertake appropriate verification processes for the information supplied by that party in the Scheme Booklet.
- (b) Bidder must provide such documentation to evidence its verification of the Bidder Information that the Target may reasonably request.

5.7 **Conduct of Court proceeding**

The Target and Bidder are entitled to separate representation at all Court proceedings relating to the Scheme. This document does not give the Target 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. The Target must give, 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 Scheme as contemplated by this document.

5.8 **Appeal process**

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

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

in which case either party may terminate this document in accordance with clause 12.1(h)(iii).

5.9 **Transaction Implementation Committee**

Bidder and the Target must establish a Transaction Implementation Committee as soon as reasonably practical after the date of this document. The role of the Transaction Implementation Committee will be to act as a forum for consultation and planning by Bidder and the Target to:

- (a) implement the Scheme; and
- (b) subject to clause 5.10, ensure the smooth transition of the management of the business and affairs of the Target Group to the Bidder following the implementation of the Scheme.

5.10 **No partnership or joint venture**

Subject to this document, nothing in this clause 5.10 requires either party to act at the direction of the other. The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

6. **Target Board recommendation**

The Target must use its best endeavours to procure that no Independent Director withdraws or changes their recommendation in favour of the Scheme, unless:

- (a) there is a Superior Proposal;
- (b) the Independent Expert concludes that the Scheme is not fair and reasonable to, or not in the best interests of, the Scheme Shareholders, or adversely changes, qualifies or

withdraws its previously given opinion that the Scheme is fair and reasonable to and in the best interests of the Scheme Shareholders; or

- (c) in the opinion of a majority of the Independent Directors, formed in good faith and acting reasonably, having received expert advice in writing from the Target's legal advisors, not doing so would, or would be likely to, involve a breach of what such Independent Directors consider to be their fiduciary or statutory duties to Scheme Shareholders.

7. Directors and employees

7.1 Release of Target and Target directors and officers

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

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

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except whether the Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.1 limits the Bidder's rights to terminate this document under clause 12.1.

7.2 Release of Bidder and Bidder directors and officers

Subject to the Corporations Act, the Target 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 document and from time to time in connection with:

- (a) any breach of any representations and warranties of Bidder or any other member of the Bidder Group in this document; or
- (b) any disclosure containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.2 limits the Target's rights to terminate this document under clause 12.

7.3 Benefit for Bidder Indemnified Parties

Bidder receives and holds the benefit of this clause 7 to the extent it relates to each Bidder Indemnified Party on behalf of each of them.

7.4 Benefit for Target Indemnified Parties

The Target receives and holds the benefit of this clause 7 to the extent it relates to each Target Indemnified Party on behalf of each of them.

7.5 Appointment/retirement of Target directors

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

- (a) cause the appointment of each Incoming Director to the Target Board; and
- (b) procure that each of the Outgoing Directors retire from the Target Board, and use all reasonable endeavours to procure that each Outgoing Director provides written notice to the effect that they have no claim outstanding for loss of office, remuneration or otherwise against the Target,

in each case, in accordance with the Target Constitution, the Corporations Act and the Listing Rules.

7.6 Directors' and officers' insurance

- (a) Subject to the Scheme becoming Effective and subject to the Corporations Act, Bidder undertakes in favour of the Target and each other person who is a Target Indemnified Party that it will:
 - (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of the Target and each other member of the Target Group continue to contain such articles as are contained in those constitutions at the date of this document that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to the maximum extent permitted by law; and
 - (ii) procure that the Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that the directors' and officers' run-off insurance cover for those directors and officers is maintained for a period of 7 years from the retirement date of each director and officer.
- (b) Notwithstanding any other provision of this document, the Target may, prior to Implementation Date, enter into arrangement to secure director and officers' run-off insurance for up to 7 years from the Implementation Date. Any actions to facilitate, or in connection with, that insurance will not be a Target Prescribed Event or a breach of any provision of this document.

7.7 Benefit of undertaking for Target Group

The Target acknowledges that it receives and holds the benefit of clause 7.6 to the extent it relates to each director and officer of a member of the Target Group on behalf of each of them.

8. Conduct of business

8.1 Overview

From the date of this document up to and including the Implementation Date, the Target must, and must cause each member of the Target Group to, conduct its business in the ordinary course and in substantially the same manner as previously conducted.

8.2 Specific obligations

Without limiting clause 8.1, but subject to clause 8.3, the Target must, during the period contemplated by clause 8.1, use reasonable endeavours to ensure that the Target and each member of the Target Group:

- (a) **(business and assets)** maintains the condition of its business and assets;
- (b) **(officers and employees)** keeps available the services of its officers and employees;
- (c) **(relationships)** preserves its relationships with customers, suppliers, licensors, licensees, joint venturers and others with whom it has business dealings;
- (d) **(change of control consents)** provides all assistance as may reasonably be requested by the Bidder to obtain any change of control consents relating to the Target Group and identified by the Bidder Group as being required in connection with the Proposed Transaction;
- (e) **(Claim)** promptly notifies Bidder of any material Claims (including, without limitation, before a court or Government Agency) which may be threatened, brought, asserted or commenced against any member of the Target Group or their directors or officers and consult with Bidder in relation to such matter to the extent reasonably required;
- (f) **(no Target Prescribed Event)** ensures that, between (and including) the date of this document and 8.00am on the Second Court Date, there is no occurrence reasonably within its control or the control of any Target Group entity that would constitute a Target Prescribed Event; and
- (g) **(notification)** promptly notifies the Bidder of anything of which it becomes aware that makes any of the Target Representations and Warranties false, inaccurate, misleading or deceptive in any material respect.

8.3 Exceptions to conduct of business provisions

Nothing in this clause 8 restricts the ability of the Target to take any action which:

- (a) is expressly required or permitted by this document, the Scheme, or otherwise required by law or any order of a Court or Regulatory Authority;
- (b) has been Disclosed to Bidder;
- (c) has been disclosed by the Target to ASX before the date of this document;
- (d) has been approved in writing by Bidder (such approval not to be unreasonably withheld, conditioned or delayed); or
- (e) is undertaken in the ordinary course of the Target Group's business.

8.4 Access to people and Target Information

Between the date on which the Condition Precedent in paragraph (a) of clause 3.1 is satisfied and the Implementation Date, the Target must:

- (a) as soon as reasonably practicable provide Bidder and its officers and advisers with any documents, records, and other information (subject to any existing confidentiality obligations owed to third parties, or applicable privacy laws) reasonably requested by them; and
- (b) provide Bidder and its officers and advisers with reasonable access to the Target's records (subject to any existing confidentiality obligations owed to third parties and

compliance with applicable privacy laws), premises, officers and employees which Bidder reasonably requires for the purposes of:

- (i) understanding the Target's financial position (including its cash flow and working capital position), trading performance and management control systems;
- (ii) implementing the Scheme;
- (iii) preparing for carrying on the business of the Target following implementation of the Scheme; and
- (iv) any other purpose which is agreed in writing between Bidder and the Target.

provided that:

- (c) nothing in this clause 8.4 requires the Target to provide information concerning the Target's consideration of the Scheme; and
- (d) compliance with any such request would not, in the Target's reasonable opinion, result in undue disruption to the Target Group's business.

9. Exclusivity

9.1 No existing discussions

The Target represents and warrants that, other than the discussions with Bidder and its Representatives in respect of the Scheme, it is not currently in negotiations or discussions in respect of any Competing Transaction with any person.

9.2 No-shop

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

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

in relation to a Competing Transaction or that may reasonably be expected to lead to a Competing Transaction.

9.3 No-talk

Subject to clause 9.8, during the Exclusivity Period, the Target must ensure that neither it nor any of its Representatives:

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

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

9.4 Due diligence information

Subject to clauses 9.8 and 9.9, during the Exclusivity Period, the Target must ensure that neither it nor any of its Representatives in relation to a Competing Transaction:

- (a) facilitates or permits any person other than Bidder to undertake due diligence investigations on any member of the Target Group or their businesses or operations; or
- (b) makes available to any person, or permits any person to receive, other than Bidder (in the course of due diligence investigations or otherwise) any non-public information relating to any member of the Target Group or their businesses or operations.

9.5 **Notice of unsolicited approach**

Subject to clause 9.8, during the Exclusivity Period, the Target must promptly inform Bidder if it or any of its Representatives receives any unsolicited approach with respect to any Competing Transaction and must disclose to Bidder the material terms and conditions of such Competing Transaction, including price, conditions precedent, timetable and break fee (if any), but not the identity of the potential Third Party bidder or acquirer in respect of the actual, proposed or potential Competing Transaction.

9.6 **Matching right**

Without limiting clauses 9.2 and 9.3, but subject to clause 9.8, during the Exclusivity Period, the Target must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a Third Party, the Target or both proposes or propose to undertake or give effect to an actual, proposed or potential Competing Transaction unless:

- (a) a majority of the Independent Directors, acting in good faith and in order to satisfy what the Independent Directors consider to be their statutory or fiduciary duties (having received advice from the Target's external legal advisers), determines that the Competing Transaction would be or would be likely to be an actual, proposed or potential Superior Proposal;
- (b) the Target has complied with clause 9.5 in relation to the actual, proposed or potential Competing Transaction;
- (c) the Target has given Bidder at least 3 Business Days after the date of the provision of the information referred to in clause 9.5 to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction; and
- (d) Bidder has not submitted a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction by the expiry of the 3 Business Day period referred to in clause 9.6(c), which the Independent Directors, acting reasonably and in good faith, determines would provide an equivalent or superior outcome for Scheme Shareholders as a whole compared with the Competing Transaction.

The Target acknowledges and agrees that each successive modification of any actual, proposed or potential Competing Transaction will constitute a new actual, proposed or potential Competing Transaction for the purposes of the requirements under clause 9.7 and accordingly the Target must comply with clause 9.6(a) and clause 9.6(b) in respect of any new actual, proposed or potential Competing Transaction unless clauses 9.6(c) and 9.6(d) (inclusive) apply.

9.7 **Bidder counterproposal**

If Bidder proposes to the Target, or announces amendments to the Proposed Transaction or a new proposal that constitute a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction ("**Bidder Counterproposal**") by the expiry of the 3 Business Day period referred to in clause 9.6(c), the Target must procure that the Independent Directors considers the Bidder Counterproposal and if the Independent Directors, acting reasonably and in good faith, determines that the Bidder Counterproposal would provide an equivalent or superior outcome for Scheme Shareholders as a whole compared with the

Competing Transaction, taking into account all of the terms and conditions of the Bidder Counterproposal, then:

- (a) the Target and Bidder Parent must use their best endeavours to agree in writing the amendments to this document and, enter into, the transaction documents that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable; and
- (b) the Target must use its best endeavours to procure that each of the Independent Directors continue to recommend the Proposed Transaction (as modified by the Bidder Counterproposal) to Scheme Shareholders, subject to the qualifications set out in section 6.

9.8 Exceptions

Clauses 9.3, 9.4 and 9.5 do not apply to the extent that they restrict the Target or the Target Board from taking or refusing to take any action with respect to a genuine potential Competing Transaction (which was not solicited, invited, encouraged or initiated by the Target in contravention of clause 9.2) provided that a majority of the members of the Independent Directors have determined in good faith that:

- (a) such a genuine Competing Transaction is, or could reasonably be considered to become, a Superior Proposal; and
- (b) after receiving legal advice from the Target's external legal advisers (who must be reputable advisers experienced in transactions of this nature), failing to respond to such a genuine Competing Transaction would be reasonably likely to constitute a breach of what the Independent Directors consider to be their fiduciary or statutory obligations.

9.9 Further exceptions

Nothing in this document prevents the Target from:

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

10. Standstill

10.1 Restriction on Bidder

Subject to clause 10.2, during the Exclusivity Period, Bidder must not, and must procure that each other member of the Bidder Group does not, and must use reasonable endeavours to ensure their Associates do not:

- (a) acquire or offer to acquire, any securities or property or any right or option to acquire any Target Shares or other securities in Target unless it has received the prior written consent of the Target;
- (b) enter into any arrangements involving the conferring of rights the economic effect of which is equivalent, or substantially equivalent, to acquiring, holding or disposing of securities in the Target; or
- (c) solicit proxies from Target Shareholders or otherwise seek to influence or control the management or policies of Target.

10.2 Exception

Clause 10.1 does not apply to any action required to be taken by Bidder or any other person under the Scheme.

11. Representations and warranties

11.1 Target's representations and warranties

The Target represents and warrants to Bidder (on its own behalf and separately as trustee or nominee for each of Bidder's directors) that each of the following statements is true and correct in all material respects as at the date of this document, as at 5:00pm on the Business Day immediately prior to the First Court Date and as at 5:00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Target Information contained in the Scheme Booklet will be included in good faith and on the understanding that Bidder and its directors will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (g) **(Target Information)** the Target Information provided in accordance with this document and included in the Scheme Booklet as at the date of the Scheme Booklet will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(continuous disclosure)** the Target is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from disclosure (other than the transaction contemplated by this document);
- (i) **(information)** the information Disclosed by the Target to the Bidder Group has been provided in good faith;
- (j) **(provision of information to Independent Expert)** all information provided by or on behalf of the Target to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the

understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;

- (k) **(securities)** the Target's issued securities as at the date of this document are 1,103,761,492 Target Shares, and 171,216,634 Options, and it has not issued or agreed to issue any other securities or instruments which are still outstanding and which may convert into Target Shares; and
- (l) **(no Encumbrances)** except as Disclosed, there are no material Encumbrances over all or any of its assets or revenues which relate to an aggregate amount not exceeding \$300,000; and
- (m) **(Insolvency event)** no member of the Target Group is Insolvent.

11.2 Target's indemnity

The Target indemnifies Bidder Indemnified Parties against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 11.1 not being true and correct.

11.3 Bidder representations and warranties

Bidder represents and warrants to the Target (on its own behalf and separately as trustee or nominee for each of the Target directors) that each of the following statements is true and correct in all material respects as at the date of this document, as at 5:00pm on the Business Day immediately prior to the First Court Date and as at 5:00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Bidder Information provided to the Target for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that the Target and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (g) **(Bidder Information)** the Bidder Information provided in accordance with this document and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;

- (h) **(provision of information to Independent Expert)** all information provided by or on behalf of the Bidder Group to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (i) **(unconditional cash reserves on the Second Court Date and the Implementation Date)** by 8.00am on the Second Court Date and on the Implementation Date, the Bidder Group will have available to it on an unconditional basis (other than, on the Second Court Date, conditions relating to the approval of the Court and other conditions within the sole control of the Bidder Group) sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll;
- (j) **(Insolvency event)** no member of the Bidder Group is Insolvent; and
- (k) **(no Relevant Interest)** as at the date of this document, no member of the Bidder Group and no Associate of any member of the Bidder Group has a Relevant Interest in any Scheme Shares.

11.4 Bidder's indemnity

Bidder indemnifies the Target Indemnified Parties against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 11.3 not being true and correct.

12. Termination

12.1 Termination events

This document may be terminated:

- (a) **(End Date)** by either Bidder or the Target, if the Scheme has not become Effective on or before the End Date;
- (b) **(lack of support)** by Bidder at any time prior to 8.00am on the Second Court Date if a majority of the Independent Directors change their recommendation or fail to recommend to the Scheme Participants that they vote in favour of the resolution to approve the Scheme;
- (c) **(material breach)** by either Bidder or the Target at any time prior to 8.00am on the Second Court Date, if the other is in material breach of a term of this document (including any representation and warranty not being true and correct), taken in the context of the Scheme as a whole, provided that Bidder or the Target (as the case may be) has, if practicable, given notice to the other setting out the relevant circumstances and the relevant circumstances continue to exist 5 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time such notice is given;
- (d) **(Target Prescribed Event)** by Bidder if at any time prior to 8.00am on the Second Court Date, there is a Target Prescribed Event;
- (e) **(competing interest)** by Bidder, if a person (other than its Associates or a Target Shareholder as at the date of this document) has a Relevant Interest in more than 20% of the Target Shares;
- (f) **(Superior Proposal)** by the Target if a majority of the Independent Directors determines that a Competing Transaction that was not solicited, invited, encouraged or initiated in breach of clause 9.2 is a Superior Proposal;

- (g) **(WHSP Deed)** by CD Capital if WHSP gives notice under clause 4.1(i) of the Deed of Irrevocable Undertaking entered into by WHSP on or around the date of this Agreement;
- (h) **(consultation or appeal failure)** in accordance with and pursuant to:
 - (i) clause 3.6(a);
 - (ii) clause 3.6(b); or
 - (iii) clause 5.8; or
- (i) **(agreement)** if agreed to in writing by Bidder and the Target.

12.2 Termination

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

12.3 Effect of Termination

If this document is terminated by either party, or if this document otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this document, other than the obligations set out in this clause 12 and in clauses 14 to 18 (inclusive), any other clause which is expressed to survive the termination of this document, and those provisions of clause 1 which go to the interpretation of such clauses will immediately cease to be of further force and effect without further liability of any party to the other, provided that subject to clause 12.4, nothing in this clause 12.3 releases any party from liability for any pre-termination breach of this document.

12.4 Termination sole remedy

If a party is entitled to terminate, and does terminate, this document under clause 12.1 (other than for material breach of this document under clause 12.1(c) for which a party will retain their full legal rights), termination will be such party's sole remedy and such party will not be entitled to damages for Losses suffered by it and expenses incurred by it as a result of circumstances giving rise to the right to terminate this document or the termination of this document.

13. Confidentiality and public announcements

13.1 Confidentiality

Each party must keep the terms of this document, and all information provided by one party to another under or in connection with this document or the Scheme, strictly confidential, and must not disclose such information to any person except:

- (a) in accordance with clause 13.1;
- (b) with the prior written consent of the other parties;
- (c) to its officers, employees, advisers, consultants, financiers and Related Bodies Corporate to whom (and to the extent to which) it is necessary to disclose the information in order to properly perform their obligations under this document;
- (d) where the information has come into the public domain through no fault of that party;
- (e) to the extent necessary to obtain any approval or consent contemplated by this document; or

- (f) where the disclosure is required by any applicable law, regulatory requirement, legal process, Listing Rule or order of any Regulatory Authority, provided the party first uses reasonable endeavours, to the extent practicable and lawful, to consult with the other party prior to making the relevant disclosure.

13.2 **Public announcement of Scheme**

Immediately after signing this document, the Target must issue a public announcement of the proposed Scheme in the form contained in Annexure A.

13.3 **Other announcements**

Subject to clauses 13.1(f), no party may make any public announcement or disclosure in connection with this document or the Scheme (including disclosure to a Regulatory Authority) other than in a form approved by each party (acting reasonably). Each party will use all reasonable endeavours to provide such approval as soon as practicable.

14. **Notices and other communications**

14.1 **Form**

- (a) Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.
- (b) All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).
- (c) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

14.2 **Delivery**

Subject to clause 14.6, communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or
- (c) sent by email to the address referred to in the Details.

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

14.3 **When effective**

Communications take effect from the time they are received or taken to be received under clause 14.4 (“When taken to be received”) (whichever happens first) unless a later time is specified in the communication.

14.4 **When taken to be received**

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 days after posting if sent from one country to another);

- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,whichever happens first.

14.5 **Receipt outside business hours**

Despite anything else in this clause 14, if communications are received or taken to be received under clause 14.4 ("When taken to be received") after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

14.6 **Local Agent**

Bidder irrevocably appoints the Local Agent to receive on its behalf service of process issued out of an Australian court in relation to any dispute or Claim arising from or in connection with this document.

15. **GST**

15.1 **Definitions and interpretation**

For the purposes of this clause 15:

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

15.2 **GST exclusive**

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

15.3 **Payment of GST**

- (a) If GST is payable, or notionally payable, by a supplier or the representative member of the GST which the supplier is a member, on a supply in connection with this document, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply ("**GST Amount**").
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause 15.3 does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

15.4 **Adjustment events**

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

15.5 **Reimbursements**

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

16. **Costs**

16.1 **Costs**

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document.

17. **General**

17.1 **Amendments**

This document can only be amended or replaced by another document executed by the parties.

17.2 **Waiver**

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

17.3 **Consents, approvals or waivers**

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

17.4 **Discretion in exercising rights**

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

17.5 **Partial exercising of rights**

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

17.6 **Conflict of interest**

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

17.7 Remedies cumulative

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

17.8 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document.

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

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

17.9 Inconsistent law

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

17.10 Supervening law

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

17.11 Counterparts

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

17.12 Entire agreement

This document (including the documents in the Schedules and Annexures to this document) constitutes the entire agreement of the parties about its subject matter and supersedes all previous discussions, agreements, understandings and negotiations on that subject matter.

17.13 Further steps

Each party agrees to do anything (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed), which the other party asks and considers necessary to:

- (a) bind the party and any other person intended to be bound under this document; or
- (b) show whether the party is complying with this document.

17.14 No liability for loss

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

17.15 **Severability**

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 17.15 has no effect if the severance alters the basic nature of this document or is contrary to public policy.

17.16 **Rules of construction**

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

17.17 **Assignment**

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

17.18 **Enforceability**

For the purpose of this document:

- (a) the Target is taken to be acting as agent and trustee on behalf of and for the benefit of all Target Indemnified Parties; and
- (b) Bidder is taken to be acting as agent and trustee on behalf of and for the benefit of all Bidder Indemnified Parties,

and all of those persons are to this extent taken to be parties to this document.

17.19 **No representation or reliance**

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document other than a statement expressly included in this document;
- (b) it does not enter into this document in reliance on any representation or other inducement by or on behalf of any other party other than a statement expressly included in this document; and
- (c) clauses 17.19(a) and 17.19(b) above do not prejudice any rights a party may have in relation to information which had been filed by the other party with ASIC or ASX.

18. Governing law

18.1 **Governing law and jurisdiction**

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

18.2 **Serving documents**

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address for service of notices under clause 14.2 ("**Delivery**") or with its process agent.

EXECUTED as an agreement

Schedule 1 Timetable (clause 5.1)

Event	Date
Lodge Regulator's Draft with ASIC	Friday 5 April 2019
Application in respect of the Court hearing to be held on the First Court Date, filed with the Court, served on ASIC	Monday 8 April 2019
Execution of Deed Poll	Wednesday 24 April 2019
First Court Date	Monday 29 April 2019
Printing and dispatch of Scheme Booklet	Tuesday 30 April – Monday 6 May 2019
Scheme Meeting held	Wednesday 5 June 2019
Second Court Date	Thursday 6 June 2019
Lodge Court order with ASIC (Effective Date)	Friday 7 June 2019
Suspension of trading in Target Shares at close of trading	
Record Date	Monday 17 June 2019
Payment of Scheme Consideration into Target trust account	Thursday 20 June 2019
Implementation Date	Monday 24 June 2019

Signing page

SIGNED by **CD Capital Natural Resources Fund III LP** by its authorised representative in the presence of:



Signature of Witness

Genevieve Madden

Full Name of Witness



Signature of Authorised Representative

CARMEL DANIELE

Full Name of Authorised Representative

SIGNED by **Verdant Minerals Ltd (ACN 122 131 622)** in accordance with section 127(1) of the Corporations Act by:

Signature of Director

Full Name of Director

Signature of Director / Company Secretary

Full Name of Director / Company Secretary

Signing page

SIGNED by CD Capital Natural Resources Fund III LP by its authorised representative in the presence of:

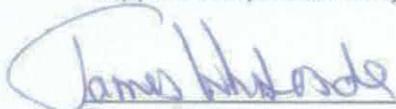
Signature of Witness

Signature of Authorised Representative

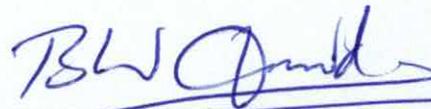
Full Name of Witness

Full Name of Authorised Representative

SIGNED by Verdant Minerals Ltd (ACN 122 131 622) in accordance with section 127(1) of the Corporations Act by:



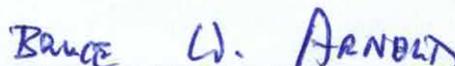
Signature of Director



Signature of Director / Company Secretary



Full Name of Director



Full Name of Director / Company Secretary

Annexure A Public announcement

Annexure B Scheme of Arrangement

Annexure C Deed Poll