



VILLAGE ROADSHOW

VILLAGE ROADSHOW ENTERS INTO IMPLEMENTATION AGREEMENT WITH BGH

6 August 2020: Village Roadshow Limited (ASX: VRL) ("VRL") today announced that it has entered into an Implementation Agreement¹ with an entity owned by funds managed by BGH Capital Pty Ltd ("BGH"), under which BGH undertakes to acquire control of VRL by way of two alternative but concurrent schemes of arrangement ("Scheme of Arrangement" or "Scheme") representing total value of up to \$2.45 per share (together, the "BGH Transaction").

- **Under the terms of the Scheme of Arrangement, VRL shareholders will be entitled to receive total value of up to \$2.45 per share, consisting of a base offer price of \$2.20 per share under the Structure A alternative (or \$2.10 per share under the Structure B alternative) and additional offer price of up to \$0.25 per share, contingent on the re-opening of theme parks and cinemas and Queensland borders being open to any person from New South Wales and Victoria ("Scheme Consideration")**
- **The Scheme Consideration under Structure A represents a premium of c.25–39% to the closing price of VRL shares on 15 May 2020 of \$1.765 (being the last trading day prior to VRL entering into the Transaction Process Deed with BGH)**
- **The BGH Transaction is subject to limited conditions and is not subject to arranging financing or due diligence**
- **The Independent Committee of the VRL Board of Directors ("IBC") unanimously recommends the BGH Transaction in the absence of a Superior Proposal, and subject to an Independent Expert concluding that the BGH Transaction is in the best interests of VRL shareholders**

The Chairman of the IBC, Peter Tonagh, said:

"The IBC has worked diligently, together with its advisers, to consider a range of alternatives since it first received a proposal from Pacific Equity Partners on 19 December 2019 and from BGH on 24 January 2020. Over that period of time there has been a significant change in VRL's financial position and trading environment.

Having regard to the options available, including continuing as an independent listed company, the IBC has unanimously concluded that the BGH Transaction is in the best interests of all VRL shareholders, in the absence of a Superior Proposal, and subject to an Independent Expert concluding that the BGH Transaction is in the best interests of VRL shareholders.

The BGH Transaction provides the opportunity for all VRL shareholders to realise an attractive cash price for all of their VRL shares, in a very uncertain operating environment. VRL shareholders will also have the opportunity to elect to retain an equity interest in an unlisted VRL entity that is controlled by BGH.

¹ Capitalised terms have the meaning given to them in the Implementation Agreement, unless otherwise defined in this document.

In considering the merits of the BGH Transaction, the Independent Directors have at all times been guided by our overarching responsibility to consider the long-term interests of VRL and all of its shareholders. It is our view that the BGH Transaction will realise attractive value for all shareholders."

Overview of the Scheme Consideration

The BGH Transaction is for an acquisition of all of the shares in VRL at a price of up to \$2.45 per share. The Scheme Consideration of up to \$2.45 per share consists of a:

- Base offer price of \$2.20 per share under structure A (or \$2.10 per share under the alternative Structure B); plus
- Additional offer price of \$0.12 per share in the event that the Warner Bros. Movie World and the Sea World theme parks are open to the public for a period of 5 Business Days ending at 4pm on the day that is 2 Business Days prior to the Proxy Cut-Off Date² ("Theme Parks Uplift"); plus
- Additional offer price of \$0.08 per share in the event that a majority of the Cinemas business locations (representing 75% of Cinemas business revenue in FY19) are open to the public for a period of 5 Business Days ending at 4pm on the day that is 2 Business Days prior to the Proxy Cut-Off Date³ and there are no significant changes to the expected movie slate for the remainder of FY21⁴ ("Cinema Uplift"); plus
- Additional offer price of \$0.05 per share in the event that there are no border control measures imposed by the Queensland Government prohibiting any person from entering Queensland from New South Wales on 15 October 2020 and from Victoria on 31 October 2020 ("Border Uplift").

Under the BGH Transaction, shareholders will have the option to receive all cash or, subject to certain limitations which will be described in the Explanatory Booklet, to either receive the Scheme Consideration as an equity interest in an unlisted company controlled by BGH that would own 100% of VRL (under Structure A) or retain their VRL shares (under Structure B).

The offer price of \$2.20 per share (base offer price) and \$2.45 per share (increased price⁵) under Structure A represents:

- a 25-39% premium to VRL's closing price of A\$1.765 on Friday, 15 May 2020 (being the last day before the Company released the ASX announcement entitled "Village Roadshow Enters Into Exclusive Discussions with BGH"); and
- a 51-68% premium to the A\$1.460 VWAP from 19 March 2020 (being the day upon which the Company released the ASX announcement entitled "Update on COVID-19 Response") to the end of trading Friday, 15 May 2020; and
- an implied equity value of up to \$478 million and enterprise value of up to approximately \$758 million.⁶

² Disregarding temporary closures for cleaning or analogous purposes in accordance with the requirements of any Government Agency.

³ Disregarding temporary closures for cleaning or analogous purposes in accordance with the requirements of any Government Agency.

⁴ Refer to the Implementation Agreement for details of the Cinema Uplift Event.

⁵ If each of the Theme Parks Uplift, Cinemas Uplift and Border Uplift apply.

Overview of the BGH Transaction – transaction structures

Under the BGH Transaction, two alternative and concurrent transaction structures have been proposed to effect the transaction.

Structure A

The first structure ("Structure A") would involve a newly incorporated company ("HoldCo") controlled by BGH acquiring the shares in VRC's ultimate holding company from John Kirby, Robert Kirby and Graham Burke (together, "VRC shareholders"), then VRC acquiring all VRL shares held directly by VRC shareholders and those held by shareholders other than VRC shareholders ("Non-VRC shareholders") via a Scheme of Arrangement.

The VRC shareholders would receive consideration comprising shares in the unlisted HoldCo and a proportion of cash. Non-VRC shareholders would have the option to receive their consideration in the form of all cash, 50% cash and 50% shares in HoldCo or 100% shares in HoldCo. The number of shares in HoldCo issued to non-VRC shareholders is subject to up to a maximum of 15% of the existing VRL shares on issue, with scale-back applying if the 15% threshold is exceeded. Any issuance of shares in HoldCo to Non-VRC shareholders is also subject to VRL shareholders making elections such that the consideration in respect of at least 5% of all VRL shares would be shares in HoldCo. The base offer price under Structure A would be \$2.20 per share which, subject to uplift conditions on the opening of theme parks and cinemas, plus no border restrictions prohibiting any person from New South Wales and Victoria from entering Queensland, could increase to \$2.45⁷.

Non-VRC Shareholders who elect to receive HoldCo shares will agree to be bound by a Structure A shareholders agreement in relation to HoldCo ("Structure A Shareholders Agreement") and will, if there are or would be on implementation more than 50 HoldCo shareholders, agree to have their HoldCo shares transferred or issued directly to a Custodian and held on trust by the Custodian directly or indirectly through HoldCo for each HoldCo shareholder.

Structure B

The second structure ("Structure B") would involve all shareholders, including VRC, having the option to receive all cash or elect to remain as VRL shareholders ("Retaining Shareholders"), subject to a retention cap of 50% of VRL shares on issue, with scale-back applying if the 50% threshold is exceeded. VRC will be subject to the same scale-back provisions as all other shareholders. The base offer price under Structure B would be \$2.10 per share which, subject to uplift conditions on the opening of theme parks and cinemas, plus no border restrictions prohibiting any person from New South Wales and Victoria from entering Queensland, could increase to \$2.35⁸ (the "Structure B Cash Consideration").

Retaining Shareholders will agree to be bound by a shareholders agreement in relation to VRL shares ("VRL Shareholders Agreement") and will, if there are more than 50 VRL

⁶ Implied equity value of \$478 million based on the Scheme Consideration of \$2.45 per share multiplied by current shares on issue of 195,252,595 shares. Enterprise value includes VRL expected net debt of approximately \$280 million as at 30 June 2020.

⁷ If each of the Theme Parks Uplift, Cinemas Uplift and Border Uplift apply.

⁸ If each of the Theme Parks Uplift, Cinemas Uplift and Border Uplift apply.

shareholders, agree to have their VRL shares transferred to a professional Custodian and held on trust by the Custodian for VRL. VRL will be unlisted and will not retain its listing on the ASX.

Under the VRL Shareholders Agreement a follow on acquisition may be conferred ("Follow On Proposal"), broadly on the following terms:

- A. During the 3 month period following the date that is 6 months following the implementation of the Structure B Scheme, Retaining Shareholders holding more than 7.5% of VRL's shares on issue will be entitled to provide BidCo (an Australian proprietary limited company, wholly owned by HoldCo) with a notice requiring BidCo to acquire (and BidCo will then acquire) all shares in VRL not held by BidCo for consideration of either (at the election of the Retaining Shareholder):
 - the Structure B Cash Consideration less \$0.10 in respect of a maximum of one half of the VRL shares held by the relevant Retaining Shareholder and one HoldCo share in respect of each of the relevant Retaining Shareholder's other VRL shares; or
 - one share in HoldCo for each of the relevant Retaining Shareholder's VRL shares.
- B. During the 3 months following the date that is 9 months after the implementation of the Structure B Scheme, BidCo will be entitled to issue a notice to the Retaining Shareholders requiring them to sell their VRL shares on the same terms as paragraph A above; and
- C. All Retaining Shareholders who elect to receive shares in HoldCo will be subject to the HoldCo Shareholders Agreement ("Structure B Shareholders Agreement"), which, subject to the above, will be on similar terms as the VRL Shareholders Agreement except that the Structure B Shareholders Agreement will exclude provisions relating to the Follow On Proposal.

Structure A and Structure B will proceed as concurrent transactions but Structure B will only proceed if Structure A is not approved by the requisite majorities of the relevant VRL shareholders or by the Court. It is a condition precedent for the Structure B Scheme that the Structure A Scheme is not approved either by the relevant VRL shareholders or by the Court.

VRC shareholders' intentions

Between the Structure A Scheme, the Structure B Scheme and any Follow On Proposal, each of the VRC shareholders intends to elect to receive cash in respect of a significant portion of their shareholdings. It also the intention of the VRC shareholders to remain as significant, committed shareholders in the privatised business and Clark Kirby will remain as Chief Executive officer with Robert Kirby as Executive Chairman and Graham Burke as Co-Chairman.

Key Conditions and Deal Protections

The BGH Transaction is subject to limited conditions, including no change of IBC recommendation and no Material Adverse Change. The BGH Transaction is not subject to arranging financing or due diligence conditions.

The Implementation Agreement is subject to customary deal protections for BGH including no shop, no talk and no due diligence obligations. VRL is also bound by other customary provisions including notification obligations and matching rights.

Full details of the conditions to the BGH Transaction and deal protections are set out in the Implementation Agreement, a copy of which is attached to this announcement.

The Implementation Agreement also sets out certain circumstances in which a break fee of \$4.29 million or approximately 1% of equity value would be payable to BGH, or reverse break fee of the equivalent amount payable to VRL.

Indicative Timetable and Next Steps

VRL intends to send an Explanatory Booklet to VRL shareholders in October 2020. The Explanatory Booklet will contain information relating to the Scheme of Arrangement and both transaction structures, including both sets of proposed Shareholders Agreement terms. It will also contain an Independent Expert's Report on whether the Scheme of Arrangement is in the best interests of VRL shareholders.

A Scheme Meeting is expected to be held in November 2020 and, if approved, the BGH Transaction would be implemented shortly thereafter.⁹

VRL will keep the market informed of any material developments with respect to the BGH Transaction in accordance with its continuous disclosure requirements.

UBS and Stratford Advisory Group are acting as financial advisers and MinterEllison as legal adviser to VRL.

This announcement has been authorised by the VRL Board.

For more information:

Simon Phillipson
Company Secretary
+61 3 9281 1000

⁹ Dates are indicative only and may change.



Execution version

Implementation Agreement

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Village Roadshow Limited (**VRL**)

Village Roadshow Corporation Pty Ltd (**VRC**)

VRG Bidco Pty Limited (**BidCo**)

VRG Holdco Limited (**HoldCo**)

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Implementation Agreement

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Details

Date 6 August 2020

Parties

Name **Village Roadshow Limited** ACN 010 672 054
Short form name **VRL**
Notice details Level 1, The Jam Factory, 500 Chapel St
South Yarra, VIC 3141
Email: Simon_Phillipson@vrl.com.au
Attention: Mr Simon Phillipson

Name **Village Roadshow Corporation Pty Ltd** ACN 004 318 610
Short form name **VRC**
Notice details Level 18, 530 Collins Street, Melbourne VIC 3000
Email: sean_morcom@roadshow.com.au
Attention: Sean Morcom

Name **VRG Bidco Pty Limited** ACN 642 862 422
Short form name **BidCo**
Notice details Level 26, 101 Collins Street, Melbourne, Vic 3000
Email: BGray@bghcapital.com
Attention: Ben Gray

Name **VRG Holdco Limited** ACN 642 854 313
Short form name **HoldCo**
Notice details Level 26, 101 Collins Street, Melbourne, Vic 3000
Email: BGray@bghcapital.com and Hmorfis@bghcapital.com
Attention: Ben Gray and Hari Morfis

Background

- A VRL and BidCo have agreed to implement a proposed transaction under which BidCo would acquire, directly or indirectly:
- (i) 100% of the ordinary shares in VRL, by way of VRC acquiring all of the VRL Shares held by VRL Shareholders (other than the Structure A Excluded Shareholders) under a scheme of arrangement under Part 5.1 of the Corporations Act (**Structure A Scheme**); or
 - (ii) if the Structure A Scheme is not approved, all of the VRL Shares held by all VRL Shareholders, other than those that validly elect to retain their VRL Shares (subject to pro-

rata scaleback arrangements), under a scheme of arrangement under Part 5.1 of the Corporations Act (**Structure B Scheme**).

- B VRL, VRC, BidCo and HoldCo have agreed certain other matters in connection with the Proposed Transactions as set out in this agreement.

Agreed terms

1. Defined terms & interpretation

In this agreement, unless the context otherwise requires, the following words and expressions have meanings as follows:

Acceptable Confidentiality Agreement means a confidentiality agreement which contains obligations on the recipient of confidential information which are no less onerous in any material respect than the obligations of BGH under the Confidentiality Deed.

Accounting Standards means:

- (a) the applicable accounting standards made by the relevant regulatory body, and the requirements relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied, except those inconsistent with the standards or requirements referred to in paragraph (a).

Adviser means in relation to an entity:

- (a) a financier to the entity in connection with the Proposed Transactions; or
- (b) a financial, corporate, legal, accounting, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transactions by the entity.

Affiliate means, in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person;
- (c) who is Controlled, directly or indirectly, by a person or persons who Control the Primary Person;
- (d) directly or indirectly under the common Control of the Primary Person and another person or persons; or
- (e) if the Primary Person is BGH, any collective investment vehicle, managed investment scheme or other entity operated or managed by BGH or any person mentioned in any of paragraphs (a) to (d) inclusive.

Announcement means the announcement by VRL in the form agreed by VRL and BidCo (each acting reasonably), prior to signing of this agreement.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this agreement and VRL was the designated body.

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

Australian Theatres Joint Venture means the joint venture established and operated pursuant to the joint venture agreement dated 26 May 1989, as varied from time to time, between Village Cinemas Australia Pty Ltd, The Greater Union Organisation Pty Ltd and Birch, Carroll & Coyle Limited.

Authorised Person means, in respect of a person:

- (a) a director, officer, member or employee of the person;
- (b) an Adviser of the person; and

(c) a director, officer or employee of an Adviser of the person.

BGH means BGH Capital Pty Ltd ACN 617 836 982.

BidCo Break Fee has the meaning given to that term in clause 16.1(a).

BidCo Group means BidCo, HoldCo and each of their Related Bodies Corporate (excluding, at any time, VRL and its Subsidiaries to the extent that VRL and its Subsidiaries are Subsidiaries of BidCo at that time). A reference to a member of the **BidCo Group** or a **BidCo Group Member** is a reference to BidCo, HoldCo or any such Related Bodies Corporate.

BidCo Information means such information regarding BidCo or HoldCo or both that is provided by or on behalf of BidCo or any of its Advisers, to VRL or the Independent Expert for inclusion in the Explanatory Booklet (and that is specifically identified as such by BidCo) and, for the avoidance of doubt, does not include the VRL Information, the VRC Information and the Independent Expert's Report.

BidCo Parties means each member of the BidCo Group, BGH and their respective Related Bodies Corporate, Affiliates and Authorised Persons.

BidCo Warranties means the representations and warranties of BidCo set out in clause 11.3.

Border Uplift Event means the event where:

- (a) at 12 noon (Brisbane time) on 15 October 2020, there are no border control measures imposed by the Queensland Government prohibiting any person from New South Wales from entering Queensland; and
- (b) at 12 noon (Brisbane time) on 31 October 2020, there are no border control measures imposed by the Queensland Government prohibiting any person from Victoria from entering Queensland.

Business Warranties means the representations and warranties of VRL set out in Schedule 2.

Business means the business carried on by the VRL Group as at the date of the Transaction Process Deed.

Business Day means a day on which banks are open for general banking business in Melbourne, Victoria (not being a Saturday, Sunday or public holiday).

Capital Raising has the meaning given in clause 9.7(a).

Cinema Business Locations means the cinema sites operated by:

- (a) the VRL Group (including sites under the Australian Theatres Joint Venture); and
- (b) each of The Greater Union Organisation Pty Ltd and Birch, Carroll & Coyle Limited under the Australian Theatres Joint Venture.

Cinema Uplift Event means the event where:

- (a) the majority of the Cinema Business Locations; and
- (b) Cinema Business Locations that have previously contributed to at least 75% of the revenue derived from the total Cinema Business Locations by reference to the financial year ended 30 June 2019 as specified in a list previously agreed by VRL and BidCo,

are open to the public for a period of 5 Business Days ending at 4pm on the day that is 2 Business Days prior to the Proxy Cut-Off Date (disregarding temporary closures for cleaning or analogous purposes in accordance with the requirements of any Government Agency), and the relevant requirements of clause 5.3 or 6.3 (as applicable) have been met.

Claim means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

Competing Proposal means any offer, proposal, agreement, arrangement or transaction, whether existing before, on or after the date of this document, which, if entered into or completed, could mean that a person other than BGH or its Affiliates (either alone or with any Associate),

including VRC acting in its own capacity or as an Associate of or in consortium with a party other than BGH or its Affiliates, would:

- (a) directly or indirectly acquire a Relevant Interest in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 10% or more of the VRL Shares or of the share capital of any material VRL Group Member;
- (b) acquire Control of any VRL Group Member;
- (c) directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire a legal, beneficial or economic interest in, or control of, all or substantially all or a material part of the business or assets of any member of the VRL Group (including businesses or assets representing more than 20% of the VRL Group's earnings for the financial year ended 30 June 2019 or value of the VRL Group's total consolidated assets as at 30 June 2019);
- (d) otherwise directly or indirectly acquire, be stapled with or merge with, VRL; or
- (e) require VRL to abandon, or otherwise fail to proceed with, the Proposed Transactions,

whether by way of a takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, buy back, sale, lease or purchase of shares, other securities or assets, assignment of assets or liabilities, joint venture, dual listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement. Each successive material modification or variation of a Competing Proposal will constitute a new Competing Proposal.

Conditions means the conditions set out in clause 3.1 in respect of the Structure A Scheme and the conditions set out in clause 4.1 in respect of the Structure B Scheme, and **Condition** means any one of them.

Confidentiality Deed means the document of that name entered between VRL and BGH on 3 March 2020.

Consolidated Group means a "consolidated group" or a "MEC group" as those terms are defined in section 995-1(1) of the Tax Act.

Control means with respect to any person (other than an individual) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise, and for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this document, a fund advised or managed directly or indirectly by or forming a stapled entity or group with a person will also be deemed to be Controlled by such person, and, in respect of BGH, will also include any fund, account, client, limited partnership, managed investment scheme or other collective investment vehicle or other person which is managed or advised by BGH or an Affiliate of BGH.

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

Counter Proposal has the meaning given in clause 17.7(b).

Court means the Federal Court of Australia (Victorian registry) or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Cut Off Date has the meaning given in clause 17.7(b).

Data Room means the Project Dawn data room hosted by Ansarada at <https://dataroom.ansarada.com/dr.projectdawn/> and the online platform hosted by Relativity at <https://auereview.ey.com/> which includes certain working papers owned by Ernst & Young from the 30 June 2019 audit file and 31 December 2019 half year review file ("Audit Working Papers"). The Audit Working Papers were prepared in connection with Ernst & Young's role as the statutory auditor of VRL only and not for any other purpose including, but not limited to, any due diligence purpose.

Debt Financing Agreements means the existing financing agreements agreed in a letter between VRL and BGH dated on or about the date of this agreement.

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

Disclosure Letter means the letter so entitled from VRL provided to BidCo on or prior to the execution of this agreement.

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

Due Diligence Material means the written information disclosed by or on behalf of VRL and its Subsidiaries (including management presentations and all written responses provided in response to written questions or requests for information) to BidCo or any of its Authorised Persons prior to the date of this agreement in:

- (a) the Data Room, as evidenced by the USB provided by VRL to BGH on execution of this agreement; and
- (b) the Disclosure Letter,
- (c) as well as all information communicated by VRL and the VRL Group's Authorised Persons on telephone calls with BGH and its Authorised Persons for which a written agenda was prepared and provided by BGH or its Authorised Persons to the VRL Group and its Authorised Persons prior to the telephone call.

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

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

Effective Date means the date on which the Structure A Scheme or the Structure B Scheme (as relevant) becomes Effective.

Election means an election by a VRL Shareholder, in respect of the:

- (a) Structure A Scheme, to receive either:
 - (i) in relation to 50% of their Structure A Scheme Shares, Scheme Consideration in the form of HoldCo Shares and in relation to the remainder of their Structure A Scheme Shares, Scheme Consideration in the form of cash (such Election, **Partial Election**);
 - (ii) in relation to 100% of their Structure A Scheme Shares, Scheme Consideration in the form of HoldCo Shares (such Election, **Maximum Election**); or
- (b) Structure B Scheme, to retain 100% of their Structure B Scheme Shares and not transfer those shares to BidCo under the Structure B Scheme.

Election Date means 5.00pm on the date that is three clear Business Days before the date of the Scheme Meetings.

Employee Share Plan means the employee share plan in effect for VRL as at the date of this agreement as Fairly Disclosed in the Due Diligence Material.

End Date means:

- (a) 31 March 2021; or
- (b) such other date and time agreed in writing between VRL and BidCo.

ESP Holder means a holder of VRL Shares issued under the Employee Share Plan who:

- (a) in relation to:
 - (i) the Structure A Scheme, is a Scheme Shareholder; or
 - (ii) the Structure B Scheme, is a Transferring Shareholder, and
- (b) as at the Structure A Record Date or the Structure B Record Date (as applicable), is indebted to a member of the VRL Group in relation to the VRL Shares issued to that holder under the Employee Share Plan.

Exclusivity Period means the period commencing on the date of this agreement and ending on the earliest of:

- (a) the End Date;
- (b) the Effective Date of the Structure A Scheme or Structure B Scheme (as applicable); and
- (c) the date this agreement is terminated in accordance with its terms.

Explanatory Booklet means the explanatory booklet to be prepared by VRL in respect of the Proposed Transactions in accordance with the terms of this agreement and to be dispatched to VRL Shareholders.

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

Film Deferral Event means, in respect of the period commencing on the date of this agreement and ending on the day that is 2 Business Days prior to the Proxy Cut-Off Date, any three or more films (**Deferred Films**), from a list of titles that have been agreed by VRL and BGH on 6 August 2020, have had any of the following occur:

- (a) the scheduled release in Australia for physical distribution, video on demand, subscription services, electronic sell through or free to air is before the date that is 17 days following the first full day release of the film for cinema exhibition at a venue operated by the VRL Group or another party under the Australian Theatres Joint Venture;
- (b) the film is no longer intended to be released for cinema exhibition in Australia;
- (c) the scheduled release for cinema exhibition in Australia is deferred indefinitely;
- (d) the scheduled release for cinema exhibition in Australia is deferred without a revised date; or
- (e) the scheduled release for cinema exhibition in Australia is deferred into the financial year ending 30 June 2022 or a later financial year,

and, in accordance with the formula below, $A > D$, where,

- (f) $A = (B \times C) + \$15 \text{ million}$;
- (g) B = the aggregate estimated box office value of the Deferred Films (as agreed by VRL and BGH on 6 August 2020) divided by the number of Deferred Films;
- (h) C = the number of Deferred Films – 2; and
- (i) D = the aggregate estimated box office value (determined by VRL acting reasonably) of all films that individually have an estimated box office value of \$15 million or more (determined by VRL acting reasonably) which have been added after the date of this agreement to the film slate for the financial year ending 30 June 2021 (but were not in the list of films agreed by VRL and BGH on 6 August 2020 or otherwise listed in the excel file entitled "FY21 Box Office Titles (Revised 30 July)" contained in the Disclosure Materials).

FIRB Application means the notice to the Treasurer of the Commonwealth of Australia in the form prescribed by the FATA or applicable regulations to seek clearance for Affiliates of BGH, HoldCo and BidCo to undertake the Proposed Transaction.

Financial Indebtedness means any debt or other monetary liability (whether actual or contingent) in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:

- (a) borrowing from any bank or other financial institution;
- (b) bill, bond, debenture, note or similar instrument;
- (c) acceptance, endorsement or discounting arrangement;
- (d) guarantee;
- (e) finance or capital lease;
- (f) swap, hedge arrangement, option, futures contract, derivative or analogous transaction;
- (g) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or business;
- (h) agreement for the deferral of a purchase price or other payment in relation to the provision of services other than in the ordinary course of business of the VRL Group; or
- (i) obligation to deliver goods or provide services paid for in advance by any financier.

First Court Date means the date the Court first hears the application to order the convening of the Structure A Scheme Meeting and the Structure B Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

Foreign Scheme Shareholder means a Structure A Scheme Shareholder whose address as shown in the VRL Register (as at the Structure A Scheme Record Date) is located outside of:

- (a) Australia and its external territories;
- (b) New Zealand; and
- (c) any other jurisdictions as may be agreed in writing by VRL and HoldCo,

unless HoldCo determines (in its absolute discretion), that HoldCo is permitted to allot and issue HoldCo Shares to that Scheme Shareholder by the laws of that place either unconditionally or after compliance with conditions that HoldCo considers are not unduly onerous or impracticable.

GST goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.

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

GST Law has the meaning given in the GST Act.

Governmental Agency means, whether domestic or foreign, any government or representative of a state or federal government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, the Takeovers Panel, the Foreign Investment Review Board and any regulatory organisation established under statute or any stock exchange or financial market.

Group Liability has the meaning given by section 721-10(1)(a) of the Tax Act.

Head Company has the meaning given by section 995-1 of the Tax Act.

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

HoldCo Share means a fully paid ordinary share in HoldCo to be issued under the terms of the Structure A Scheme as Structure A Scheme Consideration.

HoldCo Prescribed Occurrence means the occurrence of an Insolvency Event in relation to HoldCo or BidCo.

IBC means the Independent Board Committee of the VRL Board.

Implementation Date means, with respect to the Structure A Scheme or the Structure B Scheme, the later of:

- (a) the fifth Business Day following the Structure A Scheme Record Date or the Structure B Scheme Record Date (as relevant); and
- (b) such other Business Day as the relevant parties agree.

Independent Directors means all of the directors of VRL except for the VRC Principals.

Independent Expert means an expert, independent of the parties, engaged by VRL in good faith to prepare the Independent Expert's Report.

Independent Expert's Report means the report from the Independent Expert commissioned by VRL for inclusion in the Explanatory Booklet, which includes an opinion from the Independent Expert on whether:

- (a) the Structure A Scheme is in the best interest of the VRL Shareholders (other than the Structure A Excluded Shareholders); and
- (b) the Structure B Scheme is in the best interest of all VRL Shareholders in circumstances where the Structure A Scheme is not approved by either VRL Shareholders (other than Structure A Excluded Shareholders) or by order of the Court,

and includes any update of that report by the Independent Expert.

Insolvency Event means in relation to a person:

- (a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the person into a scheme of arrangement (other than the Structure A Scheme or the Structure B Scheme) or composition with its creditors or takes similar actions as a result of which the entity's assets are, or are proposed to be, submitted to the control of its creditors;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments**: the person suspends or threatens to suspend payment of its debts, or becomes unable to pay its debts, as and when they become due which, if the person is VRL or member of the VRL Group, excludes the suspension or threatened suspension of the payment of debts by a VRL Group Member that has been expressly approved in writing by BidCo (such approval not to be unreasonably withheld or delayed);
- (e) **ceasing business**: the person permanently ceases or threatens to cease to carry on business when compared to the business (if any) that the person carried on at the date of the Transaction Process Deed and does not include the person having ceased or threatened to cease to carry on business as at the date of this agreement solely or predominantly as a result of the COVID-19 virus or, if the person is VRL or a member of the VRL Group, as otherwise expressly approved in writing by BidCo acting reasonably;
- (f) **insolvency**: the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;

- (g) **creditor protection:** the person seeks or obtains protection from its creditors under any statute or any other law;
- (h) **deregistration:** the person being deregistered as a company or otherwise dissolved;
- (i) **deed of company arrangement:** the person executing a deed of company arrangement;
- (j) **assets:** any attachment, distress, execution or other process is made or levied against any asset of the entity in excess of A\$1,000,000 and is not withdrawn, stayed or dismissed within 14 days;
- (k) **person as trustee or partner:** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (l) **analogous events:** anything analogous to those set out in any of paragraphs (a) to (k) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

and a person will be **Insolvent** if any event specified in paragraphs (a) to (l) inclusive occurs in respect of that person.

Interest Rate means the 90 day Bank Bill Swap Reference Rate as published as at the relevant due date for payment by the Australian Financial Markets Association.

Listing Rules means the official listing rules of ASX as amended from time to time.

Material Adverse Change means an event, change, condition, matter, thing or circumstance that occurs, is announced or becomes known to BidCo or BGH or the VRL Board (in each case whether or not it becomes public) after the date of this agreement which,

- (a) has or could reasonably be expected to have, individually or when aggregated with all such changes, conditions, matters, things, events or circumstances the result that the net assets of the VRL Group have diminished by at least \$65 million from their level as at the date of this agreement (excluding accounting write downs that are required based on circumstances Fairly Disclosed in the Disclosure Letter); or
- (b) involves a critical incident resulting in a fatality, severe irreversible disability (as listed in the VRL Incident & Injury Consequences Guide at Data Room document 03.04.45.07), or a serious or critical injury (being a serious or long term impairment or loss of a body function; permanent serious disfigurement; severe long term mental or behavioural disturbance or disorder; or loss of a foetus) in relation to any person at the theme parks operated by the VRL Group as a result of a critical malfunction, significant operational failure or failure to comply with, or failure to have in place reasonable, safety procedures and programs in respect of any ride at a theme park operated by the VRL Group; or
- (c) in circumstances where neither the Structure A Scheme nor Structure B Scheme have become Effective prior to 31 December 2020, involves government directions, policy or recommendations in effect at any time after 31 December 2020 and having lasted for at least one month in response to the COVID-19 virus (or any mutation, variation or derivative) that have either required:
 - (i) the closure; or
 - (ii) restrictions on or variations to the operations (in a manner that would make them EBITDA negative for the period the requirements operated),

of a material part of the VRL Group's business in any two or more of Victoria, New South Wales and Queensland (though not necessarily having to apply for the same period of time in more than one of these States),

but does not include any event or circumstance:

- (d) expressly required to be done or procured by VRL under this agreement, the Structure A Scheme or the Structure B Share Scheme;
- (e) which BidCo has previously approved in writing;
- (f) to the extent it was an existing event or circumstances that, and the impact of which, was known to BidCo or Fairly Disclosed in the Due Diligence Materials or in public filings of VRL with ASX and ASIC made in the 12 months prior to the date of this agreement, except to the extent it gives rise to the circumstances described in paragraph (c) of this definition;
- (g) relating to reasonable costs and expenses incurred by VRL associated with the process for the Structure A Scheme and the Structure B Scheme, including all fees payable to external Advisers of VRL, to the extent such amounts are Fairly Disclosed in the Due Diligence Materials;
- (h) comprising a change in any applicable law or a change in Accounting Standards or the interpretation of Accounting Standards, except to the extent it gives rise to the circumstances described in paragraph (c) of this definition;
- (i) relating to the COVID-19 global pandemic or any related epidemic or pandemic arising from a mutation, variation or derivative of the COVID-19 virus, except to the extent it gives rise to the circumstances described in paragraph (c) of this definition;
- (j) relating to any material adverse change or major disruption to the existing financial markets, political or economic conditions of Australia, excluding any events, changes, conditions, matters, things or circumstances which have a disproportionate effect on the VRL Group as compared to other participants in the industries in which the VRL Group operates, except to the extent it gives rise to the circumstances described in paragraph (c) of this definition.

Maximum Election has the meaning given in the definition of Election.

Partial Election has the meaning given in the definition of Election.

Permitted Security Interest means any of the following:

- (a) any lien, charge or other Security Interest arising by operation of law that arises in the ordinary course of business and not securing Financial Indebtedness;
- (b) any retention of title or conditional sale arrangement in connection with the acquisition of goods in the ordinary course of business;
- (c) a PPS Lease (as defined in the PPSA);
- (d) any security interest within the meaning of section 12(3) of the PPSA; and
- (e) any Security Interest approved in writing by either VRC or BidCo (such approval not to be unreasonably withheld or delayed in respect of any Security Interest granted in the ordinary course of VRL or any VRL Group Member's business).

Positive Investments means Positive Investments Pty Ltd ACN 004 743 426.

Positive Sale Agreement means the share sale agreement to be entered into between HoldCo, BidCo, each shareholder in Positive Investments, Positive Investments and the VRC Principals pursuant to which the shareholders in Positive Investments agree to sell all of their shares in Positive Investments subject to the Structure A Scheme becoming Effective.

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

Positive means Positive Investment Pty Ltd ACN 152 518 824.

Potential Transaction Engagement Protocols means the document so titled between VRL and BGH dated 9 June 2020.

Prescribed Private Equity Fund means any private equity fund agreed by VRL and BGH prior to the date of this agreement.

Proposed Transactions means:

- (a) the proposed acquisition by one or more Affiliates of BGH, directly or indirectly, of 100% of the ordinary shares in VRL in accordance with:
 - (i) the terms of the Positive Sale Agreement;
 - (ii) the terms of the VRC Principals Share Sale Agreements; and
 - (iii) the terms and conditions of this agreement, under which VRC, acquires all of the VRL Shares held by VRL Shareholders (other than the Structure A Excluded Shareholders) through the implementation of the Structure A Scheme;
- (b) if the Structure A Scheme is not approved, the proposed acquisition by BidCo of the ordinary shares in VRL held by the Structure B Scheme Shareholders, other than the Retained Shares, in accordance with the terms and conditions of this agreement; and
- (c) all associated transactions and steps contemplated by this agreement.

Proposed Transaction Financing Arrangements means the Second Ranking Secured Loan Agreement between BGH Capital IA Pty Ltd (ACN 624 358 729) as trustee for BGH Capital Trust IA, BGH Capital IB Pty Ltd (ACN 624 359 244) as trustee for BGH Capital Trust IB and BGH Capital Offshore GP I Limited as general partner of BGH Capital Offshore I LP (and/or their affiliates) and VRL.

Proxy Cut-Off Date means the last day on which proxies must be lodged for the Scheme Meeting.

Recommendation has the meaning set out in clause 7.1(a)(i).

Regulatory Approvals means the approvals set out in clauses 3.1(a) and 4.1(a).

Related Body Corporate of a person means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted.

Relevant Interest has the meaning given in the Corporations Act.

Retained Shares in respect of a Structure B Scheme Shareholder means:

- (a) if:
 - (i) the Structure B Scheme Shareholder has made a valid Election on or before the Election Date; and
 - (ii) the total number of Structure B Scheme Shares in respect of which Structure B Scheme Shareholders in aggregate have made valid Elections to retain Structure B Scheme Shares on or before the Election Date does not exceed the Structure B Retention Cap,then subject to paragraphs (b) and (c), each Structure B Scheme Share in respect of which the Structure B Scheme Shareholder has made an Election to retain their Structure B Scheme Share;
- (b) if:
 - (i) the Structure B Scheme Shareholder has made a valid Election on or before the Election Date; and

- (ii) the total number of Structure B Scheme Shares in respect of which Structure B Scheme Shareholders in aggregate have made valid Elections to retain Structure B Scheme Shares exceeds the Structure B Retention Cap,

then the number of Structure B Scheme Shares held by the Structure B Scheme Shareholder that is equal to:

$$(B/A) \times C,$$

where:

- A = the number of Structure B Scheme Shares in respect of which Structure B Scheme Shareholders in aggregate have made valid Elections to retain Structure B Scheme Shares on or before the Election Date;
- B = the Structure B Retention Cap; and
- C = the number of Structure B Scheme Shares held by the Structure B Scheme Shareholder.

- (c) if:

- (i) the Structure B Scheme Shareholder has not made a valid Election on or before the Election Date, there will be no Retained Shares for that Structure B Scheme Shareholder.

Retaining Shareholder means a Structure B Scheme Shareholder that has validly elected to retain Retained Shares in accordance with the terms of the Structure B Scheme.

RG 60 means Regulatory Guide 60 issued by ASIC.

Scheme Consideration means either the Structure A Scheme Consideration or the Structure B Scheme Consideration, as the context requires or permits.

Scheme Meeting means either the Structure A Scheme Meeting or the Structure B Scheme Meeting, as the context requires or permits.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Structure A Scheme or the Structure B Scheme (or both) is heard or scheduled to be heard or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard.

Security Interest means any mortgage, charge, pledge, lien, assignment or other security interest or any other arrangement (including a right of set off or combination) entered into for the purpose of conferring a priority, including any security interest as defined in section 51A of the Corporations Act or in the PPSA.

Senior Manager means an employee of any member of the VRL Group reporting directly to the managing director, chief financial officer or group chief operating officer of VRL.

Share Registry means Computershare Investor Services Pty Ltd of Yarra Falls, 452 Johnston St, Abbotsford VIC 3067 or any replacement provider of share registry services to VRL.

Share Splitting means the splitting by a holder of VRL Shares into two or more parcels of VRL Shares whether or not it results in any change in beneficial ownership of the VRL Shares.

Structure A Ancillary Agreements means:

- (a) the Subscription Agreement;
- (b) the Positive Sale Agreement;
- (c) the VRC Principals Share Sale Agreements;
- (d) the Structure A Shareholders Agreement; and
- (e) the Joint Bidding Agreement entered into between BGH, HoldCo, BidCo, Positive, VRC and the VRC Principals on or about the date of this agreement.

Structure A Cash Consideration means \$2.20, unless:

- (a) if the Cinema Uplift Event occurs but neither the Theme Parks Uplift Event nor the Border Uplift Event occurs, in which case it means \$2.28;
- (b) if the Theme Parks Uplift Event occurs, but neither the Cinema Uplift Event nor the Border Uplift Event occurs, in which case it means \$2.32;
- (c) if the Border Uplift Event occurs but neither the Cinema Uplift Event nor the Theme Park Uplift Event occurs, in which case it means \$2.25;
- (d) if both the Cinema Uplift Event and the Border Uplift Event occur, but the Theme Park Uplift Event does not occur, in which case it means \$2.33;
- (e) if both the Theme Park Uplift Event and the Border Uplift Event occur, but the Cinema Uplift Event does not occur, in which case it means \$2.37;
- (f) if both the Cinema Uplift Event and the Theme Parks Uplift Event occur, but the Border Uplift Event does not occur, in which case it means \$2.40; or
- (g) if all of the Cinema Uplift Event, the Theme Parks Uplift Event and the Border Uplift Event occur, in which case it means \$2.45,

for each Structure A Scheme Share.

Structure A Excluded Shareholder means:

- (a) VRC; or
- (b) a VRC Principal.

Structure A Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between VRL and Structure A Scheme Shareholders in respect of all Structure A Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as the parties agree in writing, subject to any alterations or conditions that are:

- (a) agreed to in writing by VRL, VRC and BidCo, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by VRL and BidCo.

Structure A Scheme Consideration in respect of a Structure A Scheme Shareholder means:

- (a) if:
 - (i) the Structure A Scheme Shareholder is not a Foreign Scheme Shareholder and has made a valid Election on or before the Election Date; and
 - (ii) the total number of Structure A Scheme Shares in respect of which Structure A Scheme Shareholders who are not Foreign Scheme Shareholders in aggregate have made valid Elections on or before the Election Date equals or exceeds the Structure A Share Floor but does not exceed the Structure A Share Cap,
 then:
 - (iii) if the Structure A Scheme Shareholder has made a Partial Election, subject to paragraphs (b) and (c):
 - (A) one HoldCo Share for each Structure A Scheme Share held by the Structure A Scheme Shareholder in accordance with the Structure A Scheme Shareholder's Election; and
 - (B) the Structure A Cash Consideration multiplied by every Structure A Scheme Share held by the Structure A Scheme Shareholder that is not covered by the Structure A Scheme Shareholder's Election; or

- (iv) if the Structure A Scheme Shareholder has made a Maximum Election, subject to paragraphs (b) and (c), one HoldCo Share for each Structure A Scheme Share held by the Structure A Scheme Shareholder;
- (b) if:
 - (i) the Structure A Scheme Shareholder is not a Foreign Scheme Shareholder and has made a valid Election on or before the Election Date; and
 - (ii) the total number of Structure A Scheme Shares in respect of which Structure A Scheme Shareholders who are not Foreign Scheme Shareholders in aggregate have made valid Elections exceeds the Structure A Share Cap,
 then:
 - (iii) one HoldCo Share for the number of Structure A Scheme Shares calculated as:

$$(B/A) \times C,$$
 where:
 - A = the number of Structure A Scheme Shares in respect of which Structure A Scheme Shareholders in aggregate have made valid Elections to receive HoldCo Shares on or before the Election Date;
 - B = the Structure A Share Cap; and
 - C = if the Structure A Scheme Shareholder:
 - (a) has made a Partial Election, the number of Structure A Scheme Shares in respect of which the Structure A Scheme Shareholder has made an Election to receive HoldCo Shares; or
 - (b) has made a Maximum Election, the number of Structure A Scheme Shares held by the Structure A Scheme Shareholder; and
 - (iv) the Structure A Cash Consideration for each of the Structure A Scheme Shares held by the Structure A Scheme Shareholder less the number of Structure A Scheme Shares held by the Structure A Scheme Shareholder in respect of which HoldCo Shares are to be issued as calculated in accordance with paragraph (iii); or
- (c) if:
 - (i) the Structure A Scheme Shareholder is a Foreign Scheme Shareholder or has not made a valid Election on or before the Election Date; or
 - (ii) either:
 - (A) the total number of Structure A Scheme Shares in respect of which Structure A Scheme Shareholders who are not Foreign Scheme Shareholders in aggregate have made valid Elections to receive HoldCo Shares on or before the Election Date is less than the Structure A Share Floor; or
 - (B) Structure A Scheme Shareholders in aggregate have not made valid Elections to receive HoldCo Shares on or before the Election Date for any Structure A Scheme Shares,

the Structure A Cash Consideration for every Scheme Share held by the Structure A Scheme Shareholder.

Structure A Scheme Deed Poll means the deed poll to be executed by VRC, HoldCo and VRL prior to the First Court Date in relation to the Structure A Scheme, in the form set out in Schedule 4 or in such other form as is acceptable to VRL acting reasonably.

Structure A Scheme Meeting means the meeting of VRL Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Structure A

Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Structure A Scheme Record Date means 7.00pm on the second Business Day (or such other Business Day as the VRL and VRC agree in writing) following the Effective Date.

Structure A Scheme Share means a VRL Share on issue as at the Structure A Scheme Record Date.

Structure A Scheme Shareholder means a person who holds one or more Structure A Scheme Shares other than a Structure A Excluded Shareholder.

Structure A Shareholders Agreement means the document so titled in relation to HoldCo which will provide for the matters set in Schedule 7 or such other matters as agreed in writing by the parties.

Structure A Share Cap means 29,287,889 VRL Shares representing 15% of all VRL Shares on issue as at the date of this agreement.

Structure A Share Floor means 9,762,630 VRL Shares representing 5% of all VRL Shares on issue as at the date of this agreement.

Structure B Cash Consideration means \$2.10, unless:

- (a) if the Cinema Uplift Event occurs but neither the Theme Parks Uplift Event nor the Border Uplift Event occurs, in which case it means \$2.18;
- (b) if the Theme Parks Uplift Event occurs but neither the Theme Parks Uplift Event nor the Border Uplift Event occurs, in which case it means \$2.22;
- (c) if the Border Uplift Event occurs but neither the Cinema Uplift Event nor the Theme Park Uplift Event occurs, in which case it means \$2.15;
- (d) if both the Cinema Uplift Event and the Border Uplift Event occur, but the Theme Park Uplift Event does not occur, in which case it means \$2.23;
- (e) if both the Theme Park Uplift Event and the Border Uplift Event occur, but the Cinema Uplift Event does not occur, in which case it means \$2.27; or
- (f) if both the Cinema Uplift Event and Theme Parks Uplift Event occur, but the Border Uplift Event does not occur, in which case it means \$2.30; and
- (g) if all of the Cinema Uplift Event, the Theme Parks Uplift Event and the Border Uplift Event occur, in which case it means \$2.35,

for each Transferring Share.

Structure B Retention Cap means 97,626,298 VRL Shares representing 50% of all VRL Shares on issue as at the date of this agreement.

Structure B Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between VRL and Structure B Scheme Shareholders in respect of all Structure B Scheme Shares, substantially in the form set out in Schedule 5 or in such other form as the parties agree in writing, subject to any alterations or conditions that are:

- (a) agreed to in writing by VRL and BidCo, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by VRL and BidCo.

Structure B Scheme Consideration in respect of a Structure B Scheme Shareholder means the the Structure B Cash Consideration multiplied by each Transferring Share held by that Structure B Scheme Shareholder.

Structure B Scheme Deed Poll means the deed poll to be executed by BidCo and VRL prior to the First Court Date in relation to the Structure B Scheme, in the form set out in Schedule 6 or in such other form as is acceptable to VRL acting reasonably

Structure B Scheme Meeting means the meeting of the VRL Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Structure B Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Structure B Scheme Record Date means 7.00pm on the second Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Structure B Scheme Share means a Share on issue as at the Structure B Scheme Record Date.

Structure B Scheme Shareholder means a person who holds one or more Structure B Scheme Shares.

Structure B Shareholders Agreement means the document so titled in relation to VRL which will provide for the matters set in Schedule 8 of this agreement or such other matters as agreed in writing by VRL and BidCo.

Subscription Agreement means the document so titled between (among other parties) Affiliates of BGH, HoldCo, BidCo and VRC dated on or about the date of this agreement under which BGH and Affiliates of BGH agree to subscribe for shares in HoldCo.

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Superior Proposal means a bona fide Competing Proposal (in relation to which there has been no contravention of clause 17 by VRL) that if completed would result in the acquisition of more than 50% of VRL's Shares, which the VRL Board, acting in good faith in the interests of the VRL Shareholders, and after taking written advice from its external legal and financial Advisers, determines:

- (a) is reasonably capable of being valued and completed taking into account all aspects of the Competing Proposal, including its conditions, the identity, reputation and financial credentials of the person making such proposal, and all relevant legal, regulatory and financial matters; and
- (b) would be likely to be more favourable to VRL Shareholders than the latest proposal provided by a member of the VRC Group or BidCo Group (as applicable) to VRL, taking into account all aspects of the Competing Proposal and the latest proposal provided by a member of the VRC Group or BidCo Group (as applicable) to VRL, including the identity, reputation and financial credentials of the person making such proposal, legal, regulatory and financial matters, certainty, any delay in paying, or uncertainty regarding the payment of, some or all of the consideration and any other matters affecting the probability of the relevant proposal being completed in accordance with its terms.

Tax means any tax, levy, charge, impost, fee, deduction, offset (including research and development tax offsets), goods and services tax, payroll tax, superannuation guarantee, fringe benefits tax, compulsory loan, PAYG instalment and withholding, that is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above, but excludes Duty.

Tax Act means the *Income Tax Assessment Act 1936 (Cth)*, the *Income Tax Assessment Act 1997 (Cth)* or the *Taxation Administration Act 1953 (Cth)*, as applicable.

Tax Costs means all costs and expenses incurred in:

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

Tax Demand means:

- (a) a demand or assessment from a Government Agency requiring the payment of any Tax or Duty for which VRL may be liable under this document;
- (b) any document received from a Government Agency administering any Tax or Duty, assessing, imposing, claiming or indicating an intention to claim any Tax or Duty;

- (c) a notice to a contributing member of a Consolidated Group given under section 721-15(5) of the Tax Act;
- (d) a notice to a member of a GST Group (as defined in the GST Act, in relation to section 444-90(1) of Schedule 1 to the Tax Act; and
- (e) a lodgement of a Tax or Duty return or a request for an amendment to a lodged Tax or Duty return.

Tax Indemnity means the indemnity in clause 11.9.

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

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

Theme Parks Uplift Event means an event where the Warner Bros. Movie World and the Sea World theme parks are open to the public for a period of 5 Business Days ending at 4pm on the day that is 2 Business Days prior to the Proxy Cut-Off Date (disregarding temporary closures for weather related events, cleaning or analogous purposes in accordance with the requirements of any Government Agency), and the relevant requirements of clause 5.3 or 6.3 (as applicable) have been met.

Timetable means the indicative timetable in relation to the Proposed Transactions set out in Schedule 1 with such modifications as may be agreed in writing by the relevant parties.

Transaction Process Deed means the deed of that name dated 18 May 2020 between VRL and BGH.

Transferring Shares means all Structure B Scheme Shares held by each Structure B Scheme Shareholder that are not Retained Shares.

Transferring Shareholder means each Scheme Shareholder that will transfer Transferring Shares to BidCo in accordance with the Structure B Scheme.

Treasurer means the Treasurer of the Commonwealth of Australia.

Voting Power has the meaning given in section 610 of the Corporations Act.

VRC Break Fee has the meaning given to that term in clause 16.2(a).

VRC Group means VRC and each of its Related Bodies Corporate (excluding, at any time, VRL and its Subsidiaries to the extent that VRL and its Subsidiaries are Subsidiaries of VRC at that time). A reference to a member of the **VRC Group** or a **VRC Group Member** is a reference to VRC or any such Related Bodies Corporate.

VRC Group Prescribed Occurrence means the occurrence of an Insolvency Event in relation to each member of the VRC Group.

VRC Information means such information regarding to the VRC Group that is provided by or on behalf of VRC or any of its Advisers, to VRL or the Independent Expert for inclusion in the Explanatory Booklet (and that is specifically identified as such by VRC) and, for the avoidance of doubt, does not include the VRL Information, the BidCo Information and the Independent Expert's Report.

VRC Parties means each member of the VRC Group and its respective Related Bodies Corporate and Authorised Persons.

VRC Principals means Robert Kirby, Graham Burke and John Kirby and includes a closely related party of any of them but does not include VRC.

VRC Principals Share Sale Agreements means each document so titled to be entered into between VRC, HoldCo and each of the VRC Principals under which VRC agrees to purchase, and the VRC Principals agree to sell, or to procure their respective Affiliates to sell, all the VRL Shares which are held or beneficially owned by the VRC Principals or their respective Affiliates.

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

VRL Board means the board of directors of VRL (or any committee of the board of directors of VRL constituted to consider the Proposed Transactions on behalf of VRL).

VRL Break Fee has the meaning given to that term in clause 15.3(a).

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

VRL Director means a director of VRL.

VRL Financier has the meaning given to that term in clause 9.6(a).

VRL Group means VRL and each of its Related Bodies Corporate. A reference to a member of the **VRL Group** or a **VRL Group Member** is a reference to VRL or any such Related Bodies Corporate.

VRL Information means information to be included by VRL in the Explanatory Booklet that explains the effect of the Structure A Scheme and the Structure B Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by VRL Shareholders whether or not to vote in favour of the Structure A Scheme or the Structure B Scheme (as applicable), being information that is within the knowledge of the VRL Board and has not previously been disclosed to VRL Shareholders, other than the BidCo Information, VRC Information, the Independent Expert's Report.

VRL Parties means each member of the VRL Group and its Related Bodies Corporate and Authorised Persons.

VRL Prescribed Occurrence means the occurrence of any of the following on or after the date of this agreement:

- (a) VRL converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) any member of the VRL Group resolves to reduce its share capital in any way;
- (c) any member of the VRL Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the VRL Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a security, right or an option other than under the exercise of an option or performance rights on issue immediately before the date of this agreement that has been Fairly Disclosed in the Due Diligence Material;
- (e) any member of the VRL Group issues, or agrees to issue, convertible notes;
- (f) any member of the VRL Group makes any change to its constitution or similar constituent document;
- (g) any member of the VRL Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property
- (h) any member of the VRL Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (i) an Insolvency Event occurs in relation to any member of the VRL Group;
- (j) VRL pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution;
- (k) any member of the VRL Group permanently ceases, or threatens to permanently cease to, carry on the business conducted as at the date of this agreement except in circumstances

where this could not reasonably be expected to have a material adverse effect on the financial and operational performance or reputation of the VRL Group;

- (l) any member of the VRL Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (k) above insofar as it applies to the member of the VRL Group the subject of such direct or indirect authorisation, commitment, agreement or announcement;

provided that a VRL Prescribed Occurrence will not include any matter:

- (m) expressly required to be done or procured by the VRL Group or expressly permitted to be done by the VRL Group under this agreement, the Structure A Scheme or the Structure B Scheme;
- (n) required by law or by an order of a court or Governmental Agency;
- (o) to the extent it is Fairly Disclosed in filings of VRL with the ASX in the 12 months prior to the date of this agreement as a legal obligation the VRL Group must fulfil between and including the date of this agreement and the Implementation Date;
- (p) to the extent it is Fairly Disclosed in the Due Diligence Material as a legal obligation the VRL Group must fulfil between and including the date of this agreement and the Implementation Date; or
- (q) the undertaking of which BidCo or any of its Affiliates has previously expressly approved in writing.

VRL Register means the register of shareholders maintained by VRL under section 168(1) of the Corporations Act.

VRL Right means a right or other entitlement granted under a VRL employee incentive scheme or plan to acquire by way of issue or transfer (or have vesting or forfeiture conditions satisfied in respect of) one or more VRL Shares subject to the terms of that scheme or plan, including VRL Shares issued pursuant to the Employee Share Plan.

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

VRL Shareholder means each person who is registered in the VRL Register as a holder of VRL Shares.

VRL Warranty or VRL Warranties means the representations and warranties of VRL set out in clause 11.5.

Voting Intentions has the meaning set out in clause 7.1(a)(ii).

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

1.2 Interpretation

In this agreement, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) a reference to time is to Melbourne, Australia time;

- (h) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) unless otherwise defined, a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by **including**, **for example** or similar expressions;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (p) a reference to **Fairly Disclosed** means disclosed to a party or any of its Authorised Persons accurately and to a sufficient extent and in sufficient detail so as to enable a reasonable person who is experienced in transactions similar to the Proposed Transactions to identify the nature, scope and significance of the relevant matter, event or circumstance and its likely ramifications.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Business Day

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

1.5 Consents or approvals

If the doing of any act, matter or thing under this agreement is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless provided otherwise.

1.6 Listing requirements included as law

A listing rule or operating rule of a financial market or of a clearing and settlement facility will be regarded as a law and a reference to legislation (as appropriate), and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.7 Reasonable endeavours

Any provision of this agreement which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Governmental Agency; or

- (b) to commence any legal action or proceeding against any person, except where that provision specifies otherwise.

2. Agreement to propose Structure A Scheme and Structure B Scheme

- (a) VRL agrees to propose the Structure A Scheme and the Structure B Scheme concurrently and to implement either of them on and subject to the terms and conditions of this agreement, and substantially in accordance with the Timetable.
- (b) BidCo and VRC agree to assist VRL in proposing and implementing the Structure A Scheme on and subject to the terms and conditions of this agreement, and substantially in accordance with the Timetable.
- (c) BidCo agrees to assist VRL in proposing and, if the Structure A Scheme is not approved, implementing the Structure B Scheme on and subject to the terms and conditions of this agreement, and substantially in accordance with the Timetable.

3. Conditions precedent for Structure A Scheme

3.1 Conditions for Structure A Scheme

Subject to this clause 3, the Structure A Scheme will not become Effective, and the respective obligations of VRL and VRC in relation to the implementation of the Structure A Scheme will not be binding, unless and until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(Regulatory Approvals):**
 - (i) **(ASIC and ASX)** before the Delivery Time on the Second Court Date, ASIC and ASX issue or provide such additional consents, waivers, relief or approvals as are necessary or which VRL and BidCo agree (acting reasonably) are desirable to implement the Structure A Scheme (noting that if such consents waivers/and/or approvals are subject to conditions those conditions must be acceptable to the parties (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
 - (ii) **(Other Governmental Authorities)** before the Delivery Time on the Second Court Date, each other relevant Governmental Agency issue or provide such consents, waivers, approvals which VRL and BidCo consider are necessary or desirable to implement the Structure A Scheme (noting that if such consents waivers/and/or approvals are subject to conditions those conditions must be acceptable to the parties (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
- (b) **(Execution of Structure A Ancillary Agreements):**
 - (i) each of the Structure A Ancillary Agreements are executed by the persons named as parties to those agreements in a form acceptable to VRL (acting reasonably) and have not been terminated or amended without VRL's consent (not to be unreasonably withheld or delayed) by the Delivery Time on the Second Court Date;
 - (ii) all conditions precedent in the Structure A Ancillary Agreements are satisfied or validly waived in accordance with their terms by the Delivery Time on the Second Court Date, other than any condition precedent that requires the Structure A Scheme to have become Effective; and
 - (iii) prior to the Delivery Time on the Second Court Date, no party is in material breach of any of the Structure A Ancillary Agreements;

- (c) **(No change of IBC recommendation)** between the date of this agreement and the date of the Scheme Meeting, none of the members of the IBC changing, qualifying or withdrawing their unanimous recommendation to VRL Shareholders to vote in favour of the Structure A Scheme, which recommendation may be expressed to be given:
 - (i) in the absence of a Superior Proposal; and
 - (ii) subject to the Independent Expert:
 - (A) prior to registration by ASIC of the explanatory statement included in the Explanatory Booklet, opining that the Structure A Scheme is in the best interest of VRL Shareholders (other than Structure A Excluded Shareholders); and
 - (B) from registration by ASIC of the explanatory statement included in the Explanatory Booklet (including in any statements related to the recommendation in the Explanatory Booklet), continuing to conclude that the Structure A Scheme is in the best interest of VRL Shareholders (other than Structure A Excluded Shareholders);
- (d) **(No VRL Prescribed Occurrence)** no VRL Prescribed Occurrence occurs between the date of this agreement and the Delivery Time on the Second Court Date;
- (e) **(No VRC Group Prescribed Occurrence)** no VRC Group Prescribed Occurrence occurs between the date of this agreement and the Delivery Time on the Second Court Date;
- (f) **(VRL Warranties)** the VRL Warranties being true and correct in all material respects on the date of this agreement and at the Delivery Time on the Second Court Date;
- (g) **(VRC Warranties)** the VRC Warranties being true and correct in all material respects on the date of this agreement and at the Delivery Time on the Second Court Date;
- (h) **(Shareholder approval – Structure A Scheme)** the Structure A Scheme is approved by VRL Shareholders (other than Structure A Excluded Shareholders) at the Structure A Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (i) **(Court approval)** the Structure A Scheme is approved by order of the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon the parties (each acting reasonably);
- (j) **(No Material Adverse Change)** no Material Adverse Change occurs between the date of this agreement and the Delivery Time on the Second Court Date;
- (k) **(Debt Financing Agreements):**
 - (i) all consents, approvals, waivers or variations under any Debt Financing Agreements that in the opinion of BidCo are necessary or desirable are obtained on terms acceptable to BidCo (acting reasonably) and any conditions to such consents, approvals, waivers or variations have been satisfied; and
 - (ii) a financier has not exercised (or given notice of its intention to exercise) any of its rights as a result of any default or review event under any Debt Financing Agreements,

in each case as at the Delivery Time on the Second Court Date; and
- (l) **(Restraints):** no temporary restraining order, preliminary or permanent injunction or other order including cease trade orders, in each case issued by a court of competent jurisdiction or securities regulatory authority in Australia in a proceeding brought by a Governmental Agency in Australia, preventing, delaying or otherwise materially adversely impacting the Proposed Transactions, unless such order or injunction has been disposed of to the reasonable satisfaction of the parties acting reasonably, is in effect at the Delivery Time on the Second Court Date.

3.2 Structure A Scheme - Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a) (Regulatory Approvals), 3.1(b) (Execution of Structure A Ancillary Agreements) and 3.1(l) (Restraints) are for the benefit of BidCo and VRL and any breach or non-fulfilment of them may only be waived (if capable of waiver) with the written consent of BidCo and VRL, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(c) (No change in IBC Recommendation), 3.1(d) (No VRL Prescribed Occurrences), 3.1(f) (VRL Warranties), 3.1(j) (No Material Adverse Change) and 3.1(k) (Debt Financing Agreements), are for the sole benefit of BidCo and any breach or non-fulfilment of them may only be waived by BidCo giving its written consent.
- (c) The Conditions in clauses 3.1(e) (No VRC Group Prescribed Occurrences) and 3.1(g) (VRC Warranties), are for the sole benefit of VRL and any breach or non-fulfilment of them may only be waived by VRL giving its written consent.
- (d) The Conditions in clauses 3.1(h) (Shareholder approval - Structure A Scheme) and 3.1(i) (Court approval) cannot be waived.
- (e) A party entitled to waive a Condition under this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to the Delivery Time on the Second Court Date.
- (f) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other parties for any breach of this agreement including a breach that resulted in the non-fulfilment of the Condition that was waived.

3.3 Structure A Scheme - Reasonable endeavours

- (a) Each of the parties will use its reasonable endeavours (to the extent within that party's control) to procure that each of the Conditions (as applicable) is satisfied as soon as reasonably practicable after the date of this agreement or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).
- (b) Without limiting clauses 3.4 and 3.5 below, in relation to the FIRB Application:
 - (i) VRL must provide BidCo with all information reasonably requested by BGH to the extent reasonably required in connection with the FIRB Application;
 - (ii) each of BidCo and VRL must respond, at the earliest date reasonably practicable, to any reasonable requests for additional information or documentary material made by FIRB or any other Government Agency in respect of the FIRB Application, but BidCo (acting reasonably) may withhold information that it is commercially sensitive to BidCo; and
 - (iii) notify VRL as soon as reasonably practicable upon becoming aware of any material matters or developments concerning the FIRB Application, including any fact or circumstances that will or may result in the clearance being sought by BidCo pursuant to the FIRB Application not being obtained or being incapable of being obtained,but for the avoidance of doubt, BidCo is not required to accept any other conditions which are not satisfactory to BidCo, other than the standard tax conditions as described in 3.1(a)(i).
- (c) Without limiting clauses 3.4 and 3.5 below, in relation to all Regulatory Approvals (other than the FIRB Application), each party must, in accordance with the Potential Transaction Engagement Protocols:
 - (i) consult and co-operate fully with the other parties in relation to the satisfaction of the Conditions, including in relation to all material communications with any Governmental Agency in relation to Regulatory Approvals;

- (ii) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals;
- (iii) take all the steps for which it is responsible as part of the Regulatory Approvals process;
- (iv) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time; and
- (v) provide the others with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals,

provided that:

- (vi) the party applying for a Regulatory Approval may withhold or redact information or documents from any other party if and to the extent that they are either confidential to a third party or commercially sensitive and confidential to the applicant; and
- (vii) no party is required to disclose materially commercially sensitive information to any other party.

3.4 Structure A Scheme - Notifications

Each party must:

- (a) keep the other parties promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other parties in writing if it becomes aware that any Condition has been satisfied; and
- (c) promptly notify the other parties in writing if it becomes aware that any Condition is or has become incapable of being satisfied.

3.5 Structure A Scheme - Certificate

- (a) At or before the hearing on the Second Court Date in respect of the Structure A Scheme:
 - (i) VRC and VRL will provide a joint certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(a) (Regulatory Approvals), 3.1(b) (Execution of Structure A Ancillary Agreements) and 3.1(l) (Restraints) have been satisfied or waived in accordance with the terms of this agreement;
 - (ii) VRL will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(c) (No change in IBC Recommendation), 3.1(d) (No VRL Prescribed Occurrences), 3.1(f) (VRL Warranties), 3.1(h) (Shareholder approval – Structure A Scheme), 3.1(j) (No Material Adverse Change), and 3.1(k) (Debt Financing Agreements) have been satisfied or waived in accordance with the terms of this agreement;
 - (iii) VRC will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(e) (No VRC Group Prescribed Occurrences) and 3.1(g) (VRC Warranties) have been satisfied or waived in accordance with the terms of this agreement;
 - (iv) VRL will provide a certificate to BidCo and VRC confirming whether or not:
 - (A) VRL has breached any of its obligations under this agreement (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
 - (B) any Material Adverse Change has occurred and, if it has, giving details of each Material Adverse Change; and

- (v) VRC will provide a certificate to VRL confirming whether or not VRC has breached any of its obligations under this agreement (including a breach of a representation or warranty), and if it has, giving details of such breaches.

3.6 Structure A Scheme voted down because of Headcount Test

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

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

3.7 Structure A Scheme - Conditions not capable of being fulfilled

- (a) If:
 - (i) any Condition relating to the Structure A Scheme is not satisfied (other than the Conditions in 3.1(h) (Shareholder approval – Structure A Scheme) and clause 3.1(i) (Court approval)) or (where capable of waiver) waived by the date specified in this agreement for its satisfaction (or an event occurs which would or does prevent a condition precedent being satisfied by the date specified in this agreement);
 - (ii) a circumstance occurs with the result that a Condition relating to the Structure A Scheme is not capable of being fulfilled (other than the Conditions in 3.1(h) (Shareholder approval – Structure A Scheme) and clause 3.1(i) (Court approval)) and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the Condition within 5 Business Days after the occurrence of the circumstance; or
 - (iii) it becomes more likely than not that the Structure A Scheme does not become Effective by the End Date (other than because any of the Conditions in 3.1(h) (Shareholder approval – Structure A Scheme) and clause 3.1(i) (Court approval) are not satisfied),

and neither of the following has occurred:

- (iv) the Independent Expert opines to the effect that the Structure A Scheme is not in the best interest of VRL Shareholders, except for where the conclusion is due to the existence of a Competing Proposal; or
- (v) VRL has entered into a legally binding agreement (other than an Acceptable Confidentiality Agreement) in relation to a Superior Proposal,

then VRL and BidCo must consult in good faith with a view to determining whether:

- (vi) the Structure A Scheme may proceed by way of alternative means or methods;
- (vii) to extend the relevant time or date for satisfaction of the Condition;
- (viii) to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Structure A Scheme or adjourning that application (as applicable) to another date agreed by the parties; or

- (ix) to extend the End Date.
- (b) Subject to clause 3.7(c), if a Condition becomes incapable of being satisfied before the End Date (other than the Conditions in 3.1(h) (Shareholder approval – Structure A Scheme) and clause 3.1(i) (Court approval)) and VRL and BidCo are unable to reach agreement under clause 3.7(a) within 10 Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
 - (i) in relation to the Conditions in clauses 3.1(a) (Regulatory Approvals), 3.1(b) (Execution of Structure A Ancillary Agreements) and 3.1(l) (Restraints), either BidCo or VRL may terminate this agreement by giving the other notice without any liability to any party by reason of that termination alone;
 - (ii) in relation to the Conditions in clauses 3.1(c) (No change in IBC Recommendation), 3.1(d) (No VRL Prescribed Occurrences), 3.1(f) (VRL Warranties), 3.1(j) (No Material Adverse Change) and 3.1(k) (Debt Financing Agreements) BidCo may terminate this agreement by giving VRL notice without any liability to any party by reason of that termination alone; and
 - (iii) in relation to the clauses 3.1(e) (No VRC Group Prescribed Occurrences) and 3.1(g) (VRC Warranties), VRL may terminate this agreement by giving BidCo notice without any liability to any other party by reason of that termination alone.
- (c) BidCo or VRL will not be entitled to terminate this agreement under clause 3.7(b) if the relevant Condition has not been satisfied as a result of:
 - (i) a breach of this agreement by that party; or
 - (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.
- (d) If the Condition in clause 3.1(h) (Shareholder approval – Structure A Scheme) or clause 3.1(i) (Court approval) is not satisfied:
 - (i) the parties immediately release and discharge each other from all obligations under this agreement relating solely to the Structure A Scheme including those in clauses 2(a), 2(b), 3, 5, 7, 8, 9, 10, 11.1, 11.2, 12.1(b), 12.3, 12.4(a), 14.2(c) and 16.2 insofar as they relate to the Structure A Scheme; and
 - (ii) BidCo and VRL must proceed with the Structure B Scheme subject to the satisfaction of the relevant Conditions.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

- (a) in the case of a Condition relating to a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this agreement).

4. Conditions Precedent for Structure B Scheme

4.1 Conditions to Structure B Scheme

Subject to this clause 4, the Structure B Scheme will not become Effective, and the respective obligations of BidCo and VRL in relation to the implementation of the Structure B Scheme will not

be binding, unless and until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 4:

- (a) **(Regulatory Approvals):**
 - (i) **(ASIC and ASX)** before the Delivery Time on the Second Court Date, ASIC and ASX issue or provide such additional consents, waivers, relief or approvals as are necessary or which both BidCo and VRL agree (acting reasonably) are desirable to implement the Structure B Scheme (noting that if such consents waivers/and/or approvals are subject to conditions those conditions must be acceptable to BidCo and VRL (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
 - (ii) **(Other Governmental Authorities)** before the Delivery Time on the Second Court Date, the relevant Governmental Agency issue or provide such consents, waivers, approvals which the parties consider are necessary or desirable to implement the Structure B Scheme (noting that if such consents waivers/and/or approvals are subject to conditions those conditions must be acceptable to BidCo and VRL (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
- (b) **(Execution of Structure B Shareholders Agreement)** the Structure B Shareholders Agreement is executed by VRL and BidCo and has not been terminated or amended without VRL's consent (not to be unreasonably withheld or delayed) by the Delivery Time on the Second Court Date;
- (c) **(No change of IBC recommendation)** between the date of this agreement and the date of the Scheme Meeting, none of the members of the IBC changing, qualifying or withdrawing their unanimous recommendation to VRL Shareholders to vote in favour of the Structure B Scheme which recommendation may be expressed to be given:
 - (i) in the absence of a Superior Proposal; and
 - (ii) subject to the Independent Expert,
 - (A) prior to registration by ASIC of the explanatory statement included in the Explanatory Booklet, opining that the Structure B Scheme is in the best interest of VRL Shareholders in circumstances where the Structure A Scheme is not approved by either VRL Shareholders (other than Structure A Excluded Shareholders) or by order of the Court;
 - (B) from registration by ASIC of the explanatory statement included in the Explanatory Booklet (including in any statements related to the recommendation in the Explanatory Booklet), continuing to conclude that the Structure B Scheme is in the best interest of VRL Shareholders in circumstances where the Structure A Scheme is not approved by either VRL Shareholders (other than Structure A Excluded Shareholders) or by order of the Court;
- (d) **(No VRL Prescribed Occurrence)** no VRL Prescribed Occurrence occurs between the date of this agreement and the Delivery Time on the Second Court Date;
- (e) **(No HoldCo Prescribed Occurrence)** no HoldCo Prescribed Occurrence occurs between the date of this agreement and the Delivery Time on the Second Court Date;
- (f) **(VRL Warranties)** the VRL Warranties being true and correct in all material respects on the date of this agreement and at the Delivery Time on the Second Court Date;
- (g) **(BidCo Warranties)** the BidCo Warranties being true and correct in all material respects on the date of this agreement and at the Delivery Time on the Second Court Date;
- (h) **(Shareholder approval – Structure B Scheme)** the Structure B Scheme is approved by VRL Shareholders at the Structure B Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;

- (i) **(Structure A Scheme approvals not obtained):**
 - (i) at the Structure A Scheme Meeting, the Structure A Scheme is not approved by the VRL Shareholders (other than Excluded Structure A Shareholders) by the majorities required under section 411(4)(a)(ii) of the Corporations Act; or
 - (ii) at the Second Court Date, the Structure A Scheme is not approved by order of the Court under section 411(4)(b) of the Corporations Act or is only approved on conditions that impose unduly onerous obligations upon the parties (each acting reasonably);
- (j) **(Court approval)** the Structure B Scheme is approved by order of the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon the parties (each acting reasonably);
- (k) **(No Material Adverse Change)** no Material Adverse Change occurs between the date of this agreement and the Delivery Time on the Second Court Date;
- (l) **(Debt Financing Agreements):**
 - (i) all consents, approvals, waivers or variations under any Debt Financing Agreements that in the reasonable opinion of BidCo are necessary or desirable are obtained on terms acceptable to BidCo (acting reasonably) and any conditions to such consents, approvals, waivers or variations have been satisfied; and
 - (ii) a financier has not exercised (or given notice of its intention to exercise) any of its rights as a result of any default or review event under any Debt Financing Agreements,

in each as as at the Delivery Time on the Second Court Date; and
- (m) **(Restraints):** no temporary restraining order, preliminary or permanent injunction or other order including cease trade orders, in each case issued by a court of competent jurisdiction or securities regulatory authority in Australia in a proceeding brought by a Governmental Agency in Australia, preventing, delaying or otherwise materially adversely impacting the Proposed Transactions, unless such order or injunction has been disposed of to the reasonable satisfaction of the parties acting reasonably, is in effect at the Delivery Time on the Second Court Date.

4.2 Structure B Scheme - Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 4.1(a) (Regulatory Approvals), 4.1(b) (Execution of Structure B Shareholders Agreement) and 4.1(m) (Restraints) are for the benefit of BidCo and VRL and any breach or non-fulfilment of them may only be waived (if capable of waiver) with the written consent of both BidCo and VRL, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 4.1(c) (No change in IBC Recommendation), 4.1(d) (No VRL Prescribed Occurrences), 4.1(f) (VRL Warranties), 4.1(k) (No Material Adverse Change) and 4.1(l) (Debt Financing Agreements), are for the sole benefit of BidCo and any breach or non-fulfilment of them may only be waived by BidCo giving its written consent.
- (c) The Conditions in clauses 4.1(e) (No HoldCo Prescribed Occurrences) and 4.1(g) (BidCo Warranties), are for the sole benefit of VRL and any breach or non-fulfilment of them may only be waived by VRL giving its written consent.
- (d) The Conditions in clauses 4.1(h) (Shareholder approval - Structure B Scheme), 4.1(i) (Structure A Scheme approvals not obtained) and 4.1(j) (Court approval) cannot be waived.
- (e) A party entitled to waive a Condition under this clause 4.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to the Delivery Time on the Second Court Date.

- (f) If a party waives the breach or non-fulfilment of any of the Conditions in clause 4.2, that waiver will not preclude it from suing the other party for any breach of this agreement including a breach that resulted in the non-fulfilment of the Condition that was waived.

4.3 Structure B Scheme - Reasonable endeavours

- (a) Each of the parties will use its respective reasonable endeavours to procure that each of the Conditions (as applicable) is satisfied as soon as reasonably practicable after the date of this agreement or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).
- (b) Without limiting clauses 4.4 and 4.5 below, in relation to the FIRB Application:
- (i) VRL must provide BidCo with all information reasonably requested by BGH to the extent reasonably required in connection with the FIRB Application;
 - (ii) each of BidCo and VRL must respond, at the earliest date reasonably practicable, to any reasonable requests for additional information or documentary material made by FIRB or any other Government Agency in respect of the FIRB Application, but BidCo (acting reasonably) may withhold information that it is commercially sensitive to BidCo; and
 - (iii) notify VRL as soon as reasonably practicable upon becoming aware of any material matters or developments concerning the FIRB Application, including any fact or circumstances that will or may result in the clearance being sought by BidCo pursuant to the FIRB Application not being obtained or being incapable of being obtained,

but for the avoidance of doubt, BidCo is not required to accept any other conditions which are not satisfactory to BidCo, other than the standard tax conditions as described in clause 4.1(a)(i).

- (c) Without limiting clauses 4.4 and 4.5 below, in relation to all other Regulatory Approvals (other than the FIRB Application), BidCo and VRL must, in accordance with the Potential Transaction Engagement Protocols:
- (i) consult and co-operate fully with the other party in relation to the satisfaction of the Conditions, including in relation to all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (ii) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (iii) take all the steps for which it is responsible as part of the Regulatory Approvals process;
 - (iv) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time; and
 - (v) provide the others with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals,
- provided that:
- (vi) the party applying for a Regulatory Approval may withhold or redact information or documents from any other party if and to the extent that they are either confidential to a third party or commercially sensitive and confidential to the applicant; and
 - (vii) neither party is required to disclose materially commercially sensitive information to the other party.

4.4 Structure B Scheme - Notifications

Each of BidCo and VRL must:

- (a) keep the other parties promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other parties in writing if it becomes aware that any Condition has been satisfied; and
- (c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied.

4.5 Structure B Scheme – Certificate

At or before the hearing on the Second Court Date in respect of the Structure B Scheme:

- (a) BidCo and VRL will provide a joint certificate to the Court confirming whether or not the Conditions set out in clauses 4.1(a) (Regulatory Approvals), 4.1(b) (Execution of Structure B Shareholders Agreement and 4.1(m) (Restraints) have been satisfied or waived in accordance with the terms of this agreement;
- (b) VRL will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 4.1(c) (No change in IBC Recommendation), 4.1(d) (No VRL Prescribed Occurrences), 4.1(f) (VRL Warranties), 4.1(h) (Shareholder approval- Structure B Scheme), 4.1(i) (Structure A Scheme approvals not obtained), 4.1(k) (No Material Adverse Change) and 4.1(l) (Debt Financing Agreements) have been satisfied or waived in accordance with the terms of this agreement;
- (c) BidCo will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 4.1(e) (No HoldCo Prescribed Occurrences) and 4.1(g) (BidCo Warranties) have been satisfied or waived in accordance with the terms of this agreement;
- (d) VRL will provide a certificate to BidCo confirming whether or not:
 - (i) VRL has breached any of its obligations under this agreement (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
 - (ii) any Material Adverse Change has occurred and, if it has, giving details of each Material Adverse Change; and
- (e) BidCo will provide a certificate to VRL confirming whether or not BidCo has breached any of its obligations under this agreement (including a breach of a representation or warranty), and if it has, giving details of such breaches.

4.6 Structure B Scheme voted down because of Headcount Test

If the Structure B Scheme is not approved by the VRL Shareholders at the Structure B Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and the Structure A Scheme is not approved by VRL Shareholders (other than the Structure A Excluded Shareholders) at the Structure A Scheme Meeting and VRL or BidCo considers, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then VRL must:

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

4.7 Structure B Scheme - Conditions not capable of being fulfilled

- (a) If:
- (i) any Condition relating to the Structure B Scheme is not satisfied (other than the Condition in clause 4.1(i) (Structure A Scheme approvals not obtained) or (where capable of waiver) waived by the date specified in this agreement for its satisfaction (or an event occurs which would or does prevent a condition precedent being satisfied by the date specified in this agreement);
 - (ii) a circumstance occurs with the result that a Condition relating to the Structure B Scheme is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 4.2 the party does not waive the Condition within 5 Business Days after the occurrence of the circumstance; or
 - (iii) it becomes more likely than not that the Structure B Scheme does not become Effective by the End Date,
- and neither of the following has occurred:
- (iv) the Independent Expert opines to the effect that the Structure B Scheme is not in the best interest of VRL Shareholders, except for where the conclusion is due to the existence of a Competing Proposal; or
 - (v) VRL has entered into a legally binding agreement (other than an Acceptable Confidentiality Agreement) in relation to a Superior Proposal has been publicly announced,
- then VRL and BidCo must consult in good faith with a view to determining whether:
- (vi) the Structure B Scheme may proceed by way of alternative means or methods;
 - (vii) to extend the relevant time or date for satisfaction of the Condition;
 - (viii) to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Structure B Scheme or adjourning that application (as applicable) to another date agreed by the parties; or
 - (ix) to extend the End Date.
- (b) Subject to clause 4.7(c), if a Condition becomes incapable of being satisfied before the End Date (other than the Condition in clause 4.1(i) (Structure A Scheme approvals not obtained) and VRL and BidCo are unable to reach agreement under clause 4.7(a) within 10 Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
- (i) in relation to the Conditions in clauses 4.1(a) (Regulatory Approvals), 4.1(b) (Execution of Structure B Shareholders Agreement), 4.1(h) (Shareholder approval - Structure B Scheme) and 4.1(m) (Restraints), either BidCo or VRL may terminate this agreement by giving the other notice without any liability to any party by reason of that termination alone;
 - (ii) in relation to the Conditions in clauses 4.1(c) (No change in IBC Recommendation), 4.1(d) (No VRL Prescribed Occurrences), 4.1(f) (VRL Warranties), 4.1(h) (Shareholder approval - Structure B Scheme), 4.1(k) (No Material Adverse Change) and 4.1(l) (Debt Financing Agreements), BidCo may terminate this agreement by giving VRL notice without any liability to any party by reason of that termination alone; and
 - (iii) in relation to the clauses 4.1(e) (No HoldCo Prescribed Occurrences) and 4.1(g) (BidCo Warranties), VRL may terminate this agreement by giving BidCo notice without any liability to any other party by reason of that termination alone.

- (c) BidCo or VRL will not be entitled to terminate this agreement under clause 4.7(b) if the relevant Condition has not been satisfied as a result of:
 - (i) a breach of this agreement by that party; or
 - (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

4.8 Interpretation

For the purposes of this clause 4, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

- (a) in the case of a Condition relating to a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this agreement).

5. Structure A Scheme structure

5.1 Structure A Scheme

- (a) VRL must, as soon as reasonably practicable after the date of this agreement and substantially in compliance with the Timetable, propose the Structure A Scheme under which, subject to the Structure A Scheme becoming Effective, all of the Structure A Scheme Shares will be transferred to VRC and the Structure A Scheme Shareholders will be entitled to receive, for each VRL Share held at the Structure A Scheme Record Date, the Structure A Scheme Consideration.
- (b) VRL 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 Structure A Scheme without the prior written consent of VRC.

5.2 Structure A Scheme Consideration

- (a) VRC covenants in favour of VRL (in VRL's own right and separately as trustee for each Structure A Scheme Shareholder) that, in consideration of the transfer to VRC of the Structure A Scheme Shares under the terms of the Structure A Scheme, on the Implementation Date:
 - (i) VRC will accept that transfer; and
 - (ii) VRC will, subject to BGH's Affiliates, HoldCo and BidCo complying with their obligations under the Subscription Agreement, provide in accordance with the Structure A Scheme Deed Poll to each Scheme Shareholder the relevant component of the Structure A Scheme Consideration that comprises the Structure A Cash Consideration, in accordance with the Structure A Scheme.
- (b) HoldCo covenants in favour of VRL (in VRL's own right and separately as trustee for each Structure A Scheme Shareholder) that, in consideration of the transfer to VRC of the Structure A Scheme Shares under the terms of the Structure A Scheme, on the Implementation Date HoldCo will:
 - (i) comply with its obligations under the Subscription Agreement to enable VRC to comply with its obligation under clause 5.2(a)(ii); and
 - (ii) issue to each applicable Scheme Shareholder the HoldCo Shares that comprise the Structure A Scheme Consideration, in accordance with the Structure A Scheme.

- (c) VRC must use commercially reasonable efforts (including by enforcing its rights) to obtain the proceeds under, subject to the terms and conditions of, the Subscription Agreement prior to the Implementation Date.

5.3 Potential uplift to Structure A Scheme Consideration

VRL agrees that:

- (a) the Cinema Uplift Event will only be satisfied:
 - (i) where the VRL Group re-open the cinemas operated by the VRL Group, or exercise any right (such as voting rights) that could reasonably result in cinemas operated pursuant to a joint venture to which a VRL Group Member is a party to re-open, in circumstances where the VRL Group has acted in good faith in deciding to re-open or exercise its right taking into consideration the expected impact on operating performance of any State or Federal Government laws, directions or recommendations; and
 - (ii) a Film Deferral Event has not occurred; and
- (b) the Theme Parks Uplift Event will only be satisfied where the VRL Group will act in good faith in deciding to re-open the Warner Bros. Movie World and Sea World theme parks taking into consideration the expected impact on operating performance of any State or Federal Government laws, directions or recommendations.

5.4 Allotment and issue of HoldCo Shares

- (a) Subject to the Structure A Scheme becoming Effective, HoldCo must:
 - (i) in accordance with the Structure A Scheme Deed Poll, issue the HoldCo Shares to the Structure A Scheme Shareholders in accordance with the Structure A Scheme on terms that each HoldCo Share will rank equally in all respects with each other HoldCo Share then on issue and will have rights including those set out in the Structure A Shareholder Agreement; and
 - (ii) ensure that on issue each HoldCo Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.
- (b) To facilitate the issue of the HoldCo Shares to Structure A Scheme Shareholders, VRL must provide to HoldCo and BidCo, or procure the provision to HoldCo and BidCo of, a complete copy of the VRL register of members as at the Structure A Scheme Record Date (which must include the name, address and registered holding of each Structure A Scheme Shareholder as at the Structure A Scheme Record Date together with details of all valid Elections received from Structure A Scheme Shareholders), within two Business Days after the Structure A Scheme Record Date. The details and information to be provided under this clause must be provided in such form as HoldCo, BidCo, its Advisers or share registry may reasonably require.
- (c) HoldCo will not issue any HoldCo Shares to Foreign Scheme Shareholders.
- (d) Any fractional entitlement of the Structure A Scheme Shareholder to a part of a HoldCo Share will be rounded down to the nearest whole number of HoldCo Shares.

5.5 Structure A Scheme Deed Poll

VRC covenants in favour of VRL (in VRL's own right and separately as trustee for each of the Structure A Scheme Shareholders) to execute and deliver, and HoldCo covenants to execute and deliver, in each case to VRL, the Structure A Scheme Deed Poll no later than the day before the First Court Date.

6. Structure B Scheme structure

6.1 Structure B Scheme

- (a) VRL must, as soon as reasonably practicable after the date of this agreement and substantially in compliance with the Timetable, propose the Structure B Scheme under which, subject to the Structure B Scheme becoming Effective, all of the Transferring Shares will be transferred to BidCo and the Transferring Shareholders will be entitled to receive, for each Transferring Share, the Structure B Scheme Consideration.
- (b) VRL 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 Structure B Scheme without the prior written consent of VRC and BidCo.

6.2 Structure B Scheme Consideration

- (a) BidCo covenants in favour of VRL (in VRL's own right and separately as trustee for each Structure B Scheme Shareholder) that, in consideration of the transfer to BidCo of the Transferring Shares under the terms of the Structure B Scheme, on the Implementation Date:
 - (i) BidCo will accept that transfer; and
 - (ii) BidCo will provide to each Transferring Shareholder the Structure B Scheme Consideration, in accordance with the Structure B Scheme.
- (b) Each of BidCo and HoldCo must use commercially reasonable efforts (including by enforcing its rights) to obtain the proceeds under, subject to the terms and conditions of, the Subscription Agreement prior to the Implementation Date.

6.3 Potential uplift to Structure B Scheme Consideration

VRL agrees that:

- (a) the Cinema Uplift Event will only be satisfied:
 - (i) where the VRL Group re-open the cinemas operated by the VRL Group, or exercise any right (such as voting rights) that could reasonably result in cinemas operated pursuant to a joint venture to which a VRL Group Member is a party to re-open, in circumstances where the VRL Group has acted in good faith in deciding to re-open or exercise its right taking into consideration the expected impact on operating performance of any State or Federal Government laws, directions or recommendations; and
 - (ii) a Film Deferral Event has not occurred; and
- (b) the Theme Parks Uplift Event will only be satisfied where the VRL Group will act in good faith in deciding to re-open the the Warner Bros. Movie World and Sea World theme parks taking into consideration the expected impact on operating performance of any State or Federal Government laws, directions or recommendations.

6.4 Structure B Scheme Deed Poll

BidCo covenants in favour of VRL (in VRL's own right and separately as trustee for each of the Structure A Scheme Shareholders) to execute and deliver the Structure B Scheme Deed Poll no later than the day before the First Court Date.

7. Recommendation and intentions

7.1 IBC Recommendation and Voting Intention

(a) Subject to clause 7.2, VRL must ensure that the Announcement, the Explanatory Booklet and each public statement made by VRL in relation to the Proposed Transaction state that the IBC and each Independent Director:

(i) considers:

- (A) that the Structure A Scheme to be in the best interest of VRL Shareholders (other than Structure A Excluded Shareholders) and that the IBC recommends that VRL Shareholders (other than Structure A Excluded Shareholders) vote in favour of the Structure A Scheme; and
- (B) in circumstances where the Structure A Scheme is not approved by either VRL Shareholders (other than Structure A Excluded Shareholders) or by order of the Court, that Structure B Scheme to be in the best interest of VRL Shareholders and that the IBC recommends that VRL Shareholders vote in favour of the Structure B Scheme,

(Recommendation); and

(ii) intends to cause:

- (A) any VRL Shares in which it has a Relevant Interest to be voted in favour of the Structure A Scheme; and
- (B) any VRL Shares in which it has a Relevant Interest to be voted in favour of the Structure B Scheme,

(Voting Intention),

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

(iii) *'in the absence of a Superior Proposal'*;

(iv) prior to registration by ASIC of the explanatory statement included in the Explanatory Booklet: *'subject to the Independent Expert concluding that the Structure A Scheme is in the best interest of VRL Shareholders (other than Structure A Excluded Shareholders) and in the circumstance where the Structure A Scheme is not approved by either VRL Shareholders (other than Structure A Excluded Shareholders) or by order of the Court, that the Structure B Scheme is in the best interest of VRL Shareholders'*; and

(v) from registration by ASIC of the explanatory statement included in the Explanatory Booklet (including in any statements related to the Recommendation in the Explanatory Booklet): *'subject to the Independent Expert continuing to conclude that the Structure A Scheme is in the best interest of VRL Shareholders (other than Structure A Excluded Shareholder) and in the circumstance where the Structure A Scheme is not approved by either VRL Shareholders (other than Structure A Excluded Shareholder) or by order of the Court, that the Structure B Scheme is in the best interest of VRL Shareholders'*.

(b) Subject to clause 7.2, VRL must ensure that the IBC collectively, and the members of the IBC individually, do not change, withdraw or modify its, his or her Recommendation or Voting Intention unless:

- (i) VRL has received, other than as a result of a breach of clause 17, a Superior Proposal and (i) has entered into a legally binding agreement to undertake or give

effect to that proposal or (ii) in the case of a proposal by way of takeover bid which is not subject to an agreement with VRL, an announcement has been made which attracts section 631(1) of the Corporations Act; or

- (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Structure A Scheme is not in the best interest of the VRL Shareholders (other than Structure A Excluded Shareholders) or that the Structure B Scheme is not in the best interest of the VRL Shareholders, except for where the conclusion is due to the existence of a Competing Proposal or the Structure A Scheme),

and VRL has complied with its obligations under clause 17 (including ensuring that all of VRC's and BidCo's rights under clause 17.7 have been exhausted).

- (c) Without limiting the operation of the preceding provisions of this clause 7, if circumstances arise, including the receipt or expected receipt of an unfavourable report from the Independent Expert (including either the Independent Expert's Report or any update of, or any revision, amendment or supplement to, that report) which may lead to any one or more member of the IBC changing, withdrawing or varying his or her recommendation to vote in favour of either the Structure A Scheme or the Structure B Scheme, VRL must:
 - (i) immediately notify BidCo of this fact; and
 - (ii) consult with BidCo in good faith for two Business Days after the date on which the notice under clause 7.1(c)(i) is given to consider and determine whether there are any steps that can be taken to avoid such a change, withdrawal or variation (as applicable).

7.2 Exclusion from Recommendation

The obligation of VRL under clause 7.1 to ensure that each member of the IBC provides and maintains the Recommendation is qualified to the extent that any Independent Director considers, after first obtaining written advice from independent senior counsel of the Victorian or New South Wales bar, that he or she should not provide or continue to maintain any recommendation (positive or adverse) because that Independent Director has an interest in either the Structure A Scheme or the Structure B Scheme that is so materially different from other VRL Shareholders which would properly preclude or render it inappropriate for him or her to provide any such recommendation.

7.3 Confirmation

VRL represents and warrants to VRC and BidCo that each member of the IBC has confirmed that he or she intends to make the Recommendation and the Voting Intention and his or her agreement not to do anything inconsistent with their Recommendation and Voting Intention (including withdrawing, changing or in any way qualifying their Recommendation or Voting Intention) other than in the circumstances referred to in clauses 7.1(b).

7.4 VRC

Despite any provision of this agreement, nothing in this agreement confers on a party or any other person any control over, or power to substantially influence, the exercise by VRC of voting rights attached to any VRL Shares in which VRC has a Relevant Interest. A provision of this agreement that but for this clause is or might be interpreted as conferring such control or influence will by force of this clause be read down so that the clause does not do so.

8. Proposed Transactions – parties' respective implementation obligations

8.1 VRL's obligations

VRL must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Structure A Scheme and

the Structure B Scheme as soon as reasonably practicable and after the date of this agreement and substantially in accordance with the Timetable, including taking each of the following steps:

- (a) **(Explanatory Booklet)** prepare the Explanatory Booklet in accordance with clause 8.4;
- (b) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **(review of draft Independent Expert's Report)** on receipt from the Independent Expert, provide VRC and BidCo with the draft report (and any updates to such report) received from the Independent Expert for factual accuracy review, and promptly give to the Independent Expert any comments that VRC or BidCo provides VRL in relation to factual matters regarding VRC or BidCo in any draft of the Independent Expert's Report;
- (d) **(approval of draft for ASIC and ASX)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC and ASX, procure that a meeting of the IBC, or of a committee of the IBC appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to ASX for its review and approval for the purposes of Appendix 7A to the Listing Rules;
- (e) **(liaison with ASIC and ASX)** as soon as reasonably practicable after the date of this agreement:
 - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 8.1(d), 8.2(e) and 8.3(e), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to ASX for its review and approval for the purposes of Appendix 7A to the Listing Rules; and
 - (ii) liaise with ASIC and ASX during the period of their respective consideration of that draft of the Explanatory Booklet and keep VRC and BidCo reasonably informed of any matters raised by ASIC or ASX in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with VRC and BidCo, to resolve any such matters (provided that, where any matters relate to BidCo Information, VRL must not take any steps to address them without the prior written consent of BidCo, not to be unreasonably withheld or delayed and where any matters relate to VRC Information, VRL must not take any steps to address them without the prior written consent of VRC and BidCo, not to be unreasonably withheld or delayed);
- (f) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the reviews by ASIC and ASX of the Explanatory Booklet, procure that a meeting of the IBC, or of a committee of the IBC appointed for the purpose, is held to consider approving the Explanatory Booklet for dispatch to the VRL Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (g) **(section 411(17)(b) statements)** apply to ASIC for the production of statements in writing under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Structure A Scheme and the Structure B Scheme;
- (h) **(confirmation of no objection from ASX)** request ASX to confirm that it has no objection to the draft Explanatory Booklet;
- (i) **(first Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for an order under section 411(1) of the Corporations Act directing VRL to convene the Structure A Scheme Meeting and the Structure B Scheme Meeting;
- (j) **(registration of explanatory statement)** request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Structure A Scheme and the Structure B Scheme in accordance with section 412(6) of the Corporations Act;
- (k) **(information):**

- (i) provide reasonable information about the Structure A Scheme, the Structure B Scheme and the VRL Shareholders to BidCo and its Related Bodies Corporate, which BidCo requests and reasonably requires in order to:
 - (A) canvass views on the Structure A Scheme and the Structure B Scheme by VRL Shareholders;
 - (B) facilitate the provision by, or on behalf of, VRC of the Structure A Scheme Consideration;
 - (C) facilitate the provision by, or on behalf of, BidCo of the Structure B Scheme Consideration; and
 - (D) review the tally of proxy appointments and directions received by VRL before the Structure A Scheme Meeting and the Structure B Scheme Meeting;
- (ii) keep BidCo reasonably informed:
 - (A) on the status of proxy forms for the Structure A Scheme Meeting and Structure B Scheme Meeting, including over the period commencing 10 Business Days before the Structure A Scheme Meeting and ending on the deadline for receipt of proxy forms;
 - (B) on the status of Elections by VRL Shareholders; and
 - (C) of such other information as the VRL Group may receive concerning the voting intentions or Elections of VRL Shareholders;
- (iii) within 5 Business Days after the date of this agreement, provide each of VRC and BidCo with:
 - (A) a copy of the VRL Register as at the date of this agreement to the extent doing so does not breach applicable privacy laws; and
 - (B) the most recently available information in VRL's possession regarding the beneficial ownership of VRL Shares including a copy of the most recent beneficial ownership analysis report received by VRL (which, for the avoidance of doubt, may be as at a date prior to the date of this agreement); and
- (iv) provide each of VRC and BidCo:
 - (A) on a weekly basis, a copy of the latest VRL Register; and
 - (B) on a weekly basis, the most recently available information in VRL's possession regarding the beneficial ownership of VRL Shares including a copy of the most recent beneficial ownership analysis report received by VRL,

provided that if the VRL Register or any beneficial ownership analysis report is received by VRL more frequently than on a weekly basis VRL must provide VRC and BidCo with a copy of each such report after it is received by VRL;
- (l) **(convene Structure A Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, dispatching the Explanatory Booklet to the VRL Shareholders and convening and holding the Structure A Scheme Meeting and must not adjourn or postpone the Structure A Scheme Meeting or Structure B Scheme Meeting or request the Court to adjourn or postpone the Structure A Scheme Meeting or Structure B Scheme Meeting in either case without obtaining the prior written approval of BidCo (such approval not to be unreasonably withheld or delayed), except where there is a Competing Proposal, in which case VRL may adjourn or postpone the Structure A Scheme Meeting or Structure B Scheme Meeting by up to 10 Business Days without the prior written approval of BidCo;

- (m) **(convene Structure B Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, dispatching the Explanatory Booklet to the VRL Shareholders and convening and holding the Structure B Scheme Meeting;
- (n) **(Court approval application for Structure A if parties agree that conditions are capable of being satisfied)** if the resolution submitted to the Structure A Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act and, if necessary, the parties agree on the Business Day immediately following the Structure A Scheme Meeting that it can be reasonably expected that all of the Conditions (other than the Condition in clause 3.1(i) (Court approval of Structure A Scheme)) will be satisfied or waived prior to the proposed Second Court Date, apply to the Court for orders approving the Structure A Scheme;
- (o) **(Court approval application for Structure B if parties agree that conditions are capable of being satisfied)** if the resolution submitted to the Structure B Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act and, if necessary, the parties agree on the Business Day immediately following the Structure B Scheme Meeting that it can be reasonably expected that all of the Conditions (other than the Conditions in clauses 4.1(i) (Structure A Scheme approvals not obtained) and 4.1(j) (Court approval of Structure B Scheme)) will be satisfied or waived prior to the proposed Second Court Date, apply to the Court for orders approving the Structure B Scheme;
- (p) **(appeal process)** if the Court refuses to make any orders directing VRL to convene either the Structure A Scheme Meeting or the Structure B Scheme Meeting or approving the Structure A Scheme or the Structure B Scheme (**Affected Scheme**), VRL and BidCo must:
 - (i) consult with each other in good faith as to whether to appeal the Court's decision on the Affected Scheme; and
 - (ii) appeal the court decision on the Affected Scheme unless the parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success;
- (q) **(representation at Second Court Date)** ensure that it is represented by counsel at the Court hearings convened for the purposes of, and give such undertakings (if any) to the Court (through its counsel) as are reasonably necessary to ensure the Court makes an order under, for orders under sections 411(1) and 411(4)(b) of the Corporations Act ordering respectively the convening of the Scheme Meetings and approving the Structure A Scheme or Structure B Scheme;
- (r) **(implementation of Structure A Scheme)** if the Structure A Scheme is approved by the Court:
 - (i) apply to the Court to discontinue the Court process for the Structure B Scheme;
 - (ii) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Structure A Scheme in accordance with section 411(10) of the Corporations Act;
 - (iii) determine entitlements to the Structure A Scheme Consideration as at the Structure A Scheme Record Date in accordance with the Structure A Scheme;
 - (iv) execute proper instruments of transfer of and effect and, subject to stamping, register the transfer of the Structure A Scheme Shares to VRC on the Implementation Date; and
 - (v) do all other things contemplated by or necessary to give effect to the Structure A Scheme and the orders of the Court approving the Structure A Scheme;

- (s) **(implementation of Structure B Scheme)** if the Structure B Scheme is approved by the Court:
 - (i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Structure B Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) determine entitlements to the Structure B Scheme Consideration as at the Structure B Scheme Record Date in accordance with the Structure B Scheme;
 - (iii) execute proper instruments of transfer of and, subject to stamping, effect and register the transfer of the Transferring Shares to BidCo on the Implementation Date; and
 - (iv) do all other things contemplated by or necessary to give effect to the Structure B Scheme and the orders of the Court approving the Structure B Scheme;
- (t) **(Regulatory notifications)** in relation to the Regulatory Approvals, lodge with any Governmental Agency within the relevant periods all documentation and filings required by law to be so lodged by VRL in relation to the Proposed Transactions;
- (u) **(BidCo Information)** without the prior written consent of BidCo, not use the BidCo Information for any purposes other than those contemplated by this agreement or the Structure B Scheme;
- (v) **(VRC Information)** without the prior written consent of BidCo, not use the VRC Information for any purposes other than those contemplated by this agreement or the Structure A Scheme;
- (w) **(Documents)** consult with VRC and BidCo in relation to the content of the documents required for the purpose of the Structure A Scheme and with BidCo in relation to the content of the documents required for the purpose of the Structure B Scheme, including originating process, affidavits, submissions and draft minutes of Court orders;
- (x) **(Shareholder support)** in consultation with BidCo, promote to its shareholders the merits of the Structure A Scheme and the Structure B Scheme and encourage VRL Shareholders to vote on the Structure A Scheme and the Structure B Scheme in accordance with the recommendation of the VRL Board, including soliciting proxy votes in favour of the Structure A Scheme and the Structure B Scheme and, if requested to do so by BidCo, engage a proxy solicitation firm to assist in soliciting proxy votes (and VRL may independently decide to appoint a proxy solicitation firm after consulting in good faith with BidCo);
- (y) **(BidCo capitalisation or loan)** provide all reasonable assistance required by BidCo to facilitate BidCo either subscribing for VRL Shares or making a loan to any entity within the VRL Group on or about the Implementation Date, but conditional on either the Structure A Scheme or the Structure B Scheme becoming Effective;
- (z) **(quotation of VRL Shares and ASX listing)** apply to ASX:
 - (i) to have trading in VRL Shares suspended from the close of trading on the Effective Date;
 - (ii) in relation to Structure B only, for a waiver of the relevant ASX Listing Rules to be granted to facilitate the issue of new VRL Shares to BidCo in the period between the Implementation Date and the date that VRL is removed from the official list of ASX;
 - (iii) to have VRL removed from the official list of ASX from:
 - (A) in relation to Structure A, the close of trading on the Business Day immediately following the Implementation Date; and
 - (B) in relation to Structure B, on a date after the Implementation Date to be determined by BidCo; and

- (aa) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations.

8.2 VRC's obligations

VRC must take all steps reasonably necessary to assist VRL to implement the Structure A Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including, taking each of the following steps:

- (a) **(VRC Information)** provide to VRL, in a form appropriate for inclusion in the Explanatory Booklet, all VRC Information that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Explanatory Booklet, which information must without limiting the above:
 - (i) contain all information necessary relating to VRC to enable VRL to ensure that the Explanatory Booklet complies with the requirements of RG 60;
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and
 - (iii) be updated by all such further or new material information which may arise and VRC becomes aware of after the Explanatory Booklet has been dispatched until the date of the Structure A Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(Regulatory notifications)** in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by VRC in relation to the Structure A Scheme;
- (c) **(Independent Expert)** subject to the Independent Expert agreeing to reasonable confidentiality restrictions, promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (d) **(review of Explanatory Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by VRL and provide comments on those drafts in good faith;
- (e) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate representatives of VRC is held to consider approving the VRC Information as being in a form appropriate for provision to ASIC for review;
- (f) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate representatives of VRC is held to consider approving the VRC Information as being in a form appropriate for dispatch to VRL Shareholders, subject to approval of the Court;
- (g) **(Representation)** in relation to the Structure A Scheme, procure that VRC is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (h) **(VRL Information)** without the prior written consent of VRL, not use VRL Information for any purposes other than those contemplated by this agreement or the Structure A Scheme; and
- (i) **(Compliance with laws)** in relation to the Structure A Scheme, do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations.

8.3 BidCo's obligations

BidCo must take all steps reasonably necessary to assist VRL to implement the Structure A Scheme and the Structure B Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including, taking each of the following steps:

- (a) **(BidCo Information)** provide to VRL, in a form appropriate for inclusion in the Explanatory Booklet, all BidCo Information that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Explanatory Booklet, which information must without limiting the above:
 - (i) contain all information necessary relating to BidCo and HoldCo to enable VRL to ensure that the Explanatory Booklet complies with the requirements of RG 60;
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and
 - (iii) be updated by all such further or new material information which may arise and BidCo becomes aware of after the Explanatory Booklet has been dispatched until the date of the Structure A Scheme Meeting and the Structure B Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(Regulatory notifications)** in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by BidCo in relation to the Structure A Scheme and the Structure B Scheme;
- (c) **(Independent Expert)** subject to the Independent Expert agreeing to reasonable confidentiality restrictions, promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (d) **(review of Explanatory Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by VRL and provide comments on those drafts in good faith;
- (e) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate representatives of BidCo is held to consider approving the BidCo Information as being in a form appropriate for provision to ASIC for review;
- (f) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate representatives of BidCo is held to consider approving BidCo Information as being in a form appropriate for dispatch to VRL Shareholders, subject to approval of the Court;
- (g) **(Representation)** in relation to Structure B only, procure that BidCo is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (h) **(VRL Information)** without the prior written consent of VRL, not use VRL Information for any purposes other than those contemplated by this agreement or Structure B Scheme; and
- (i) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations.

8.4 Explanatory Booklet - preparation principles

- (a) As soon as reasonably practicable after the date of this agreement and substantially in accordance with the Timetable, VRL must prepare the Explanatory Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
 - (ii) this clause 8.4.
- (b) The Explanatory Booklet will include:
 - (i) the terms of the Structure A Scheme and the Structure B Scheme;
 - (ii) the notice of Structure A Scheme Meeting, the notice of Structure B Scheme Meeting and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Structure A Scheme and the Structure B Scheme, together with a proxy form for the Structure A Scheme Meeting, the Structure B Scheme Meeting and for any ancillary meeting;
 - (iii) the VRL Information;
 - (iv) the VRC Information;
 - (v) the BidCo Information;
 - (vi) a copy of this agreement (without the schedules or annexures);
 - (vii) a copy of the executed Structure A Scheme Deed Poll;
 - (viii) a copy of the executed Structure B Scheme Deed Poll;
 - (ix) a copy or a summary of the executed Structure A Shareholders Agreement;
 - (x) a copy or a summary of the executed Structure B Shareholders Agreement; and
 - (xi) a copy of the Independent's Expert Report.
- (c) The Explanatory Booklet must include a statement that:
 - (i) BidCo and HoldCo are responsible for the BidCo Information (other than any information provided by VRL to BidCo or obtained from VRL's public filings on ASX regarding the VRL Group contained in, or used in the preparation of, the information regarding VRL following the implementation of the Structure B Scheme) contained in the Explanatory Booklet;
 - (ii) VRC is responsible for the VRC Information (other than any information provided by VRL to VRC or obtained from VRL's public filings on ASX regarding the VRL Group contained in, or used in the preparation of, the information regarding VRL following the implementation of the Structure A Scheme) contained in the Explanatory Booklet; and
 - (iii) VRL is responsible for the VRL Information and is also responsible for the information contained in the Explanatory Booklet provided by VRL to VRC and BidCo or obtained from VRL's public filings on ASX regarding the VRL Group contained in, or used in the preparation of, the information regarding VRL following the implementation of either the Structure A Scheme or the Structure B Scheme contained in the Explanatory Booklet.
- (d) VRL must make available to VRC and BidCo drafts of the Explanatory Booklet, consult with VRC and BidCo in relation to the content of those drafts (other than the VRC Information and BidCo Information), and consider in good faith, for the purpose of amending those drafts, comments from VRC and BidCo on those drafts. VRC and BidCo acknowledge and agree that VRL has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as provided in this agreement with respect to the VRC Information and the BidCo Information.

- (e) VRL must seek approval from VRC and BidCo for the form and context in which the VRC Information and the BidCo Information appears in the Explanatory Booklet, which approval VRC and BidCo must not unreasonably withhold or delay, and VRL must not lodge the Explanatory Booklet with ASIC until such approval is obtained from VRC and BidCo.
- (f) If VRL, VRC and BidCo disagree on the form or content of the Explanatory Booklet, they must consult in good faith to try to settle an agreed form of the Explanatory Booklet. If agreement is not reached after reasonable consultation, then:
 - (i) if the disagreement relates to the form or content of any information appearing in the Explanatory Booklet other than the VRC Information or the BidCo Information, the VRL Board will, acting in good faith, decide the final form or content of the disputed part of the Explanatory Booklet;
 - (ii) if the disagreement relates to the form or content of the BidCo Information, VRL will make such amendments to the form or content of the disputed part of the BidCo Information as BidCo reasonably requires; and
 - (iii) if the disagreement relates to the form or content of the VRC Information, VRL will make such amendments to the form or content of the disputed part of the VRC Information as VRC (after VRC has consulted with BidCo) reasonably requires.
- (g) VRL must take all reasonable steps to ensure that the Explanatory Booklet (other than the VRC Information and the BidCo Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is dispatched to VRL Shareholders, including undertaking customary verification processes.
- (h) BidCo must take all reasonable steps to ensure that the BidCo Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is dispatched to VRL Shareholders.
- (i) VRC must take all reasonable steps to ensure that the VRC Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is dispatched to VRL Shareholders.
- (j) VRL must provide to VRC and BidCo all such further or new information of which VRL becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Structure A Scheme Meeting and the Structure B Scheme Meeting where this is necessary to disclose to VRL Shareholders to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (k) BidCo must provide to VRL all such further or new information of which BidCo becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Structure B Scheme Meeting where this is necessary to disclose to VRL Shareholders to ensure that the BidCo Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (l) VRC must provide to VRL all such further or new information of which VRC becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Structure A Scheme Meeting where this is necessary to disclose to VRL Shareholders to ensure that the VRC Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (m) VRL, VRC (only in the context of the Structure A Scheme) and BidCo each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Structure A Scheme and the Structure B Scheme are in the interests of VRL Shareholders, VRC (only in the context of the Structure A Scheme) and BidCo and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external Advisers) to comply with their respective obligations under this clause 8.4 and to implement the Structure A Scheme or the Structure B Scheme as soon as reasonably practicable and substantially in accordance with the Timetable

9. Conduct of business before the Implementation Date

9.1 Conduct of VRL business

- (a) From the date of this agreement up to and including the Implementation Date, VRL must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:
- (i) operate those businesses consistent with past practice, in substantially the same manner as previously conducted, as altered by measures taken as at the date of this agreement as a result of the impact of the COVID-19 virus as Fairly Disclosed in the Due Diligence Material, and in accordance with all applicable laws;
 - (ii) use reasonable endeavours to preserve their relationships with customers, suppliers, joint venture parties, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;
 - (iii) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (iv) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the VRL Group is a party, and with laws, authorisations and licences applicable to each member of the VRL Group;
 - (v) not take or fail to take any action that constitutes a VRL Prescribed Occurrence or that could reasonably be expected to result in a VRL Prescribed Occurrence, or authorise or agree to do any such thing;
 - (vi) keep BidCo reasonably and promptly informed of, and consult BidCo in good faith in respect of, material developments in the business of the VRL Group, including any decision to cease (temporarily or permanently) any material part of the business of the VRL Group;
 - (vii) promptly notify BidCo in writing of any of the following matters of which VRL becomes aware, and such written notification must include a reasonable summary of the relevant matter:
 - (A) events, facts, matters or circumstances which would or would be reasonably be expected to either constitute a Material Adverse Change or have a material adverse effect on the financial or operational performance, or the reputation, of the VRL Group or the VRL Group's relationships with Government Agencies, financiers or key business partners (including joint venture parties); and
 - (B) any breach of, or default under, any law, contract, arrangement, permit, license or authorisation that is binding on any member of the VRL Group and which is reasonably likely to result in a material liability for any member of the VRL Group or any breach, default, event of default, cancellation event or review event under a Debt Financing Agreement; and
 - (viii) prior to making a decision to re-open the cinemas or theme parks pursuant to clauses 5.3(a) and 5.3(b) or clauses 6.3(a) and 6.3(b):
 - (A) must keep BidCo reasonably informed of, and consult in good faith with BidCo regarding; and
 - (B) provide BidCo with all information reasonably requested by BidCo that supports,

any decision to re-open the cinemas operated by the VRL Group or pursuant to a joint venture to which a VRL Group Member is a party or the Warner Bros. Movie World and Sea World theme parks;

- (ix) other than as provided for in clause 9.1(a)(viii), not take any action in relation to the following matters relating to the VRL Group without first consulting BidCo in good faith:
 - (A) re-open any business that is closed or has substantially ceased or reduced (relative to 12 months prior to the date of this agreement) operations as at the date of this agreement;
 - (B) materially varying the arrangements adopted in relation to employees as at the date of this agreement, including amending any partial or full stand-down of employees; or
 - (C) adopting any substantial variations or changes to the business operations of the VRL Group relative to their operations as at the date of this agreement.
- (b) Without limiting clause 9.1, VRL must not, and must procure that its Subsidiaries do not, from the date of this agreement up to and including the Implementation Date, do any of the following (or agree or offer to do any of the following):
 - (i) incur any additional Financial Indebtedness (except for draw-downs on existing banking facilities) or guarantee or indemnify the obligations of any person other than a member of the VRL Group that is directly or indirectly wholly owned by VRL, other than incurring trade creditors in the usual and ordinary course of business and consistent with past practice or pursuant to the Proposed Transaction Financing Arrangements;
 - (ii) other than as approved in writing by Bidco (not to be unreasonably withheld or delayed), amend or take any action that:
 - (A) seeks or causes a financier (or person acting on its behalf) to consent to or waive (whether or not such consent or waiver is conditioned) any provision under; or
 - (B) would be reasonably likely to give rise to a financier (or person acting on its behalf) being capable of exercising a right that would pose a risk to the continuity of,
 any Financial Indebtedness arrangements (including the Debt Financing Agreements) to which one or more members of the VRL Group are a party;
 - (iii) make any change to its constitution;
 - (iv) (except as required by law or as provided in an existing contract in place as at the date of this agreement) engage any new employee or enter into or make any material change to the terms of employment of any person, including an officer, director, executive or other employee, whose total employment cost exceeds \$200,000 (**Key Person**), or engage new employees (other than to replace employees on substantially similar terms) whose total employment costs exceed \$750,000 per annum in aggregate, in each case other than relating to rights or entitlements in effect on the date of this agreement and which are Fairly Disclosed in the Due Diligence Materials;
 - (v) amend the terms of any option, performance right, incentive or share plan;
 - (vi) accelerate the rights of any of their employees to compensation or benefits of any kind (including under any option, performance right, incentive or share plan);
 - (vii) terminate or encourage the resignation of a Key Person, except, after good faith consultation with BidCo, in accordance with current personnel practices;
 - (viii) pay or agree to pay any of its officers, directors, executives or other employees a bonus, severance, termination or retention payment, other than pursuant to existing contractual arrangements in effect on the date of this agreement and which are Fairly Disclosed in the Due Diligence Materials prior to the date of this

agreement, including the special exertion fees for the members of the IBC and retention bonus arrangements for employees of VRL;

- (ix) make any concession or acknowledgment in respect of, or vary any pattern of work of, any employee or group of employees that is reasonably expected to give rise to a future potential claim, dispute or liability for the VRL Group that may reasonably give rise to potential costs or liability of more than \$500,000 in aggregate for all such potential costs or liabilities;
- (x) settle or compromise any dispute, audit or inquiry in relation to Tax or Duty or amend any tax return, other than in the ordinary course of its business;
- (xi) commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding that relates to potential costs or liability of more than \$100,000 (after allowing for insurance recoveries), other than pursuing debts in the ordinary course of business;
- (xii) (except under contractual arrangements in effect on the date of this agreement and which are Fairly Disclosed in the Due Diligence Materials) enter into any enterprise bargaining agreement or similar collective employment agreement;
- (xiii) in respect of any single transaction or series of related or similar transactions, acquire or dispose of (or agree or commit to or grant a right which would lead to the acquisition or disposal of) any interest in any equity securities, business, real property, entity or undertaking, the value of which exceeds \$250,000 when aggregated with all acquisitions or disposals of interests in securities, assets (other than in the ordinary course of Business), businesses, real property, entities or undertakings;
- (xiv) incur, agree to, enter into commitments involving, bring forward the time for incurring or committing to or grant to another person any right the exercise of which could be reasonably expected to involve or result in any member of the VRL Group incurring capital expenditure of more than \$250,000;
- (xv) incur, agree to or enter into commitments in relation to minimum guaranteed payments to a third party (including pursuant to output arrangements) in respect of any film, television series or other intellectual property rights in excess of USD 2,000,000 when aggregated with all such agreements or commitments incurred, agreed to or entered into after the date of this agreement; –
- (xvi) enter into any new film or television show licensing output or distribution agreement that relates to more than one film or television show to be provided by the licensor, or renew or extend any such agreement that has expired or is due to expire, within the next 7 months of the date of this agreement without the approval of BidCo (and BidCo may take into account, at its discretion, whether the terms are appropriate having regard to the market conditions in determining whether or not to grant its approval to the terms);
- (xvii) enter into, vary or terminate any contract, lease, licence arrangement, distribution arrangement, joint venture, partnership or commitment:
 - (A) that has a term of more than 2 years;
 - (B) resulting in total expenditure greater than \$250,000 in each case ;
 - (C) resulting in total revenue of greater than \$250,000 in each case individually; or
 - (D) contains a restrictive covenant or otherwise has the effect of imposing additional restrictions on the future business activities of the VRL Group;
- (xviii) pay, incur or agree to pay or incur transaction costs (being any investment banking, financial adviser, legal, accounting, share registry and other costs payable to other advisers or third party service providers, and any payments to employees that relate directly to the Proposed Transaction such as deal or

retention bonuses) other than in accordance with the transaction cost estimates and arrangements Fairly Disclosed in the Due Diligence Material prior to the date of this agreement;

- (xix) change any accounting policy applied by it to report its financial position other than any change in policy required by a change in accounting standards or law; or
- (xx) enter into or resolve to enter into a transaction with any related party of VRL (other than a related party which is a VRL Group Member) as defined in section 228 of the Corporations Act, other than pursuant to arrangements and on the same terms as the arrangements Fairly Disclosed in VRL's annual report issued for the year ended 30 June 2019.

9.2 Permitted activities

The obligations of VRL under clause 9.1 do not apply in respect of any matter:

- (a) expressly required to be done or procured by VRL or expressly permitted to be done by VRL under this agreement, the Proposed Transaction Financing Arrangements, the Structure A Scheme or the Structure B Scheme;
- (b) required by law or by an order of a court or Governmental Agency;
- (c) required for any VRL Director to comply with his or her fiduciary or statutory duties in response to circumstances which were not present or reasonably foreseeably as at the date of this agreement, provided that:
 - (i) the response to those circumstances is designed to preserve the financial position or operations of the business of the VRL Group; and
 - (ii) to the extent possible in the circumstances, VRL first provides VRC and BidCo with reasonable details and consults in good faith with VRC and BidCo in relation to the act to be done (or not done) in reliance of this clause;
- (d) required in order to comply with any Tax Law, including to pay any Tax or Duty when due;
- (e) which, in the reasonable opinion of VRL, is required in order to obtain insurances for the VRL Group (or any member thereof) or the business conducted by the VRL Group (or any member thereof);
- (f) which, in the reasonable opinion of VRL, is a necessary and prudent response to any emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property) and it is impractical to seek the approval of BidCo prior to giving effect to the response;
- (g) Fairly Disclosed in the Due Diligence Material or in documents that were publicly available in the 24 months prior to the date of this agreement from public filings of VRL with ASX, ASIC or public registers as being actions that the VRL Group has a legal obligation to carry out between the date of this agreement and the Implementation Date; or
- (h) the undertaking of which BidCo has approved prior to the date of this agreement or otherwise approved in writing (which approval must not be unreasonably withheld or delayed).

9.3 Access

- (a) In the period from the date of this agreement to the Implementation Date and for so long as the IBC continues to publicly recommend that VRL Shareholders vote in favour of the Structure A Scheme and the Structure B Scheme, VRL must:
 - (i) procure that at least three members of VRL's executive management team meet with representatives of VRC and BidCo on a weekly basis to assist with, among other things:
 - (A) keeping VRC and BidCo fully informed of the matters contemplated by clause 9.3(a)(ii) below; and

- (B) providing VRC and BidCo with access to information and people it has requested under clause 9.3(a)(ii) below;
- (ii) promptly following a reasonable request by VRC or BidCo, provide VRC or BidCo (as the case may be) (and its Authorised Persons) with access to:
 - (A) documents and information relating to, and the premises of, the VRL Group; and
 - (B) executives, joint venture partners, licensors and film content providers (as agreed between VRL and BidCo in terms of the identity and the purpose of engagement), financiers and Senior Management of the VRL Group, for the purpose of or in connection with:
 - (C) planning the transition of the VRL Group and other matters relating to the conduct of the VRL Group following the Implementation Date (including being introduced to the relevant persons or counterparties);
 - (D) keeping BidCo informed of material developments relating to the VRL Group;
 - (E) facilitating, in the case of VRC, the Structure A Scheme and in the case of BidCo, the Structure B Scheme; and
 - (F) any other purpose agreed between BidCo and VRL (each acting reasonably);
- (iii) provide BidCo with copies of the following materials, promptly following the relevant meeting at which the relevant materials are considered:
 - (A) the minutes of the VRL Board meetings held between the date of this document and the Implementation Date; and
 - (B) any reports of VRL Group's Senior Managers, chief executive officer or chief financial officer, provided to the VRL Board or the IBC,

save that VRL has no obligation under this clause 9.3(a)(iii) to provide BidCo with, and may redact or withhold in its entirety, any information about, or otherwise in connection with, the IBC's or the Board's consideration of the Proposed Transaction, any advice provided to the IBC or the Board in connection with the Proposed Transaction and information in connection with any Competing Proposal;
- (iv) provide any refresh or update of information contained in the Due Diligence Material that is reasonably requested by BidCo; and
- (v) provide a copy of all material correspondence received from, or provided or proposed to be provided to, a Government Agency.
- (b) Nothing in this clause 9.3 obliges VRL to provide to VRC or BidCo or its Authorised Persons any information:
 - (i) concerning the IBC's consideration of the Proposed Transaction; or
 - (ii) which would breach any applicable law (including privacy laws) or regulation or any obligations of confidentiality owed to any person or result in the loss of legal privilege.
- (c) VRL will provide reasonable assistance to VRC and BidCo for the purpose of satisfying VRL's obligations under this clause 9.3 but nothing in this clause 9.3 requires VRL to

provide access to its people or documentation or to take any other action which would unreasonably disrupt the usual and ordinary course of VRL's businesses and operations.

9.4 Change of control provisions

- (a) As soon as practicable after the date of this agreement, VRL and BidCo must seek to identify:
 - (i) any change of control or unilateral termination rights in material contracts to which VRL or another VRL Group Member is party which may be triggered by or exercised in response to the implementation of either the Structure A Scheme or the Structure B Scheme; and
 - (ii) any agreements that require the consent or permission of the counterparty in order to grant a security interest over an interest in the agreements or the underlying assets to which the agreement relates for the purposes of the Proposed Transaction Financing Arrangements.
- (b) In respect of those contracts:
 - (i) the parties will agree a proposed course of action, adopting the reasonable requests of BidCo, and then VRL will initiate contact, including joint discussions if required, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate, including confirmation that the counterparties will not terminate those contracts because of a change in control in VRL or as a result of the implementation of the Proposed Transactions;
 - (ii) VRL must take all reasonable action necessary to obtain such consents or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by counterparties. VRL must use reasonable endeavours to resist any requirements of landlords or contract counterparties that new or increased bank guarantees or security deposits be provided and ensure that no directors or other personal guarantees are offered or agreed to; and
 - (iii) BidCo must cooperate with, and provide all reasonable assistance to, VRL to obtain such consents or confirmations, including by promptly providing any information reasonably required by counterparties,

provided nothing in this clause 9.4(b) or any other provision of this agreement requires BidCo to agree to any new conditions or to provide any new guarantees or security to a contract or lease counterparty which are not reasonably acceptable to BidCo.

9.5 VRL Employee Share Plan

VRL:

- (a) confirms that as at the date of this document there are no outstanding VRL Rights, other than shares issued pursuant to the Employee Share Plan as Fairly Disclosed in the Due Diligence Materials; and
- (b) must ensure that:
 - (i) as at the Effective Date, there are no outstanding VRL Rights, other than shares issued pursuant to the Employee Share Plan;
 - (ii) except as Fairly Disclosed in the Disclosure Letter, the VRL Board does not issue any further, or exercise any discretions with respect to, shares issued or loans made pursuant to the Employee Share Plan in a manner that would accelerate VRL Rights or otherwise free VRL Rights from vesting conditions or other restrictions, including to have any VRL Group member forgive or repay on the borrower's behalf any loans outstanding as at the date of this agreement in respect of the VRL Shares issued pursuant to the Employee Share Plan but may reaffirm the non-recourse nature of the loan and may allow ESP Holders to benefit

from any excess proceeds after repayment of the principal loan amount and any accrued interest; and

- (iii) by no later than the Delivery Time, VRL will ensure that any money required to be paid by either VRC or BidCo to a ESP Holder under the terms of either the Structure A Scheme or the Structure B Scheme respectively are directed by the ESP Holder to be paid directly to a member of the VRL Group as repayment of any amount owed to a member of the VRL Group by the ESP Holder under the Employee Share Plan, including the aggregate of the principal loan amount and any accrued interest payable under each relevant agreement.

9.6 Cooperation with financing arrangements

- (a) Between the date of this document and the Implementation Date, VRL must use commercially reasonable efforts to provide, and cause each other member of the VRL Group and their Authorised Persons to provide reasonable access (on reasonable prior notice) to the financiers under any Debt Financing Agreements or any other financing facilities and debt funding arrangements to which the VRL Group is a party (**VRL Financiers**) during normal business hours for the purposes of BidCo:
 - (i) to, as is reasonably necessary, become familiar with the financial requirements of VRL for the purpose of planning and implementing VRL's financing arrangements; and
 - (ii) to negotiate and implement such financing arrangements as may be required or desirable to be maintained, obtained and/or established following implementation of the Proposed Transaction.
- (b) Between the date of this document and the Implementation Date, VRL must provide such information and assistance as may be reasonably requested by BidCo in connection with BidCo maintaining, obtaining and/or establishing the financing facilities and other debt funding arrangements referred to in clause 9.6(a) (including in connection with the negotiation and preparation of any documentation required in relation to the financing facilities and other debt financing agreements referred to in clause 9.6(a)), including by:
 - (i) providing to BidCo such information and other materials reasonably required by BidCo, including to prepare any necessary offer documents, in connection with the financing facilities and other debt funding arrangements referred to in clause 9.6(a);
 - (ii) providing to BidCo updates as soon as reasonably practicable, after VRL becomes aware of any material developments or information material to the financing facilities or arrangements of VRL (in place or being pursued) that become available;
 - (iii) using reasonable endeavours to procure that those representatives of the VRL Group requested by BidCo to attend management presentations and meetings with the proposed debt financier(s) in connection with the financing facilities and other debt funding arrangements referred to in clause 9.6(a); and
 - (iv) consulting with BidCo and taking any reasonable comments made by BidCo into account before communicating with the VRL Financiers in respect of the VRL Group's financing arrangements.

9.7 Preparatory capital raising activities

The parties acknowledge and agree that, despite any other provision of this agreement:

- (a) VRL and any member of the VRL Group will be permitted to take bona fide preparatory steps for raising capital or obtaining finance for the VRL Group involving an issue by VRL or any member of the VRL Group of, or an agreement or obligation by VRL or such member to issue, VRL Shares or any other class of shares or securities convertible into or

exchangeable for VRL Shares or shares in such member or any such other class of shares (**Capital Raising**) subject to the following conditions:

- (i) the intended purpose of the Capital Raising must be to raise proceeds to be applied towards repayment of VRL Group debt, to meet forecast operating and capital expenditure costs or to meet obligations under VRL Group's debt facilities;
 - (ii) except where required by law under its continuous disclosure obligations (but not if the requirement is intentionally procured by VRL), VRL must not, without the prior consent of BidCo, release any ASX announcement or enter into an agreement with any third party participating in the Capital Raising (other than a confidentiality agreement) until this agreement is terminated;
 - (iii) the reliance by VRL on this clause 9.7(a) will not relieve VRL of its obligations under this agreement;
 - (iv) must not be a Prescribed Private Equity Fund or any other person or entity seeking to acquire Control of the VRL Group or more than 20% of the VRL Shares or of the share capital of any material VRL Group Member, except where such person or entity is a VRL Shareholder and participates in a pro-rata issue (as defined in the Listing Rules); and
 - (v) VRL will give BGH an opportunity to provide a Capital Raising proposal in relation to which VRL agrees to negotiate with BGH in good faith;
- (b) the permitted preparatory steps for any Capital Raising may include the following:
- (vi) soliciting or responding to interests or proposals from potential financiers and capital providers, provided that VRL only solicit and respond to interests or proposals in a Capital Raising that meets the conditions in clauses 9.7(a)(i) to 9.7(a)(v); and
 - (vii) undertake necessary work involved with preparing for a capital raising including but not limited to engaging with advisers, undertake any required due diligence process, draft transaction documentation and disclosure material or seeking ASX permission for a trading halt; and
- (c) any action validly taken by VRL or any member of the VRL Group taken in accordance with under clause 9.7(a) will not constitute a breach of this agreement by VRL (except for a breach of clause 9.7(a) itself).

10. Actions on and following Implementation Date

10.1 Reconstitution of the board of each member of the VRL Group

- (a) On the Implementation Date for the Structure A Scheme, but subject to the aggregate amount of Structure A Cash Consideration having been paid in full or provided by VRC to VRL, the issue by HoldCo of the HoldCo Shares component of the Structure A Scheme Consideration to relevant Structure A Scheme Shareholders in accordance with the Structure A Scheme and receipt by VRL of signed consents to act, VRL must take all actions necessary (and in accordance with the constitution of the VRL Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by BidCo as new VRL Directors and new directors of each Subsidiary.
- (b) On the Implementation Date for the Structure B Scheme, but subject to the aggregate amount of Structure B Cash Consideration having been paid in full or provided by BidCo to VRL and receipt by VRL of signed consents to act, VRL must take all actions necessary (and in accordance with the constitution of the VRL Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by BidCo as new VRL Directors and new directors of each Subsidiary.

- (c) Without limiting clauses 10.1(a) and 10.1(b), on the Implementation Date, but subject to receipt by VRL of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the VRL Group, VRL must procure that:
 - (i) all outgoing VRL Directors resign from the VRL Board; and
 - (ii) all outgoing directors of each Subsidiary of VRL resigns from their office.

10.2 Sequence of actions on the Implementation Date – Structure A Scheme

On the Implementation Date, the transactions which form part of the Structure A Scheme will be implemented in the following sequence:

- (a) VRC will deposit (or procure the deposit) of the Structure A Cash Consideration into the specified VRL trust account in accordance with the Structure A Scheme;
- (b) VRL will commence the disbursement of the Structure A Cash Consideration to Structure A Scheme Shareholders in accordance with the Structure A Scheme;
- (c) HoldCo will procure the issue by HoldCo of the HoldCo Shares component of the Structure A Scheme Consideration to relevant Structure A Scheme Shareholders in accordance with the Structure A Scheme;
- (d) the VRL Board and the board of each Subsidiary of VRL will be reconstituted in accordance with clause 10.1;
- (e) VRC will acquire all of the Structure A Scheme Shares in accordance with the Structure A Scheme; and
- (f) VRL will apply to ASX to be removed from the official list of ASX.

10.3 Sequence of actions on the Implementation Date – Structure B Scheme

On the Implementation Date, the transactions which form part of the Structure B Scheme will be implemented in the following sequence:

- (a) BidCo will deposit (or procure the deposit) of the Structure B Cash Consideration into the specified VRL trust account in accordance with the Structure B Scheme;
- (b) VRL will commence the disbursement of the Structure B Cash Consideration to the Transferring Shareholders in accordance with the Structure B Scheme;
- (c) the VRL Board and the board of each Subsidiary of VRL will be reconstituted in accordance with clause 10.1;
- (d) BidCo will acquire all of the Transferring Shares in accordance with the Structure B Scheme;
- (e) the Retaining Shareholders will have their shares transferred to a custodian (acting as a bare trustee) to hold the Retained Shares on trust for the benefit of the Retaining Shareholders in accordance with the terms of the Structure B Scheme; and
- (f) VRL will apply to ASX to be removed from the official list of ASX on a date after the Implementation Date to be determined by BidCo.

11. Representations and warranties

11.1 VRC's representations

- (a) VRC represents and warrants to VRL (on VRL's own behalf and separately as trustee for each of the other VRL Parties, excluding VRL Shareholders) each of the matters set out in clause 11.1(b) as at the date of this agreement and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).

- (b) VRC represents and warrants that:
- (i) VRC is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this agreement has been properly authorised by all necessary corporate action and VRC has full corporate power and lawful authority to execute and deliver this agreement and to perform or cause to be performed its obligations under this agreement;
 - (iii) this agreement constitutes legal, valid and binding obligations on it and this agreement does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which VRC is a party or is bound;
 - (iv) the VRC Information provided to VRL in accordance with clause 8.3 for inclusion in the Explanatory Booklet will:
 - (A) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
 - (B) be provided on the understanding that each of the VRL Parties will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Structure A Scheme in accordance with the requirements of the Corporations Act;
 - (v) all information provided by or on behalf of VRC to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet 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 purposes of preparing the Independent Expert's Report;
 - (vi) as at the date the Explanatory Booklet is dispatched to VRL Shareholders, the VRC Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
 - (vii) VRC will, as a continuing obligation, provide to VRL all such further or new information which may arise and of which VRC becomes aware after the Explanatory Booklet has been dispatched until the date of the Structure A Scheme Meeting which is necessary to ensure that the VRC Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);
 - (viii) no VRC Group Prescribed Occurrence has occurred;
 - (ix) the Subscription Agreement, has been duly executed by the applicable VRC Group Members and constitutes legally valid and enforceable obligations on, and rights of those applicable VRC Group Members that are enforceable;
 - (A) has not been terminated or rescinded and VRC is not in default thereunder; and
 - (B) VRC has not agreed to amend the Subscription Agreement (without prior written consent of VRL, not to be unreasonably withheld) in any respect which will, or is reasonably likely to, prejudice VRC's ability to pay the Structure A Scheme Consideration in accordance with its obligations under this agreement, the Structure A Scheme and the Structure A Scheme Deed Poll,
 - (x) as at the date of this agreement, provided BidCo satisfies its obligations under the Subscription Agreement, VRC has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements including debt and

equity financing or a combination of both) to satisfy VRC's obligation to pay the cash component of the Structure A Scheme Consideration in accordance with its obligations under this agreement, the Structure A Scheme and the Structure A Scheme Deed Poll;

- (xi) by the Delivery Time on the Second Court Date, provided BidCo satisfies its obligations under the Subscription Agreement, VRC will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of VRC) sufficient cash amounts (whether from internal cash resources or external funding arrangements including debt and equity financing or a combination of both) to satisfy VRC's obligation to pay the cash component of, in relation to the Structure A Scheme Consideration in accordance with its obligations under this agreement, the Structure A Scheme and the Structure A Scheme Deed Poll; and
- (xii) provided BidCo satisfies its obligations under the Subscription Agreement, VRC will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources or external funding (including debt and equity financing) arrangements or a combination of both) to satisfy VRC's obligation to pay the cash component of the Structure A Scheme Consideration in accordance with its obligations under this agreement, the Structure A Scheme and the Structure A Scheme Deed Poll.

11.2 VRC's indemnity

- (a) Subject to clause 11.2(b), VRC agrees with VRL (on VRL's own behalf and separately as trustee or nominee for each of the other VRL Parties, excluding the VRL Shareholders) to indemnify and keep indemnified the VRL Parties (excluding the VRL Shareholders) from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the VRL Parties (excluding the VRL Shareholders) may suffer or incur by reason of any breach of any of the representations and warranties in clause 11.1(b).
- (b) VRC's liability under clause 11.2(a) is limited to the extent that VRC is indemnified or reimbursed for an equivalent amount by an entity within the BidCo Group or BGH under the terms of the Structure A Ancillary Agreements.

11.3 BidCo representations

- (a) BidCo represents and warrants to VRL (on VRL's own behalf and separately as trustee for each of the other VRL Parties, excluding the VRL Shareholders) each of the matters set out in clause 11.3(b) as at the date of this agreement and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) BidCo represents and warrants that:
 - (i) BidCo is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this agreement has been properly authorised by all necessary corporate action and BidCo has full corporate power and lawful authority to execute and deliver this agreement and to perform or cause to be performed its obligations under this agreement;
 - (iii) this agreement constitutes legal, valid and binding obligations on it and this agreement does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which BidCo is a party or is bound;

- (iv) the BidCo Information provided to VRL in accordance with clause 8.3 for inclusion in the Explanatory Booklet will:
 - (A) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
 - (B) be provided on the understanding that each of the VRL Parties will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Structure B Scheme in accordance with the requirements of the Corporations Act;
- (v) all information provided by or on behalf of BidCo to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet 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 purposes of preparing the Independent Expert's Report;
- (vi) as at the date the Explanatory Booklet is dispatched to VRL Shareholders, the BidCo Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (vii) BidCo will, as a continuing obligation, provide to VRL all such further or new information which may arise and of which BidCo becomes aware after the Explanatory Booklet has been dispatched until the date of the Structure B Scheme Meeting which is necessary to ensure that the BidCo Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (viii) no HoldCo Prescribed Occurrence has occurred;
- (ix) the Subscription Agreement:
 - (A) has been duly executed by BidCo and HoldCo and constitute legally valid and enforceable obligations on, and rights of BidCo and HoldCo that are enforceable;
 - (B) has not been terminated or rescinded and BidCo and HoldCo are not in default thereunder; and
 - (C) BidCo and HoldCo have not agreed to amend the Subscription Agreement (without prior written consent of VRL) in any respect which will, or is reasonably likely to, prejudice BidCo's ability to pay the Structure B Scheme Consideration in accordance with its obligations under this agreement, the Structure B Scheme and the Structure B Scheme Deed Poll;
- (x) as at the date of this agreement BidCo has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements including debt and equity financing or a combination of both) to satisfy BidCo's obligation to pay the cash component of the Structure B Scheme Consideration in accordance with its obligations under this agreement, the Structure B Scheme and the Structure B Scheme Deed Poll;
- (xi) by the Delivery Time on the Second Court Date, BidCo will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of BidCo) sufficient cash amounts (whether from internal cash resources or external funding arrangements including debt and equity financing or a combination of both) to satisfy BidCo's obligation to pay the cash component of, in relation to the Structure B Scheme Consideration in

accordance with its obligations under this agreement, the Structure B Scheme and the Structure B Scheme Deed Poll; and

- (xii) BidCo will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources or external funding (including debt and equity financing) arrangements or a combination of both) to satisfy BidCo's obligation to pay the cash component of the Structure B Scheme Consideration in accordance with its obligations under this agreement, the Structure B Scheme and the Structure B Scheme Deed Poll.

11.4 BidCo's indemnity

BidCo agrees with VRL (on VRL's own behalf and separately as trustee or nominee for each of the other VRL Parties, excluding the VRL Shareholders) to indemnify and keep indemnified the VRL Parties (excluding the VRL Shareholders) from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the VRL Parties (excluding the VRL Shareholders) may suffer or incur by reason of any breach of any of the representations and warranties in clause 11.3(b).

11.5 VRL representations – VRL Warranties

- (a) VRL represents and warrants to VRC (on its own behalf and separately as trustee for each of the VRC parties) and BidCo (on its own behalf and separately as trustee for each of the BidCo Parties) each of the matters set out in clause 11.5(b) as at the date of this agreement and on each subsequent day until on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) VRL represents and warrants that:
 - (i) VRL is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this agreement by VRL has been properly authorised by all necessary corporate action and VRL has full corporate power and lawful authority to execute and deliver this agreement and to perform or cause to be performed its obligations under this agreement;
 - (iii) this agreement constitutes legal, valid and binding obligations on VRL and the execution of this agreement of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which VRL or any of its Subsidiaries is a party or to which they are bound;
 - (iv) the VRL Information contained in the Explanatory Booklet will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60;
 - (v) as at the date the Explanatory Booklet is dispatched to VRL Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the BidCo Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
 - (vi) all information provided by or on behalf of VRL to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet 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 purposes of preparing the Independent Expert's Report;
 - (vii) VRL will, as a continuing obligation (but in respect of BidCo Information or VRC Information, only to the extent that BidCo or VRC provides VRL with updates to the BidCo Information or VRC Information, as applicable), ensure that the

Explanatory Booklet is updated or supplemented to include all further or new information which arises and VRL becomes aware of after the Explanatory Booklet has been despatched to VRL Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Explanatory Booklet is not misleading or deceptive (including by way of omission);

- (viii) no document or announcement which VRL or any VRL Group Member has lodged or filed with, or otherwise given to, any Government Agency (or which has been so lodged, filed or given on its behalf or on behalf of any of its related bodies corporate) since the date 3 years prior to the date of this agreement and which is currently publicly available or otherwise in the public domain, was misleading or deceptive in any material respect (whether by omission or otherwise) as at the date that document or announcement was lodged or filed with or given to the Government Agency;
- (ix) as at the date of this agreement, the total issued capital of VRL is 195,252,595 Shares and there are no VRL options, performance rights, shares, convertible notes or other securities (or obligations, offers or agreements to issue any of the foregoing);
- (x) as at the date of this agreement:
 - (A) VRL has complied in all material respects with its continuous disclosure obligations under Listing Rule 3.1; and
 - (B) except in relation to the Proposed Transactions, it is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure;
- (xi) the Due Diligence Materials have been collated and prepared in good faith, and VRL is not aware of any information contained in the Due Diligence Materials that was false or misleading in any material respect (including by omission) as at the date of collation or preparation;
- (xii) VRL has not intentionally withheld from the Due Diligence Materials any information which would reasonably be expected to be material to a reasonable and sophisticated buyer's evaluation of the VRL Group, including details of all material liabilities of the VRL Group and the aggregate amount of all fees, costs and expenses which VRL or any other VRL Group Member has paid or agreed to pay, or may become liable to pay, in connection with the Proposed Transaction;
- (xiii) VRL has provided all information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to adversely affect any Financial Indebtedness or debt arrangements of the VRL Group, including under the Debt Financing Agreements, from or after the date of this agreement;
- (xiv) VRL has provided complete and accurate information regarding fee levels in all retainers and mandates with Advisers and fee estimates for other advisers in relation to the Proposed Transaction, any Competing Proposals as at the date of this agreement and any other transaction where such retainer or mandate is current, or under which the VRL Group still has obligations;
- (xv) so far as VRL is aware, the Due Diligence Materials contain sufficient information for BidCo (which is accurate) to identify each third party to whom a member of the VRL Group is required to give notice, or from whom a member of the VRL Group is required to obtain consent or approval under a contract to which a member of the VRL Group is a party, in connection with this document or the transactions contemplated by it (including in respect of the change of control of VRL resulting from the implementation of the Proposed Transactions), except where the failure to give such notice to or obtain such consent or approval from (as applicable) the

relevant third party could not reasonably be expected to give rise to a material liability on the part of any member of the VRL Group;

- (xvi) as at the date of this agreement, VRL is not aware of any facts or circumstances that will cause a third party, as a result of the entry into this document and the implementation of either the Proposed Transaction to exercise a right to terminate a contract which is material to the business of the VRL Group or vary the performance of any material obligation of VRL under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the VRL Group;
- (xvii) as at the date of this agreement, no Insolvency Event has occurred or is reasonably likely to occur in the near term in relation to VRL or another VRL Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this agreement or under the Structure A Scheme or the Structure B Scheme;
- (xviii) each member of the VRL Group has complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign Government Agencies having jurisdiction over them, and have complied in all material respects with the requirements of, all material licenses, authorisations and permits necessary for them to conduct the business of the VRL Group as presently being conducted; and
- (xix) VRL is not aware of any information relating to the VRL Group or its respective businesses or operations (having made reasonable enquiries) as at the date of this agreement that has or could reasonably be expected to give rise to a Material Adverse Change that has not been Fairly Disclosed in an announcement by VRL to ASX or in the Due Diligence Materials.

11.6 VRL's indemnity – VRL Warranties

- (a) VRL agrees with BidCo (on BidCo's own behalf and separately as trustee for each of the BidCo Parties) to indemnify and keep indemnified the BidCo Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the BidCo Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 11.5(b).
- (b) VRL agrees with VRC (on VRC's own behalf and separately as trustee for each of the VRC Parties) to indemnify and keep indemnified the VRC Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the VRC Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 11.5(b).

11.7 Qualifications on VRL's representations, warranties and indemnities – VRL Warranties

The representations and warranties in clause 11.5 and the indemnity in clause 11.6 are each subject to matters which:

- (a) are expressly provided for in this agreement;
- (b) have been Fairly Disclosed in:
 - (i) the Due Diligence Materials; or
 - (ii) VRL's announcements to ASX, or a publicly available document lodged with ASIC, in the 24 month period prior to the date of this agreement;
- (c) would have been disclosed to BidCo had BidCo conducted searches of:
 - (i) public records maintained by ASIC on 10 March 2020;

- (ii) the register established under the Personal Property Securities Act 2009 (Cth) on 9 March 2020;
- (iii) public records maintained by the registries of the:
 - (A) High Court of Australia on 18 March 2020;
 - (B) Federal Court of Australia and Federal Circuit Court on 24 March 2020;
 - (C) New South Wales Supreme Court on 24 March 2020;
 - (D) Northern Territory Supreme and Local Courts on 19 March 2020;
 - (E) Australia Capital Territory Supreme Court on 18 March 2020;
 - (F) Queensland Supreme and District Court on 24 March 2020;
 - (G) South Australia Supreme Court on 24 March 2020 and 1 May 2020;
 - (H) Victorian Supreme Court on 19 March 2020; and
 - (I) Western Australia Supreme Court on 19 and 24 March 2020; and
 - (J) Tasmanian Supreme Court on 12, 18 and 25 March 2020;
- (iv) public records maintained by IP Australia on 16 March 2020; and
- (v) the registry of the following state or territory titles office:
 - (A) Queensland - Department of Natural Resources, Mines and Energy on 9 March 2020;
 - (B) Western Australia – Landgate on 11 March 2020;
 - (C) New South Wales – Land Registry Services on 9 March 2020;
 - (D) Victoria – Land Registry Services on 10 March 2020;
 - (E) Tasmania – Land Tasmania on 9 March 2020;
 - (F) Northern Territory – NT Land Services on 9 March 2020; and
 - (G) South Australia – Land Services SA on 9 March 2020; and
- (d) are within the actual knowledge of BGH as at the date of this agreement, which for these purposes will be taken to include (and be limited to) the facts, matters and circumstances of which the following individuals are actually aware as at the date of this document:
 - (i) Ben Gray; and
 - (ii) Jason Perri.

11.8 VRL representations – Business Warranties

- (a) VRL represents and warrants to VRC (on its own behalf and separately as trustee for each of the VRC Parties) and BidCo (on its own behalf and separately as trustee for each of the BidCo Parties) each of the Business Warranties as at the Implementation Date.
- (b) VRL agrees:
 - (i) with VRC (on VRC's own behalf and separately as trustee for each of HoldCo and the VRC Parties) to indemnify and keep indemnified the VRC Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the VRC Parties may suffer or incur by reason of any breach of any Business Warranties; and
 - (ii) with BidCo (on BidCo's own behalf and separately as trustee for each of HoldCo and the BidCo Parties) to indemnify and keep indemnified the BidCo Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature

and however arising which any of the BidCo Parties may suffer or incur by reason of any breach of any Business Warranties.

- (c) The Business Warranties, the indemnity in clause 11.8(b) and Tax Indemnity are each subject to matters that:
- (i) are expressly provided for in this agreement;
 - (ii) have been Fairly Disclosed in:
 - (A) the Due Diligence Materials; or
 - (B) VRL's announcements to ASX, or a publicly available document lodged with ASIC, in the 24 month period prior to the date of this agreement;
 - (iii) would have been disclosed to BidCo had BidCo conducted searches of:
 - (A) public records maintained by ASIC on 10 March 2020;
 - (B) the register established under the Personal Property Securities Act 2009 (Cth) on 9 March 2020;
 - (C) public records maintained by the registries of the:
 - (I) High Court of Australia on 18 March 2020;
 - (II) Federal Court of Australia and Federal Circuit Court on 24 March 2020;
 - (III) New South Wales Supreme Court on 24 March 2020;
 - (IV) Northern Territory Supreme and Local Courts on 19 March 2020;
 - (V) Australia Capital Territory Supreme Court on 18 March 2020;
 - (VI) Queensland Supreme and District Court on 24 March 2020;
 - (VII) South Australia Supreme Court on 24 March 2020 and 1 May 2020;
 - (VIII) Victorian Supreme Court on 19 March 2020; and
 - (IX) Western Australia Supreme Court on 19 and 24 March 2020; and
 - (X) Tasmanian Supreme Court on 12, 18 and 25 March 2020;
 - (D) public records maintained by IP Australia on 16 March 2020; and
 - (E) the registry of the following state or territory titles office:
 - (I) Queensland - Department of Natural Resources, Mines and Energy on 9 March 2020;
 - (II) Western Australia – Landgate on 11 March 2020;
 - (III) New South Wales – Land Registry Services on 9 March 2020;
 - (IV) Victoria – Land Registry Services on 10 March 2020;
 - (V) Tasmania – Land Tasmania on 9 March 2020;
 - (VI) Northern Territory – NT Land Services on 9 March 2020; and
 - (VII) South Australia – Land Services SA on 9 March 2020; and
 - (iv) are within the actual knowledge of BGH as at the date of this agreement, which for these purposes will be taken to include (and be limited to) the facts, matters and circumstances of which the following individuals are actually aware as at the date of this document:
 - (A) Ben Gray; and
 - (B) Jason Perri.

11.9 Tax Indemnity

VRL agrees to indemnify and keep indemnified VRC (on VRC's own behalf and separately as trustee for Positive Investments), BidCo and HoldCo from and against, and must pay VRC and BidCo on demand the amount of, all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings attributable to:

- (a) Tax or Duty payable by a member of the VRL Group (whether payable before, on or after implementation of the Structure A Scheme or the Structure B Scheme) to the extent that such Tax or Duty relates to:
 - (i) any period, or part period, up to and including the implementation of the Structure A Scheme or Structure B Scheme;
 - (ii) any act, transaction, event or omission, or any misstatement, executed, performed or made on or prior to implementation of the Structure A Scheme or Structure B Scheme;
 - (iii) a failure by a VRL Group Member to comply with any law relating to Tax or Duty;
- (b) the loss or limitation, including any reduction in the rate of use, of any tax attributes of the VRL Group at the implementation of the Structure A Scheme or Structure B Scheme; or
- (c) Tax Costs incurred by or on behalf of a member of the VRL Group to the extent that such Tax Costs arise from or relate to any matters for which VRL is liable under clause 11.9(a) and 11.9(b).

11.10 W&I Policy and limitations on claims in connection with a Business Warranty, indemnity or Tax Indemnity

- (a) Notwithstanding any provision to the contrary in this agreement:
 - (i) Each of BidCo and HoldCo agree that it will not be entitled to make, and that it will not make, and irrevocably waives any right it may have to make, any claim in connection with a Business Warranty, an indemnity in clause 11.8(b) or the Tax Indemnity, except to the extent required to permit a Claim under the W&I Policy (if any) and then only on the basis that BidCo's sole and only recourse and remedy would be under the W&I Policy and VRL and any VRL Party will have no liability whatsoever for such Claim. For the avoidance of doubt, this clause does not restrict or limit the rights of BidCo in relation to any VRL Warranties.
 - (ii) BidCo covenants in favour of VRL that, prior to the Structure B Scheme becoming Effective and subject to BidCo taking out a W&I Policy, it will:
 - (A) not do anything that causes any right of the insured under the W&I Policy not to have full force and effect upon its terms;
 - (B) not novate or assign its rights under the W&I Policy other than where permitted by the terms of the W&I Policy; and
 - (C) comply with the terms of the W&I Policy relating to deliverables required to satisfy conditions in the W&I Policy;
 - (iii) BidCo must ensure that any W&I Policy includes terms to the effect that:
 - (A) the insurer irrevocably waives its rights to bring any Claim against VRL by way of subrogation, claim for contribution or otherwise; and
 - (B) BidCo acknowledges and agrees that VRL is entitled to directly enforce such waivers and that in respect of the waivers BidCo contracts in its own right and as agent of each VRL Party; and
 - (iv) BidCo acknowledges and agrees that:

- (A) there is no excess or any other amount payable by any member of the VRL Group or a VRL Party under the W&I Policy (if any);
 - (B) clause 11.10(a)(iv)(A) above applies regardless of whether or not it takes out a W&I Policy;
 - (C) in the event that it takes out a W&I Policy, it will promptly provide VRL with a copy of such policy; and
 - (D) in no circumstances will VRL or any of the VRL Parties have any liability to BidCo or any BidCo Party, and neither BidCo nor any BidCo Party may bring a Claim in respect of any breach of a Business Warranty, under the indemnity in clause 11.8(b) or a Tax Indemnity prior to the Implementation Date.
- (b) Notwithstanding any provision to the contrary in this agreement:
- (i) VRC agrees that it will not be entitled to make, and that it will not make, and irrevocably waives any right it may have to make, any claim in connection with a Business Warranty, an indemnity in clause 11.8(b) or the Tax Indemnity, except to the extent required to permit a Claim under the W&I Policy (if any) and then only on the basis that VRC's sole and only recourse and remedy would be under the W&I Policy and VRL and any VRL Party will have no liability whatsoever for such Claim. For the avoidance of doubt, this clause does not restrict or limit the rights of VRC in relation to any VRL Warranties.
 - (ii) VRC covenants in favour of VRL that, prior to the Structure A Scheme becoming Effective and subject to VRC taking out a W&I Policy, it will:
 - (A) not do anything that causes any right of the insured under the W&I Policy not to have full force and effect upon its terms;
 - (B) not novate or assign its rights under the W&I Policy other than where permitted by the terms of the W&I Policy; and
 - (C) comply with the terms of the W&I Policy relating to deliverables required to satisfy conditions in the W&I Policy;
 - (iii) VRC must ensure that any W&I Policy includes terms to the effect that:
 - (A) the insurer irrevocably waives its rights to bring any Claim against VRL by way of subrogation, claim for contribution or otherwise; and
 - (B) VRC acknowledges and agrees that VRL is entitled to directly enforce such waivers and that in respect of the waivers VRC contracts in its own right and as agent of each VRL Party; and
 - (iv) VRC acknowledges and agrees that:
 - (A) there is no excess or any other amount payable by any member of the VRL Group or a VRL Party under the W&I Policy (if any);
 - (B) clause (iv)(A) above applies regardless of whether or not it takes out a W&I Policy;
 - (C) in the event that it takes out a W&I Policy, it will promptly provide VRL with a copy of such policy; and
 - (D) in no circumstances will VRL or any of the VRL Parties have any liability to VRC or any VRC Party, and neither BidCo nor any BidCo Party may bring a Claim in respect of any breach of a Business Warranty, under the indemnity in clause 11.8(b) or the Tax Indemnity prior to the Implementation Date.
- (c) VRL acknowledges and agrees that:
- (i) neither of VRC and BidCo is under any obligation to take out a W&I Policy;

- (ii) if either of VRC or BidCo takes out a W&I Policy and provides a copy of such policy to it, it must keep the terms of such policy confidential in accordance with the Confidentiality Deed; and
- (iii) it will cooperate with VRC or BidCo and provide all reasonable assistance requested by VRC or BidCo in connection with the purchase of a W&I Policy, including:
 - (A) arranging for VRL's management to be available to respond to any queries and responding in writing to any written queries from VRC or BidCo in relation to the W&I Policy, the insurance broker engaged by VRC or BidCo or any underwriter of the W&I Policy or from VRC or BidCo to the extent they arise due to questions from the insurance broker or underwriter; and
 - (B) providing access to the Data Room to the insurance broker engaged by VRC or BidCo, any underwriter of the W&I Policy or any of their respective advisers (in each case, as and when requested by VRC or BidCo).

11.11 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 11.

11.12 Survival of representations

Each representation and warranty in clauses 11.1, 11.3 and 11.5 and the Business Warranties:

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

11.13 Survival of indemnities

Each indemnity in this agreement (including those in clauses 11.2, 11.4, 11.6 and 11.8(b)) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this agreement; and
- (d) survive the termination of this agreement.

11.14 VRL's knowledge or awareness

Where a VRL Warranty or Business Warranty is given 'to the best of the VRL's knowledge', or 'so far as VRL is aware' or with a similar qualification as to VRL's awareness or knowledge, VRL will be deemed to know or be aware of a particular fact, matter or circumstance at a given time only if, at that time, any of Robert Kirby, Clark Kirby, Julie Raffe and Simon Phillipson:

- (a) is aware of that fact, matter or circumstance as at the date the Warranty is given; or
- (b) would reasonably be expected to be aware of that fact, matter or circumstance if they had made reasonable enquiries as to the accuracy of the VRL Warranty or Business Warranty.

12. Releases

12.1 VRL Parties

- (a) Without limiting BidCo's rights under clause 11, each of BidCo (for itself and as agent of every member of the BidCo Group) and HoldCo releases all rights against and agrees

with VRL that it will not make a Claim against, any VRL Party (other than VRL) in connection with:

- (i) VRL's execution or delivery of this agreement;
- (ii) any breach of any representation or warranty of VRL in this agreement, including the Business Warranties;
- (iii) the implementation of the Structure A Scheme or the Structure B Scheme; or
- (iv) any disclosure made by any VRL Party including in the Due Diligence Material that contains any statement which is false or misleading whether in content or by omission,

except to the extent the relevant VRL Party has not acted in good faith or has engaged in wilful misconduct or fraud.

- (b) VRC (for itself and as agent of every member of the VRC Group) releases all rights against and agrees with VRL that it will not make a Claim against, any VRL Party (other than VRL) in connection with:

- (i) VRL's execution or delivery of this agreement;
- (ii) any breach of any representation or warranty of VRL in this agreement, including the Business Warranties;
- (iii) the implementation of the Structure A Scheme or the Structure B Scheme; or
- (iv) any disclosure made by any VRL Party including in the Due Diligence Material that contains any statement which is false or misleading whether in content or by omission,

except to the extent the relevant VRL Party has not acted in good faith or has engaged in wilful misconduct or fraud.

- (c) Clauses 12.1(a) and 12.1(b) are subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. VRL receives and holds the benefit of this clause as trustee for each other VRL Party.

12.2 BidCo Parties

- (a) Without limiting VRL's rights under clause 11, VRL releases its rights against, and agrees with BidCo that it will not make a Claim against any BidCo Party (other than BidCo and HoldCo) in connection with:

- (i) BidCo's execution or delivery of this agreement;
- (ii) any breach of any representation or warranty of BidCo in this agreement;
- (iii) the implementation of the Structure A Scheme or the Structure B Scheme; or
- (iv) any disclosure made by any BidCo Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant BidCo Party has not acted in good faith or has engaged in wilful misconduct or fraud.

- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. BidCo receives and holds the benefit of this clause as trustee for each other BidCo Party.

12.3 VRC Parties

- (a) Without limiting VRL's rights under clause 11, VRL releases its rights against, and agrees with VRC that it will not make a Claim against any VRC Party (other than VRC) in connection with:

- (i) VRC's execution or delivery of this agreement;

- (ii) any breach of any representation or warranty of VRC in this agreement;
- (iii) the implementation of the Structure A Scheme or the Structure B Scheme; or
- (iv) any disclosure made by any VRC Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant VRC Party has not acted in good faith or has engaged in wilful misconduct or fraud.

- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. VRC receives and holds the benefit of this clause as trustee for each other VRC Party.

12.4 Deeds of indemnity

- (a) Subject to the Structure A Scheme becoming Effective, VRC undertakes in favour of VRL and each other person who is a VRL Party that it will:
 - (i) subject to clause 12.4(e), for 7 years from the Implementation Date, ensure that the constitutions of VRL and each other member of the VRL Group continue to contain such rules as are contained in those constitutions at the date of this agreement 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 any person other than a member of the VRL Group; and
 - (ii) procure that VRL and each other member of the VRL 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.
- (b) Subject to the Structure B Scheme becoming Effective, BidCo undertakes in favour of VRL and each other person who is a VRL Party that it will:
 - (i) subject to clause 12.4(e), for 7 years from the Implementation Date, ensure that the constitutions of VRL and each other member of the VRL Group continue to contain such rules as are contained in those constitutions at the date of this agreement 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 any person other than a member of the VRL Group; and
 - (ii) procure that VRL and each other member of the VRL 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.
- (c) The undertakings contained in clauses 12.4(a) and 12.4(b) are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (d) VRL receives and holds for the benefit of clauses 12.4(a) and 12.4(b), to the extent it relates to the other VRL Parties, as trustee for them.
- (e) The undertakings contained in clause 12.4(a) are given:
 - (i) in the case of clause 12.4(b)(i), until the earlier of 7 years from the Implementation Date and the relevant member of the VRL Group ceasing to be part of the VRC Group; or
 - (ii) in the case of clause 12.4(b)(ii), until the earlier of 7 years from the retirement of each director and officer and the relevant member of the VRL Group ceasing to be part of the VRC Group.
- (f) The undertakings contained in clause 12.4(b) are given:

- (i) in the case of clause 12.4(b)(i), until the earlier of 7 years from the Implementation Date and the relevant member of the VRL Group ceasing to be part of the BidCo Group; or
- (ii) in the case of clause 12.4(b)(ii), until the earlier of 7 years from the retirement of each director and officer and the relevant member of the VRL Group ceasing to be part of the BidCo Group.

12.5 Directors' and officers' insurance

VRC and BidCo each acknowledges that VRL may in respect of VRL and all other members of the VRL Group:

- (a) prior to the Effective Date, arrange for the cover currently provided under the directors' and officers' insurance policy for VRL and all other members of the VRL Group (**Policy**) to be extended for a further period of up to 9 months after consulting in good faith with BidCo regarding the cost and terms of the Policy (including if the cost of the Policy is materially higher than the cost of the Policy currently in effect, consulting in good faith with BidCo regarding possible alternative coverage solutions).
- (b) undertake a tender process in accordance with clause 12.5(c) for the directors' and officers' run-off insurance policy in respect of the directors and officers of any member of the VRL Group that applies for no less than a 7 year period following the Implementation Date (**Run-off Policy**);
- (c) prior to the Effective Date, engage either VRL's insurance broker or the independent consultant that BidCo has approved prior to the date of this agreement, as determined by VRL in consultation with BidCo, to run a tender process for the Run-off Policy seeking proposals from reputable insurers that have a rating that is the same as, or better than, the rating of the insurers for the directors' and officers' insurance policy in place for the current financial year to provide the Run-off Policy on the following basis:
 - (i) the same amount of coverage;
 - (ii) the same deductible or excess; and
 - (iii) otherwise on terms that are no less favourable to the current directors or officers of VRL for the current financial year but which for the avoidance of doubt may be at a higher premium than the current directors' and officers' insurance policy;
- (d) keep BidCo reasonably informed of all material developments in the tender process and provide a copy of the proposals received under the tender process; and
- (e) prior to the Implementation Date enter into the Run-off Policy which is the lowest cost (inclusive of the costs of brokerage, stamp duty and any other transaction costs in relation thereto) of the proposals received under the tender process in clause 12.5(c), provided such policy satisfies the requirements in clauses 12.5(c)(i) to 12.5(c)(iii)), and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

12.6 Obligations in relation to directors' and officers' insurance

From the Implementation Date, VRL must not:

- (a) vary or cancel the Policy or Run-off Policy; or
- (b) unless required under the Policy or Run-off Policy, commit any act or omission that may prejudice any claim by a director or officer of VRL under the Policy or Run-off Policy.

13. Confidentiality and public announcement

13.1 Confidentiality

- (a) VRC, BidCo and HoldCo agree to be bound to the Confidentiality Deed to the same extent as BGH.
- (b) VRC, BidCo and VRL acknowledge and agree that the terms of this agreement will prevail over the Confidentiality Deed to the extent of any inconsistency.

13.2 Announcements

- (a) Immediately after the execution of this agreement VRL must issue the Announcement to the ASX.
- (b) Subject to clause 13.2(d), any further public announcements by VRL or VRC in relation to, or in connection with, the Structure A Scheme may only be made in a form approved by each of VRL and BidCo in writing (acting reasonably).
- (c) Subject to clause 13.2(d), any further public announcements by VRL or BidCo in relation to, or in connection with, the Structure B Scheme may only be made in a form approved by each of VRL and BidCo in writing (acting reasonably).
- (d) Where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with the Proposed Transactions or any other transaction related to this agreement, the Structure A Scheme or the Structure B Scheme, it may do so to the extent legally required and only then after it has given the other party as much notice as possible and has consulted in good faith to the fullest extent possible in the circumstances with the other party.

13.3 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this agreement and, to that end but without limitation, clause 13.2 applies to any such statements or disclosures.

14. Termination

14.1 Termination by notice

- (a) BidCo or VRL may, by notice in writing to the other, terminate this agreement at any time prior to the Delivery Time on the Second Court Date:
 - (i) if the other party or VRC is in material breach of any of its obligations under this agreement (other than the breaching of a party's respective representations and warranties which are regulated by clause 14.2) and the other party or VRC (as applicable) has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party or VRC (as applicable) to remedy the breach;
 - (ii) in accordance with clause 3.7(b) or 4.7(b);
 - (iii) if the Court refuses to make any order directing VRL to convene both the Structure A Scheme Meeting and Structure B Scheme Meeting, provided that both VRL and BidCo have met and consulted in good faith and agreed that they do not wish to proceed with the Structure B Scheme; or
 - (iv) if the Effective Date for the Structure A Scheme or Structure B Scheme has not occurred on or before the End Date.
- (b) VRL may, by notice in writing to VRC and BidCo, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if at any time before then each of that

number of Independent Directors as constitutes a majority of the IBC publicly changes, withdraws or modifies his or her Recommendation as permitted by clause 7.

- (c) BidCo may, by notice in writing to VRL, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if at any time before then any Independent Director:
 - (i) fails to recommend the Structure A Scheme or Structure B Scheme;
 - (ii) withdraws, adversely revises or adversely modifies their recommendation of the Structure A Scheme or Structure B Scheme; or
 - (iii) makes a public statement indicating that they no longer recommend the Structure A Scheme or Structure B Scheme or recommends, endorses or supports a Competing Proposal,

other than as a result of the circumstances described in clause 7.2, which for the avoidance of doubt will not extend to any Independent Director adversely revising or adversely modifying his or her recommendation of the Structure A Scheme or Structure B Scheme or making a public statement indicating that they recommend, endorse or support a Competing Proposal.

14.2 Termination for breach of representations and warranties

- (a) BidCo may, by notice in writing to VRL, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if:
 - (i) VRL is in material breach of a VRL Warranty; or
 - (ii) VRL is in breach of the VRL Warranty in clause 11.5(b)(ix),and VRL has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from BidCo setting out details of the relevant circumstance and requesting VRL to remedy the breach.
- (b) VRL may, by notice in writing to BidCo, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if:
 - (i) BidCo is in material breach of a BidCo Warranty; or
 - (ii) BidCo is in breach of clauses 11.3(b)(ix) to 11.3(b)(xii) (inclusive),and BidCo has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from VRL setting out details of the relevant circumstance and requesting BidCo to remedy the breach.
- (c) VRL may, by notice in writing to VRC and BidCo, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if:
 - (i) VRC is in material breach of a VRC Warranty; or
 - (ii) VRC is in breach of clauses 11.1(b)(ix) to 11.1(b)(xii) (inclusive),and VRC has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from VRL setting out details of the relevant circumstance and requesting VRC to remedy the breach.

14.3 Effect of termination

- (a) In the event of termination of this agreement under clause 3.7(b), 4.7(b), 14.1 or 14.2, this agreement will be void and have no effect, except that the provisions of clauses 11.12, 11.13, 12, 13, 14, 15, 16 and 20.3 to 20.15 (inclusive) survive termination.
- (b) Termination of this agreement does not affect any accrued rights of a party in respect of a breach of this agreement prior to termination.

15. VRL Break Fee

15.1 Background

- (a) VRL and BidCo acknowledge that, if they enter into this agreement and the Structure B Scheme is subsequently not implemented, BidCo will incur significant costs including those described in clause 15.2 and that while BidCo is prepared to absorb those costs if the Structure A Scheme is implemented because BidCo will benefit in that scenario, neither it nor BGH will benefit if neither the Structure A Scheme or the Structure B scheme is implemented.
- (b) In the circumstances referred to in clause 15.1(a), BidCo has requested that provision be made for the payments outlined in clause 15.3, without which BidCo would not have entered into this agreement.
- (c) The IBC believes that the Structure A Scheme or the Structure B Scheme will provide benefit to VRL and VRL Shareholders and that it is appropriate for VRL to agree to the payments referred to in this clause 15 in order to secure BGH's and BidCo's participation in the Proposed Transactions.

15.2 Costs incurred by BidCo

- (a) The fee payable under clause 15.3 has been calculated to reimburse BidCo for the following:
 - (i) fees for legal, taxation and financial advice in planning and implementing the Structure A Scheme and Structure B Scheme;
 - (ii) reasonable opportunity costs incurred in engaging in the Structure A Scheme and Structure B Scheme or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Structure A Scheme and Structure B Scheme;
 - (iv) out of pocket expenses incurred in planning and implementing the Structure A Scheme and Structure B Scheme;
 - (v) costs associated with the financing arrangements in respect of the Structure A Scheme and Structure B Scheme; and
 - (vi) any damage to BidCo's reputation associated with a failed transaction and the implications of those damages if BidCo seeks to execute alternative acquisitions in the future,in each case, incurred by BidCo directly or indirectly as a result of having entered into this agreement and pursuing the Structure A Scheme and Structure B Scheme.
- (b) The parties acknowledge that:
 - (i) the amount of fees, costs and losses referred to in this clause 15.2 is inherently unascertainable and that, even after termination of this agreement, the costs will not be able to be accurately ascertained; and
 - (ii) the amount of the costs payable under clause 15.3 is a genuine and reasonable pre-estimate of those fees, costs and losses and is not a penalty.

15.3 VRL Break Fee

- (a) VRL agrees to pay to BidCo \$4.29 million (inclusive of GST) (**VRL Break Fee**) in any of the following circumstances:

- (i) **(Competing Proposal Succeeds)** both of the following occur:
 - (A) a Competing Proposal is publicly announced by VRL during the period commencing on the date of this agreement and ending on the End Date; and
 - (B) within 12 months from the date of the public announcement of such Competing Proposal:
 - (I) the Competing Proposal is implemented or completed, but for the purposes of this clause 15.3(a)(i)(B)(I), the reference to “10% or more” in paragraph (a) of the definition of “Competing Proposal” will be deemed to be a reference to “more than 20%”; or
 - (II) the proponent of that Competing Proposal acquires a relevant interest in, an economic interest in or voting power of at least 50% of the VRL Shares or otherwise acquires Control of VRL and the Competing Proposal is (or becomes) free of any defeating condition; or
- (ii) **(Competing Proposal executed)** at any time before termination of this agreement, VRL enters into any agreement with a third party in respect of a Competing Proposal under which that third party and VRL agree to undertake or give effect to such Competing Proposal; or
- (iii) **(Change of Recommendation)** at any time prior to the Second Court Date, any Independent Director:
 - (A) withdraws or adversely modifies their recommendation of the Proposed Transactions or recommends or supports a Competing Proposal;
 - (B) does not recommend in the Announcement or Explanatory Booklet that:
 - (I) in the context of the Structure A Scheme, the VRL Shareholders (other than the Structure A Excluded Shareholders) approve the Structure A Scheme;
 - (II) in the context of the Structure B Scheme, the VRL Shareholders approve the Structure B Scheme; or
 - (C) makes any public statement to the effect that the Structure A Scheme or the Structure B Scheme is not, or is no longer, recommended,

except where that act is:

 - (D) as a result of the circumstances set out in the clause 7.2, which for the avoidance of doubt will not extend to any Independent Director adversely revising or adversely modifying his or her recommendation of the Proposed Transactions or making a public statement indicating that they recommend, endorse or support a Competing Proposal;
 - (E) as a result of the Independent Expert (either in its initial report or any updated, revised or supplemental report) opining that the Structure A Scheme or the Structure B Scheme is not in the best interest of VRL Shareholders (other than where the reason for that opinion is a Competing Proposal or in the case of the Structure B Scheme, because of the Structure A Scheme); or
 - (F) in circumstances where VRL is entitled to terminate this agreement under clauses 14.1(a)(i) or 14.2(b);
- (iv) **(Material breach)** BidCo terminates this agreement in accordance with clauses 14.1(a)(i) or 14.2(a).

- (b) VRL must pay BidCo the VRL Break Fee within 10 Business Days of receipt by VRL of a demand for payment from BidCo made after the occurrence of the event referred to in clause 15.3.
- (c) For the avoidance of doubt, the VRL Break Fee is not payable merely because the resolution submitted to the Structure A Scheme Meeting in respect of the Structure A Scheme or the Structure B Scheme Meeting in respect of the Structure B Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (d) The VRL Break Fee is not payable by VRL if VRL validly terminates this agreement in accordance with clause 14.1(a)(i) or 14.2(b).
- (e) The VRL Break Fee is only payable once and the maximum amount payable by VRL under this clause 15.3 is \$4.29 million (inclusive of GST).
- (f) Where the VRL Break Fee becomes payable to BidCo under this clause 15.3 and is actually paid to BidCo, BidCo (for itself and as agent of every member of the BidCo Group):
 - (i) releases all rights against and agrees with VRL that BidCo will not make a Claim against any VRL Party (other than a claim under this clause 15.3 or a claim in respect of a breach of clause 17) in connection with:
 - (A) the event that gave rise to the right to demand the payment of the VRL Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the VRL Break Fee or that constitutes or may constitute a breach of this agreement; and
 - (ii) indemnifies any VRL Party against a Claim that is made contrary to the release under clause 15.3(f)(i),

with the effect that the payment of the VRL Break Fee represents the sole and exclusive remedy of any BidCo Group Member for the circumstances set forth in this clause 15.3.
- (g) Notwithstanding any other provision of this agreement but subject to clause 18:
 - (i) the maximum liability of VRL to BidCo under or in connection with this agreement including in respect of any breach of this agreement, except pursuant to clauses 11.8 and 11.9 (subject to clause 11.10), will be the VRL Break Fee; and
 - (ii) a payment by VRL in accordance with this clause 15.3 represents the sole and absolute liability of VRL under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by VRL in connection with this agreement.
- (h) The VRL Break Fee is not payable if either the Structure A Scheme or the Structure B Scheme becomes Effective, notwithstanding the occurrence of any event in clause 15.3.
- (i) For the avoidance of doubt, the VRL Break Fee paid under this clause 15.3 does not limit any of BidCo's, BGH's or their Affiliate's rights under the Interim Facility Agreement.

16. BidCo Break Fee and VRC Break Fee

16.1 BidCo Break Fee

- (a) BidCo agrees to pay to VRL \$4.29 million (inclusive of GST) (**BidCo Break Fee**) if:
 - (i) the Structure A Scheme becomes Effective but BidCo does not satisfy its obligations under the Subscription Agreement and as a consequence VRC does not procure the payment of the Structure A Scheme Consideration by VRC in accordance with the terms and conditions of this agreement, the Structure A Scheme and the Structure A Scheme Deed Poll;

- (ii) the Structure B Scheme becomes Effective but BidCo does not pay the Structure B Scheme Consideration in accordance with the terms and conditions of this agreement, the Structure B Scheme and the Structure B Scheme Deed Poll;
- (iii) VRL terminates this agreement in accordance with either:
 - (A) clause 14.1(a)(i) as a result of a material breach of one or more of BidCo's obligations under this agreement which have not been remedied within the time period set out clause 14.1(a)(i); and
 - (B) clause 14.2(b) as a result of a material breach by BidCo of a BidCo Warranty that has not been remedied within the time period set out in clause 14.2(b).
- (b) BidCo must pay VRL the BidCo Break Fee within 10 Business Days of receipt by VRL of a demand for payment from VRL made after the occurrence of the event referred to in clause 16.1.
- (c) HoldCo unconditionally and irrevocably guarantees to VRL the due and punctual performance and observance by BidCo of its obligations under clause 16.1(b) and indemnifies and undertakes to keep indemnified VRL to the extent of any failure by BidCo to pay an amount validly due to VRL under clause 16.1(b), provided HoldCo's maximum aggregate liability under this clause is \$4.29 million.
- (d) HoldCo's obligation under clause 16.1(c) remains unaffected despite:
 - (i) an amendment of this agreement; or
 - (ii) a rule of law or equity to the contrary; or
 - (iii) an insolvency event affecting a person or the death of a person; or
 - (iv) a change in the constitution, membership, or partnership of a person; or
 - (v) the partial performance of HoldCo's obligation under clause 16.1(c); or
 - (vi) HoldCo's obligation under clause 16.1(c) not being enforceable at any time (whether by reason of a legal limitation, disability or incapacity on the part of BidCo and whether this agreement is void *ab initio* or is subsequently avoided) against BidCo; or
 - (vii) VRL granting any time or other indulgence or concession to, compounding or compromising with, or wholly or partially releasing BidCo or HoldCo of an obligation; or
 - (viii) another thing happening that might otherwise release, discharge or affect the obligations of HoldCo under this agreement.
- (e) HoldCo's obligation under clause 16.1(c) is absolute, unconditional and irrevocable, except to the extent specified in clause 16.1(c). The liability of HoldCo extends to and is not affected by any circumstance, act or omission which, but for this clause, might otherwise affect it at law or in equity. HoldCo's obligation under clause 16.1(c) is a continuing security, and remains in full force it has been fully paid and satisfied. Clauses 16.1(c) to 16.1(e) inclusive survive any termination or full or partial discharge of this agreement.
- (f) The BidCo Break Fee is not payable by BidCo if the VRC Break Fee is payable by VRC.
- (g) The BidCo Break Fee is not payable by BidCo if BidCo validly terminates this agreement in accordance with clause 14.1(a)(i) or 14.2(a).
- (h) The BidCo Break Fee is only payable once and the maximum amount payable by BidCo under this clause 16.1 is \$4.29 million (inclusive of GST).

- (i) Where the BidCo Break Fee becomes payable to VRL under this clause 16.1 and is actually paid to VRL, VRL (for itself and as agent of every member of the VRL Group and each VRL Party):
 - (i) releases all rights against and agrees with BidCo and VRC that VRL will not make a Claim against any BidCo Party (other than a claim under this clause 16.1) or VRC Party in connection with:
 - (A) the event that gave rise to the right to demand the payment of the BidCo Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the BidCo Break Fee or that constitutes or may constitute a breach of this agreement; and
 - (ii) indemnifies any BidCo Party and VRC Party against a Claim that is made contrary to the release under clause 16.1(i)(i),

with the effect that the payment of the BidCo Break Fee represents the sole and exclusive remedy of any VRL Group Member for the circumstances set forth in this clause 16.1.
- (j) Notwithstanding any other provision of this agreement but subject to clause 18:
 - (i) the maximum liability of BidCo to VRL under or in connection with this agreement including in respect of any breach of this agreement will be the BidCo Break Fee; and
 - (ii) a payment by BidCo in accordance with this clause 16.1 represents the sole and absolute liability of BidCo under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by BidCo in connection with this agreement.
- (k) For the avoidance of doubt:
 - (i) the BidCo Break Fee paid under this clause 16.1 does not limit any of BidCo's, BGH's or their Affiliates' rights under the Interim Facility Agreement; and
 - (ii) if VRL Break Fee is paid by VRL to BidCo pursuant to clause 15.3, no BidCo Break Fee will be payable under this clause 16.1.

16.2 VRC Break Fee

- (a) VRC agrees to pay to VRL \$4.29 million (inclusive of GST) (**VRC Break Fee**) if VRL terminates this agreement in accordance with either:
 - (i) clause 14.1(a)(i) as a result of a material breach of one or more of VRC obligations under this agreement which have not been remedied within the time period set out clause 14.1(a)(i); and
 - (ii) clause 14.2(c) as a result of a material breach by VRC of a VRC Warranty that has not been remedied within the time period set out in clause 14.2(c).
- (b) VRC must pay VRL the VRC Break Fee within 10 Business Days of receipt by VRC of a demand for payment from VRL made after the occurrence of the event referred to in clause 16.2(a).
- (c) The VRC Break Fee is not payable by VRC if VRC validly terminates this agreement in accordance with clause 14.2(a) or BidCo validly terminates this agreement in accordance with clause 14.1(a)(i) due to a material breach by VRL.
- (d) The VRC Break Fee is not payable by VRC if the BidCo Break Fee is payable by BidCo.
- (e) The VRC Break Fee is only payable once and the maximum amount payable by VRC under this clause 16.2 is \$4.29 million (inclusive of GST).

- (f) Where the VRC Break Fee becomes payable to VRL under this clause 16.2 and is actually paid to VRL, VRL (for itself and as agent of every member of the VRL Group):
 - (i) releases all rights against and agrees with VRC and BidCo that VRL will not make a Claim against any VRC Party (other than a claim under this clause 16.2) and BidCo Party in connection with:
 - (A) the event that gave rise to the right to demand the payment of the VRC Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the VRC Break Fee or that constitutes or may constitute a breach of this agreement; and
 - (ii) indemnifies any VRC Party and BidCo Party against a Claim that is made contrary to the release under clause 16.2(f)(i),

with the effect that the payment of the VRC Break Fee represents the sole and exclusive remedy of any VRL Group Member for the circumstances set forth in this clause 16.2.
- (g) Notwithstanding any other provision of this agreement but subject to clause 18:
 - (i) the maximum liability of VRC to VRL under or in connection with this agreement including in respect of any breach of this agreement will be the VRC Break Fee; and
 - (ii) a payment by VRC in accordance with this clause 16.2 represents the sole and absolute liability of VRC under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by VRC in connection with this agreement.
- (h) For the avoidance of doubt, the VRC Break Fee paid under this clause 16.2 does not limit any of BidCo's, BGH's or their Affiliates' rights under the Interim Facility Agreement.

17. Exclusivity

17.1 No shop restriction

During the Exclusivity Period, except with the prior written consent of BidCo, VRL must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, directly or indirectly:

- (a) solicit, invite, encourage, continue or initiate any Competing Proposal or any enquiries, negotiations or discussions with any third party in relation to, or that may reasonably be expected to encourage or lead to, an actual, proposed or potential Competing Proposal or which may otherwise lead to the Proposed Transactions not being completed; or
- (b) solicit, invite, encourage or initiate approaches, enquiries, discussions or proposals with a view to obtaining any offer, proposal or expression of interest from any person in relation to, or which may reasonably be expected to lead to, an actual, proposed or potential Competing Proposal,

or communicate any intention to do any of those things.

17.2 No talk restriction

Subject to clause 17.4, during the Exclusivity Period, VRL must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons (whether directly or indirectly):

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

in relation to, or that may reasonably be expected to encourage or lead to, an actual or potential Competing Proposal or any agreement, understanding or arrangement that may be reasonably expected to encourage or lead to a Competing Proposal or which may otherwise lead to the Proposed Transactions not being completed, even if:

- (c) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by VRL or any of its Related Bodies Corporate; or
- (d) that person has publicly announced the Competing Proposal.

17.3 No due diligence

- (a) During the Exclusivity Period, except with the prior written consent of BidCo, VRL must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:
 - (i) solicit, invite, initiate, or encourage, or (subject to clause 17.4) facilitate or permit, any person (other than BidCo or VRC) to undertake due diligence investigations in respect of VRL, its Related Bodies Corporate, or any of their businesses and operations, in connection with or with a view to obtaining or which would reasonably be expected to lead to such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
 - (ii) subject to clause 17.4, make available to any person (other than BidCo or VRC) or permit any such person to receive any non-public information relating to VRL, its Related Bodies Corporate, or any of their businesses and operations, in connection with or with a view to obtaining or which would reasonably be expected to lead to such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.
- (b) If VRL proposes that any non-public information be provided to a third party while validly relying on the exception in clause 17.4, then:
 - (i) before VRL provides such information, the third party must enter into a confidentiality agreement which contains obligations on the recipient of that information which are no less onerous in any material respect than the obligations of BGH and VRL under the Confidentiality Deed; and
 - (ii) any non-public information provided to that third party must also be provided to BidCo and VRC (unless the information has already been provided to BidCo or a BidCo Authorised Person or VRC or a VRC Authorised Person).

17.4 Exceptions

Clauses 17.2, 17.3(a)(i) and 17.3(a)(ii) do not apply to the extent that they restrict VRL or the VRL Board from taking or refusing to take any action with respect to a genuine Competing Proposal (in relation to which there has been no contravention of this clause 17) provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the VRL Board considers is of sufficient commercial standing;
- (b) the VRL Board, acting in good faith, determines:
 - (i) where there is a written Competing Proposal, after consultation with its financial advisors, that the Competing Proposal is a Superior Proposal or the steps which the VRL Board proposes to take may reasonably be expected to lead to a Competing Proposal which is a Superior Proposal; and
 - (ii) after receiving written legal advice from VRL's external legal Advisers experienced in transactions of this nature, that failing to respond to the Competing Proposal may constitute a breach of its fiduciary or statutory duties; and
- (c) VRL notifies promptly and in any event within 48 hours BidCo of each action or inaction by VRL or the VRL Board in reliance on this clause 17.4.

17.5 VRL warranty and undertakings

- (a) VRL warrants as at the date of this agreement:
 - (i) that it has, and its Authorised Persons have, ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal; and
 - (ii) that it has requested, or will as soon as practicable request, the return of VRL's confidential information in accordance with the terms of any relevant confidentiality agreement from all third parties conducting due diligence investigations on the VRL Group prior to the date of this agreement in connection with (or contemplation of) a Competing Proposal or potential Competing Proposal.
- (b) During the Exclusivity Period, VRL must:
 - (i) enforce all its rights under each confidentiality agreement entered into in connection with an actual or potential Competing Proposal (before the date of this agreement), including any standstill obligations and its rights to require the return of confidential information as referred to in clause 17.5(a)(ii);
 - (ii) as soon as reasonably practicable, ensure that the electronic data room access granted to any third party prior to the date of this agreement in connection with an actual or potential Competing Proposal is withdrawn; and
 - (iii) not grant any waivers or agree to any amendments under any confidentiality agreements entered into in connection with an actual or potential Competing Proposal (before the date of this agreement).

17.6 Notice of Competing Proposal

- (a) Subject to clause 17.6(b), during the Exclusivity Period, VRL must promptly (and in any event, within 48 hours) notify VRC and BidCo in writing of:
 - (i) any negotiations or discussions, approach or attempt to initiate any negotiations or discussions, or intention to make such an approach or attempt to initiate any negotiations or discussions with VRL, any of its Related Bodies Corporate or any of their respective Authorised Persons in respect of any inquiry, expression of interest, offer, proposal or discussion that could reasonably be expected to lead to a Competing Proposal;
 - (ii) the receipt of any proposal made by any person to VRL, any of its Related Bodies Corporate or any of their respective Authorised Persons, that could reasonably be expected to lead to a Competing Proposal; or
 - (iii) any request made by any person to VRL, any of its Related Bodies Corporate or any of their respective Authorised Persons, for any information relating to VRL, its Related Bodies Corporate, or any of their businesses and operations, in connection with such proposal,

(Competing Proposal Notice).
- (b) In circumstances where the requirements of clauses 17.4(a) and 17.4(b) have been satisfied in respect of a Competing Proposal, VRL may delay issuing the Competing Proposal Notice for a period ending no later than five days after the relevant circumstances in clause 17.6(a)(i), 17.6(a)(ii) or 17.6(a)(iii) have occurred.
- (c) A Competing Proposal Notice must be accompanied by all material details of the relevant event, including:
 - (i) the material terms and conditions (including price, conditions precedent, timetable and any break fee) of any Competing Proposal or any proposed Competing Proposal (to the extent known); and

- (ii) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clauses 17.6(a)(i) and 17.6(a)(ii) or who made the relevant request for information referred to in clause 17.6(a)(iii).
- (d) If VRL gives VRC and BidCo a Competing Proposal Notice, VRC and BidCo agrees that the notice will be Confidential Information of VRL (as defined in the Confidentiality Deed).
- (e) During the Exclusivity Period, VRL must also notify VRC and BidCo in writing as soon as possible after becoming aware of any material developments in relation to any actual, proposed or potential Competing Proposal, including in respect of any of the information previously notified to the bidder under this clause 17.6.

17.7 VRL's response to Competing Proposal and right to respond

- (a) If VRL receives a Competing Proposal and as a result, any Independent Director proposes to either:
 - (i) change, withdraw or modify his or her recommendation of either the Structure A Scheme or the Structure B Scheme; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Proposal with the person who has made the applicable Competing Proposal (other than an Acceptable Confidentiality Agreement),

VRL must ensure that no Independent Director does so:

- (iii) unless the Competing Proposal is bona fide and constitutes a Superior Proposal; and
- (iv) until each of the following has occurred:
 - (A) VRL has given VRC and BidCo written notice (**Relevant Notice**) of the Independent Director's proposal to take the action referred to in clauses 17.7(a)(i) or 17.7(a)(ii) (subject to VRC's and BidCo's rights under clause 17.7(b)), including details of the grounds on which the Independent Directors propose to take such action;
 - (B) VRL has given VRC and BidCo all information that would be required by clause 17.6(c), including the identity of the person making the Competing Proposal; and
 - (C) either:
 - (I) BidCo has not announced or provided to VRL a Counter Proposal before the Cut Off Date; or
 - (II) BidCo has announced or provided to VRL a Counter Proposal before the Cut Off Date and the VRL Board has determined, in good faith, that the Counter Proposal would not provide an equivalent or superior outcome to VRL shareholders as a whole compared with the Competing Proposal and BidCo have been given an opportunity to amend the Counter Proposal in accordance with clause 17.7(e).
- (b) If VRL gives a Relevant Notice to VRC and BidCo under clause 17.7(a)(iv)(A), BidCo will have the right, but not the obligation, at any time during the 5 Business Days following the receipt of the Relevant Notice (**Cut Off Date**), to amend the terms of the Proposed Transactions including increasing the amount of consideration offered under the Proposed Transactions or proposing another form of transaction (each a **Counter Proposal**), and if they do so then the Independent Directors must review the Counter Proposal and determine whether, in good faith, the Counter Proposal would provide an equivalent or superior outcome to VRL shareholders as a whole compared with the Competing Proposal.

- (c) VRL must procure that the VRL Board promptly, and in any event within 2 Business Days, notifies BidCo of the determination in writing, stating reasons for that determination.
- (d) If the Independent Directors determine in good faith that the Counter Proposal would provide an equivalent or superior outcome to VRL Shareholders as a whole compared with the Competing Proposal, then VRL and BidCo must use their best endeavours to agree the amendments to this agreement that are reasonably necessary to reflect the Counter Proposal, and to enter into an amended agreement to give effect to those amendments and to implement the Counter Proposal, and VRL must use its best endeavours to procure that the Independent Directors recommend the Counter Proposal to the VRL Shareholders and not recommend the applicable Competing Proposal.
- (e) If the determination is that the Counter Proposal would not provide an equivalent or superior outcome to VRL Shareholders as a whole compared with the Competing Proposal, then BidCo may take steps to amend the Counter Proposal to address the reasons given within a further period of 5 Business Days. If BidCo does so to VRL's satisfaction, then the process in clause 17.7(d) applies to that amended Counter Proposal.
- (f) For the purposes of this clause 17.7, each successive material modification of any third party expression of interest, offer or proposal in relation to a Competing Proposal will constitute a new Competing Proposal.

17.8 Normal provision of information

Nothing in this clause 17 prevents VRL from:

- (a) providing information required to be provided by law, any court of competent jurisdiction, any Governmental Agency or the Listing Rules;
- (b) providing information in relation to a preparatory step for a Capital Raising that meets the conditions in clauses 9.7(a)(i) to 9.7(a)(v); or
- (c) making presentations to and responding to bona fide enquires from stockbrokers, portfolio investors and equity market analysts in relation to the Structure A Scheme or the Structure B Scheme,

subject to VRL complying with its obligations under the Confidentiality Deed and clause 13.

18. Modification of VRL Break Fee, BidCo Break Fee or exclusivity arrangements

18.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Governmental Agency finds that all or any part of the payment required to be made under clauses 15 or 16 or an exclusivity arrangement under clause 17 is unacceptable or unenforceable; or
- (b) as a result of an application to the Takeovers Panel, the Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the amount of the VRL Break Fee, the VRC Break Fee or the BidCo Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 17, it will make a declaration of unacceptable circumstances,

then, subject to clause 18.3:

- (c) the parties must amend clauses 15, 16 and/or 17 to the extent required to give effect to the requirements of the Governmental Agency or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 18.1(b)) must give the required undertaking(s); and

- (d) neither the occurrence of any of the events referred to in clause 18.1(a) or 18.1(b) nor the amendment of clauses 15, 16 and/or 17 will be taken to be a breach of, or permit any party to terminate, this agreement.

18.2 Conduct during proceedings

- (a) During the course of any Takeovers Panel or court proceedings (including any appeal or review thereof) referred to in clause 18.1, the parties must take all reasonable steps to ensure that any such declaration or determination has the minimum effect possible.
- (b) The parties must not make or cause or permit to be made any application to a court of the Takeovers Panel for or in relation to a determination referred to in clause 18.1.

18.3 No requirement to act unless decision final

The parties are only required to take steps under 18.1(c) in relation to any requirement of a Governmental Agency or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or
- (b) BidCo, VRC and VRL agree in writing not to appeal or seek review of the decision to impose that requirement.

18.4 Appeals and review of regulatory decisions

Nothing in this agreement requires either party to appeal or seek review of any decision of a Governmental Agency or the Takeovers Panel referred to in clause 18.1(a) or 18.1(b). If BidCo, VRC and VRL wishes to appeal or seek review of any such decision then the others must make submissions in the course of those proceedings supporting the review made by the first party.

18.5 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the VRL Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the VRL Board (**Impugned Amount**) and either no appeal from that determination is available or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of VRL to pay the VRL Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if BidCo has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the period for lodging has expired, whichever is later.

19. Notices

Any communication under or in connection with this agreement:

- (a) must be in writing;
- (b) must be sent to the address for service of the addressee specified in the Details;
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered to the address, or sent by email to the email address, of the addressee, in accordance with the Details; and
- (e) will be deemed to be received by the addressee:
 - (i) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or

after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and

- (ii) **(in the case of email)** immediately after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

20. General

20.1 Further acts

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

20.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties.

20.3 Payments

Unless otherwise provided in this agreement, where an amount is required to be paid to a party (**Receiving Party**) by another party under this agreement, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off.

20.4 Interest

- (a) If a party fails to pay any amount payable under this agreement on the due date for payment, that party must pay interest on the amount unpaid at the higher of the Interest Rate plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.
- (b) The interest payable under clause 20.4(a):
 - (i) accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
 - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

20.5 GST

- (a) Any reference in this clause 20.5 to a term defined or used in the GST Act is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly stated otherwise, any consideration or amount payable, including non-monetary consideration, for any supply made under or in connection with this agreement does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this agreement is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this agreement but for the application of this clause 20.5(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply

(Additional Amount). This clause 20.5(c) does not apply to any taxable supply under or in connection with this agreement that is stated to include GST.

- (d) The Additional Amount payable in accordance with this clause 20.5 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided. However, the Additional Amount (or the GST component of any consideration expressed to be inclusive of GST) is only payable on receipt of a valid tax invoice.
- (e) If an adjustment event arises for a supply made in connection with this agreement, the Additional Amount (or the GST component of any consideration expressed to be inclusive of GST) must be recalculated to reflect that adjustment. The Supplier or the party providing the consideration for the supply (as the case may be) agrees to make any payments necessary to reflect the adjustment and the Supplier agrees to issue an adjustment note.
- (f) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

20.6 Stamp duty

BidCo must pay all Duty in respect of the execution, delivery and performance of this agreement, the Structure A Scheme or the Structure B Scheme or the steps to be taken under this agreement, the Structure A Scheme or the Structure B Scheme (including without limitation the acquisition or transfer of Structure A Scheme Shares under the Structure A Scheme or the transfer of Structure B Scheme Shares under the Structure B Scheme).

20.7 Expenses

Except as otherwise provided in this agreement, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this agreement and the Explanatory Booklet and the proposed, attempted or actual implementation of this agreement, the Structure A Scheme and the Structure B Scheme.

20.8 Amendments

- (a) This agreement may only be varied by a document signed by or on behalf of each of the parties.
- (b) On and after the Implementation Date, this agreement including this clause may only be varied by a document signed by or on behalf of each of the parties and each of the VRL Parties.
- (c) VRL holds the benefit of clause 20.8(b) for itself and on behalf of the VRL Parties.

20.9 Assignment

- (a) Subject to clause 20.9(b) below, a party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.
- (b) Notwithstanding any other provisions of this agreement, BidCo may grant encumbrances (whether by charge, mortgage or otherwise) over its rights under this agreement in favour of providers of debt financing from time to time to its or its related bodies corporate (including any agent or trustee acting on those financiers' behalf), and any such encumbrance may be enforced or released.

20.10 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this agreement.
- (b) Any waiver or consent given by any party under this agreement will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this agreement will operate as a waiver of another breach of that term or of a breach of any other term of this agreement.
- (d) Nothing in this agreement obliges a party to exercise a right to waive any conditional term of this agreement that may be in its power.

20.11 Counterparts

- (a) This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This agreement is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by email to the other party, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

20.12 Entire agreement

- (a) This agreement:
 - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite clause 20.12(a), the Confidentiality Deed continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this agreement prevails.

20.13 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements set out in this agreement.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement set out in this agreement.

20.14 No merger

The rights and obligations of the parties will not merge on completion of any transaction under this agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

20.15 Governing law

- (a) This agreement is governed by and will be construed according to the laws of Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts.

Schedule 1 – Indicative timetable

[Not reproduced here. Refer ASX announcement dated 6 August 2020 for indicative timing. Await Explanatory Booklet for updated indicative timing]

Schedule 2– Business Warranties

PART 1 DEFINITIONS

Unless otherwise defined in, and in addition to the definitions in clause 1 of the agreement, the following words and expressions have meanings as follows in this Schedule 2:

Accounts means the consolidated audited financial statements (including the notes thereto) contained in the financial report in respect of the VRL Group for the period to 30 June 2019.

Anti-Corruption Laws means:

- (a) the U.S. Foreign Corrupt Practices Act of 1977, as amended;
- (b) the *Criminal Code Act 1995* (Cth); and
- (c) any similar applicable law that has as its objective the prevention of corruption, including without limitation legislation enacted in furtherance of the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions 1997.

Anti-Money Laundering Laws means anti-money laundering laws and counter-terrorism financing and regulations applicable to the VRL Group from time to time, including without limitation the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).

Contamination means in relation to land, and the Environment, the release (whether by act or omission) of a contaminant (including gas, liquid, solid, odour, organism, virus, energy, noise, heat, radioactivity, electromagnetic radiation, or a combination) in, on or under that land or into the Environment.

Development includes carrying out:

- (a) building work, plumbing or drainage work,
- (b) operational work;
- (c) reconfiguring a lot; or
- (d) making a making a change of use of premises.

Environment includes:

- (a) ecosystems and their constituent parts, including people and communities;
- (b) all natural and physical resources;
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

Environmental Law means any statute or common law regulating or otherwise relating to the Environment or Contamination.

Government Official means, whether in Australia or elsewhere:

- (a) an officer, agent or employee of a government, government-owned enterprise (or any agency, department or instrumentality thereof), political party or public international organization;
- (b) a candidate for government or political office; or
- (c) an agent, officer, or employee of any entity owned by a government.

GST Law has the meaning given in the GST Act.

Half-Year Accounts means the consolidated financial statements in respect of the VRL Group for the 6 month period to 31 December 2019.

Improvement Notice has the meaning given in the *Work Health and Safety Act 2011* (QLD).

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

Management Accounts means:

- (a) the unaudited historical financial information of the VRL Group for the period 1 July 2019 to 31 December 2019, copies of which are provided in the Data Room at document number 01.01.02.07.02 VRL Consolidation Divisional 31Dec2019_FINAL; and
- (b) the finance reports of the VRL Group for the period 1 July 2019 to 30 April 2020, copies of which are provided in the Data Room at document number 01.01.02.05 "Management Accounts".

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

Planning Law means any statute or common law regulating or otherwise relating to Development.

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

Prohibition Notice has the meaning given in the *Work Health and Safety Act 2011* (QLD).

Properties has the meaning given in Warranty 12(b) of this Schedule 2.

Records means originals and copies, in any material form, of all minute books, statutory books and registers, books of account and copies of taxation returns.

Scheme means the Structure A Scheme or Structure B Scheme, whichever has become Effective.

Sanctioned Person means at any time:

- (a) any person or entity listed on any Sanctions-related list of designated or blocked persons;
- (b) any person resident in, or entity organized under the laws of, a country or territory that is the subject of comprehensive Sanctions (including Cuba, Iran, Democratic People's Republic of Korea, Sudan, Syria, and the Crimea region); or
- (c) any person or entity majority-owned or controlled by or acting on behalf of any of the foregoing.

Sanctions means those economic and financial sanctions and trade embargoes imposed, administered or enforced from time to time by:

- (a) the Australian government, including those arising under the *Charter of the United Nations Act 1945* (Cth), the *Autonomous Sanctions Act 2011* (Cth), the Anti-Money Laundering Laws or administered by the Department of Foreign Affairs and Trade or AUSTRAC;
- (b) the European Union and implemented by its member States;
- (c) the United Nations Security Council;
- (d) Her Majesty's Treasury of the United Kingdom; or
- (e) the U.S. government, including those administered by the U.S. Treasury, Office of Foreign Assets Control.

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

Third Party means a person other than BidCo, another member of the BidCo Group and their respective associates.

WHS Laws means all safety-related:

- (a) laws;
- (b) guidance materials;
- (c) mandatory codes of practice;
- (d) other compliance codes; and
- (e) directions on safety, standards or notices issued by any relevant Governmental Agency or Work Safety Authority,

relevant and applicable to occupational health and safety, work health and safety, dangerous goods, rail safety or electricity safety.

Work Safety Authority means a Governmental Agency with responsibility for the regulation, investigation and enforcement of WHS Laws, amongst other functions.

PART 2 BUSINESS WARRANTIES

1. Existence and Authority

- (a) Each VRL Group Member is a validly existing corporation registered under the laws of its place of incorporation.
- (b) VRL has full capacity, corporate power and lawful authority to execute, deliver and perform this agreement and the Scheme.
- (c) Each VRL Group Member:
 - (i) has the power to own its assets and carry on the Business as it is being carried on as at the date of this agreement
 - (ii) is duly registered and authorised to do business in those jurisdictions which, by the nature of its business and assets, makes registration or authorisation necessary; and
 - (iii) has conducted the Business in compliance with the constitution or other constituent documents of that VRL Group Member.
- (d) The execution and delivery of this agreement by VRL has been properly authorised by all necessary corporate action and VRL has full corporate power and lawful authority to execute and deliver this agreement and to perform or cause to be performed its obligations under this agreement and the Scheme.
- (e) This agreement constitutes legal, valid and binding obligations on VRL and the execution of this agreement of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which VRL or any VRL Group Member is a party or to which they are bound.
- (f) This agreement is a valid and binding obligation of VRL enforceable against it in accordance with its terms.
- (g) Except as Fairly Disclosed in the Due Diligence Materials, VRL is not aware of any facts or circumstances that will cause a Third Party, as a result of the entry into this document and the implementation of the Proposed Transaction to exercise a right to terminate a contract which is material to the business of the VRL Group or vary the performance of any material obligation of VRL under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the VRL Group
- (h) As at the date of this agreement, no Insolvency Event has occurred or is reasonably likely to occur in the near term in relation to VRL or another VRL Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict VRL's ability to fulfil its obligations under this agreement or under the Scheme.

2. Capital structure

- (a) As at the date of this agreement, the total issued capital of VRL is 195,252,595 VRL Shares and there are no VRL options, performance rights, performance shares, convertible notes or other securities (or obligations, offers or agreements to issue any of the foregoing).
- (b) No VRL Group Member has issued or granted (or agreed to issue or grant) any other shares or other securities, options, warrants, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, shares in a VRL Group Member.
- (c) No VRL Group Member is under any obligation to issue, and no person has any right to require or call for the issue or grant of, any share or other securities, options, warrants,

rights or instruments issuable in any VRL Group Member (whether such obligation or right is conditional or otherwise).

- (d) No VRL Group Member has granted any option, right or other entitlement under any employee incentive scheme or plan (or similar arrangement) to acquire, by way of issue or transfer, or, subject to satisfaction of vesting or performance condition, to retain, a share or security in any VRL Group Member, except as Fairly Disclosed in the Due Diligence Materials as being issued under the Employee Share Plan.

3. VRL Group

- (a) The structure diagram in the documents with the identification number 01.03.04.01.03 contained in the Data Room includes details of all members of the VRL Group and the details included are true and accurate in all respects.
- (b) No VRL Group Member holds shares, options, units, securities or interests in, or is a member of, any company, trust, partnership, incorporated or unincorporated joint venture or association, or other entity (other than an entity identified in the documents with the identification number 01.03.04.01.03 contained in the Data Room).

4. Financial information

- (a) The Accounts and the Half-Year Accounts:
 - (i) comply with applicable statutory requirements and were prepared in accordance with the Accounting Standards;
 - (ii) give a true and fair view of the financial position and the assets and liabilities of the VRL Group as at 30 June 2019 and 31 December 2019 (as applicable); and
 - (iii) are not affected by any unusual, abnormal, extraordinary or non-recurring items, other than those items specifically disclosed in those financial statements.
- (b) The Management Accounts:
 - (i) fairly represent and show an accurate view of:
 - (A) the financial position and state of affairs of the VRL Group as at the date to which they have been prepared; and
 - (B) the financial performance of the VRL Group for the period in respect of which they have been prepared; and
 - (ii) have been prepared in good faith and with reasonable care and diligence.

5. Conduct of business

- (a) Since 31 December 2019, the VRL Group has conducted its businesses and operations:
 - (i) in the ordinary course and has not entered into material contracts or arrangements outside of the ordinary course of the business of the VRL Group;
 - (ii) in accordance with material legal and contractual obligations; and
 - (iii) in a manner generally consistent (subject to any applicable laws, regulations and regulatory approvals) with the manner in which each such business and operation had been conducted in the 12 month period prior to 31 December 2019 subject to any alterations from measures taken as at the date of this agreement as a result of the impact of the COVID-19 virus as Fairly Disclosed in the Due Diligence Materials or as publicly disclosed by the VRL Group.

- (b) Between 31 December 2019 and the date of this agreement, no member of the VRL Group undertook any actions which would have resulted in a breach of clause 9.1(b) had it been operative during that period.
- (c) VRL is not aware of any information relating to the VRL Group or its respective businesses or operations (having made reasonable enquiries) as at the date of this agreement that has or could reasonably be expected to give rise to a Material Adverse Change that has not been Fairly Disclosed in an announcement by VRL to ASX or in the Due Diligence Material.

6. Material contracts and other arrangements

- (a) All contracts, agreements and arrangements in existence as at the date of this agreement that could reasonably be considered material to the VRL Group (**Material Contracts**) have been Fairly Disclosed in the Due Diligence Material and the copies of all Material Contracts included in the Due Diligence Material are current, accurate and complete (when considered with any and all amendments, variations, supplements, correspondences, addendums, annexures, appendices, extensions and/or renewals in respect of such Material Contracts that are also included in the Due Diligence Material).
- (b) Each Material Contract is valid, binding and enforceable upon and against each member of the VRL Group that is a party thereto and (so far as VRL is aware) each other party thereto.
- (c) No VRL Group Member has received or given any notice in respect of any actual, alleged or potential breach of any Material Contract, nor are there any facts, matters or circumstances which may reasonably be expected to result in such a notice being given.
- (d) As at the date of this agreement, no party to any Material Contract has given any notice terminating or intending to terminate any Material Contract, nor (so far as VRL is aware and again as at the date of this agreement) are there any facts, matters or circumstances which may reasonably be expected to result in such a notice being given.
- (e) No member of the VRL Group is in material default under any Material Contract binding on it or its assets nor has anything occurred which is or would with the giving of notice or the lapse of time constitute an event of default, prepayment event or similar event or give another party a termination right or right to accelerate any right or obligation under any such document.
- (f) No member of the VRL Group is a party to any material agreement or arrangement that:
 - (i) contains a take-or-pay or guaranteed minimum payment commitment by a VRL Group Member, unless the agreement or arrangement has been Fairly Disclosed in the Due Diligence Material;
 - (ii) is not on arm's length terms;
 - (iii) was not entered into in the ordinary course of business; or
 - (iv) other than as expressly set out in the terms of contracts disclosed in the Due Diligence Material, contains a non-compete undertaking or exclusivity restriction.
- (g) No member of the VRL Group has received any notice, advice or correspondence from a counterparty to a Material Contract:
 - (i) with respect to the non-renewal or non-extension of the term of that Material Contract; or
 - (ii) confirming or suggesting that that Material Contract will be renewed or extended only on materially amended terms.

7. Change of control

So far as VRL is aware, the identify of each third party to whom a member of the VRL Group is required to give notice, or from whom a member of the VRL Group is required to obtain consent or approval under a contract to which a member of the VRL Group is a party, in connection with this document or the transactions contemplated by it (including in respect of the change of control of VRL resulting from the implementation of the Scheme) has been Fairly Disclosed, except where the failure to give such notice to or obtain such consent or approval form (as applicable) the relevant third party should not reasonably expected to give rise to a material liability on the part of any member of the VRL Group.

8. Specific arrangements

- (a) No member of the VRL Group has been notified in writing by any shareholder in a company in which a VRL Group Member is a shareholder or a party to a joint venture or similar agreement to which VRL Group is also a party that such shareholder or party intends to cease or alter the nature of its commercial or business dealings with the VRL Group (or any member thereof), where the cessation or alteration of such commercial or business dealings could be reasonably expected to have a material adverse effect of \$200,000 or more (either individually or in aggregate with all such cessations or alterations) on the financial performance or position of the VRL Group (taken as a whole).
- (b) The VRL Group member is not aware of any fact, matter or circumstance that would reasonably suggest that a VRL Group Member or any Third Party shareholder in a company in which a VRL Group Member is a shareholder or a party to a joint venture or similar agreement to which VRL Group is also a party is in breach of the applicable shareholders agreement, constitution or joint venture agreement where such breach could be reasonably expected to have a material adverse effect of \$200,000 or more (either individually or in aggregate with all facts matters or circumstances) on the financial performance or position of the VRL Group (taken as a whole).
- (c) No VRL Group Member has been notified by any customer or supplier that such customer or supplier (as applicable) intends to cease or alter the nature of its commercial or business dealings with the VRL Group where such cessation or alteration could be reasonably expected to have a material adverse effect of \$200,000 or more (either individually or in aggregate with all facts matters or circumstances) on the financial performance or position of the VRL Group (taken as a whole).
- (d) All arrangements requiring any VRL Group Member to pay a minimum guarantee, commit to a minimum payment, pay upfront royalties or licence fees or pay any licence fee in relation to any film, television series or other Intellectual Property Rights (IP Commitment) have been Fairly Disclosed in the Data Room.
- (e) The maximum amount agreed as at the date of this agreement to be paid by a VRL Group Member pursuant to a guaranteed IP Commitment is Fairly Disclosed in the Data Room. No member of VRL Group is a party to, or was in any way interested in, any agreement or arrangement (legally enforceable or not) to which a, or in the last 12 months entered into a transaction with any, VRC Party or any related party of VRL (as defined in section 228 of the Corporations Act), other than pursuant to arrangements and on the same terms as the arrangements Fairly Disclosed in the Due Diligence Material or in VRL's annual report issued for the year ended 30 June 2019.
- (f) No member of VRL Group has any liability or obligations, and VRL is not aware of any fact, matter or circumstance that is reasonably likely to give rise to a liability or obligation, in connection with any sale, divestment or purchase of shares, business or assets made by or on behalf of a VRL Group Member prior to the date of this agreement where such fact, matter or circumstance could be reasonably expected to have a material adverse effect of \$200,000 or more (either individually or in aggregate with all facts matters or

circumstances) on the financial performance or position of the VRL Group (taken as a whole).

9. Financing arrangements

- (a) Other than the Debt Financing Agreements and as Fairly Disclosed in the Due Diligence Material, there are no:
 - (i) agreements or arrangements entered into by any member of the VRL Group for the borrowing of money or the incurrence of any debt or other financial indebtedness (whether contingent or otherwise), or the granting of Security Interests or other security (other than Permitted Security Interests);
 - (ii) debentures, bonds, notes or similar debt instruments issued by any member of the VRL Group (whether by one instrument or by all of the instruments in a series);
 - (iii) guarantees, letters of comfort, indemnities or other commitments of financial support which have been given or issued in favour of any Third Party in respect of any financial indebtedness incurred by any member of the VRL Group, and no member of the VRL Group has requested that any bank or other financial institution give or issue any such guarantee, letter of comfort, indemnity or other commitment of financial support;
 - (iv) bank guarantees, letters of credit, trade instruments or similar credit support which have been issued in respect of, or at the request of, any member of the VRL Group or any arrangements related thereto (including cash-backing);
 - (v) interest rate swaps, foreign currency forward contracts or other derivative contracts to which any member of the VRL Group is a party or by which any member of the VRL Group is bound; or
 - (vi) financing arrangements that restrict the sale or disposal of any member of the VRL Group (or any assets thereof).
- (b) No member of the VRL Group has given any guarantee, letter of comfort or other commitments of financial support, or granted any encumbrance, in respect of any obligation or liability of any Third Party.
- (c) No outstanding acceleration demands have been made under, or in respect of, any of the financing or security arrangements to which any member of the VRL Group is a party or by which any member of the VRL Group (or any assets thereof) is bound.
- (d) So far as VRL is aware:
 - (i) no action has been taken or threatened by any person to enforce any encumbrance of any kind over any assets of any member of the VRL Group; and
 - (ii) there are no facts, matters or circumstances that would or may entitle any person to take such action.
- (e) There is no existing or unremedied material breach of, nor any default, event of default, cancellation event, review event, prepayment event or similar event currently subsisting under, any financing or security arrangements.
- (f) Where a member of the VRL Group has received funding or financial support from a Governmental Agency, no calls or demands have been made to repay those amounts and no member of the VRL Group has been notified or is aware that any such funding or financial support is required to be repaid.
- (g) No VRL Group Member is liable to repay an investment or other grant or subsidy made to it by any person (including a Government Agency). No matter (including the execution and performance of this agreement) exists that might entitle a body to require repayment of, or refuse an application for, the whole or part of a grant or subsidy.

10. Documents and Records

- (a) The Records:
 - (i) contain all relevant material details, which are accurate, of all matters required to be entered by all applicable laws; and
 - (ii) give a reasonably and materially accurate view of the trading transactions, the assets and liabilities and the financial and contractual position of the VRL Group.
- (b) All material documents relating to any VRL Group Member (including documents of title and copies of all agreements to which a VRL Group Member is a party) which are the property of a VRL Group Member or ought to be in its possession, are in its possession or under its control.
- (c) Each material document or filing which is required by law to be delivered or made to any Governmental Authority by a VRL Group Member in connection with the operation of the VRL Group has been duly delivered or made.
- (d) No VRL Group Member has received notice of any application for the rectification of its register of members or any other register that it is required by law to maintain.

11. Assets

- (a) Immediately after the Proposed Transaction is implemented, the VRL Group will own, or have the right to use (on terms no less favourable to the VRL Group than the terms applicable as at the date of this agreement and at Implementation Date), all of the assets that are necessary for the conduct of the Business as carried on as at the date of this agreement and at Implementation Date.
- (b) The Due Diligence Material includes an asset register which is a materially true and complete list of all assets (including rides and attractions) owned and possessed by the Company.
- (c) All the material tangible assets of the VRL Group are:
 - (i) the absolute property of a member of the VRL Group free and clear of all encumbrances or used by a member of the VRL Group under a contract pursuant to which such member of the VRL Group is entitled to use the relevant asset(s) on the terms and conditions of such contract (each such contract being an **Asset Contract**);
 - (ii) not the subject of any lease or hire purchase agreement or agreement for purchase on deferred terms;
 - (iii) in the exclusive possession or under the control of a member of the VRL Group, its agent or nominee;
 - (iv) other than pursuant to an Asset Contract, not the subject of any agreements or arrangements to dispose or not dispose or that otherwise restrict their use or disposal.
- (d) The VRL Group owns, or has the right to use (on terms no less favourable to the VRL Group than the terms applicable as at the date of this agreement), all of the assets that are necessary for the carrying on of the Business and operations of the VRL Group as such Business and operations are currently carried on.
- (e) No member of the VRL Group has received any notice, order or direction from any Governmental Agency or Third Party in respect of any of its assets or the use of such assets, nor is VRL aware of any facts, matters or circumstances which may result in such a notice being given.
- (f) Copies of any finance leasing agreement, hire purchase agreement, credit or conditional sale agreement, agreement for payment on deferred terms or any other similar agreement

to which a VRL Group Member is a party are contained in the Due Diligence Material, where such arrangement may reasonably give rise to potential costs or liability of more than \$250,000 in aggregate for all such potential costs or liabilities;

- (g) Each item of material plant and equipment owned or used by the VRL Group:
 - (i) is capable of performing the function for which it is intended to be used and are not dangerous, inefficient, out-of-date, unsuitable or in need of renewal or replacement;
 - (ii) has been properly serviced throughout its life;
 - (iii) is in good repair and condition and satisfactory working order for its age and is in satisfactory working order and has been regularly and properly maintained;
 - (iv) has been maintained in accordance with industry best practice standards;
 - (v) complies with all applicable laws and standards in all material respects and has not been repaired or modified in a way which would adversely impact a warranty provided by a supplier of that item of plant and equipment; and
 - (vi) is not dangerous, inefficient, out of date, unsuitable or in need of renewal or replacement or surplus to the VRL Group's requirement.
- (h) All stock owned by the VRL Group is saleable in the usual course of the Business in accordance with its current price list.
- (i) The VRL Group has good title to all equipment that is the subject of a lease, hire or rental agreement, free and clear of all Security Interests (other than a Permitted Security Interest).

12. Properties

- (a) The Due Diligence Material includes:
 - (i) reasonable particulars of each parcel of real property to which a member of the VRL Group holds freehold title (**Freehold Properties**); and
 - (ii) copies of all agreements or other documents pursuant to which a member of the VRL Group leases (or sub-leases) or licences any property (all such agreements and other documents, being the **Property Leases**, and all such parcels of real property, being the **Leased Properties**), and the copies of such Property Leases included in the Due Diligence Material are current, accurate and complete (and include any and all amendments, variations, supplements, addendums, annexures, appendices, extensions and/or renewals in respect of such Property Leases).
- (b) No member of the VRL Group has any interest in land other than the interests in the Freehold Properties and the Leased Properties (together, the Freehold Properties and the Leased Properties are the **Properties**).
- (c) No member of the VRL Group will become liable to any person in respect of any real property, or interest in real property, previously owned by a VRL Group Member or used in the Business, but not owned by a VRL Group Member or used in the Business on the Implementation Date.
- (d) No member of the VRL Group is party to any agreement or arrangement in relation to the ownership (including purchase or sale), occupation, lease, licence or use of any real property other than in respect of the Properties.
- (e) A VRL Group Member:
 - (i) is the legal and beneficial owner, and registered proprietor, of;
 - (ii) has good and marketable title to; and

- (iii) has possession of the documents of title to, the Freehold Properties.
- (f) Each of the Property Leases is valid, binding, enforceable and subsisting, and (where necessary to be binding and enforceable against successors in title) registered or otherwise the subject of a registered caveat.
- (g) No member of the VRL Group has received:
 - (i) any notice to vacate or notice to quit in respect of any of the Properties;
 - (ii) any notice in respect of the compulsory acquisition or resumption of any of the Properties (or any part thereof);
 - (iii) any notice requiring material work to be done or expenditure to be made in respect of any of the Properties or any footpath or road adjoining any of the Properties for which a VRL Group member is responsible;
 - (iv) any notice in respect of any contemplated, pending or threatened condemnation or change to the planning, zoning or other ordinances in respect of any of the Properties;
 - (v) any notice in respect of any actual, alleged or potential breach of any Property Lease or the termination or intended termination of any Property Lease; or
 - (vi) any order, direction, notice or proposal from any Governmental Agency affecting or in respect of any of the Properties or the use thereof, nor is VRL aware of any facts, matters or circumstances which may result in any such notice, order, direction or proposal being given.
- (h) So far as VRL is aware, all buildings or other improvements on the Properties are in such condition and state of repair as to be substantially fit for the purpose for which they are used by the VRL Group and such use is permitted under applicable planning law and regulation.
- (i) So far as VRL is aware, each material consent required under any legislation for any development or use carried out by the VRL Group or any Property has been properly obtained and all conditions or restrictions imposed in any such consent have been observed and performed in all material respects.
- (j) No member of the VRL Group is in default, or would be in default but for the requirements of notice or lapse of time, under any Property Lease, and VRL is not aware of any grounds for termination, rescission, avoidance or repudiation of any Property Lease.
- (k) The relevant members of the VRL Group are not overdue in the payment of rent, fees, rates and other amounts payable by them in respect of the Properties (including under the Property Leases).
- (l) The relevant members of the VRL Group have exclusive occupation and right of quiet enjoyment in respect of each of the Properties.
- (m) None of the Properties is subject to any restrictive covenant or exception or reservation which may adversely affect its use in the manner in which it is presently used in the VRL Group's business.
- (n) So far as VRL is aware:
 - (i) there are no disputes, Claims or actions relating to any of the Properties or the use thereof; and
 - (ii) there is no intention on the part of any counterparty to a Property Lease to:
 - (A) terminate the Property Lease;
 - (B) not renew or extend the Property Lease at expiry or only renew or extend the Property Lease at expiry on terms materially more favourable to such counterparty than the current terms; or

- (C) seek to increase the rent, fees, rates or other amounts payable by the relevant member(s) of the VRL Group under the Property Lease (whether at expiry of the Property Lease or otherwise).
- (o) So far as VRL is aware, the Properties are not subject to any defect that will, or would reasonably be likely to:
 - (i) materially decrease their ability to be used in the manner in which they are presently used in the VRL Group's business; or
 - (ii) in the case of the Freehold Properties, materially decrease the value of any of those Freehold Properties.
- (p) The Business is carried on only at the Properties.

13. Environment and Planning

- (a) So far as VRL is aware, other than the matters Fairly Disclosed in the Due Diligence Material, the VRL Group has fully complied with all obligations under any Environmental Law or Planning Law.
- (b) There are no known or suspected factors affecting any of the Properties that will, or would reasonably be likely to, give rise to any liability for any VRL Group Member under any Environmental Law or Planning Law.
- (c) So far as VRL is aware, other than the matters Fairly Disclosed in the Due Diligence Material
 - (i) no known or suspected Contamination exists on any of the Properties and no Contamination has migrated from any Properties;
 - (ii) VRL has not received any outstanding written notices, orders, directions or declarations from or by any Governmental Agency to a VRL Group Member in respect of any Environmental Law or Planning Law applicable to any of the Properties that will, or would reasonably be likely to, have a material adverse effect on the VRL Group; and
 - (iii) all approvals, authorisations, licences, consents and permits that are material to and required for the conduct of the Business and the conduct of all activities carried out on the Properties pursuant to an Environmental Law or Planning Law have been obtained and complied with.
- (d) As at the date of this document, the VRL Group has not received written notice of:
 - (i) any request or demand that has been made to decontaminate or take other remedial action in relation to any of the Properties or to contribute to the cost of doing so;
 - (ii) any circumstances which have been or are likely to give rise to a Claim in relation to any Contamination or any hazard to the Environment affecting the Properties and there has not been an escape of Contamination from the Properties;
 - (iii) any complaints made by any person alleging that there are or have been hazardous or offensive conditions or conduct in relation to the Environment, Contamination, Development, Planning Law or Environmental Law affecting the Properties or the Business.
- (e) The VRL Group has applied the level of care, skill and diligence that a reasonable and prudent person conducting a business in the same industry as the Business in monitoring the water quality and health and safety of animals, and such monitoring has not indicated that there are any issues relating to the water quality or health and safety of animals.

- (f) Other than the matters Fairly Disclosed in the Due Diligence Material, so far as VRL is aware, no asbestos exists in any of the buildings on the Properties that will, or would reasonably be likely to have a material adverse effect on the Business.

14. Health and safety

- (a) The VRL Group has complied with all of its obligations under WHS Laws.
- (b) There are no factors affecting any of the Properties that will, or would reasonably be likely to, give rise to any material liability for any VRL Group Member:
 - (i) under; or
 - (ii) arising from any act or omission of a VRL Group Member that is a breach of or inconsistent with its obligations under,any WHS Laws.
- (c) The VRL Group has complied, in all material respects, with all requirements, approvals, authorisations, licences, consents and permits relating to health and safety matters that are necessary to conduct the theme parks operated by the VRL Group, and the Business more generally, in the ordinary course of business.
- (d) The VRL Group has complied with all requirements or undertakings arising out of any inspection or investigation conducted by a Governmental Agency (including Workplace Health and Safety Queensland) that has jurisdiction over the occupational health and safety matters affecting the Business.
- (e) All Improvement Notices, Prohibition Notices or other allegations of breach of WHS Laws issued to, or any material action relating to work, health and safety matters taken or threatened in writing against, a VRL Group Member by any Governmental Agency have been Fairly Disclosed in the Due Diligence Material, and the matters raised in any such improvement notices, allegation or material action have been adequately addressed by the VRL Group.
- (f) Any adverse finding against or material adverse issue raised in respect of the Business or a VRL Group Member arising from any investigation, audit, inspection or other review by a Governmental Agency during the 5 years prior to the date of this agreement in relation to work, health and safety matters have been Fairly Disclosed in the Due Diligence Material.
- (g) All of the rides and attractions operated by VRL Group Members or located at the Properties (**Rides and Attractions**) comply with and, so far as VRL is aware, have been operated in accordance with all relevant safety manuals and WHS Laws.
- (h) All employees of the VRL Group that are responsible for the operation or maintenance of any Rides and Attractions or the health and safety of any attendees at theme parks have received training regarding their role, and the matters relating to their role, in accordance with any relevant and applicable WHS Laws, and training adopted by a reasonable and prudent person conducting a business of operating rides and attractions or a theme park.
- (i) None of the Rides and Attractions are experiencing any material defects or are in need of any material maintenance and the VRL Group is not aware of any fact, matter or circumstances that would indicate that any Rides and Attractions are unsafe, non-compliant with WHS Laws or pose a potential threat to the safety of humans, animals or the environment.
- (j) VRL is not aware of any fact, matter or circumstances that would indicate necessary or prudent expenditure to ensure that any Rides and Attractions are safe or maintained in accordance with the practices adopted by a reasonable and prudent person conducting a business of operating rides and attractions or a theme park.

- (k) All standard maintenance inspections and audits that the VRL Group routinely carries out have been completed in accordance with the ordinary practice of the VRL Group and comply with all relevant and applicable WHS Laws.
- (l) The VRL Group has in place health and safety measures and practices, including training, maintenance and reporting requirements, that are in compliance with all relevant and applicable WHS Laws and in accordance with measures and practices adopted by a reasonable and prudent person conducting a business in the same industries as the Business.
- (m) All incidents at any Ride and Attraction (including rides and attractions that are no longer operated by the VRL Group Member) in the past 5 years have been Fairly Disclosed in the Due Diligence Material.
- (n) Examinations and audits of the Rides and Attractions by safety advisors or other similar technical experts have not identified any adverse issues with the Rides and Attractions that would pose a potential threat to the safety of humans, animals or the environment, and there are no outstanding actions to be taken by a VRL Group Member with regard to recommendations by a safety advisor or similar technical expert.
- (o) VRL is not aware of any fact, matter or circumstance that would indicate a material:
 - (i) hazard or risk to the safety of any human or animal that uses any of the Rides and Attractions, attends the theme parks operated by the VRL Group or is otherwise a customer or stakeholder of the Business; and
 - (ii) shortcoming, non-compliance or inadequacy of the health and safety management systems, policies and procedures that are adopted by the VRL Group.
- (p) Material hazards identified by technical specialists or by VRL employees pursuant to any health and safety inspections, assessments or audits conducted have been addressed or rectified by the VRL Group to the extent that a reasonable and prudent person conducting a business in the same industries as the Business would have addressed or rectified such matters.
- (q) So far as VRL is aware, no VRL Group Member is currently subject to an investigation or prosecution by a Governmental Agency.
- (r) VRL is not aware of any fact, matter or circumstance that would adversely impact on or delay any major amusement park licence applications for the theme parks operated by the VRL Group, as required under WHS Laws.

15. Intellectual property rights

- (a) The Due Diligence Material Fairly Discloses reasonable particulars of material Intellectual Property Rights owned or used by any member of the VRL Group (**Business Intellectual Property**), as well as any terms and conditions attaching to the use of the Business Intellectual Property.
- (b) In respect of the Business Intellectual Property that is owned by a member of the VRL Group:
 - (i) such Business Intellectual Property is valid, subsisting and enforceable, and free and clear of all encumbrances;
 - (ii) other than as expressly set out in the terms of contracts disclosed in the Due Diligence Material:
 - (A) no member of the VRL Group has assigned, licensed or otherwise disposed of or allowed to lapse any right, title or interest in such Business Intellectual Property;

- (B) no member of the VRL Group is obliged to assign, license or otherwise dispose of any right in respect of such Business Intellectual Property to any Third Party;
- (iii) the relevant members of the VRL Group have taken all reasonable steps to obtain and maintain appropriate registrations for such Business Intellectual Property (to the extent such Business Intellectual Property is registrable), including the payment of all applicable application and renewal fees;
- (iv) the terms on which the Business Intellectual Property is licensed within the VRL Group does not compromise or otherwise adversely affect the validity, subsistence or enforceability of any of the Business Intellectual Property; and
- (v) so far as VRL is aware there are no Claims, challenges, disputes or proceedings that have been brought or threatened by any Third Party or Governmental Agency in relation to such Business Intellectual Property that may adversely affect the right to use, enforce or assign or licence such Business Intellectual Property, including opposition proceedings, non-use proceedings, or amendment, rectification, revocation or cancellation proceedings, and no member of the VRL Group has received notice of, nor are there any facts, matters or circumstances that could rise to, any such Claims, challenges, disputes or proceedings; and
- (vi) so far as VRL is aware no Third Party:
 - (A) has infringed, attacked or opposed, in the 5 years prior to the date of this agreement, or is infringing, attacking or opposing, as at the date of this agreement, such Business Intellectual Property; or
 - (B) has any right to use, assign or licence any such Business Intellectual Property, or any right which would otherwise restrict or have the potential to restrict the use by the VRL Group (or any member thereof) of such Business Intellectual Property; or
 - (C) has threatened to allege or has alleged in the 5 years prior to the date of this agreement, or is threatening to allege or is alleging as at the date of this agreement, that any such Business Intellectual Property infringes Intellectual Property Rights owned by or licensed to that Third Party.
- (c) A member of the VRL Group has the exclusive right, enforceable against its employees, consultants and independent contractors, to claim full ownership of and all rights in and title to all Business Intellectual Property generated by those persons in the course of, or in connection with, their employment or engagement with or by the VRL Group. The VRL Group has taken steps to ensure that such Intellectual Property Rights do not breach or infringe any Intellectual Property Rights of Third Parties or breach any obligation of confidence owed to any Third Party.
- (d) The use of the Business Intellectual Property by or on behalf of the VRL Group does not:
 - (i) breach or infringe any Intellectual Property Rights of any Third Party;
 - (ii) breach any obligation of confidence owed to any Third Party; or
 - (iii) breach any law, regulation, rule or policy in force in any jurisdiction, where such breach or infringement or material risk of breach or infringement will, or is reasonably likely to, have a material adverse effect on the operational or financial performance of the VRL Group (taken as a whole).
- (e) In respect of Business Intellectual Property that is used but not owned by the VRL Group, a member of the VRL Group has a current licence to use such Business Intellectual Property and:
 - (i) such licence is valid, binding and enforceable;
 - (ii) no member of the VRL Group is in breach of such licence; and

- (iii) the licensor has not given a notice to terminate such licence nor, so far as VRL is aware, does the licensor intend to give such notice.
- (f) The Intellectual Property Rights owned by the VRL Group or used by the VRL Group under valid, binding, enforceable and sub-licensable licences from Third Parties together comprise all of the Intellectual Property Rights necessary for the carrying on of the businesses and operations of the VRL Group as such businesses and operations are currently carried on.
- (g) There are no material royalties, fees, damages, compensation or other amounts payable by any member of the VRL Group in connection with the use of Intellectual Property Rights owned by Third Parties, other than as Fairly Disclosed in the Due Diligence Material.

16. Privacy

- (a) Any collection, use or disclosure of Personal Information in connection with the business conducted by the VRL Group:
 - (i) is consistent with any privacy statement or privacy policy issued by the VRL Group; and
 - (ii) complies with all Privacy Laws by which the members of the VRL Group are bound.
- (b) Each VRL Group Member has reasonable safeguards in place to protect Personal Information in its possession or control from unauthorised access by Third Parties.
- (c) As far as VRL is aware, within the 2 years preceding the date of this deed, there have been no material security breaches relating to, or material violations regarding, or unauthorised access, use, processing or disclosure of any Personal Information held or stored by a VRL Group Member.

17. Information technology

- (a) The data, records and information technology and telecommunications systems, hardware and software owned or validly licensed (under a current, enforceable licence) by the VRL Group (collectively, the **Systems**):
 - (i) comprise all the data, records and information technology and telecommunications systems, hardware and software necessary for the carrying on of the Business and operations of the VRL Group as such Business and operations are currently carried on; and
 - (ii) are under the sole control of the VRL Group and not shared with or used by or on behalf of or accessible by any other person.
- (b) All reasonable precautions have been taken to preserve the security and integrity of the Systems and the data and information stored on them, and, so far as VRL is aware, there has been no unauthorised access to the Systems or any of the data or information stored on them.
- (c) No action is necessary to enable Systems to continue to be used by the VRL Group to the same extent and in the same manner as they are used as at the date of this agreement.
- (d) No member of the VRL Group is in breach of any agreement under which a member of the VRL Group is licensed to use Systems where such breach may result in any member of the VRL Group ceasing to be entitled to use those Systems.
- (e) So far as VRL is aware, the software utilised by the VRL Group:
 - (i) is free of material defects and complies with all applicable laws;

- (ii) is capable of being used for the functions and purposes for which it was designed and/or for which it is currently utilised by the VRL Group in all material respects;
 - (iii) is not materially deficient (for example, requiring urgent repair, upgrade or replacement to enable) for the present operation of the Business;
 - (iv) so far as VRL is aware, do not infringe on the Intellectual Property Rights of any person; and
 - (v) to the extent has been developed by employees or contractors of the VRL Group, VRL Group owns the copyright in the software.
- (f) Each member of the VRL Group:
- (i) has a process and plan, that is substantially complied with, to create and maintain back-ups of material data stored on or processed by the Systems;
 - (ii) has disaster recovery plans for the Systems which are designed to minimise the impact of any loss of, damage to or material interruption in use of any System on the conduct of the Business; and
 - (iii) adopts anti-virus and similar security measures to protect the Systems from virus, Trojan horse, worm or other software program, routine, file or code designed to permit unauthorised access or damage to the Systems or destruction or corruption of any data stored on or processed by the Systems,

that are reasonable having regard to the operations of the Business and the nature of the operations of the Business.

18. Employees and contractors

- (a) The Due Diligence Material Fairly Discloses accurately details the commencement date, position title, employing entity, salaries and wages, participation (if any) in an applicable incentive arrangement, redundancy or termination entitlements, applicable allowances, applicable enterprise agreement (if any), modern award coverage (if any), and accrued long service leave, annual leave, leave loading and personal leave for each employee (of a member of the VRL Group) (**Employee**) as at the relevant dates specified in such disclosure.
- (b) No member of the VRL Group is involved in bargaining for a proposed enterprise agreement.
- (c) No member of the VRL Group has given a commitment (whether legally binding or otherwise) to increase or supplement the wages, salaries, incentives, annual leave and leave loading, long service leave, personal/carer's leave or any other remuneration, compensation, gratuities or benefits of any Employee beyond the amounts and entitlements specified in the Due Diligence Materials.
- (d) Each member of the VRL Group has complied with all of its obligations under any relevant and applicable laws and regulations relating to Employees (including employment and industrial laws and regulations, anti-discrimination laws, and WHS Laws) and any applicable industrial agreements and awards.
- (e) Unless Fairly Disclosed in the Due Diligence Material, all Employees who were or are employed and paid as:
 - (i) casual employees were, or are properly, accurately and lawfully characterised by their VRL Group employer as casual employees; and
 - (ii) fixed-term employees were or are properly, accurately and lawfully characterised by their VRL Group employer as fixed-term employees.
- (f) So far as VRL is aware, all independent contractors engaged by the VRL Group (or otherwise in respect of the Business) are properly, accurately and lawfully categorised as

independent contractors and there is no reasonable basis for such individuals to claim they are employees at law.

- (g) VRL Group does not engage any contractors or casual workers whose engagement with the Business would deem them to be employees of the respective company at law or otherwise entitle them to leave or other entitlements or protections given to employees.
- (h) Each member of the VRL Group has kept adequate and suitable records regarding its Employees and, in respect of each member of the VRL Group incorporated in Australia, such records meet the applicable record keeping obligations under the *Fair Work Act 2009* (Cth) or the *Fair Work Regulations 2009* (Cth) (if any) and recording keeping obligations under any applicable law, enterprise agreement or modern award.
- (i) No member of the VRL Group is a party to any collective bargaining agreement, workplace agreement or other contract with a trade union or industrial organisation, labour union, labour organisation, works council, group of employees or individual employees in respect of Employees and their employment and no industrial awards, collective bargaining agreements or workplace agreements apply to any Employees.
- (j) No member of the VRL Group has been involved in any labour or industrial dispute with any union or industrial organisation, labour organisation, works council, group of employees or Employee at any time within the 3 years preceding the date of this agreement.
- (k) There is no actual or pending or (so far as VRL is aware) threatened Claim, dispute, demand, legal proceedings or cause of action by an Employee against any member of the VRL Group and, so far as VRL is aware, there are no facts, matters or circumstance which may give rise to any such Claim, dispute, demand, charge, complaint, audit, investigation, legal proceeding or cause of action against any member of the VRL Group.
- (l) The Due Diligence Material Fairly Discloses details of all Claims, disputes and, legal proceedings made or threatened against a member of the VRL Group by current or past Employees during the 3 year period prior to the date of this agreement.
- (m) No member of the VRL Group has made any offer of work to, or any appointment of, a new individual (or any company controlled by an individual as a senior executive, or as an independent contractor) for a term of 12 months or more or for payment of \$100,000 or more per annum, that remains capable of acceptance and that cannot be terminated without penalty on less than 1 months' notice.
- (n) No member of the VRL Group is a party to any written employment or service agreement with any current member of key management personnel for the purposes of the Corporations Act other than those agreements disclosed in full in the Due Diligence Material.
- (o) No Employee is, or may become, entitled to any bonus, compensation, payment or other benefit:
 - (i) related to the retention of the services of the employee during or immediately following, or as a result of special exertion associated with, the Proposed Transaction;
 - (ii) on execution of, or in connection with, this agreement or the transactions contemplated hereby; or
 - (iii) which is triggered by a change of control of VRL, or by the termination or cessation of that Employee's employment with the relevant member of the VRL Group.
- (p) No member of the VRL Group operates or has adopted, or has resolved or agreed to operate or adopt, any incentive plan in which Employees participate or may participate, except the Employee Share Plan.
- (q) Details of all investigations or Claims relating to health and safety issues which have occurred, been made or carried out in the last 3 years before the date of this agreement

and affecting any member of the VRL Group or any Employees have been Fairly Disclosed in the Due Diligence Material.

- (r) The members of the VRL Group have complied with all their obligations to make superannuation or pension contributions which they are required to make on behalf of Employees including employees under the extended definition provided in Section 12 of the *Superannuation Guarantee Administrative Act*, (where applicable).
- (s) Each member of the VRL Group has complied with all applicable requirements of the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (t) The prescribed minimum level of superannuation support for each Employee, including employees under the extended definition provided in Section 12 of the *Superannuation Guarantee Administrative Act*, has been provided by each member of the VRL Group so as not to incur a superannuation guarantee charge prescribed by the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- (u) There are no overdue contributions due to be paid on the part of any member of the VRL Group or any Employee, including employees under the extended definition provided in Section 12 of the *Superannuation Guarantee Administrative Act*, that are outstanding and unpaid.
- (v) Provisions have been made by each member of the VRL Group for any outstanding and unpaid superannuation benefits currently due to an Employee, including employees under the extended definition provided in Section 12 of the *Superannuation Guarantee Administrative Act*, or his or her dependants or beneficiaries.
- (w) No member of the VRL Group contributes to any defined benefit fund in respect of the Employees and no member of the VRL Group is liable to contribute in respect of any defined benefit fund.
- (x) Each member of the VRL Group, unless Fairly Disclosed in the Due Diligence Material:
 - (i) has not been subject to a Work Safety Authority investigation or prosecution in the last 3 years;
 - (ii) has not at any time received an Improvement Notice or Prohibition notice from a Work Safety; and
 - (iii) is not currently subject to an investigation or prosecution by a Work Safety Authority and, so far as VRL is aware, no facts, matters or circumstances exist which may give rise to any potential investigation or prosecution by a Work Safety Authority.
- (y) Each member of the VRL Group:
 - (i) has current workers' compensation insurance, a certificate of currency, and has paid all its workers compensation insurance up to date; and
 - (ii) is not currently the subject of any workers' compensation claim that has not already been Fairly Disclosed in the Due Diligence Material, and VRL is not aware of any future claim or any facts, matters or circumstances which may give rise to a potential future claim, and details of all workers' compensation claims during the last 3 years have been Fairly Disclosed in the Due Diligence Material.
- (z) Each member of the VRL Group has complied with applicable legislation, including any Tax Law and any agreement binding on it, in respect of independent contractors.
- (aa) The VRL Group has complied with every contractual, statutory, legal or fiscal obligation (including every code of practice, collective agreement and award) applying to the employment of any of its past or present Employees.
- (bb) No independent contractor engaged by a member of the VRL Group (nor any of the personnel of an independent contractor) is an employee of any member of the VRL Group (or is or was entitled to be treated as one) at law.

- (cc) Each member of the VRL Group has:
 - (i) paid all wages, salaries, bonuses, commissions, wage premiums, fees, expense reimbursement, severance, and other compensation that have become due and payable to its Employees, consultants, independent contractors, and other individual service providers (in each case both past and present) pursuant to any law, contract, or policy; and
 - (ii) has, in all material respects, correctly calculated, accrued and paid entitlements for leave including annual leave and leave loading, long service leave, personal/carer's leave, compassionate/bereavement leave, public holidays, family and domestic violence leave, maternity and parental leave, and community service leave for its Employees (both past and present) pursuant to any law (including the *Fair Work Act 2009* (Cth)), contract or policy.

19. Litigation and disputes

- (a) Other than the matters disclosed in the Due Diligence Material, no litigation, prosecution, arbitration, mediation, or other proceedings (including any investigation by a Governmental Agency) relating to the VRL Group has been commenced in the 3 years prior to the date of this agreement that is still outstanding and that will or which is reasonably likely to have a material adverse effect on the operational or financial performance, or the reputation, of the VRL Group (taken as a whole) (**Material Proceedings**).
- (b) So far as VRL is aware, no Material Proceedings are pending or threatened against a member of the VRL Group and VRL is not aware of any facts, matters or circumstances that may give rise to a Material Proceeding.
- (c) No member of the VRL Group is subject to any outstanding or unsatisfied settlement, judgment, decree, award, order or other decisions of any court, quasi-judicial body or Governmental Agency.
- (d) No member of the VRL Group has given any undertaking or assurance (whether legally binding or otherwise) to any court or Governmental Agency under any anti-trust or similar legislation in any jurisdiction.
- (e) There are no unsatisfied or outstanding judgments, awards, orders, decrees, Claims or demands against any member of the VRL Group.

20. Compliance with laws and authorisations

- (a) Each member of the VRL Group has complied in all material respects with all Australian and foreign laws, regulations and administrative requirements applicable to them and orders of Australian and foreign Government Agencies having jurisdiction over them, and have complied in all material respects with the requirements of, all material licenses, authorisations, consents, permissions and permits (**Material Authorisations**) necessary for them to conduct the business of the VRL Group as presently being conducted.
- (b) So far as VRL is aware, all Material Authorisations are valid and subsisting and no other circumstances which are likely to prejudice the continuance or renewal of them, and the VRL Group has complied with all material conditions of the Material Authorisations.
- (c) VRL is not aware of any action to revoke, prevent the renewal of or impose any conditions on, or any right to terminate that would arise from implementation of the Proposed Transaction, any Material Authorisation.
- (d) So far as VRL is aware, no VRL Group Member nor any respective directors, officers, employees or agents of any VRL Group Member, in connection with the Business, directly or indirectly:

- (i) offered, promised or provided a benefit to another with the intention to induce a person to act improperly, illegally or in breach of trust or reward a person for acting improperly, illegally or in breach of trust;
- (ii) participated in any form of corruption or collusion involving illegal or dishonest behaviour;
- (iii) offered, promised, provided, solicited, requested or accepted kickbacks, secret commissions or facilitation payments; or
- (iv) made an unlawful contribution to a politician, political cause or public official of any sort, nor provided any benefit that VRL is aware is, or is deemed to be, illegal under any relevant anti-bribery or anti-corruption legislation which applies in any jurisdiction in which the Business operates.

21. Insurance

- (a) In respect of the insurances effected in respect of the VRL Group:
 - (i) the insurances provide usual insurance coverage for the business activities undertaken by the VRL Group; and
 - (ii) the VRL Group has not carried out any business activities in respect of which it does not have usual insurance coverage.
- (b) The Due Diligence Material Fairly Discloses reasonable particulars of all current insurance policies and cover notes taken out in respect of the VRL Group (or a member thereof) or the businesses or operations conducted thereby (or any such business or operation) **(Insurances)**.
- (c) Each Insurance is in full force and effect in accordance with its terms and all applicable premiums have been paid by the due date for payment.
- (d) So far as VRL is aware, nothing has been done or omitted to be done:
 - (i) that would make any Insurance void or voidable or that would permit an insurer to cancel the policy or refuse or materially reduce a claim or materially increase the premium payable under any Insurance or otherwise alter the terms of the policy; or
 - (ii) by a member of the VRL Group so as to make void or voidable any Insurance or to permit an insurer to refuse or reduce a current claim by a member of the VRL Group under any Insurance.
- (e) As at the date of this agreement:
 - (i) there are no outstanding claims made by a member of the VRL Group or any person on its behalf under any Insurance or an insurance policy previously taken out by or for the benefit of any member of the VRL Group;
 - (ii) so far as VRL is aware, there are no threatened or pending claims under any Insurance and there are no facts, matters or circumstances which could give rise to an entitlement to make a claim under any Insurance.
- (f) The members of the VRL Group have notified insurers of all material claims, facts, matters and circumstances as required by the notification provisions under each Insurance.
- (g) No member of the VRL Group has made a claim under any Insurance that has been rejected or denied by the insurer.
- (h) Each member of the VRL Group has in place all insurances required by law or contract to be taken out by it, subject to excesses and deductibles.
- (i) No member of the VRL Group has been notified by any insurer that it is required or it is advisable for it to carry out any maintenance, repairs or other works in relation to any of its assets.

22. Anti-Corruption and Anti-Money Laundering

- (a) So far as VRL is aware, each VRL Group Member and their respective directors, officers and Employees are, and have been, in compliance with Anti-Corruption Laws in all material respects.
- (b) So far as VRL is aware, the operations of each VRL Group Member are, and have been, conducted at all times in compliance with all applicable Anti-Money Laundering Laws.
- (c) So far as VRL is aware, no VRL Group Member and none of their respective directors or officers, is or has been the subject of any pending or threatened investigation, audit, suspension, inquiry or enforcement proceeding regarding any offence or alleged offence under any applicable Anti-Corruption Laws and Anti-Money Laundering Laws or similar law or regulation, and so far as VRL is aware:
 - (i) no such investigation, inquiry or proceeding has been threatened or is pending; and
 - (ii) there are no circumstances reasonably likely to give rise to any such investigation, inquiry or proceeding.
- (d) So far as VRL is aware, no VRL Group Member has been the subject of any penalty, fine or loss of privileges by any Governmental Authority for violation of any Anti-Corruption Laws and Anti-Money Laundering Laws nor, so far as VRL is aware, is there any investigation by any Governmental Authority for any such violations.
- (e) So far as VRL is aware, no Government Official is associated with, or owns an interest, whether direct or indirect, in any of the VRL Group Members, or has any legal or beneficial interest in the Proposed Transactions, or any payments to be made by BidCo in connection with this agreement.
- (f) So far as VRL is aware, none of the VRL Group Members or their respective representatives has violated applicable Anti-Corruption Laws, nor has any VRL Group Member or respective representatives offered, paid, promised to pay, or authorized the payment of any money or anything of value to any Government Official or to any person, directly or indirectly for the purpose of:
 - (i) influencing any act or decision of a Government Official in his official capacity;
 - (ii) inducing such Government Official to do or omit to do any act in violation of his lawful duties;
 - (iii) securing any improper advantage;
 - (iv) inducing such Government Official to influence or affect any act or decision of any Governmental Authority;
 - (v) assisting any VRL Group Member in obtaining or retaining business for or with, or directing business to, any VRL Group Member; or
 - (vi) obtaining an improper business advantage, in violation of applicable Anti-Corruption Laws.
- (g) So far as VRL is aware, the VRL Group Members have been managed with effective controls that are sufficient to provide reasonable assurances that violations of applicable Anti-Corruption Laws will be prevented, detected and deterred.
- (h) None of the VRL Group, nor any officer or director thereof (nor, to the best of VRL's knowledge, any Employee, agent, or other representative) is subject to any sanction administered by the Office of Foreign Assets Control of the United States Treasury Department (U.S. Economic Sanctions), and does not engage in business activities with or for the benefit of, any persons and countries that are subject to U.S. Economic Sanctions, including any "Specially Designated Nationals" and "Blocked Persons". VRL will not use any payments made under or in connection with this agreement directly or

23. Taxes and duties

- (a) Any Tax or Duty arising under any Tax Law due and payable:
 - (i) in respect of any income, gains or profits (however calculated), transaction or assets of a member of the VRL Group for all periods up to the Implementation Date;
 - (ii) in respect of any event, omission or instrument executed or performed on or prior to the Implementation Date; and
 - (iii) in respect of payments made by a member of the VRL Group to another person that must be withheld from that payment prior to the Implementation Date,will have been so withheld (if applicable) and paid prior to the Implementation Date in accordance with the requirements of the relevant Tax Law.
- (b) Each member of the VRL Group has complied with all material obligations imposed on them by any Tax Law or as requested by any Governmental Agency.
- (c) Each member of the VRL Group has maintained proper and adequate records to enable it to comply in all material respects with its obligations to:
 - (i) prepare and submit any applications, information, notices, computations, returns and payments required in respect of any Tax Law;
 - (ii) prepare any accounts necessary for compliance with any Tax Law; and retain necessary records as required by any Tax Law.
- (d) Each member of the VRL Group has up to and including the Implementation Date submitted any necessary applications, information, notices, computations and returns to the relevant Governmental Agency in respect of any Tax or Duty.
- (e) Any information, notice, computation and return that has been submitted by any member of the VRL Group to a Governmental Agency in respect of any Tax or Duty:
 - (i) discloses all material facts required to be disclosed under any Tax Law; and
 - (ii) is not misleading in any material particular.
- (f) VRL is not aware of any current, pending or threatened Tax or Duty audit, review or investigation relating to any member of the VRL Group.
- (g) There are no disputes between any member of the VRL Group and any Governmental Agency in respect of any Tax or Duty and VRL is not aware of facts, matters or circumstances that may give rise to a dispute between any member of the VRL Group and any Governmental Agency in respect of any of Tax or Duty.
- (h) No member of the VRL Group will have a franking or imputation account deficit immediately at or any time after the Implementation Date as a result of any act, omission or transaction relating to periods prior to the Implementation Date. No act or omission of any member of the VRL Group at or before the Implementation Date will cause any member of the VRL Group to be liable for franking deficit tax pursuant to section 205-45 of the Tax Act at or after the Implementation Date.
- (i) All transactions and other dealings between the VRL Group and related parties for the purposes of the Tax Law have been (and can be demonstrated to have been) conducted at arm's length.
- (j) No member of the VRL Group has ever received notice that it may be subject to Tax in a jurisdiction where it does not currently file tax returns or pay Tax, asserting that members of the VRL Group are or may be subject to taxation in any such jurisdiction.

- (k) No debt owed by any member of the VRL Group has been, or has been agreed to be, released, waived, forgiven or otherwise extinguished in circumstances which would have attracted any Tax or the operation of the debt forgiveness rules or limited recourse debt rules under the Tax Law.
- (l) No member of the VRL Group has knowingly entered into or been a party to any transaction which contravenes any anti-avoidance or integrity provisions of any Tax Law (including but not limited to Part IVA of the Tax Act).
- (m) Any material ruling, determination or election requested, received or made by any member of the VRL Group in respect of Tax or Duty:
 - (i) has been Fairly Disclosed in the Due Diligence Material; and
 - (ii) has at all times been complied with in all material respects by that member of the VRL Group.
- (n) No agreement extending the period for assessment or collection of any Tax or Duty of any member of the VRL Group has been executed or filed with any Governmental Agency (excluding, for the avoidance of doubt, requests by VRL for extensions of time for tax filings or payments).
- (o) All registrations required to be maintained by any member of the VRL Group with any Governmental Agency in relation to Tax or Duty are and have at all times been maintained by that member of the VRL Group.
- (p) Each member of the VRL Group has at all relevant times appointed a public officer, pursuant to section 252 of the Tax Act, where required under the applicable Tax Laws.
- (q) No member of the VRL Group has entered into or been a party to an arrangement, agreement or indemnity whereby it is liable to reimburse or indemnify another party in respect of Tax or Duty, other than pursuant to the Tax Sharing and Tax Funding Agreement or customary gross up clauses ordinarily entered into by members of the VRL Group.
- (r) VRL does not have a tainted share capital account or a share capital account that is taken to be tainted under any Tax Law and has not taken any action, up to and including the Implementation Date, that would cause its share capital account to be a tainted share capital account, nor has an election been made at any time up to and including the Implementation Date, to untaint VRL's share capital account.
- (s) No member of the VRL Group has made any election or made any choice under Division 230 of the Tax Act.
- (t) No member of the VRL Group has been in breach of the benchmark franking percentage rules, where relevant.
- (u) VRL has been the Head Company of the VRL Consolidated Group at all times since formation of the VRL Consolidated Group.
- (v) The Tax Sharing and Tax Funding Agreement is valid under the Tax Act.
- (w) The VRL Consolidated Group is not and has never been a MEC Group (having the meaning given in given by section 995-1 of the Tax Act) for the purposes of Part 3-90 of the Tax Act.
- (x) No member of the VRL Group has been a member of a Consolidated Group other than the VRL Consolidated Group.
- (y) No tax attributes of the VRL Group as at the Implementation Date are subject to any losses, limitations or restrictions due to prior changes in the control or ownership of the VRL Consolidated Group.
- (z) No member of the VRL Group is a party to any document, instrument, contract, agreement, deed or transaction in respect of which it is or will become liable to pay GST in circumstances where such member of the VRL Group has no express entitlement to

increase the consideration payable under the agreement, instrument, contract, agreement, deed or transaction or otherwise seek reimbursement so that such member of the VRL Group retains the amount it would have retained but for the imposition of GST.

- (aa) There is no contract, arrangement or understanding requiring a member of the VRL Group to pay any amount in respect of GST on a supply which does not contain a provision enabling it as recipient to require the other party to the contract, arrangement or understanding to provide to the member of the VRL Group a tax invoice for any GST on that supply prior to the due date for payment for that supply.
- (bb) No member of the VRL Group is, or has ever been the representative member of a GST group, other than Village Roadshow Treasury Pty Ltd, Roadshow Films Pty Ltd, Village Roadshow Leisure Pty Ltd, Village Roadshow Theme Parks Pty Ltd, Village Roadshow Exhibition Pty Ltd and Village Cinemas Australia Pty Ltd..
- (cc) Each member of the VRL Group:
 - (i) that is required to be registered for GST under the GST Law is so registered; has complied in all respects with the GST Law;
 - (ii) is not in default of any obligation to make or lodge any payment or GST return or notification under the GST Law and had otherwise complied with the GST Law; and
 - (iii) has adequate systems established for it to ensure it complies with the GST Law.
- (dd) No member of the VRL Group:
 - (i) has paid any amount on account of, or in respect of, GST to any entity which it was not contractually required to pay; or
 - (ii) is, and has never been, a member (including a joint venture operator) of a GST joint venture.
- (ee) All transactions and instruments for which a member of the VRL Group is the person statutorily liable to pay the stamp duty, or where a member of the VRL Consolidated Group has agreed to pay the stamp duty, have been lodged with the relevant Governmental Agency, are stamped, are not insufficiently stamped, the stamp duty has been paid and there is no requirement to upstamp on the account of an interim assessment.
- (ff) No event has occurred, or will occur, as a result of anything provided for in this agreement, or as a result of this agreement itself, as a result of which any Duty from which a member of the VRL Group may have obtained an exemption or other relief may become payable on any document, instrument, contract, agreement, deed or transaction.
- (gg) All amounts required to be deducted or withheld by the VRL Group under any Tax Law from any payment made, or deemed by any applicable Tax Law to be made (including but not limited to withholding tax in respect of royalties, dividends, interest and salary and wages, as well as other amounts required to be withheld under the Pay As You Go (**PAYG**) withholding provisions) by the VRL Consolidated Group on or prior to the Implementation Date have been deducted or withheld and, where required by the Tax Law to be paid to a Government Authority, have been duly paid.
- (hh) Members of the VRL Group have maintained, with respect to transfer pricing, proper intercompany agreements, and concurrent and supporting documentation, as required under the applicable Tax Law.
- (ii) Members of the VRL Group are not party to any agreement or arrangement relating to the apportionment, sharing, assignment or allocation of any Tax, Duty, Tax asset or Duty asset (aside from the Tax Sharing and Tax Funding Agreement and those under its JV arrangements).
- (jj) No fact, matter or circumstances exist which has prevented or might prevent members of the VRL Group from obtaining any future income tax benefit provided for on the

Implementation Date. All tax losses recorded in any tax working papers included in the Due Diligence Materials (and whether disclosed in the Accounts or not) would be available to the VRL Group to use to reduce assessable income or capital gains at the Implementation Date if the current tax year for the Company had sufficient income for that tax year.

- (kk) No member of the VRL Group has any amended assessments to which an extended or refreshed period of review could apply under section 155-70 of the *Taxation Administration Act 1953* in respect of GST.

24. Accuracy of Information

- (a) The VRL Information contained in the Explanatory Booklet complied in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60.
- (b) As at the date the Explanatory Booklet is dispatched to VRL Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the BidCo Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise).
- (c) All information provided by or on behalf of VRL to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet 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 purposes of preparing the Independent Expert's Report.
- (d) No document or announcement which VRL or any VRL Group Member has lodged or filed with, or otherwise given to, any Governmental Agency (or which has been so lodged, filed or given on its behalf or on behalf of any of its related bodies corporate) since the date 3 years prior to the date of this agreement and which is currently publicly available or otherwise in the public domain, was misleading or deceptive in any material respect (whether by omission or otherwise) as at the date that document or announcement was lodged or filed with or given to the Governmental Agency.
- (e) To the extent the VRL Information included forward looking statements, those forward looking statements were based on assumptions which VRL believed, as at the date the information was provided to be reasonable.
- (f) As at the date of this agreement:
 - (i) VRL has complied in all material respects with its continuous disclosure obligations under Listing Rule 3.1; and
 - (ii) except in relation to the Proposed Transactions, is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure.
- (g) The Due Diligence Material has been collated and prepared in good faith, and VRL is not aware of any information contained in the Due Diligence Material that is false or misleading in any material respect (including by omission) as at the date of collation or preparation.
- (h) VRL has not intentionally withheld from the Due Diligence Material any information which would reasonably be expected to be material to a reasonable and sophisticated buyer's evaluation of the VRL Group, including details of all material liabilities of the VRL Group and the aggregate amount of all fees, costs and expenses which VRL or any other VRL Group Member has paid or agreed to pay, or may become liable to pay, in connection with the Proposed Transaction).
- (i) VRL has provided all information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to adversely affect any Financial Indebtedness or debt arrangements of the VRL Group, including under the Debt Financing Agreements, from or after the date of this agreement.

- (j) VRL has provided (and Fairly Disclosed) complete and accurate information regarding fee levels in all retainers and mandates with Advisers and fee estimates for other advisers in relation to the Proposed Transaction, any Competing Proposals as at the date of this agreement and any other transaction where such retainer or mandate is current, or under which the VRL Group still has obligations.
- (k) The historical and factual information contained in Due Diligence Material is accurate and complete in all material respects and all forecasts, budgets, projections or similar forward looking materials contained in the Due Diligence Material are genuine operational documents of the VRL Group.
- (l) The VRL Group have not included any information in the Due Diligence Material that they are aware is misleading in any material respect, and so far as the VRL is aware, no information has been omitted from the Due Diligence Material that would render the Due Diligence Material misleading in any respect.

Schedule 3– Structure A Scheme

[Not reproduced here. Await Explanatory Booklet]

Schedule 4 – Structure A Scheme Deed Poll

[Not reproduced here. Await Explanatory Booklet]

Schedule 5- Structure B Scheme

[Not reproduced here. Await Explanatory Booklet]

Schedule 6 - Structure B Scheme Deed Poll

[Not reproduced here. Await Explanatory Booklet]

Schedule 7 – Matters to be included in Structure A Shareholders Agreement

Capitalised terms have the meaning given in clause 1 of this agreement, unless otherwise defined in this Schedule.

Company	HoldCo is currently 100% held by BGH and holds 100% of the shares in BidCo. BidCo will (through one or more wholly owned subsidiaries) acquire 100% of the shares in Village Roadshow Limited (VRL) pursuant to the Structure A Scheme.
HoldCo shareholders immediately following the Transaction	<ul style="list-style-type: none"> • All shares in HoldCo are ordinary shares, ranking equally. • Shareholders in HoldCo following the implementation of the Structure A Scheme will be: <ul style="list-style-type: none"> – One or more funds managed or advised by BGH Capital or its affiliates and potentially one or more limited partners in those funds that co-invests with BGH (BGH). – The entities controlled by the VRL Principals that receive HoldCo shares under the sale of Positive Investments or VRL shares not held by VRC – Any VRL shareholder that is entitled to receive scrip under the Structure A Scheme
Board composition	Provisions dealing with initial board composition and the ability of shareholders to remove and replace directors.
Board decision-making	Provisions dealing with frequency of board meetings, the number of votes each director will have, reserved matters, quorum and other board procedural matters.
Dividends	Provisions dealing with payment of dividends and dividend policy.
Reserved Matters	Provisions dealing with reserved matters which will require special majority approval
Further equity	Provisions dealing with how the funding requirements of the HoldCo Group will be sourced, the rights of shareholders to participate in equity raising and arrangements for emergency equity raisings.
Restrictions on disposal of shares, tag-along, drag along	Provisions dealing with restrictions on disposal of shares and customary drag along and tag along rights.
Exit arrangements (including IPO rights)	Provisions dealing with exit arrangements and IPO arrangements
Event of Default	Customary provisions on events of default

Other Customary Provisions	<p>Customary provisions dealing with:</p> <ul style="list-style-type: none"> • Information rights for shareholders • Confidentiality • Governing Law • Power of Attorney (to facilitate enforcement of rights granted by shareholders) • The shareholders agreement prevails in the case of any inconsistency between the shareholders agreement and the HoldCo constitution.
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Schedule 8 - Matters to be included in Structure B Shareholders Agreement

Capitalised terms have the meaning given in clause 1 of this agreement, unless otherwise defined in this Schedule.

Company	Village Roadshow Limited (VRL) will be the entity in which BidCo will invest (including by acquiring VRL shares pursuant to the Structure B Scheme) and Retaining Shareholders may elect to retain the Retained Shares subject to the terms in the Structure B Scheme.
VRL shareholders immediately following the Transaction	<ul style="list-style-type: none"> • All shares in VRL are ordinary shares, ranking equally. • Shareholders in VRL following the implementation of the Structure B Scheme will be: <ul style="list-style-type: none"> – BidCo, which will be wholly owned by Holdco, and Holdco will in turn be owned by one or more funds managed or advised by BGH Capital or its affiliates and potentially one or more limited partners in those funds that co-invests with BGH (BGH). – Any current VRL shareholders that elect and are entitled to retain their VRL shares under the Structure B Scheme, provided that each VRL shareholder must elect to either retain all of their VRL shares or sell all of their shares for cash, and in aggregate existing VRL shareholders may collectively retain a maximum of 50% of the existing VRL shares on issue, (Participating Shareholders).
Board composition	Provisions dealing with initial board composition and the ability of shareholders to remove and replace directors.
Board decision-making	Provisions dealing with frequency of board meetings, the number of votes each director will have, reserved matters, quorum and other board procedural matters.
Dividends	Provisions dealing with payment of dividends and dividend policy.
Reserved Matters	Provisions dealing with reserved matters which will require special majority approval.
Further equity	Provisions dealing with how the funding requirements of the VRL Group will be sourced, the rights of shareholders to participate in equity raising and arrangements for emergency equity raisings.
Restrictions on disposal of shares, tag-along, drag along	Provisions dealing with restrictions on disposal of shares and customary drag along and tag along rights
Exit arrangements (including IPO rights)	Provisions dealing with exit arrangements and IPO arrangements
Event of Default	Customary provisions on events of default

Restructure events	<p>Provisions dealing with the restructure of a Participating Shareholders interest in VRL following the implementation of the scheme under which BidCo will acquire the VRL shares held by Participating Shareholders (or in lieu of that) the shares in a Participating Shareholder or a holding company of a Participating Shareholder (subject to the Participating Shareholder or the holding company meeting certain eligibility requirements) in exchange for consideration comprising (at the VRL shareholder's election):</p> <ol style="list-style-type: none"> 1 the Structure B Cash Consideration less \$0.10 for a maximum of half of their VRL shares and one HoldCo share for each of their other VRL shares; or 2 one HoldCo share for each of their VRL shares, <p>transferred to BidCo (Restructure).</p> <p>During the 3 month period following the date that is 6 months following the implementation of the Structure B Scheme, Participating Shareholders holding more than 7.5% of VRL's shares on issue will be entitled to initiate the Restructure.</p> <p>During the 3 months following the date that is 9 months after the implementation of the Structure B Scheme, BidCo will be entitled to initiate the Restructure.</p>
Custodian arrangements	<p>The VRL shares that are retained by Scheme Shareholders will be held by a third-party professional custodian as bare trustee for those shareholders, unless otherwise approved by the Board.</p> <p>The shareholders agreement will include provisions to ensure that the rights and obligations of the relevant VRL shareholder in respect of their VRL shares are neither diminished nor enhanced as a result of the custodian arrangements.</p>
Other Customary Provisions	<p>Customary provisions dealing with:</p> <ul style="list-style-type: none"> • Information rights for shareholders • Confidentiality • Governing Law • Power of Attorney (to facilitate enforcement of rights granted by shareholders) • The shareholders agreement prevails in the case of any inconsistency between the shareholders agreement and the VRL constitution.

Signing page

EXECUTED as an agreement.


Executed by Village Roadshow Limited in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

Julie Raffe

Name of director (print)



Signature of ~~director~~/company secretary
(Please delete as applicable)

Simon Phillipson

Name of ~~director~~/company secretary (print)

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.

Executed by Village Roadshow Corporation Pty Ltd in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.

Signing page

EXECUTED as an agreement.

Executed by Village Roadshow Limited in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

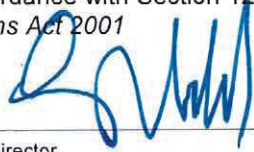
Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

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Executed by Village Roadshow Corporation Pty Ltd in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

GRAHAM BURKE

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

SEAN MORCOM

Name of ~~director~~/company secretary (print)

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Executed by VRG Bidco Pty Limited in
accordance with Section 127 of the *Corporations*
Act 2001



Signature of director

BEN GRAY

Name of director (print)



Signature of ~~director~~/company secretary
(Please delete as applicable)

HARI MORFIS

Name of ~~director~~/company secretary (print)

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Executed by VRG Holdco Limited in accordance
with Section 127 of the *Corporations Act 2001*



Signature of director

BEN GRAY

Name of director (print)



Signature of ~~director~~/company secretary
(Please delete as applicable)

HARI MORFIS

Name of ~~director~~/company secretary (print)

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.