

Millennium enters into scheme implementation agreement with SoftBank Robotics Singapore - \$1.15 per share

- Millennium has entered into a scheme implementation agreement with an entity controlled by SoftBank Robotics Singapore for the acquisition of 100% of the shares in Millennium by way of scheme of arrangement.
- Under the terms of the Scheme, Millennium shareholders will have the option to receive \$1.15 cash per Millennium share, unlisted scrip consideration or a combination of cash and unlisted scrip consideration.
- The \$1.15 cash per Millennium share consideration represents an 85% premium to Millennium's closing share price of \$0.62 per share on 21 December 2023¹ and a 105% premium to the 3-month volume weighted average price up to and including 21 December 2023.
- The Millennium board unanimously recommends that shareholders vote in favour of the scheme, in the absence of a Superior Proposal² and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Millennium shareholders.

Overview of the scheme

Millennium Services Group (ASX:MIL) (**Millennium**) is pleased to announce that it has entered into a binding scheme implementation agreement (**SIA**) with MS Journey Pty Ltd (**SoftBank Robotics BidCo**) a subsidiary of SoftBank Robotics Singapore Pte Ltd (**SoftBank Robotics Singapore**) to acquire 100% of the issued capital of Millennium by way of a scheme of arrangement (**Scheme**).

If the Scheme is implemented, Millennium shareholders will receive total cash consideration of \$1.15 per share (**Cash Consideration**).

The Cash Consideration represents an implied equity value of Millennium (on a 100% fully diluted basis) of approximately \$57.2 million and represents:

- an 85% premium to Millennium's closing share price on last date of trading prior to announcement
- a 105% premium to Millennium's 3-month VWAP³ of \$0.56 per share
- a 145% premium to Millennium's 6-month VWAP of \$0.47 per share

Scrip consideration alternative

The Cash Consideration is the default consideration option under the Scheme. If the Scheme is implemented, Millennium Shareholders that do not elect a scrip consideration option will receive Cash Consideration for all of their shares.

¹ Being the last trading day prior to this announcement.

² When used in this announcement, the term "Superior Proposal" has the meaning given to it in the SIA.

³ Volume weighted average price (**VWAP**) based on cumulative trading volume and value on ASX up to and including 21 December 2023.

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As an alternative to receiving all Cash Consideration, certain eligible Millennium shareholders⁴ have the option to elect to receive:

- unlisted scrip in MXS Ventures Pte. Ltd. (**SoftBank Robotics HoldCo**), a subsidiary of SoftBank Robotics Singapore, for 100% of their Millennium Shares, comprising one share in SoftBank Robotics HoldCo for each Millennium share held by them; or
- unlisted scrip in SoftBank Robotics HoldCo (comprising one share in SoftBank Robotics HoldCo for each Millennium share held by them) for a specified proportion of their Millennium shares (between 40% and 100%, and in relation to the remainder of their Millennium shares, cash consideration of \$1.15 per share.

(the **Scrip Consideration Options**).

Scrip Consideration Options are subject to a scaleback mechanism. If Millennium shareholders holding, in aggregate, more than 45% of the total issued capital of Millennium elect to receive a Scrip Consideration Option, a scaleback mechanism will apply on a pro rata basis and the relevant Millennium shareholders will receive the Cash Consideration for the remainder of their shares in respect of which they do not receive scrip.

Each SoftBank Robotics HoldCo share issued under the Scrip Consideration Options will be an unlisted Class B share in the capital of SoftBank Robotics HoldCo, which is a Singaporean-incorporated entity that will control SoftBank Robotics BidCo and will be ultimately controlled by SoftBank Robotics Singapore. Millennium shareholders who receive shares in SoftBank Robotics HoldCo will become party to the SoftBank Robotics HoldCo Shareholders Deed, a term sheet of which is included as a schedule to the SIA.

Certain directors and key management personnel (identified and defined as 'Key Rolling Shareholders' in the SIA) have stated to Millennium that, subject to no Superior Proposal emerging and the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Millennium shareholders, they will elect to participate in the Scrip Consideration Options for not less than a total of 14.15 million MIL shares (being, in aggregate, approximately 30% of the Millennium shares⁵) that they respectively hold or control.

Unanimous Board recommendation

The board of Millennium considers that the Scheme is in the best interests of shareholders and unanimously recommends that Millennium shareholders vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Millennium Shareholders. Each director of Millennium also intends to vote the Millennium shares in which they have a relevant interest in favour of the Scheme, representing 14.95% of Millennium shares, subject to the same qualifications. The board of Millennium makes no recommendation in relation to the Scrip Consideration Options.

Darren Perry, Non-Executive Chair of Millennium said: "The board is unanimous in its view that this transaction is in the best interests of the Millennium shareholders. The Cash Consideration payable under the scheme offers compelling value for Millennium shareholders, delivering certainty of value and representing a material premium to Millennium's trading price. The Scheme also offers Millennium Shareholders the option of retaining equity in the business should they wish to do so, subject to the terms of the scheme."

Kenichi "Kent" Yoshida, Chief Business Officer of SoftBank Robotics Group Corp. said: "We are pleased to announce that SoftBank Robotics Singapore has entered into this scheme

⁴ Excludes certain foreign shareholders and small shareholders and is subject to the scale back arrangements described in this announcement.

⁵ In aggregate, the Key Rolling Shareholders hold or control approximately 43.43% of the Millennium shares.

implementation agreement with Millennium, as it aligns seamlessly with our goal of enabling traditional cleaning service providers to transition into smart cleaning providers and will allow us to offer digitally supported cleaning services enhanced with automation, robotics, and data-driven insights. By leveraging Millennium's expertise and knowledge in the field, we will be able to position ourselves at the forefront of the market. Together, we will drive innovation and deliver optimised solutions that revolutionise the industry. Our commitment to supporting Millennium's growth and development remains unwavering, and we eagerly anticipate working closely with their management team to achieve our shared goals."

Key terms of the Scheme Implementation Agreement

The Scheme remains subject to conditions customary for a transaction of this nature, including Millennium shareholder approval, court approval and the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interest of Millennium shareholders. The Scheme is also subject to certain employee retention conditions, including senior Millennium management and the Key Rolling Shareholders electing to participate in the Scrip Consideration Options for some or all of their holdings, representing not less than 14.15 million Millennium Shares in aggregate. The Scheme is not conditional on financing, due diligence or FIRB approval. The SIA contains customary exclusivity provisions. A break fee of \$526,000 will be payable by Millennium to SoftBank Robotics BidCo in certain circumstances and a reverse break fee of \$526,000 will be payable by SoftBank Robotics BidCo to Millennium in certain circumstances.

A full copy of the SIA, including all applicable conditions (with certain schedules redacted), is attached to this announcement.

Indicative timetable and next steps

It is anticipated that a Scheme Booklet containing an Independent Expert's Report, further information relating to the Scheme including reasons for the Millennium board's unanimous recommendation and details of the Scheme Meeting is expected to be made available to Millennium shareholders in February 2024.

An indicative timetable for the Scheme is set out below. These dates are indicative only and subject to change:

First Court Hearing	Late February 2024
Dispatch of Scheme Booklet	Late February 2024
Scheme Meeting	Late March 2024
Second Court Hearing	Early April 2024
Effective Date	Early April 2024
Scheme Record Date	Early April 2024
Implementation Date	Mid April 2024

Kardos Scanlan is acting as legal adviser to Millennium.

For further information please contact:

Royce Galea
Chief Executive Officer and Managing Director
(03) 8540 7900

Authorised for release by the Board of
Millennium Services Group Limited.
Level 3, 631 Springvale Road, Mulgrave, VIC 3170

About Millennium

Millennium is a trusted partner to businesses across Australia and New Zealand providing cleaning, security and integrated property services, making places and spaces better for people. With a team of more than 5,100 we serve clients across many sectors, including retail, commercial, government, hospitality, industrial and education. Millennium is proud to provide its services at approximately 1,080 client sites to some of Australia and New Zealand's largest organisations.

About SoftBank Robotics Group

SoftBank Robotics Group, a leader in robot solutions, has been contributing to robotics technology development since the launch of Pepper, its first robot capable of recognizing human emotions, in 2014. This was followed by an AI autonomous cleaning robot in 2018, a multi-tray delivery robot in 2021, and its automated logistics solutions consulting in 2022. SoftBank Robotics Group has offices at 12 locations around the world and SoftBank Robotics Group robots are used in more than 70 countries worldwide. As a robot integrator, SoftBank Robotics Group leverages off its vast, expanding trove of worldwide robot real-world data and the technology of its partners worldwide to meet every conceivable need of the developers who want robots to succeed and of the users who are eager to adopt them.



Execution version

Scheme Implementation Agreement

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Millennium Services Group Limited (**Target**)

MS Journey Pty Ltd (**Bidder**)

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Scheme Implementation Agreement

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Details

Date 21 December 2023

Parties

Name **Millennium Services Group Limited**
ACN 607 926 787
Short form name **Target**
Notice details Address: Level 3, 631 Springvale Road, Mulgrave, VIC 3170
Email: Royce.galea@milleniumsg.com
Attention: Royce Galea
Copy to: tim.scanlan@kardosscanlan.com.au

Name **MS Journey Pty Ltd**
ACN 673 801 673
Short form name **Bidder**
Notice details Address: RSM Australia Pty Ltd, Level 21, 55 Collins Street, Melbourne, VIC 3000
Email: kenichi.yoshida@softbankrobotics.com
Attention: Kenichi Yoshida, Chief Business Officer
Copy to: matthew.hibbins@minterellison.com

Background

- A Target and Bidder have agreed that Bidder will acquire all of the Target Shares by way of a scheme of arrangement between Target and Scheme Shareholders under Part 5.1 of the Corporations Act.
- B Target intends to propose the Scheme and issue the Explanatory Booklet.
- C Target and Bidder have agreed to implement the Scheme and to undertake certain other matters in connection with the Proposed Transaction as set out in this agreement.

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Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

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

Accounting Standards means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

Adviser means, in relation to an entity, a financial, corporate, legal, 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 Transaction by the entity.

Announcement means the announcement by Target in relation to the Proposed Transaction in the form agreed by Target and Bidder (both acting reasonably), prior to signing 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 Target was the designated body.

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

Authorised Person means, in respect of a person:

- (a) a director, officer or senior executive who has been walled crossed in connection with the Proposed Transaction of the person (or of, in the case of Target, a member of the Target Group, or, in the case of Bidder, a member of the Bidder Group);
- (b) an Adviser of the person; or
- (c) a director, officer or senior executive who has been walled crossed in connection with the Proposed Transaction of an Adviser of the person.

Bidder Board means the board of directors of Bidder.

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

Bidder Director means a director of Bidder.

Bidder Group means HoldCo, Bidder and each of their Subsidiaries (excluding, at any time, Target and its Subsidiaries to the extent that Target and its Subsidiaries are Subsidiaries of Bidder at that time). A reference to a member of the **Bidder Group** or a **Bidder Group Member** is a reference to Bidder, HoldCo or any such Subsidiary.

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

Bidder Information means such information regarding Bidder that is provided by or on behalf of Bidder, or any of its Advisers, to Target in writing for inclusion in the Explanatory Booklet:

- (a) to enable the information that is included in the Explanatory Booklet to be prepared and completed in compliance with all applicable laws; and
- (b) otherwise in compliance with Bidder's obligations under clause 7.2(a).

Bidder Warranties means the representations and warranties of Bidder set out in clause 10.1.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Victoria, Singapore or Tokyo, Japan.

Cash Consideration means the amount of \$1.15 for each Scheme Share held by a Scheme Shareholder.

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.

Combined Group means the combination of Target and Bidder (and their respective controlled entities) following implementation of the Scheme.

Combined Group Information means any information in the Explanatory Booklet or any supplementary disclosure to Target Shareholders in respect of the Scheme, regarding the Combined Group.

Competing Proposal means any offer, proposal or expression of interest, agreement, transaction or arrangement (including, by way of takeover bid or scheme of arrangement) under which, if ultimately completed substantially in accordance with its terms:

- (a) a Third Party (either alone or together with one or more Associates) would directly or indirectly:
 - (i) acquire or obtain a right to acquire:
 - (A) a Relevant Interest in or become the holder of;
 - (B) a legal, beneficial or economic interest in; or
 - (C) control of,
 more than 15% of the Target Shares;
 - (ii) acquire, obtain a right to acquire, or otherwise obtain a legal, beneficial or economic interest in, or control of, 50% or more by value of the business or property of Target or any member of the Target Group;
 - (iii) acquire control, within the meaning of section 50AA of the Corporations Act, of Target; or
 - (iv) otherwise acquire or merge with Target,
 - whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for Target or other synthetic merger or any other transaction or arrangement;
- (b) Target will cease to be admitted to the official list of ASX or the Target Shares will cease to be officially quoted on ASX; or
- (c) would otherwise result in the Proposed Transaction not being able to be implemented or the implementation of the Proposed Transaction being materially adversely affected.

Competing Proposal Notice has the meaning given in clause 16.6(a).

Conditions means the conditions set out in clause 3.1 and **Condition** means any one of them.

Confidentiality Deed means the document of that name between Target and Softbank Robotics Singapore Pte Ltd dated 28 July 2023.

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

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

Counter Proposal has the meaning given in clause 16.7(b).

Court means the Supreme Court of New South Wales or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Custodian has the meaning given in the HoldCo Shareholders Deed.

Deed Poll means the deed poll to be executed by Bidder and HoldCo prior to the First Court Date, in the form set out in Schedule 2 (or any other form agreed in writing between Bidder and Target).

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

Effective means, when used in relation to the 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 Scheme.

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

Election means an election by a Target Shareholder, in respect of the Scheme to receive either:

- (a) in relation to at least 40% but not more than 100% of their Scheme Shares, Scheme Consideration in the form of HoldCo Shares, in which case for the remainder of their Scheme Shares, they will receive Scheme Consideration in the form of cash (such Election, **Partial Election**); or
- (b) in relation to 100% of their Scheme Shares, Scheme Consideration in the form of HoldCo Shares (such Election, **Maximum Election**).

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

Election Form has the meaning given in the Scheme.

End Date means:

- (a) 30 May 2024; or
- (b) such other date and time agreed in writing between Bidder and Target.

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 Scheme; and
- (c) the date this agreement is terminated in accordance with its terms.

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

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

- (a) borrowing from any bank or other financial institution;
- (b) recourse or non-recourse liabilities or other liabilities (whether conditional or unconditional, present or future) arising from any transactions related to the assignment or securitisation of receivables for financing purposes to any third party, including all factoring agreements and similar agreements executed for the purpose of obtaining financing and including any amount raised pursuant to such agreements but which, in accordance with Accounting Standards, have not otherwise been recognised on the balance sheet as a liability;
- (c) bill, bond, debenture, note or similar instrument;
- (d) acceptance, endorsement or discounting arrangement;

- (e) guarantee;
- (f) finance or capital lease;
- (g) swap, hedge arrangement, option, futures contract, derivative or analogous transaction;
- (h) redeemable share or security;
- (i) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or business;
- (j) 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 a party; or
- (k) 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 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 Scheme Shareholder whose address as shown in the Target register of members (as at the Record Date) is located:

- (a) outside of Australia and its external territories or New Zealand;
- (b) in a place in New Zealand and that Scheme Shareholder does not complete and return a certificate under clause 44 of Schedule 1 of the Financial Markets Conduct Act 2013 (NZ) certifying in the prescribed manner that the shareholder is a “wholesale investor” (as defined in clause 3(2) of Schedule 1 of the Financial Markets Conduct Act 2013 (NZ)); or
- (c) in any other jurisdiction in respect of which Bidder reasonably believes that it is prohibited or unduly onerous or impractical to implement this Scheme with a registered address in such jurisdiction.

Governmental Agency means any government or representative of a 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 and any regulatory organisation established under statute or any stock exchange or financial market.

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

HoldCo means MXS Ventures Pte. Ltd. UEN 202349711E, a private limited company incorporated in the Republic of Singapore.

HoldCo Constitution means the constitution of Holdco.

HoldCo Share means a fully paid Class B share in HoldCo to be issued under the terms of the Scheme as Scheme Consideration and having the rights set out in the HoldCo Shareholders Deed.

HoldCo Shareholders Deed means the shareholders’ deed in relation to HoldCo which will substantially provide for the matters set in Schedule 4 in the form agreed in writing by the parties.

Implementation Date means, with respect to the Scheme, the fifth Business Day following the Record Date for the Scheme, or such other Business Day following the Record Date as the parties agree in writing.

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

Independent Expert’s Report means the report from the independent expert commissioned by Target for inclusion in the Explanatory Booklet, which includes a statement or opinion from the Independent Expert on whether the Scheme is in the best interest of Target Shareholders, and includes any update of that report by the Independent Expert.

Ineligible Shareholder means either a Foreign Scheme Shareholder or a Small Shareholder.

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 compromise or arrangement with its creditors generally;
- (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 as and when they become due;
- (e) **ceasing business:** the person ceases or threatens to cease to carry on business;
- (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) **deregistration:** the person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement:** the person executing a deed of company arrangement;
- (i) **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; and
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events:** anything analogous to those set out in any of paragraphs (a) to (i) 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 (j) inclusive occurs in respect of that person.

Interest Rate means the 30 day Bank Bill Swap Reference Rate as published as at the relevant due date for payment by the Australian Financial Markets Association.

Key Rolling Shareholders means Royce Galea and the employees and consultants of the Target Group holding positions as Functional Leaders or Operational Leaders within the Target Group.

Listing Rules means the official listing rules of ASX.

Material Adverse Change means an event or circumstance that occurs between and including the date of this agreement and the Delivery Time which (determined in accordance with the Accounting Standards):

- (a) has or could reasonably be expected to have, individually or when aggregated with all such events or circumstances of a like kind, the effect of diminishing the consolidated annual Target EBITDA (taken as a whole) on a recurring basis by 10% or more per annum compared to the consolidated annual Target EBITDA (on a recurring basis) forecast for

FY24 as set out in Target's Business Update dated 21 August 2023 and released on ASX on 22 August 2023, determined after taking into account any event or circumstance, which has occurred after the execution of this agreement which has, or could reasonably be expected to have, a positive effect on the consolidated annual Target EBITDA (on a recurring basis); or

- (b) has or could reasonably be expected to have, individually or when aggregated with all such events or circumstances of a like kind, the result that present or future third party monetary obligations of a member of the Target Group in respect of moneys borrowed totalling at least \$1.3 million (or, without limitation, its equivalent in any other currency or currencies) is declared due and payable before their stated maturity or expiry (other than as a result of the Proposed Transaction),

but does not include any event or circumstance:

- (c) permitted or required to be done or procured by Target under this agreement or the Scheme;
- (d) which Bidder has previously approved in writing;
- (e) that was Fairly Disclosed in:
- (i) the Target Due Diligence Material (but for this purpose, excluding the disclosure of the rights of any third party under any contract with the Target Group that would be triggered or enlivened as a result of the proposed change of control of Target under the Scheme);
 - (ii) an announcement made by Target to the ASX 12 months prior to the date of this agreement; or
 - (iii) the Relevant Searches;
- (f) which was within the actual knowledge of Bidder 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 individuals agreed by the parties in the Target Disclosure Letter are actually aware as at the date of this agreement (but for this purpose, excluding the knowledge of the rights of any third party under any contract with the Target Group that would be triggered or enlivened as a result of the proposed change of control of Target under the Scheme);
- (g) arising from or relating to:
- (i) a change in applicable law, regulation, applicable Accounting Standards or the interpretation of Accounting Standards; or
 - (ii) any acts of war (whether or not declared) major hostilities (including in connection with or resulting or arising from any conflict between or involving Ukraine, Russia, Israel, any of the Palestinian Territories including the Gaza Strip and the West Bank, Lebanon or Syria), terrorism, cyber-attacks, natural disaster, adverse weather conditions, or pandemic (including, but not limited to, the COVID-19 global pandemic or any related epidemic or pandemic arising from a mutation, variation or derivative of the COVID-19 virus),
- which does not have a disproportionate effect on the Target Group as compared to other participants in the industries in which the Target Group operates;
- (h) relating to costs and expenses incurred by Target associated with the Scheme process, including all fees payable to external advisers of Target, to the extent those external adviser fee amounts are Fairly Disclosed in the Target Due Diligence Material; or
- (i) relating to any material adverse change or disruption to existing financial markets, political or economic conditions of Australia, Japan, the United Kingdom, the United States of America, Singapore, Hong Kong, China or the international financial markets or any change in national or international political, financial or economic conditions which does not have a disproportionate effect on the Target Group as compared to other participants in the industries in which the Target Group operates.

Material Proceedings means any material investigation, prosecution, arbitration, litigation or dispute against a member of the Target Group which could reasonably be expected to give rise to a liability for the Target Group in excess of \$500,000.

Material Public Announcement has the meaning given in clause 6.1(a).

Option Cancellation Consideration has the meaning set out in clause 5.1(a).

Option Cancellation Deed has the meaning set out in clause 5.1(a).

Permitted Security Interests means:

- (a) a charge or lien arising in favour of a Governmental Agency by operation of statute in the ordinary course of the business of the Target Group;
- (b) any mechanics', workmen's or other like lien arising in the ordinary course of the business of the Target Group;
- (c) any retention of title arrangement or purchase money security interest (including arising from any lease of goods or consignment arrangement), in each case, arising in favour of a supplier of goods or services to the business of the Target Group in the ordinary course of that business;
- (d) a PPS Lease, as defined in the *Personal Property Securities Act 2009* (Cth) (**PPSA**);
- (e) any Security Interest described in section 12(3) of the PPSA;
- (f) any Security Interest registered by Bidder;
- (g) any Security Interest approved in writing by Bidder;
- (h) any Security Interest relating to any specific Financial Indebtedness that is agreed by Bidder as not being paid out in connection with implementation of the Scheme; and
- (i) any Security Interest which has been Fairly Disclosed in the Target Due Diligence Material.

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

- (a) Target 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 Target Group resolves to reduce its share capital in any way or reclassifies, combines, splits or redeems or repurchases directly or indirectly any of its securities;
- (c) any member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the Target Group issues securities, or grants a performance right, or an option over or to acquire (by way of issue or transfer) any of its securities, or agrees to make such an issue or grant such a right or an option;
- (e) any member of the Target Group issues, or agrees to issue, securities convertible into shares or debt securities, other than to another member of the Target Group;
- (f) any member of the Target Group pays or declares, or announces an intention to pay or declare, any distribution (whether by way of any interim, final or special dividend, capital reduction or otherwise and whether in cash or in specie);
- (g) any member of the Target Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (h) Target making any change to the Target constitution that materially affects the Proposed Transaction;

- (i) any member of the Target Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property or over a material asset of the Target Group other than in the ordinary course of business;
- (j) Target Shares ceasing to be officially quoted on ASX;
- (k) an Insolvency Event occurs in relation to any member of the Target Group; or
- (l) any member of the Target Group, directly or indirectly, authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (k) (inclusive) above insofar as it applies to the member of the Target Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that a Prescribed Occurrence will not include any matter:

- (m) permitted or required to be done or procured by the Target Group under this agreement or the Scheme;
- (n) required by law or regulation or by an order of a court or Governmental Agency;
- (o) to the extent it is Fairly Disclosed in:
 - (i) the Target Due Diligence Material;
 - (ii) an announcement made by Target to the ASX 12 months prior to the date of this agreement; or
 - (iii) the Relevant Searches;
- (p) to the extent that it relates to transactions between entities within the Target Group; or
- (q) the undertaking of which Bidder has previously approved in writing.

Proposed Transaction means:

- (a) the proposed acquisition by Bidder, in accordance with the terms and conditions of this agreement, of all of the Scheme Shares under the Scheme; and
- (b) all associated transactions and steps contemplated by this agreement.

Receiving Party has the meaning given in clause 20.2.

Recommendation has the meaning given in clause 6.1(a)(i).

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

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.

Relevant Notice has the meaning given in clause 16.7(a)(iv)(A).

Relevant Searches means the public searches as agreed between the parties on or prior to the date of this agreement.

RG 60 means Regulatory Guide 60 issued by ASIC in September 2020.

Run-Off Policy has the meaning given in clause 11.4(a).

Sanctioned Person means

- (a) any person listed in any sanctions-related list of designated persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, the United Kingdom, Canada, or Australia;
- (b) any person operating organised or resided in a U.S Sanctioned Country (including Iran, Syria, Sudan, Cuba, the Democratic People's Republic of Korea, Russia or Ukraine); or
- (c) any person owned or controlled by any such person.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Target and Scheme Shareholders in respect of all Scheme Shares, 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 Target and Bidder, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by each party.

Scheme Consideration means:

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

$$(B/A) \times C,$$
 where:
 - A = the number of Scheme Shares in respect of which Scheme Shareholders in aggregate have made valid Elections to receive HoldCo Shares on or before the Election Date;
 - B = the Share Cap; and
 - C = if the Scheme Shareholder:
 - (a) has made a Partial Election, the number of Scheme Shares in respect of which the Scheme Shareholder has made an Election to receive HoldCo Shares; or
 - (b) has made a Maximum Election, the number of Scheme Shares held by the Scheme Shareholder; and

- (iv) the Cash Consideration for each of the Scheme Shares held by the Scheme Shareholder less the number of Scheme Shares held by the Scheme Shareholder in respect of which HoldCo Shares are to be issued as calculated in accordance with paragraph (iii); or
- (c) if the Scheme Shareholder is an Ineligible Shareholder or has not made a valid Election on or before the Election Date, the Cash Consideration for every Scheme Share held by the Scheme Shareholder.

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

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

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

Scheme Shareholder Declaration has the meaning given in clause 18(b)(iii).

Scrip Consideration means 1 HoldCo Share for each Scheme Share to be issued to the relevant Scheme Shareholders who have made a valid Election in accordance with the Scheme.

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 Scheme 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 has the meaning given in section 51A of the Corporations Act.

Share Cap means Target Shares representing 45% of all Target Shares on issue as at the date of this agreement (rounded down to the nearest whole Target Share).

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

Small Shareholder means a Scheme Shareholder (not being a Foreign Scheme Shareholder) who, based on their holding of Scheme Shares on the Record Date, either:

- (a) holds less than 300,000 Target Shares; or
- (b) holds 300,000 Target Shares or more but as a result of a Partial Election, would receive less than 300,000 HoldCo Shares under the Scheme.

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

Superior Proposal means a bona fide Competing Proposal which in the determination of the Target Board acting in good faith in order to satisfy what the Target Board considers to be its fiduciary or statutory duties (after having taken advice from their legal):

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

Takeovers Panel means the Takeovers Panel continued in existence by section 261 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Target Board means the board of directors of Target.

Target Break Fee has the meaning given to that term in clause 14.3(a).

Target Data Room means the online data room containing Target Due Diligence Material as at 5.00pm on the day which is 3 Business Days before the date of this agreement and the contents

of which are set out in an electronic index sent by Target's lawyers to Bidder's lawyers on or before the date of this agreement and in a USB provided by Target's lawyer to Bidder's lawyers within 5 Business Days after the date of this agreement.

Target Director means a director of Target.

Target Disclosure Letter means the letter so entitled from Target provided to Bidder prior to the execution of this agreement.

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

- (a) in the Target Data Room; and
- (b) in the Target Disclosure Letter.

Target EBITDA means earnings from ordinary, continuing activities of the Target Group before interest, tax, depreciation and amortisation calculated in accordance with the accounting policies and practices applied by Target as at the date of this agreement.

Target Group means Target and its Subsidiaries. A reference to a member of the **Target Group** or a **Target Group Member** is a reference to Target or any such Subsidiary.

Target Incentive Plan means the Omnibus Equity Plan Rules, a copy of which is disclosed in the Target Data Room.

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

Target Information means information to be included by Target in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the Corporations Regulations, and any other information that is material to the making of a decision by Target Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of the Target Board and has not previously been disclosed to Target Shareholders, other than the Bidder Information, the Independent Expert's Report and any description of the taxation effect of the Proposed Transaction on Scheme Shareholders prepared by an external Adviser to Target.

Target Key Managers means the Target Group employees and consultants as agreed between the parties on or prior to the date of this agreement.

Target Key Person has the meaning given in clause 8.1(b)(v).

Target Option means an option granted by Target to acquire by way of issue one or more Target Shares but does not include a Target Performance Right.

Target Optionholder means the person who is recorded in the register maintained by Target under section 168(1) of the Corporations Act as the holder of one or more Target Options.

Target Performance Right means a right granted under the Target Incentive Plan to acquire a Target Share subject to the terms of such plan (and any associated offer letter) but does not include a Target Option.

Target Performance Rights Holder means a person who holds one or more Target Performance Rights.

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

Target Shareholder means a person who is registered in the register maintained by Target under section 168(1) of the Corporations Act as a holder of one or more Target Shares.

Target Warranties means the representations and warranties of Target set out in clause 10.4.

Third Party means a person other than Bidder, Target or any of their respective Subsidiaries or Associates.

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

Voting Intention has the meaning given in clause 6.1(a)(ii).

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) 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 any of Bidder, Target (as applicable) or any of their respective Authorised Persons to a sufficient extent and in sufficient detail, and in a timing and manner, so as to enable a reasonable recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction to identify the nature, scope and potential or likely impact of the relevant matter, event, circumstance or information.

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 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 Scheme

- (a) Target agrees to propose and implement the Scheme on and subject to the terms and conditions of this agreement, and substantially in accordance with the Timetable.
- (b) Bidder agrees to assist Target in proposing and implementing the Scheme on and subject to the terms and conditions of this agreement, and substantially in accordance with the Timetable.
- (c) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 2(a) or clause 2(b) to the extent that such failure is due to circumstances and matters outside the party's control (including, for the avoidance of doubt, any delays caused by a Governmental Agency or the Court) or in the case of the Target, the Target taking or omitting to take any action in response to a Competing Proposal as permitted or contemplated by this agreement, provided that the period of any deferral of a timeframe or deadline is no longer than is reasonably required in order for Target to respond to that Competing Proposal in accordance with the Target Board's fiduciary or statutory duties.
- (d) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable.
- (e) To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to ensure such matters are completed within the shortest possible timeframe.

3. Conditions precedent and pre-implementation steps**3.1 Conditions to Scheme**

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until and unless

each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(No Prescribed Occurrence)** no Prescribed Occurrence occurs between (and including) the date of this agreement and the Delivery Time on the Second Court Date;
- (b) **(No Material Adverse Change)** no Material Adverse Change occurs between (and including) the date of this agreement and the Delivery Time on the Second Court Date;
- (c) **(Target Shareholder approval)** the Scheme is approved by Target Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act (except to the extent the Court orders otherwise under section 411(4)(a)(ii)(A) of the Corporations Act);
- (d) **(Target Options and Performance Rights)** Target has at the Delivery Time complied with its obligations under clauses 5.1 and 5.2;
- (e) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally and without modifications or with modifications or conditions consented to by Target and Bidder in writing (such consent not to be unreasonably withheld);
- (f) **(Restraining orders)** no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court of competent jurisdiction in Australia or New Zealand or by an Australian or New Zealand Governmental Agency of competent jurisdiction remains in effect as at the Delivery Time on the Second Court Date that delays, prohibits, materially restricts, makes illegal or restrains the Scheme;
- (g) **(Independent Expert)** the Independent Expert concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interest of Target Shareholders before the time when the Explanatory Booklet is registered by ASIC and the Independent Expert maintaining that opinion (including by not withdrawing, qualifying or changing that opinion) at all times up to the Delivery Time on the Second Court Date;
- (h) **(Target Key Manager retention)** not less than 85% of the Target Key Managers employed or engaged by Target Group on the date of this agreement are employed or engaged by the Target Group or have not otherwise provided notice of termination of their employment or engagement on the Delivery Time on the Second Court Date;
- (i) **(Employee retention)** not less than 85% of the employees employed or consultants engaged by Target Group on the date of this agreement are employed or engaged by the Target Group and have not provided notice of termination of their employment or engagement on the Delivery Time on the Second Court Date; and
- (j) **(Minimum Elections)** valid Elections to receive HoldCo Shares have been received by the Target from Key Rolling Shareholders, any of their Associates and/or any entities that they control) and are not withdrawn by the Election Date which, based on their respective holdings of Target Shares in the Target register of members as at the Election Date and at 7.00pm on the Business Day prior to the Second Court Date, represent not less than a total of 14.15 million Target Shares (being, in aggregate, approximately 30% of Target Shares on issue).

3.2 Benefit and waiver of conditions precedent

- (a) The Condition in clause 3.1(f) (*Restraining orders*) is for the benefit of each party and any breach or non-fulfilment of it may only be waived (if capable of waiver) with the written consent of both parties, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(a) (*No Prescribed Occurrences*), 3.1(b) (*No Material Adverse Change*), 3.1(d) (*Target Options and Performance Rights*), 3.1(h) (*Target Key Manager retention*), 3.1(i) (*Employee Retention*) and 3.1(j) (*Minimum Elections*) are for the

- sole benefit of Bidder and any breach or non-fulfilment of them may only be waived by Bidder giving its written consent.
- (c) The Condition in clause 3.1(g) (*Independent Expert*) is for the sole benefit of Target and any breach or non-fulfilment of them may only be waived by Target giving its written consent.
 - (d) The Conditions in clauses 3.1(c) (*Target Shareholder approval*) and 3.1(e) (*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 party for any breach of this agreement including a breach that resulted in the non-fulfilment of the Condition that was waived.
 - (g) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event or circumstance.

3.3 Reasonable endeavours

- (a) Target must, to the extent it is within its power to do so, use its reasonable endeavours to ensure that the Conditions in clauses 3.1(a) (*No Prescribed Occurrences*), 3.1(b) (*No Material Adverse Change*), 3.1(c) (*Target Shareholder approval*), 3.1(d) (*Target Options and Performance Rights*), 3.1(g) (*Independent Expert*), 3.1(h) (*Target Key Manager retention*), 3.1(i) (*Employee Retention*) and 3.1(j) (*Minimum Elections*) are satisfied as soon as reasonably practicable after the date of this agreement and continue to be satisfied at all times until the last time they are to be satisfied.
- (b) Target and Bidder must, to the extent it is within their respective power to do so, use their respective reasonable endeavours to procure that:
 - (i) the Condition in clause 3.1(f) (*Restraining orders*) is satisfied as soon as reasonably practicable after the date of this agreement and continues to be satisfied at all times until the last time they are to be satisfied; and
 - (ii) there is no occurrence within its control that would prevent any of the Conditions Precedent being or remaining satisfied.
- (c) Without limiting clauses 3.4 and 3.5, each of Target and Bidder must consult and co-operate, to the extent reasonably practicable, with the other party in relation to the satisfaction of the Conditions.
- (d) In respect of the Condition in clause 3.1(f) (*Restraining orders*):
 - (i) Target and Bidder must each use their best endeavours to challenge or otherwise seek to release or overturn the applicable law, rule, regulation, restraining order, injunction or final decision, order or decree prior to the Delivery Time; and
 - (ii) if any restraining order contemplated in the Condition in clause 3.1(f) (*Restraining orders*) is in effect at 5.00pm on the Business Day prior to the Second Court Date, Target and Bidder must consult with each other (each acting reasonably and in good faith) to consider delaying the Second Court Date and, if applicable, extend the End Date in order to facilitate the satisfaction of the Condition in clause 3.1(f) (*Restraining orders*).

3.4 Notifications

Each of Bidder and Target must:

- (a) keep the other promptly and reasonably informed of the material steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other in writing if it becomes aware that any Condition has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party; and
- (c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

At or before the hearing on the Second Court Date, Target and Bidder will provide a certificate to the Court confirming (in respect of matters within their respective knowledge) whether or not the Conditions set out in clause 3.1 (other than the Condition in clause 3.1(e) (*Court approval*)) have been satisfied or waived in accordance with the terms of this agreement.

3.6 Scheme voted down

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

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

3.7 Conditions not capable of being fulfilled

- (a) If:
 - (i) any Condition is not satisfied or (where capable of waiver) waived before the earlier of the End Date and the time and the date specified in this agreement for its satisfaction;
 - (ii) a circumstance occurs with the result that a Condition is or is reasonably likely to be not capable of being fulfilled 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 any shorter period ending at the Delivery Time on the Second Court Date); or
 - (iii) the Scheme does not become Effective by 5:00pm (Sydney time) on the End Date,

then Target and Bidder must consult in good faith with a view to determining whether:

- (iv) the Proposed Transaction may proceed by way of alternative means or methods;
- (v) to extend the relevant time or date for satisfaction of the Condition;
- (vi) 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 Scheme or adjourning that application (as applicable) to another date agreed by the parties in writing; or

- (vii) to extend the End Date.
- (b) Subject to clause 3.7(c), if Target and Bidder 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) subject to clause 3.6, in relation to the Conditions in clauses 3.1(c) (*Target Shareholder approval*) and 3.1(f) (*Restraining orders*), either Bidder or Target 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(a) (*No Prescribed Occurrences*), 3.1(b) (*No Material Adverse Change*), 3.1(d) (*Target Options and Performance Rights*), 3.1(h) (*Target Key Manager retention*), 3.1(i) (*Employee Retention*) and 3.1(j) (*Minimum Elections*), Bidder may terminate this agreement by giving Target notice without any liability to any other party by reason of that termination alone; and
 - (iii) in relation to the Condition in clause 3.1(g) (*Independent Expert*), Target may terminate this agreement by giving Bidder notice without any liability to any other party by reason of that termination alone.
- (c) A party 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.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled, if there is an act, failure to act or occurrence that will prevent the Condition 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. Transaction Steps

4.1 Scheme

- (a) Target must, as soon as reasonably practicable after the date of this agreement and substantially in compliance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration and, subject to such receipt, all of the Scheme Shares will be transferred to Bidder.
- (b) Target must not consent to any modification of, or amendment to, the Scheme, or the making or imposition by the Court of any condition in respect of the Scheme without the prior written consent of Bidder.

4.2 Scheme Consideration

Bidder covenants in favour of Target (in Target's own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to Bidder of the Scheme Shares under the terms of the Scheme, on the Implementation Date, Bidder will:

- (a) accept that transfer; and
- (b) provide (or procure the provision to) each Scheme Shareholder the Scheme Consideration,

in accordance with the terms of this agreement and the Scheme.

4.3 Allotment and issue of HoldCo Shares

- (a) Subject to the Scheme becoming Effective, Bidder must:
 - (i) in accordance with the Deed Poll, procure the issue of HoldCo Shares to the Scheme Shareholders in accordance with the 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 HoldCo Shareholders Deed; 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 (except for any lien arising under the constitution of HoldCo).
- (b) To facilitate the issue of the HoldCo Shares to Scheme Shareholders, Target must provide to Bidder, or procure the provision to Bidder of, a complete copy of the Target register of members as at the Record Date (which must include the name, address and registered holding of each Target Shareholder as at the Record Date), within two Business Days after the Record Date. The details and information to be provided under this clause must be provided in such form as Bidder, its Advisers or share registry may reasonably require.
- (c) Bidder will not procure HoldCo to issue any HoldCo Shares to Ineligible Shareholders regardless of any Election that may be made by them.
- (d) Any fractional entitlement of the Scheme Shareholder to a part of a HoldCo Share will be rounded down to the nearest whole number of HoldCo Shares or, where this would result in a Scheme Shareholder receiving less than one HoldCo Share, one HoldCo Share.

4.4 Deed Poll

Bidder covenants in favour of Target (in Target's own right and separately as trustee for each of the Scheme Shareholders) to execute and deliver the Deed Poll to Target, and procure that HoldCo executes and delivers the Deed Poll to Target, before 5:00pm on the Business Day before the First Court Date and, if the Scheme becomes Effective, fully comply with its obligations under the Deed Poll and procure that HoldCo fully complies with its obligations under the deed poll.

4.5 Elections

- (a) The Election Form must be in a form agreed between the parties and must include the relevant matters set out in the Scheme including:
 - (i) a section which requires Target Shareholders to provide details of bank accounts into which any future dividends on and other payments relating to HoldCo Shares are to be paid; and
 - (ii) wording to the effect that a Target Shareholder, by signing and submitting an Election Form, consents to the Target providing to Bidder such bank account details and tax file numbers or bank account details or tax file numbers previously notified by the Target Shareholder to the Target.
- (b) Subject to clause 4.5(e), an Election must be made in accordance with the terms and conditions stated on the Election Form for it to be valid and must be completed and returned in writing to the address specified on the Election Form on or before the Election Date (provided that Bidder may, with the agreement of Target in writing, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Election, and any such decision will be conclusive and binding on Bidder, Target and the relevant Target Shareholder, with Bidder having no obligation to communicate with any Target Shareholder prior to making this determination).
- (c) An Election will apply to all of the Target Shares of the Target Shareholder as at the Election Date.
- (d) Once made, an Election may be varied, waived or revoked before the Election Date by notice in writing to Target.

- (e) In the manner considered appropriate by Bidder and Target (acting reasonably), a Target Shareholder who holds one or more parcels of Target Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections in relation to each of those parcels of Target Shares (subject to providing to Bidder and the Target any substantiating information they reasonably require). If a Target Shareholder does so, it will be treated as a separate Target Shareholder for each such parcel in respect of which a separate Election is made (and for any balance of its holding), provided that if, at the Election Date, it holds fewer Target Shares than it held at the time it made the Election the Election Form is made available to Target shareholders with the Explanatory Booklet sent to each of them then, unless it has at the time of any sale of Target Shares notified the Target whether the Target Shares sold relate to, any such separate Election (and if so, which separate Election the Target Shares sold relate to), it will be treated as not having made a valid Election in respect of any of its Target Shares or otherwise be treated in any other manner that Bidder and Target agree is fair and appropriate.
- (f) The parties agree that the terms and conditions that will be stated on the Election Form will include the following terms and conditions to the following effect:
- (i) Ineligible Shareholders may not make an Election and that any purported Election by such persons will be of no effect. Clause 4.3(c) will apply to any Target Shareholder who makes an Election but who qualifies as an Ineligible Shareholder;
 - (ii) if a Target Shareholder does not make a valid Election on or before the Election Date, that Target Shareholder will receive Cash Consideration in respect of the Scheme Shares held by that Target Shareholder;
 - (iii) Target Shareholders who make a valid Election on or before the Election Date agree to become members of HoldCo from the Implementation Date and become bound by the HoldCo Constitution and HoldCo Shareholders Deed from the Implementation Date, pursuant to the Scheme;
 - (iv) Target Shareholders who make an Election on or before the Election Date agree that their Scrip Consideration will be issued to that Scheme Shareholder (either directly or indirectly through the Custodian to be held as bare trustee for those Scheme Shareholders, at the absolute discretion of Bidder), pursuant to and in accordance with the terms of the HoldCo Shareholders Deed;
 - (v) Target Shareholders who make a valid Election on or before the Election Date must provide, before the Election Date, the information and documents described in the Election Form as being required by Bidder or Target and the failure to provide such information or documents will result in that Election being invalid; and
 - (vi) such other terms and conditions as Bidder reasonably requires to be stated on the Election Form.

4.6 Bidder documentation

The parties must use their reasonable endeavours to work together in good faith from the date of this agreement to finalise and agree the form and terms of the HoldCo Shareholders Deed as soon as possible after the date of this agreement and in any event by 8.00am on the First Court Date.

5. Treatment of Target Options and Target Performance Rights

5.1 Target Options

- (a) Target must ensure that, before the Delivery Time on the Second Court Date, Target has entered into a cancellation deed with each Target Optionholder in the form agreed between Target and Bidder on or before the date of this agreement (or as otherwise consented to by Bidder, acting reasonably) under which Target agrees to cancel, and the Target Optionholder agrees to the cancellation of, the Target Options held by that Target

Optionholder on or before the Record Date for consideration per Target Option agreed between Target and Bidder in writing on or before the date of this agreement (**Option Cancellation Consideration**), subject to:

- (i) ASX issuing or providing a waiver of the applicable requirements of Listing Rule 6.23 to enable any action required to be taken by Target under this clause 5.1 that requires the approval of Target Shareholders under that Listing Rule to be taken by Target without the approval of Target Shareholders under that Listing Rule; and
 - (ii) the Scheme becoming Effective,
(**Option Cancellation Deeds**).
- (b) If the Scheme becomes Effective, Target must cancel the Target Options the subject of the Option Cancellation Deeds for the applicable Option Cancellation Consideration on or before the Record Date, as required by, and in accordance with, the terms and conditions of the Option Cancellation Deeds.

5.2 Target Performance Rights

- (a) Target must enter into an agreement with each holder of Target Performance Rights in the form agreed between Target and Bidder on or before the date of this agreement (or as otherwise consented to by Bidder, acting reasonably) pursuant to which, subject to the Scheme becoming Effective:
 - (i) Bidder will procure a cash payment to Target for an amount in respect of each Target Performance Right that is equal to the Cash Consideration to enable Target to pay to the holders of the Target Performance Rights on the Implementation Date and Target will ensure that all Target Performance Rights are not exercised but are instead cancelled after the Effective Date but on or before the Record Date; or
 - (ii) Target takes any action as may otherwise be necessary to cancel the Target Performance Rights in respect of which Bidder consents in writing (such consent not to be unreasonably withheld or delayed),
and must otherwise ensure that, by no later than the Record Date, there are no Target Performance Rights in existence.
- (b) Target must make an application to ASX seeking a waiver of the applicable requirements of Listing Rule 6.23 to enable any action proposed to be taken by Target under clause 5.2 that requires the approval of Target Shareholders under that Listing Rule to be taken by Target without the approval of Target Shareholders under that Listing Rule.
- (c) Bidder must provide all reasonable assistance to Target in carrying out its obligations under clause 5.2, including entering into required agreements with the holders of the Target Performance Rights to give effect to this clause.

6. Recommendation, intentions and announcements

6.1 Target Board Recommendation and Voting Intention

- (a) Subject to clause 6.2 (and except to the extent there has been a change of recommendation permitted by clause 6.1(c)), Target must ensure that its Announcement, the Explanatory Booklet and each other material announcement made by Target to the ASX in relation to the Proposed Transaction before the Scheme Meeting (**Material Public Announcement**) state that each Target Director:
 - (i) considers the Scheme to be in the best interests of Target Shareholders and that the Target Director recommends that Target Shareholders vote in favour of the Scheme (**Recommendation**); and
 - (ii) intends to cause any Target Shares in which he has a Relevant Interest to be voted in favour of the Scheme (**Voting Intention**),

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

- (iii) *'in the absence of a Superior Proposal'*; and
 - (iv) in respect of the Announcement or any Material Public Announcement issued before the issue of the Explanatory Booklet, *'subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interest of Target Shareholders'* and in respect of the Explanatory Booklet and any public announcement issued at the time of or after the issue of the Explanatory Booklet, *'subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of Target Shareholders'*.
- (b) On the date of this agreement, Target represents and warrants to Bidder that, on or before the date of this agreement, each Target Director has confirmed that:
- (i) his or her recommendation in respect of the Scheme is that Target Shareholders vote in favour of the Scheme; and
 - (ii) if they have a Relevant Interest in any Target Shares at the time of giving the confirmation in this clause 6.1(b), he intends to vote, or cause to be voted, all such Target Shares in favour of the Scheme,

in each case:

- (iii) in the absence of a Superior Proposal; and
- (iv) subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Target Shareholders,

and since giving such confirmation, each such Target Director has not withdrawn, adversely changed, adversely modified or adversely qualified such confirmation or advised the Target Board that it intends to do so.

- (c) Subject to clause 6.2, Target must use its best endeavours to ensure that the Target Board collectively, and the members of the Target Board individually, do not change, withdraw, modify or qualify their Recommendation or Voting Intention unless:
- (i) Target has received, other than as a result of a breach of clause 16, a Superior Proposal and:
 - (A) has entered into a legally binding agreement to undertake or give effect to that proposal; or
 - (B) in the case of a proposal by way of takeover bid which is not subject to an agreement with Target, 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, or revision, amendment or supplement to, its report) that the Scheme is not in the best interests of Target Shareholders;

and, to the extent applicable, Target has complied with its obligations under clause 16 (including ensuring that all of Bidder's rights under clause 16.7 have been exhausted).

- (d) Despite anything to the contrary in this clause 6.1 or elsewhere in this agreement:
- (i) a statement made by Target, the Target Board or any Target Director to the effect that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal by the Target Board or the completion of the matching right process set out in clause 16.7; and
 - (ii) the Target Board or any Target Director making a recommendation on the basis of the Cash Consideration only and/or not making any recommendation in relation to the Scrip Consideration, or including a qualification on their recommendation to this effect,

does not contravene this clause 6.1 or clause 6.3 or any other provision of this agreement provided that Target uses its best endeavours to procure the Target Board publicly

confirms that it has not withdrawn, adversely revised, adversely modified or adversely qualified its recommendation of the Scheme when making any such statement.

- (e) Target represents and warrants to Bidder that, as at the date of this agreement, Target has received commitments to make an Election to receive HoldCo Shares prior to the Election Date from the Key Rolling Shareholders in aggregate in respect of not less than a total of 14.15 million Target Shares (being, in aggregate, approximately 30% of Target Shares on issue), subject to:
- (i) no Superior Proposal emerging; and
 - (ii) the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Target Shareholders.
- (f) Target must ensure that its Announcement and the Explanatory Booklet includes a statement that the Target has received commitments to make an Election to receive HoldCo Shares prior to the Election Date from the Key Rolling Shareholders in aggregate in respect of not less than a total of 14.15 million Target Shares (being, in aggregate, approximately 30% of Target Shares on issue), subject to:
- (i) no Superior Proposal emerging; and
 - (ii) the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Target Shareholders.

6.2 Exclusion from Recommendation

The obligation of Target under clause 6.1 to ensure that each Target Director provides and maintains the Recommendation is qualified to the extent that any Target Director considers, after first obtaining written advice from independent Senior or King's Counsel of the Victorian or New South Wales bar that they should not provide or continue to maintain any Recommendation (positive or adverse) because that Target Director has an interest in the Scheme that is so materially different from other Target Shareholders which would properly preclude or render it inappropriate for them to provide any such recommendation (in which case, Target's obligations under this clause 6 cease to apply only in respect of the Recommendation of each Target Director(s) to which this clause 6.2 applies and not the Recommendations of the other Target Director(s)) (if any).

6.3 Confirmation

Target represents and warrants to Bidder that each Target Director has confirmed their 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 clause 6.1(b) or as otherwise permitted under the terms of this agreement.

6.4 Promotion of Scheme

During the Exclusivity Period, Target must procure that the senior executives of Target or its Related Bodies Corporate as reasonably requested by Bidder participate in efforts to promote the merits of the Scheme, including:

- (a) meeting with key Target Shareholders;
- (b) communicating with Target's employees, customers and suppliers and the employees, customers and suppliers of Target's Related Bodies Corporate; and
- (c) communicating with the public to promote the merits of the Scheme, subject only to:
 - (i) the Independent Expert not having concluded in the Independent Expert's Report that the Scheme is not in the best interest of Target Shareholders; and
 - (ii) there being no Superior Proposal,

in each case, except where all or a majority of the Target Directors have withdrawn, adversely revised, adversely modified or adversely qualified their recommendation of the Scheme as permitted under clause 6.1.

7. Scheme – parties' respective implementation obligations

7.1 Target's obligations

Subject to any withdrawal or modification of the recommendation by the Target Directors that is permitted by clause 6.1(c), Target 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 Scheme as soon as reasonably practicable 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 7.3;
- (b) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Target Information;
- (c) **(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;
- (d) **(review of draft Independent Expert's Report)** on receipt from the Independent Expert, provide Bidder with the draft report received from the Independent Expert for factual accuracy review (noting that any draft of the Independent Expert's Report provided to Bidder for review will not include those sections containing the Independent Expert's opinion), and promptly give to the Independent Expert any comments that Bidder provides Target in relation to factual matters regarding Bidder in any draft of the Independent Expert's Report;
- (e) **(information provided to the Independent Expert)** ensure that all information provided by or on behalf of Target to the Independent Expert is provided in good faith and, on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report for inclusion in the Explanatory Booklet, is true and correct in all material respects and is not misleading or deceptive in any material respects, including by omission;
- (f) **(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 Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to ASX for its review and approval for the purposes of Listing Rule 15.1.3 and Appendix 7A to the Listing Rules;
- (g) **(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 (including an advance draft of the Independent Expert's Report), in a form approved in accordance with clauses 7.1(f) and 7.2(g), 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 Listing Rule 15.1.3 and 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 Bidder reasonably informed of any matters raised by ASIC or ASX in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with Bidder, to resolve any such matters (provided that, where any matters relate to Bidder Information or Combined Group Information, Target must not take any steps to address them with ASIC or ASX (as applicable) without the prior written consent of Bidder), not to be unreasonably withheld or delayed);

- (h) **(apply for ASX and ASIC relief)** use its reasonable endeavours to obtain all waivers, exemptions and modifications from ASX and ASIC as may be required to facilitate the implementation of the Scheme;
- (i) **(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 Target Board, or of a committee of the Target Board appointed for the purpose, is held to consider approving the Explanatory Booklet for dispatch to the Target Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (j) **(section 411(17)(b) statement)** apply to ASIC for the production of a statement in writing under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (k) **(confirmation of no objection from ASX)** request ASX to confirm that it has no objection to the draft Explanatory Booklet;
- (l) **(first Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 7.1(i) and 7.2(g) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting;
- (m) **(registration of explanatory statement)** subject to receipt from Bidder of the written confirmation referred to in clause 7.2(f), request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (n) **(information)** promptly provide, and direct the Target share registry to provide, reasonable information about the Scheme and Target Shareholders to Bidder and its Authorised Persons, which Bidder requests and reasonably requires in order to:
- (i) canvass views on the Scheme by Target Shareholders;
 - (ii) understand the status of Elections by Target Shareholders;
 - (iii) facilitate the provision by, or on behalf of, Bidder of the Scheme Consideration; or
 - (iv) review the tally of proxy appointments and directions received by Target before the Scheme Meeting;
- (o) **(convene Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the Target Shareholders and convening and holding the Scheme Meeting and must not adjourn or postpone the Scheme Meeting or request the Court to adjourn or postpone the Scheme Meeting in either case without obtaining the prior written approval (which approval must not be unreasonably withheld, delayed or conditioned) of the Bidder;
- (p) **(supplementary disclosure)** if, after despatch of the Explanatory Booklet, it becomes aware:
- (i) that information included in the Explanatory Booklet is or has become false or misleading in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Target Shareholders under any applicable law (including RG 60),
- promptly consult in good faith with Bidder as to the need for, and form of, any supplementary disclosure to Target Shareholders, and make any such disclosure as it considers reasonably necessary as soon as reasonably practicable and having regard to applicable laws (including RG 60);
- (q) **(Court approval application if parties agree that conditions are capable of being satisfied)** if the resolution submitted to the 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 Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the

proposed Second Court Date, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme;

- (r) **(appeal process)** if the Court refuses to make any orders directing Target to convene the Scheme Meeting or approving the Scheme:
- (i) consult with Bidder in good faith as to whether to appeal the Court's decision; and
 - (ii) if decided by Target in its discretion (but having regard to those consultations with Bidder), appeal the court decision;
- (s) **(lodgement of Court order)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme before 5.00pm on the Business Day following the day on which such office copy is received (or such later date as agreed by Bidder);
- (t) **(implementation of Scheme)** subject to the Scheme becoming Effective:
- (i) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
 - (ii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to Bidder on the Implementation Date; and
 - (iii) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (u) **(Bidder Information)**
- (i) seek approval from Bidder for the form and context in which the Bidder Information appears in the Explanatory Booklet, which approval Bidder must not unreasonably withhold or delay, and Target must not lodge the Explanatory Booklet with ASIC until such approval is obtained from Bidder; and
 - (ii) without the prior written consent of Bidder, not use the Bidder Information for any purposes other than those contemplated by this agreement or the Scheme;
- (v) **(Bidder representation at Court hearings)** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court hearing;
- (w) **(documents)** consult with Bidder in relation to the content of the documents required for the purpose of the Scheme including originating process, affidavits, submissions and draft minutes of Court orders and consider in good faith any reasonable comments provided by or on behalf of Bidder on those drafts, provided that such comments are provided in a timely manner;
- (x) **(Target Shareholder support)** promote to its shareholders the merits of the Scheme and encourage Target Shareholders to vote on the Scheme in accordance with the recommendation of the Target Board, including soliciting proxy votes in favour of the Scheme and if requested by Bidder, procuring that senior Target Group employees provide Bidder with information and assistance reasonably requested to enable it to promote the merits of the Scheme;
- (y) **(quotation of Target Shares and ASX delisting)** apply to ASX to have:
- (i) trading in Target Shares suspended with effect from the close of trading on the Effective Date; and
 - (ii) Target removed from the official list of ASX with effect from:
 - (A) the close of trading on the Business Day immediately following the Implementation Date; or
 - (B) such other later date after the Implementation Date to be determined by Bidder,

and not do anything to cause any of these things to happen before the relevant date specified in this clause 7.1(y) without the prior consent of Bidder;

- (z) (**ASX listing**) maintain Target's admission to the official list of ASX and the quotation of Target Shares on ASX up to and including the Implementation Date (except in respect of the suspension from quotation described in clause 7.1(y));
- (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; and
- (bb) (**all other things necessary**) all other actions and do all things reasonably necessary or desirable to give effect to the Scheme having regard to the Timetable and the other provisions of this agreement.

7.2 Bidder's obligations

Bidder must take all steps reasonably necessary to assist Target to implement the Scheme as soon as reasonably practicable after the date of this agreement and substantially in accordance with the Timetable including taking each of the following steps:

- (a) (**Bidder Information**)
 - (i) provide to Target, in a form appropriate for inclusion in the Explanatory Booklet, all Bidder Information that is required by all applicable laws, including the Corporations Act, the Corporations Regulations, RG 60, any applicable Takeovers Panel policy and guidance notes and the Listing Rules; and
 - (ii) provide Target with drafts of the Bidder Information and consider in good faith any reasonable comments provided by or on behalf of Target;
- (b) (**due diligence and verification**) undertake appropriate due diligence and verification processes in relation to the Bidder Information;
- (c) (**Independent Expert**) provide all assistance and information reasonably requested by the Independent Expert in connection with the factual accuracy or other technical information relating to 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 Target and provide comments on those drafts in good faith;
- (e) (**liaison with ASIC**) provide reasonable assistance to Target to assist Target to resolve any matter raised by ASIC regarding the Explanatory Booklet or the Scheme during its review of the Explanatory Booklet;
- (f) (**confirmation of Bidder Information**) confirm in writing to Target before 5:00pm on the day before the First Court Date that:
 - (i) it consents to the inclusion of the Bidder Information in the Explanatory Booklet, in the form and context in which the Bidder Information appears; and
 - (ii) the Bidder Information, in that form and context, is not false or misleading in any material respect (whether by omission or otherwise) and otherwise complies with all applicable laws, RG 60, any applicable Takeovers Panel policy and guidance notes and the Listing Rules;
- (g) (**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 appropriate representatives of Bidder is held to consider approving the Bidder Information as being in a form appropriate for provision to ASIC and ASX for review;
- (h) (**apply for ASX and ASIC relief**) use its reasonable endeavours to obtain all waivers, exemptions and modifications from ASX and ASIC as may be required to facilitate the implementation of the Scheme;
- (i) (**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 appropriate representatives of Bidder is held to consider approving the

Bidder Information for inclusion in the Explanatory Booklet, subject to approval of the Court;

- (j) (**update Bidder Information**) promptly advise Target in writing if it becomes aware:
 - (i) of information which should have been included in any Bidder Information previously provided to Target, and promptly provide to Target all such information; or
 - (ii) that any Bidder Information previously provided to Target is false or misleading in any material respect (whether by omission or otherwise), and promptly provide Target with all information required to correct the misleading or deceptive statements;
- (k) (**representation**) unless the parties otherwise agree, procure that Bidder is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (l) (**Target Information**) without the prior written consent of Target, not use Target Information for any purposes other than those contemplated by this agreement or the Scheme;
- (m) (**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;
- (n) (**Scheme Consideration**) if the Scheme becomes Effective, pay or procure the payment of the Scheme Consideration in accordance with the terms of the Scheme and the Deed Poll; and
- (o) (**all other things necessary**) all other actions and do things reasonably necessary or desirable to give effect to the Scheme having regard to the Timetable.

7.3 Explanatory Booklet - preparation principles

- (a) As soon as reasonably practicable after the date of this agreement and substantially in accordance with the Timetable, and subject to clause 7.2(a) Target must prepare the Explanatory Booklet in compliance with:
 - (i) all applicable laws, including the Corporations Act, the Corporations Regulations, RG 60, any applicable Takeovers Panel policy and guidance notes and the Listing Rules; and
 - (ii) this clause 7.3.
- (b) The Explanatory Booklet will include:
 - (i) the terms of the Scheme;
 - (ii) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting and an Election Form;
 - (iii) the Target Information;
 - (iv) the Bidder Information;
 - (v) the Combined Group Information;
 - (vi) a summary of this agreement;
 - (vii) a copy of the executed Deed Poll;
 - (viii) a copy of the Independent's Expert Report; and
 - (ix) an advanced draft of the HoldCo Shareholders Deed.

- (c) The Explanatory Booklet must include a statement to the effect that:
- (i) the Target Information has been prepared by Target and is the responsibility of Target, and that none of Bidder or its Related Bodies Corporate or their respective directors, officers or employees assumes any responsibility or liability for the accuracy or completeness of the Explanatory Booklet (other than the Bidder Information); and
 - (ii) the Bidder Information has been provided by Bidder and is the responsibility of Bidder, and none of Target or its Related Bodies Corporate or their respective directors, officers or employees assumes any responsibility or liability for the accuracy or completeness of the Bidder Information.
- (d) Target must make available to Bidder drafts of the Explanatory Booklet (excluding any part of the draft of the Independent Expert's Report which contains the Independent Expert's opinion) in a timely manner, consult with Bidder in relation to the content of those drafts (other than the Bidder Information), and consider in good faith (and, where applicable and appropriate, promptly provide to the Independent Expert in writing), for the purpose of amending those drafts, comments from Bidder on those drafts. Bidder acknowledges and agrees that Target 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 Bidder Information and the Combined Group Information.
- (e) If Target and Bidder 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 complete 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 Bidder Information, the Target Board will, acting in good faith, decide the final form or content of the disputed part of the Explanatory Booklet (acting reasonably and in good faith); and
 - (ii) if the disagreement relates to the form or content of the Bidder Information or the Combined Group Information, Target will make such amendments to the form or content of the disputed part of the Bidder Information or Combined Group Information as required by Bidder (acting reasonably and in good faith).
- (f) Target must take all reasonable steps to ensure that the Target Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is dispatched to Target Shareholders.
- (g) Bidder must take all reasonable steps to ensure that the Bidder 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 Target Shareholders.
- (h) Target and Bidder each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of Target Shareholders and Bidder 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 7.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

8. Conduct of business before the Implementation Date

8.1 Conduct of Target business

- (a) Subject to clause 8.2(a), from the date of this agreement up to and including the Implementation Date, and without limiting any other obligations of Target under this agreement, Target must:
- (i) conduct and must cause each member of the Target Group to conduct and operate their businesses:
 - (A) in the ordinary and usual course of business:

- (B) consistent with past practice, in substantially the same manner as previously conducted in the 12 month period prior to the date of this agreement and use its reasonable endeavours to operate those businesses generally and materially consistent with the business plan and budget for the Target Group for the financial year ending 30 June 2024, disclosed in the Disclosure Materials; and
- (C) in accordance with applicable laws;
- (ii) cause each member of the Target Group to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all officers and key employees;
- (iii) ensure that all assets are maintained in the normal course and consistent with past practice;
- (iv) maintain at least the level of insurance current as at the date of this agreement and promptly notify Bidder if any insurance which is material to the operations of the Target Group is not accepted for renewal by the relevant insurer;
- (v) comply in all material respects with all material contracts to which a member of the Target Group is a party, and with laws, authorisations and licences applicable to each member of the Target Group;
- (vi) promptly notify Bidder of any material claims with a net claim amount in excess of \$250,000 which may be threatened, brought, asserted or commenced against any member of the Target Group, or their officers, and consult with the other party in relation to such matter to the extent the other party reasonably requires;
- (vii) not, and must procure that each Target Group Member does not, make, change or revoke any material Tax election or file any amendment to a material Tax return;
- (viii) not, and must procure that each Target Group Member does not, settle or compromise any material liability relating to a Tax audit, dispute, litigation or other proceeding, or consent to any extension or waiver of a limitation period applicable to such proceeding;
- (ix) not appoint any new directors to the Target Board and the boards of Target's subsidiaries;
- (x) not take any action that constitutes a Prescribed Occurrence or take or fail to take any action that could reasonably be expected to result in a Prescribed Occurrence; and
- (xi) not take or fail to take any action that would, or would be likely to, prevent a Condition being satisfied or result in a Condition not being satisfied.
- (b) Without limiting clause 8.1(a) but subject to clause 8.2(a), Target must not, and must procure that each member of the Target Group does 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 or commit to any additional Financial Indebtedness (except for draw-downs on existing banking facilities (including revolving facilities) or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the Target Group, other than in the usual and ordinary course of business and consistent with past practice, and excluding asset leases required in the usual and ordinary course of business and consistent with past practice (including any asset leases or asset hire purchase arrangements that may be entered into in connection with the acquisition of assets otherwise permitted by clause 8.1(b)(iii) or 8.1(b)(v));
- (ii) 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 to which one or more members of the Target Group are a party;

- (iii) acquire, lease or dispose (or agree to acquire, lease or dispose) any business, asset, entity, or undertaking of any business or entity, the value of, or consideration payable for, which exceeds A\$100,000 (individually) or A\$500,000 (in aggregate with all such acquisitions), other than in respect of acquisitions or leases required for any member of the Target Group to comply with its contractual obligations under extensions of existing contractual arrangements (to the extent that such contractual arrangements and exercised extensions or material details of any extensions that are proposed to be exercised have been Fairly Disclosed in the Target Due Diligence Material) or under any new contractual arrangements for the provisions of services to customers (to the extent that the material details of those new contractual arrangements have been set out in the Target Disclosure Letter or Bidder has otherwise previously approved Target entering into those new contractual arrangements);
- (iv) enter into a new contract or materially vary or terminate (or agree to enter into or materially amend or terminate) any contract existing as at the date of this agreement, under which the Target Group will incur, or is expected to incur, A\$500,000 or more in costs or expenditure in any financial year during the term of that contract (individually) or A\$2,000,000 or more in costs or expenditure in any financial year during the term of that contract (aggregated with all other such contracts), other than:
 - (A) a contract in respect of Financial Indebtedness, which is dealt with in paragraph (i) above;
 - (B) a contract in respect of capital expenditure, which is dealt with in paragraph (v) below; or
 - (C) to the extent such expenditure is permitted by clause 8.1(b)(iii) or 8.1(b)(v);
- (v) incur any expenditure in respect of a capital expenditure item for an amount in excess of A\$100,000 (individually) or A\$500,000 (in aggregate with all other such expenditure), other than in relation to a capital expenditure item, or series of related capital expenditure items, in respect of a capital project that was Fairly Disclosed in the Target Due Diligence Material and other than in respect of acquisitions or leases required for any member of the Target Group to comply with its contractual obligations under extensions of existing contractual arrangements (to the extent that such contractual arrangements and exercised extensions or material details of any extensions that are proposed to be exercised have been Fairly Disclosed in the Target Due Diligence Material) or under any new contractual arrangements for the provisions of services to customers (to the extent that the material details of those new contractual arrangements have been set out in the Target Disclosure Letter or Bidder has otherwise previously approved Target entering into those new contractual arrangements);
- (vi) commence or settle any legal proceeding, claim, investigation or arbitration where the claimed or settlement amount is in excess of A\$200,000 (individually) or A\$1,000,000 (in aggregate with any other such claimed or settlement amounts), other than:
 - (A) as claimant in respect of the collection of debts arising in the ordinary course of the Target Group's business; or

- (B) in respect of an actual or potential legal proceeding, claim, investigation or arbitration for which a provision has been made by the Target Group, provided that the provision has been Fairly Disclosed in the Target Due Diligence Material and the relevant member of the Target Group does not commence or settle any actual or potential legal proceeding, claim, investigation or arbitration in respect of the relevant matter where the claimed or settlement amount is materially in excess of the reference amount set out in the Target Disclosure Letter;
- (vii) change in any material respect any accounting policy applied by it to report its financial position, other than any change required by a change in accounting standards (including the Accounting Standards), or the interpretation of them, or law;
- (viii) except as required by law or as provided in an existing contract in place as at the date of this agreement and which has been Fairly Disclosed in the Target Due Diligence Material, enter into or make any material change to the terms of employment of (including increasing the remuneration or compensation of), any person, including an officer, director, executive or other employee, whose total employment cost exceeds \$200,000 (**Target Key Person**), 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 Target Due Diligence Material and other than pay reviews in the ordinary course of business;
- (ix) increase the remuneration or compensation of any person, including an officer, director, executive or other employee of the Target Group that would result in an increase of \$20,000 (in aggregate) other than pursuant to contractual arrangements in effect on the date of this agreement and which are Fairly Disclosed in the Target Due Diligence Material and other than pay reviews in the ordinary course of business;
- (x) amend the terms of any option, performance right, incentive or share plan;
- (xi) other than as contemplated under clause 5 or as agreed between Target and Bidder in writing, accelerate the rights of any of their directors or employees to compensation or benefits of any kind (including under any option, performance right, incentive or share plan) for, in aggregate, in excess of \$250,000;
- (xii) terminate or encourage the resignation of a Target Key Person, except for cause (acting reasonably) in accordance with contractual arrangements in effect on the date of this agreement or otherwise in accordance with current personnel practices;
- (xiii) pay any of its officers, directors, executives or other employees a bonus, severance, termination or retention payment in excess of \$250,000 (in aggregate), other than pursuant to contractual arrangements in effect on the date of this agreement and which are Fairly Disclosed in the Target Due Diligence Material and other than annual bonus appropriations in the ordinary course of business;
- (xiv) settle or compromise any dispute, audit or inquiry in relation to tax or duty or amends any tax return, other than in the ordinary course of its business;
- (xv) enter into, vary or terminate:
- (A) any joint venture or partnership (or any series of related joint ventures or partnerships) involving total expenditure greater than \$500,000, individually or when aggregated with all such related joint ventures or partnerships;
- (B) any contract, joint venture, partnership or commitment (or any series of contracts, joint ventures, partnerships or commitments):
- (I) restraining any material member of the Target Group from competing with any person or conducting activities in any market;
or

- (II) with any related entity (as defined in section 228 of the Corporations Act) of any member of the Target Group (other than a member of the Target Group);
- (xvi) waive any third party default under any contract, joint venture, partnership or commitment which has a financial impact upon the Target Group, or accepting as a compromise anything less than the full compensation due to the Target Group, in each case where the applicable expenditure or impact is or will be in excess of \$500,000 in any financial year;
 - (xvii) write-down any of its material assets other than in accordance with the Accounting Standards;
 - (xviii) enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this agreement;
 - (xix) enter into or resolve to enter into a transaction with any related party of Target (other than a related party which is a member of the Target Group) as defined in section 228 of the Corporations Act which would require shareholder approval under Chapter 2E or under Chapter 10 of the Listing Rules, except on arm's length terms;
 - (xx) issue, or agree to issue, or grant an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been Fairly Disclosed in the Target Due Diligence Material;
 - (xxi) alter in any material respect any accounting policy of any Member of the Target Group other than any change required by AIFRS or IFRS (as applicable); or
 - (xxii) except under contractual arrangements in effect on the date of this agreement and which are Fairly Disclosed in the Target Due Diligence Material, enter into any enterprise bargaining agreement or similar collective employment agreement.

8.2 Permitted activities

- (a) The obligations of Target under clause 8.1 do not apply in respect of any matter:
 - (i) required to be done or procured by Target under this agreement or the Scheme;
 - (ii) required by law, Accounting Standards, contract (but only to the extent such contract was entered into before the date of this agreement or otherwise in accordance with this agreement) or by an order of a court or Governmental Agency;
 - (iii) required in order to pay any tax or duty when due;
 - (iv) required to obtain insurances for the Target Group (or any member thereof) or the business conducted by the Target Group (or any member thereof) in ordinary course and consistent with past practice;
 - (v) Fairly Disclosed in:
 - (A) the Target Due Diligence Material;
 - (B) an announcement made by Target to the ASX 12 months prior to the date of this agreement; or
 - (C) the Relevant Searches,
 as being actions that the Target Group may carry out between the date of this agreement and the Implementation Date;

- (vi) required to be done or procured by Target to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property, or a disease epidemic or pandemic); or
- (vii) the undertaking of which Bidder has approved in writing.

8.3 Access to Target information

- (a) Subject to clauses 8.3(b), 8.3(c) and 8.3(d), from and including the date of this agreement up until and including the Implementation Date, Target must ensure that Target and the Target Group:
 - (i) respond to any reasonable request from Bidder and its Authorised Persons (including in response to requests for information from financial markets and Governmental Agencies) for information concerning the Target Group and its business and operations;
 - (ii) keep Bidder fully informed of all material developments relating to the Target Group and provide to Bidder monthly management, financial and operational reports provided to the Target Board; and
 - (iii) provide Bidder and its Authorised Persons reasonable access to officers and employees, offices and other facilities, and books and records of members of the Target Group, and otherwise provide reasonable co-operation to Bidder and its Authorised Persons, for the purpose of doing all things necessary or desirable under this agreement or in connection with the Proposed Transaction (including compliance with any regulatory or financial market reporting requirements), and any plans for the integration of the Target Group into the Bidder Group following the Implementation Date.
- (b) Nothing in this clause 8.3 requires Target to provide Bidder with any information:
 - (i) concerning or in connection with any actual, proposed or potential Competing Proposal (including a Target Director's, the Target Board's (or any sub-committee of the Target Board's) and management's consideration of any actual, proposed or potential Competing Proposal) provided that nothing in this clause 8.3(b) limits the obligations of Target in clause 16;
 - (ii) concerning the Target Group's business that is, in the reasonable opinion of Target, commercially sensitive;
 - (iii) in breach of any applicable law, regulatory requirement, authorisation or court order;
 - (iv) if to do so would or would be reasonably likely to result in a waiver of legal professional privilege or breach any confidentiality obligation owed to a third party, including under any agreements agreed prior to the date of this deed; or
 - (v) concerning the consideration of the Proposed Transaction by the Target Board or Target management.
- (c) Bidder must, and must procure that each of its Authorised Persons and each other member of the Bidder Group and their respective Authorised Persons:
 - (i) keep all information obtained by it or them as a result of the operation of this clause 8.3 confidential in accordance with the terms of the Confidentiality Deed;
 - (ii) provide Target with reasonable notice of any request for information or access; and
 - (iii) comply with the reasonable requirements of Target in relation to any access granted.
- (d) Target will provide reasonable assistance to Bidder for the purpose of satisfying Target's obligations under this clause 8.3 but nothing in this clause 8.3 requires Target to provide access to its people or documentation or to take any other action would disrupt the usual and ordinary course of its businesses and operations.

8.4 Change of control rights

As soon as practicable after the date of this agreement and in relation to any change of control or similar provisions in leases, licences and material contracts to which Target or a Target Group company is a party which may be triggered by the implementation of the Proposed Transaction, the parties agree as follows:

- (a) Target and Bidder will agree a proposed course of action to obtain any consents required in accordance with the terms of any identified change of control requirements and then jointly initiate contact with the relevant landlords and other counterparties and request that they provide any consents required (unless otherwise agreed by the parties). If it is agreed between Target and Bidder that Target will initiate contact with the relevant landlord and other counterparties to request that they provide any consents required in accordance with any such course of action agreed between Target and Bidder, Target must do so as soon as reasonably practicable after such course of action has been agreed between Target and Bidder.
- (b) Target must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents as expeditiously as possible, including by:
 - (i) promptly providing any information reasonably required by landlords or counterparties; and
 - (ii) making representatives available, where necessary, to meet with landlords or counterparties to deal with issues arising in relation to the change of control of Target.
- (c) Target must not, without the prior written consent of Bidder which must not be unreasonably withheld or delayed, incur any costs other than reasonable travel and legal expenses in connection with performing its obligations under this clause.

8.5 Financing arrangements

- (a) Between the date of this agreement and the Implementation Date, Target must provide assistance requested by Bidder in connection with any repayment of the Target Group's Financial Indebtedness that Bidder reasonably requires in connection with the Proposed Transaction, including:
 - (i) liaising with its creditors to obtain information on any of the Target Group's financial indebtedness or Security Interests granted by any of them;
 - (ii) providing Bidder with information reasonably requested by Bidder in relation to use of existing cash reserves of the Target Group for such purpose;
 - (iii) issuing repayment notices in relation to the existing Target Group debt facilities; and
 - (iv) using reasonable endeavours to procure discharge of registrations on the PPS Register from secured parties in relation to any Security Interests granted by a Target Group Member in favour of that party (other than Permitted Security Interests or registrations in respect of Financial Indebtedness that will remain on foot following Implementation),

provided that nothing in this clause 8.5 will require any Financial Indebtedness to be repaid at any time prior to the Implementation Date.

- (b) Subject to confidentiality arrangements reasonably acceptable to Target, Target agrees to provide reasonable assistance in connection with the arrangement or syndication of any debt financings by any member of the Bidder Group (**Transaction Financing**) as may be reasonably requested by Bidder and from time to time, including:
 - (i) furnishing Bidder and the financing sources of Bidder Group within a reasonable timeframe with financial and other pertinent information regarding the Target Group or an entity in which any member of the Target Group has an investment, as may be reasonably requested by Bidder;

- (ii) providing reasonable information in relation to acquisitions proposed to be made by the Target Group after the date of this agreement;
- (iii) providing reasonable assistance in facilitating the grant of security over shares and units held by the Target Group Members in connection with the Transaction Financing; and
- (iv) providing reasonable information required to complete a reconciliation of financial statements to applicable accounting standards,

provided, in each case, that no Target Group Member will be required to incur any liability in connection with any Transaction Financing (other than remuneration of its employees) prior to implementation of the Scheme that is not reimbursable by Bidder.

- (c) Nothing in this clause 8.5 will require co-operation to the extent that it would cause any Condition Precedent to not be satisfied or otherwise cause a breach of this agreement

9. Actions on and following Implementation Date

9.1 Reconstitution of the board of each member of the Target Group

- (a) At least 5 Business Days prior to the Implementation Date, the Bidder must notify the Target in writing the details of the proposed directors and company secretaries (if applicable) to be appointed in respect of each member of the Target Group on and from the Implementation Date.
- (b) On the Implementation Date, but subject to the Scheme Consideration having been paid and provided by Bidder and receipt by Target of signed consents to act from the incoming directors and company secretaries (if applicable), Target must take all actions necessary (and in accordance with the constitution of the relevant Target Group member, the Corporations Act and the Listing Rules and terms of any statutory licence applicable to Target Group) to appoint the persons nominated by Bidder as new Target Directors and new directors of each member of the Target Group.
- (c) Without limiting clause 9.1(a), on the Implementation Date, Target must (other than in respect of any directors Bidder agree will continue to be directors) procure that:
 - (i) all outgoing Target Directors and the company secretary resign from the Target Board; and
 - (ii) all outgoing directors and (if applicable) company secretaries of each member of the Target Group resign from their office,

by providing to the relevant board his or her resignation in writing (such resignation to include an acknowledgement to the effect that they have no claim outstanding against Target or any member of the Target Group in their capacity as a director (without prejudice to any rights they may have under any deed of indemnity, access and insurance (or similar), policy of directors' and officers' insurance, an indemnity given to the director under the constitution of a member of the Target Group (including under the Target constitution) or this agreement or the Scheme), and in each case, in accordance with the relevant entities' constituent documents, the Corporations Act and the Listing Rules.

9.2 Sequence of actions on the Implementation Date

- (a) On the Business Day prior to the Implementation Date, Bidder will deposit (or procure the deposit of) the Cash Consideration into the specified Target trust account in accordance with the Scheme.
- (b) On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:
 - (i) Target will commence the distribution of the Cash Consideration to Scheme Shareholders in accordance with the Scheme;

- (ii) Bidder will issue the Scrip Consideration to relevant Scheme Shareholders in accordance with the Scheme including entering the names of the relevant Scheme Shareholders in the Bidder's register of members;
- (iii) Bidder will acquire all of the Scheme Shares in accordance with the Scheme;
- (iv) the Target Board and the board of each member of the Target Group will be reconstituted in accordance with clause 9.1; and
- (v) Target will apply to ASX to be removed from the official list of ASX with effect from the Business Day after the Implementation Date.

10. Representations and warranties

10.1 Bidder representations

- (a) Subject to clause 10.3, Bidder represents and warrants to Target (on Target's own behalf and separately as trustee for each of the other Target Indemnified Parties) each of the matters set out in clause 10.1(b) as at the date of this agreement, the date at the date the Explanatory Booklet is registered under section 412(6) of the Corporations Act and at 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) Bidder represents and warrants that:
 - (i) Bidder 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 Bidder 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 Bidder is a party or is bound;
 - (iv) the Bidder Information provided to Target in accordance with clause 7.2(a) for inclusion in the Explanatory Booklet will:
 - (A) comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60, any applicable Takeovers Panel policy and guidance notes and the Listing Rules; and
 - (B) be provided in good faith on the understanding that each of the Target Indemnified Parties will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;
 - (v) all information provided by or on behalf of Bidder 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, to the extent accepted by the Independent Expert, 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 Target Shareholders, the Bidder 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) with any statement of belief or opinion being honestly held and formed on a reasonable basis;
 - (vii) Bidder will, as a continuing obligation, provide to Target all such further or new information which may arise after the Explanatory Booklet has been dispatched

until the date of the Scheme Meeting which is necessary to ensure that the Bidder 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) all factual information forming part of the Bidder Information provided to Target prior to this agreement has been provided in good faith and is, to the best of Bidder's knowledge, accurate in all material respects and not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information;
- (ix) no member of the Bidder Group:
 - (A) has a Relevant Interest in, or a right to acquire, any securities of Target; or
 - (B) has entered into any agreement or arrangement that confers rights the economic effect of which is equivalent or substantially equivalent to holding, acquiring or disposing of securities in or assets of Target or any other member of the Target Group;
- (x) an Insolvency Event has not occurred in relation to it or any other member of the Bidder Group;
- (xi) as at the date of this agreement Bidder has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts from internal cash resources to satisfy Bidder's obligation to pay the Cash Consideration in accordance with its obligations under this agreement, the Scheme and the Deed Poll;
- (xii) by the Delivery Time on the Second Court Date, Bidder 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 Bidder) sufficient cash amounts from internal cash resources to satisfy Bidder's obligation to pay the Cash Consideration in accordance with its obligations under this agreement, the Scheme and the Deed Poll;
- (xiii) Bidder will have available to it on the Implementation Date sufficient cash amounts from internal cash resources to satisfy Bidder's obligation to pay the Cash Consideration in accordance with its obligations under this agreement, the Scheme and the Deed Poll;
- (xiv) on issue, each HoldCo Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest, or any third party right (except pursuant to the HoldCo Shareholders Deed); and
- (xv) unless otherwise agreed with Target, as at the Implementation Date (immediately after implementation has occurred) the direct and indirect ownership of HoldCo and details of the securities on issue in HoldCo will be consistent with the position notified in writing by Bidder to Target prior to the date of this agreement.

10.2 Bidder's indemnity

Subject to clause 10.3, Bidder agrees with Target (on Target's own behalf and separately as trustee or nominee for each of the other Target Indemnified Parties) to indemnify and keep indemnified the Target Indemnified 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 Target Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 10.1(a) or 10.1(b).

10.3 Qualifications on Bidder's representations, warranties and indemnities

The representations and warranties in clause 10.1 and the indemnity in clause 10.2 are each subject to matters which:

- (a) are expressly provided or contemplated for in this agreement or the Scheme; or
- (b) are within the actual knowledge of Target as at the date of this agreement, which for these purposes is taken to include (and be limited to) the facts, matters and circumstances of which the individuals agreed by the parties in the Target Disclosure Letter are actually aware as at the date of this agreement; or
- (c) are required by law, Accounting Standards, contract (but only to the extent such contract was entered into before the date of this agreement or otherwise in accordance with this agreement) or by an order of a court or Governmental Agency.

10.4 Target representations

- (a) Subject to clause 10.6, Target represents and warrants to Bidder (on its own behalf and separately as trustee for each of the Bidder Indemnified Parties) each of the matters set out in clause 10.4(b) as at the date of this agreement, the date at the date the Explanatory Booklet is registered under section 412(6) of the Corporations Act and at 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) Target represents and warrants that:
 - (i) Target is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this agreement by Target has been properly authorised by all necessary corporate action and Target 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 Target 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 Target or any of its Subsidiaries is a party or to which they are bound;
 - (iv) the Target Information contained in the Explanatory Booklet will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60, any applicable Takeovers Panel policy and guidance notes and the Listing Rules;
 - (v) all information provided by or on behalf of Target 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, to the extent accepted by the Independent Expert, 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 Target Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the Bidder Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise) with any statement of belief or opinion being honestly held and formed on a reasonable basis;
 - (vii) as at the date of this agreement, the total issued capital of Target is as set out in Schedule 5 and there are no other Target options, warrants, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any

- of the foregoing) which are outstanding and may convert into, or give the holder the right to be issued, Target Shares, other than rights as set out in Schedule 5;
- (viii) as at the date of this agreement, Target is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to Bidder on or before the date of this agreement) that a reasonable person would expect to have a material effect on the price or value of Target Shares;
 - (ix) the Target Due Diligence Material has been collated and disclosed in good faith for the purpose of a due diligence process and, in this context, so far as Target is aware after having made all reasonable enquiries, the Target Due Diligence Material is not materially misleading or deceptive in any material respect (including by omission), provided that Target does not make or give any representation or warranty as to the accuracy, completeness or reasonableness of any projection, forecast or other forward-looking information or statement (including in respect of the future financial position, performance or prospects of the Target Group) or of any assumptions on which they are based or that any such projection, forecast, information or statement will, or is likely to be, achieved other than that any statement of belief or opinion in such information or statement is honestly held and formed on a reasonable basis;
 - (x) an Insolvency Event has not occurred in relation to it or any other member of the Target Group;
 - (xi) all contingent benefits which any Target Director may obtain in connection with the Scheme as at the date of this agreement have been Fairly Disclosed to Bidder and:
 - (A) after due consideration with the benefit of external legal advice, the Target Board has concluded that any such benefits ought not prevent any Target Director from making a Recommendation or giving a Voting Intention; and
 - (B) any such contingent benefit will be cited in the Explanatory Booklet where the relevant Target Director Recommendation or Voting Intention is referred to;
 - (xii) Target's:
 - (A) reviewed financial statements for the half year ended 31 December 2022; and
 - (B) audited financial statements for the year ended 30 June 2023,
 each show a true and fair view of the financial position and affairs of the Target Group as at that date and the financial performance and operation of the Target Group for the financial period ending on that date and are not misleading or deceptive in any material respect;
 - (xiii) no member of the Target Group has incurred any contingent or other off-balance sheet liabilities or obligations which are not reflected in Target's reviewed financial statements for the half year ended 31 December 2022 or Target's audited financial statements for the year ended 30 June 2023;
 - (xiv) Target is not aware of any information relating to the Target 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;
 - (xv) there are no:
 - (A) current Material Proceedings, or
 - (B) as far as the Target is aware, pending or threatened Material Proceedings, in each case against any member of the Target Group;

- (xvi) during the 5 year period prior to the date of this agreement, no member of the Target Group nor, to the Target Group's knowledge, any of the officers or directors, of any member of the Target Group has, directly or indirectly, in connection with the business of the Target Group:
- (A) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;
 - (B) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (C) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
 - (D) established or maintained any unlawful fund of corporate monies or other properties;
 - (E) created or caused the creation of any false or inaccurate books and records of any member of the Target Group related to any of the foregoing;
 - (F) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the Target Group; or
 - (G) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any Sanctioned Person and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any Sanctioned Person;
- (xvii) during the five year period prior to the date of this agreement, no current or former director or officer of any member of the Target Group is or was a Sanctioned Person and, so far as Target is aware, no member of the Target Group or any of their respective current or former employees or their respective intermediaries is or was a Sanctioned Person;
- (xviii) other than any Permitted Security Interest or registrations in respect of Financial Indebtedness that are intended to remain on foot following Implementation or are intended to be paid out at Implementation in accordance with clause 8.5, as at the Delivery Time, there will be no Security Interest over all or any of the Target Group's present or future assets or revenues;
- (xix) the Target Group has all material licences, authorisations and permits necessary for it to conduct the business of the Target Group as it is being conducted as at the date of this agreement and:
- (A) as far as the Target is aware, no member of the Target Group is in material breach of, or default under, any such licence, authorisation or permit; or
 - (B) no member of the Target Group has received any notice in respect of the termination, revocation, variation or non-renewal of any such licence, authorisation or permit;
- (xx) as at the date of this agreement, Target has not received notice in writing from any a third party (or is otherwise aware), as a result of the entry into this document and the implementation of the Proposed Transaction, that it intends to exercise a right to terminate a contract which is material to the business of the Target Group or vary the performance of any material obligation of Target under any such contract

or exercise a right to acquire, or require the disposal of, any material assets of the Target Group under any such contract;

- (xxi) as far as Target is aware, Target has provided all information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to materially adversely affect any Financial Indebtedness or debt arrangements of the Target Group, from or after the date of this agreement; and
- (xxii) Target 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 Target Group still has obligations.

10.5 Target's indemnity

Subject to clause 10.6, Target agrees with Bidder (on Bidder's own behalf and separately as trustee for each of the Bidder Indemnified Parties) to indemnify and keep indemnified the Bidder Indemnified 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 Bidder Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 10.4(a) or 10.4(b).

10.6 Qualifications on Target's representations, warranties and indemnities

The representations and warranties in clause 10.4 and the indemnity in clause 10.5 are each subject to matters which:

- (a) are expressly provided for or contemplated in this agreement or the Scheme;
- (b) have been Fairly Disclosed in:
 - (i) the Target Due Diligence Material;
 - (ii) Target's announcements to ASX in the 12 month period prior to the date of this agreement; or
 - (iii) the Relevant Searches;
- (c) are within the actual knowledge of Bidder 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 individuals agreed by the parties in the Target Disclosure Letter are actually aware as at the date of this agreement; or
- (d) are required by law, Accounting Standards, contract (but only to the extent such contract was entered into before the date of this agreement or otherwise in accordance with this agreement and has been disclosed in the Target Due Diligence Material) or by an order of a court or Governmental Agency.

10.7 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 10.

10.8 Survival of representations

Each representation and warranty in clauses 10.1 and 10.4:

- (a) is severable;
- (b) will survive the termination of this agreement;
- (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;
- (d) is to be construed independently; and

- (e) is not limited by any other representation and warranty.

10.9 Survival of indemnities

Each indemnity in this agreement (including those in clauses 10.2 and 10.5) 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. Releases

11.1 Target Indemnified Parties

- (a) Subject to clause 11.1(b)', Bidder (for itself and as agent of every member of the Bidder Group) releases all rights against and agrees with Target that it will not make, and after the Implementation Date it will procure that each Target Group Member will not make, a Claim against, any Target Indemnified Party (other than Target) in connection with:
 - (i) Target's execution or delivery of this agreement;
 - (ii) any breach of any representation, covenant and warranty of Target or any other member of Target Group in this agreement;
 - (iii) the implementation of the Scheme;
 - (iv) any disclosure made by the Target or any Target Indemnified Party including in the Target Due Diligence Material that contains any statement which is false or misleading whether in content or by omission; or
 - (v) any failure to provide information in connection with the Scheme,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except to the extent the relevant Target Indemnified Party has engaged in wilful misconduct, wilful concealment or fraud. To avoid doubt, nothing in this clause 11.1 limits the rights of Bidder to terminate this agreement under clause 13.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Target receives and holds the benefit of this clause as trustee for each other Target Indemnified Party.

11.2 Bidder Indemnified Parties

- (a) Subject to clause 11.2(b), Target (for itself and as agent of every member of the Target Group) releases its rights against, and agrees with Bidder that it will not make a Claim against any Bidder Indemnity Party (other than Bidder) in connection with:
 - (i) Bidder's execution or delivery of this agreement;
 - (ii) any breach of any representation, covenant and warranty of Bidder or any other member of the Bidder Group in this agreement;
 - (iii) the implementation of the Scheme; or
 - (iv) any failure to provide information in connection with the Scheme,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except to the extent that the relevant Bidder Indemnified Party has engaged in wilful misconduct, wilful concealment or fraud. To avoid doubt, nothing in this clause 11.2 limits the rights of Target to terminate this agreement under clause 13.

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

11.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:
- (i) subject to clause 11.3(d), for 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this 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 Target Group; and
 - (ii) procure that Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
- (b) The undertakings contained in clause 11.3(a) 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.
- (c) Target receives and holds for the benefit of clause 11.3(a), to the extent it relates to the other Target Indemnified Parties, as trustee for them.
- (d) The undertakings contained in clause 11.3(a) are given:
- (i) in the case of clause 11.3(a)(i), until the earlier of 7 years from the Implementation Date and the relevant member of the Target Group ceasing to be part of the Bidder Group; or
 - (ii) in the case of clause 11.3(a)(ii), until the earlier of 7 years from the retirement of each director and officer and the relevant member of the Target Group ceasing to be part of the Bidder Group.

11.4 Directors' and officers' insurance

- (a) Bidder acknowledges that Target will in respect of Target and all other members of the Target Group prior to the Effective Date, enter into arrangements to secure directors and officers run-off insurance for a period of 7 years following the Implementation Date (**Run-Off Policy**) and that any actions to facilitate that insurance or in connection with such insurance will not be a Material Adverse Change, a Prescribed Occurrence, a breach of a Target Warranty or a breach of any provision of this agreement or give right to any right to terminate this agreement, provided that:
- (i) the scope of cover of the Run-Off Policy will be on the same or substantially the same terms as the existing insurance policies in place for directors or officers of Target at the date of this agreement;
 - (ii) Target will use reasonable endeavours to obtain reasonable market standard terms for the Run-Off Policy from a reputable insurer; and
 - (iii) the premium for the Run-Off Policy does not exceed an amount consented to by Softbank (such consent not to be unreasonably withheld or delayed).
- (b) Target receives and holds the benefit of this clause as trustee for each other Target Indemnified Party.

11.5 Obligations in relation to directors' and officers' insurance

- (a) From the Implementation Date, Target must not:
- (i) vary or cancel the Run-Off Policy; or

- (ii) unless required under the Run-Off Policy, commit any act or omission that may prejudice any claim by a director or officer of Target under the Run-Off Policy.
- (b) Target receives and holds the benefit of this clause as trustee for each other Target Indemnified Party.

12. Confidentiality and announcements

12.1 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Deed save that the terms of this agreement will prevail over the Confidentiality Deed to the extent of any inconsistency.

12.2 Announcements

- (a) Immediately after the execution of this agreement Target must release the Announcement to the ASX (which each party acknowledges and agrees will attach a copy of this agreement or a redacted version of this agreement that omits personal information, the Timetable and the form of the Scheme, which has been duly executed by Target and Bidder).
- (b) Subject to clauses 12.2(c) and 12.2(d), any further public announcements by either of the parties in relation to, or in connection with the Scheme may only be made in a form approved by the other party in writing (acting reasonably and without unreasonable delay).
- (c) Where a party is required by applicable law, the Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Proposed Transaction or any other transaction the subject of this agreement or the Scheme, it may do so but must:
 - (i) use reasonable endeavours, to the extent practicable and lawful, to consult with the other party;
 - (ii) give the other party as much notice as reasonably practicable; and
 - (iii) consider all reasonable comments from that party and its Authorised Persons (that are provided in a timely manner) on the disclosure, before making the relevant disclosure.
- (d) Clauses 12.2(b) and 12.2(c) do not apply to any announcement or disclosure:
 - (i) where, in the reasonable opinion of the party proposing to make the relevant disclosure, seeking such consent would result in that party breaching its continuous disclosure obligations or other applicable laws; or
 - (ii) in connection with the termination of this agreement or an actual, proposed or potential Competing Proposal (in the case of Target).

12.3 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 12.2 applies to any such statements or disclosures.

13. Termination

13.1 Termination by notice

- (a) Either party may terminate this agreement in accordance with clause 3.7.
- (b) Bidder or Target may, by notice in writing to the other, terminate this agreement at any time prior to the Delivery Time:
- (i) if the other 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 13.2) and the other party has failed to remedy that breach within 10 Business Days (or by 5.00pm on the Business Day prior to 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 to remedy the breach;
 - (ii) if the Court refuses to make any order directing Target to convene the Scheme Meeting, provided that both Target and Bidder have met and consulted in good faith and agreed that they do not wish to proceed with the Scheme; or
 - (iii) if the Effective Date for the Scheme has not occurred or will not occur on or before the End Date.
- (c) Target may, by notice in writing to Bidder, 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 Target Directors as constitutes a majority of the Target Board:
- (i) withdraws, adversely revises, adversely modifies or adversely qualifies their recommendation of the Scheme as permitted under clause 6.1; or
 - (ii) publicly recommend a Superior Proposal; and
- (d) Bidder may, by notice in writing to Target, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if at any time before then any Target Director:
- (i) fails to recommend the Scheme;
 - (ii) withdraws, adversely revises, adversely modifies or adversely qualifies his or her recommendation of the Scheme; or
 - (iii) makes a public statement:
 - (A) that they recommend, endorse or support a Competing Proposal;
 - (B) to the effect that they no longer recommend the Scheme; or
 - (C) that recommends that Target Shareholders accept or vote in favour of a Competing Proposal that is announced (whether or not such proposal is stated to be subject to any pre-conditions) during the Exclusivity Period,
- other than as a result of the circumstances described in clause 6.2, which for the avoidance of doubt will not extend to any Target Director adversely revising or adversely modifying his or her recommendation of the Proposed Transaction or making a public statement indicating that they recommend, endorse or support a Competing Proposal.
- (e) The parties acknowledge and agree that a statement:
- (i) that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal or the completion of the matching right process set out in clause 16.7; or
 - (ii) recommending the Proposed Transaction on the basis of the Cash Consideration only and/or not making any recommendation in relation to the Scrip Consideration,
- will not enliven the Bidder's termination rights under clause 13.1(d).
- (f) This agreement may be terminated by the written agreement of the parties, on such terms as the parties agree.

13.2 Termination for breach of representations and warranties

- (a) Bidder may, by notice in writing to Target, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if Target is in material breach of a Target Warranty in the context of the Scheme taken as a whole (and for this purposes any breach of the Target Warranty in clause 10.4(b)(vii) will be deemed to be a material breach in the context of the Scheme taken as a whole) and Target has failed to remedy that breach within 10 Business Days (or by 5.00pm on the Business Day before the Second Court Date if earlier) of receipt by it of a notice in writing from Bidder setting out details of the relevant circumstance and requesting Target to remedy the breach.
- (b) Target may, by notice in writing to Bidder, terminate this agreement at any time prior to the Delivery Time on the Second Court Date if Bidder is in material breach of a Bidder Warranty in the context of that Scheme taken as a whole and Bidder has failed to remedy that breach within 10 Business Days (or by 5.00pm on the Business Day before the Second Court Date if earlier) of receipt by it of a notice in writing from Target setting out details of the relevant circumstance and requesting Bidder to remedy the breach.

13.3 Effect of termination

- (a) In the event of termination of this agreement under clause 3.7, 13.1 or 13.2, this agreement will become void and have no effect, except that the provisions of this clause 13.3 and clauses 1, 10.8, 10.9, 11, 12.1, 14, 15 and 20.2 to 20.17 (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.

14. Target Break Fee

14.1 Background

- (a) Target and Bidder acknowledge that, if they enter into this agreement and the Scheme is subsequently not implemented, Bidder will incur significant costs including those described in clause 14.2.
- (b) In the circumstances referred to in clause 14.1(a), Bidder has requested that provision be made for the payments outlined in clause 14.3, without which Bidder would not have entered into this agreement.
- (c) The Target Board believes that the Scheme will provide benefit to Target and Target Shareholders and that it is appropriate for Target to agree to the payments referred to in this clause 14 in order to secure Bidder's participation in the Proposed Transaction.

14.2 Costs incurred by Bidder

- (a) The fee payable under clause 14.3 has been calculated to reimburse Bidder for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction;
 - (v) costs associated with the financing arrangements in respect of the Proposed Transaction; and

- (vi) any damage to Bidder's reputation associated with a failed transaction and the implications of those damages if Bidder seeks to execute alternative acquisitions in the future,

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

- (b) The parties acknowledge that:
 - (i) the amount of fees, costs and losses referred to in this clause 14.2 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 14.3 is a genuine and reasonable pre-estimate of those fees, costs and losses.

14.3 Payment by Target to Bidder

- (a) Target agrees to pay to Bidder \$572,000 (exclusive of GST) (**Target Break Fee**) in any of the following circumstances:
 - (i) (**Competing Proposal succeeds**) both of the following occur:
 - (A) a Competing Proposal is publicly announced during the period commencing on the date of this agreement and ending on the End Date; and
 - (B) within 9 months from the date of the public announcement of such Competing Proposal (or variation)
 - (I) subject to clause 14.3(b), the Competing Proposal is implemented or completed substantially in the terms described in the public announcement; or
 - (II) without limiting clause 14.3(a)(i)(B)(I), the proponent of that Competing Proposal acquires a Relevant Interest in, or becomes the holder of, or otherwise acquires, directly or indirectly, at least 50% of Target Shares and that acquisition is unconditional; or
 - (ii) (**Change of Recommendation**) during the Exclusivity Period, any Target Director:
 - (A) withdraws, adversely revises, adversely modifies or adversely qualifies their recommendation of the Proposed Transaction; or
 - (B) makes any public statement:
 - (I) that he recommends, endorses or supports a Competing Proposal;
 - (II) to the effect that he no longer recommends the Scheme; or
 - (III) that recommends that Target Shareholders accept or vote in favour of a Competing Proposal that is announced (whether or not such proposal is stated to be subject to any pre-conditions) during the Exclusivity Period,
- except where that act is:
- (C) a result of the circumstances set out in clause 6.2, which for the avoidance of doubt will not extend to any Target Director adversely revising or adversely modifying his or her recommendation of the Proposed Transaction or making a public statement indicating that they recommend, endorse or support a Competing Proposal;
 - (D) as a result of the Independent Expert opining (including in any update of, or revision, amendment or supplement to, the Independent Expert's Report) that the Scheme is not in the best interest of Target Shareholders (other than where the reason for that opinion is a Superior Proposal);

- (E) as a result of any matter or thing giving Target the right to terminate this agreement under clause 13.1(b)(i) or 13.2(b); or
- (F) a statement to the effect that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal or the completion of the matching right process set out in clause 16.7,

provided that, for the avoidance of doubt, a recommendation made by any Target Director on the basis of the Cash Consideration only and/or not making any recommendation in relation to the Scrip Consideration will not require Target to pay the Target Break Fee to Bidder.

- (iii) **(Material breach)** Bidder terminates this agreement in accordance with (and subject to the cure periods specified in) clause 13.1(b)(i) or 13.2(a)13.2(a); or
 - (iv) **(Prescribed Occurrence)** the Condition in clause 3.1(a) is breached or not satisfied prior to the Delivery Time on the Second Court Date.
- (b) Target is not liable to pay Bidder the Target Break Fee under clause 14.3(a)(i)(B)(I) in circumstances where:
- (i) an event of the kind described in paragraph (a)(i) of the definition of Competing Proposal has occurred (but other than where this has occurred as a result of an issue of new shares by Target); and
 - (ii) that Competing Proposal does not result in an event of the kind described in paragraphs (a)(ii) to (a)(iv) inclusive of the definition of Competing Proposal occurring.
- (c) Target must pay Bidder the Target Break Fee within 15 Business Days of receipt by Target of a written demand for payment from Bidder made after the occurrence of the event referred to in clause 14.3(a) which must state the circumstance which give rise to such demand and nominate an account in the name of Bidder into which the Target Break Fee is to be paid.
- (d) The Target Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (e) The Target Break Fee is only payable once and where the Target Break Fee becomes payable to Bidder and is actually paid to Bidder, Bidder cannot make any claim against Target for payment of any subsequent Target Break Fee.
- (f) Notwithstanding the occurrence of any event referred to in clause 14.3(a), the Target Break Fee will not be payable if the Scheme becomes Effective.
- (g) Where the Target Break Fee becomes payable to Bidder under this clause 14.3 following a request from Bidder under clause 14.3(c) and is actually paid to Bidder, Bidder (for itself and as agent of every member of the Bidder Group):
- (i) releases all rights against and agrees with Target that Bidder will not make a Claim against any Target Indemnified Party (other than a claim under this clause 14.3 or in relation to any conduct which is designed or intended to frustrate the Proposed Transaction or fraud, wilful misconduct, wilful breach or wilful concealment by or on behalf of Target) in connection with:
 - (A) the event that gave rise to the right to demand the payment of the Target Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the Target Break Fee or that constitutes or may constitute a breach of this agreement; and
 - (ii) indemnifies any Target Indemnified Party against a Claim that is made contrary to the release under clause 14.3(g)(i),

with the effect that the payment of the Target Break Fee represents the sole and exclusive liability of any Target Group Member.

- (h) Clause 14.3(g) above does not apply to the extent of any right of Bidder to make a Claim against any Target Party for any wilful, reckless or deliberate breach by Target of its obligations under clause 16.
- (i) Bidder's right to receive the Target Break Fee shall not limit or otherwise affect Bidder's right to seek specific performance, injunctive relief or any other remedies that would otherwise be available in equity or law as a remedy for a breach or threatened breach of this agreement by Target (including a breach which causes the implementation of the Scheme to become impossible or impracticable or a breach in order to pursue, agree or implement a Competing Proposal), provided that in no event shall Bidder be entitled to receive both specific performance and payment of the Target Break Fee.
- (j) The Target Break Fee is not payable where Target has become entitled to the Bidder Break Fee.

15. Bidder Break Fee

15.1 Background

- (a) Target and Bidder acknowledge that, if they enter into this agreement and the Scheme is subsequently not implemented, Target will incur significant costs including those described in clause 15.2.
- (b) In the circumstances referred to in clause 15.1(a), Target has requested that provision be made for the payments outlined in clause 15.3, without which Target would not have entered into this agreement.
- (c) The Bidder Board believes that the Scheme will provide benefit to Bidder and HoldCo Shareholders and that it is appropriate for Bidder to agree to the payments referred to in this clause 15 in order to secure Target's participation in the Proposed Transaction.

15.2 Costs incurred by Target

- (a) The fee payable under clause 15.3 has been calculated to reimburse Target for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction;
 - (v) costs associated with the financing arrangements in respect of the Proposed Transaction; and
 - (vi) any damage to Target's reputation associated with a failed transaction and the implications of those damages if Target seeks to execute alternative acquisitions in the future,

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

- (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.

15.3 Payment by Bidder to Target

- (a) Bidder agrees to pay to Target \$572,000 (inclusive of GST) (**Bidder Break Fee**) if:
 - (i) the Scheme becomes Effective but Bidder does not provide the Scheme Consideration in accordance with the terms and conditions of this agreement and the Deed Poll; or
 - (ii) Target terminates this agreement in accordance with (and subject to the cure periods specified in) clause 13.1(b)(i) or 13.2(b).
- (b) Bidder must pay Target the Bidder Break Fee within 15 Business Days of receipt by Bidder of a written demand for payment from Target made after the occurrence of the event referred to in clause 15.3(a) which must state the circumstance which give rise to such demand and nominate an account in the name of Target into which the Bidder Break Fee is to be paid.
- (c) The Bidder Break Fee is only payable once and where the Bidder Break Fee becomes payable to Target and is actually paid to Target, Target cannot make any claim against Bidder for payment of any subsequent Bidder Break Fee.
- (d) Notwithstanding the occurrence of any event referred to in clause 15.3(a), the Bidder Break Fee will not be payable if the Scheme becomes Effective and proceeds to be implemented.
- (e) Where the Bidder Break Fee becomes payable to Target under this clause 15.3 following a request from Target under clause 15.3(b) and is actually paid to Target, Target (for itself and as agent of every member of the Target Group):
 - (i) releases all rights against and agrees with Bidder that Target will not make a Claim against any Bidder Indemnified Party (other than a claim under this clause 15.3 or in relation to any conduct which is designed or intended to frustrate the Proposed Transaction or fraud, wilful misconduct, wilful breach or wilful concealment by or on behalf of Bidder) in connection with:
 - (A) the event that gave rise to the right to demand the payment of the Bidder Break Fee; nor
 - (B) any other event, matter or circumstance that may give rise to a separate right to the Bidder Break Fee or that constitutes or may constitute a breach of this agreement; and
 - (ii) indemnifies any Bidder Indemnified Party against a Claim that is made contrary to the release under clause 15.3(e)(i),

with the effect that the payment of the Bidder Break Fee represents the sole and exclusive liability of any Bidder Group Member.
- (f) Target's right to receive the Bidder Break Fee shall not limit or otherwise affect Target's right to seek specific performance, injunctive relief or any other remedies that would otherwise be available in equity or law as a remedy for a breach or threatened breach of this agreement by Bidder (including a breach which causes the implementation of the Scheme to become impossible or impracticable or a breach in order to pursue, agree or implement a Bidder Competing Proposal), provided that in no event shall Target be entitled to receive both specific performance and payment of the Bidder Break Fee.

16. Exclusivity

16.1 No existing discussions

- (a) Other than in relation to the discussions with Bidder in connection with the Proposed Transaction, Target represents and warrants to Bidder that, as at the date of this agreement it and its Related Bodies Corporate:
- (i) is not a party to any agreement with a third party entered into for the purpose of facilitating a Competing Proposal;
 - (ii) is not participating in any discussions, negotiations or other communications, and has terminated any existing discussions, negotiations or other communication, with a third party that concern, or that could reasonably be expected to lead to, a Competing Proposal;
 - (iii) has ceased to provide or make available any non-public information in relation to the Target Group to a Third Party where such information was provided for the purpose of facilitating, or could reasonably be expected to lead to, a Competing Proposal; and
 - (iv) has requested in writing (or will do so within 5 Business Days of the date of this agreement) the return or destruction of any non-public information (with such return or destruction requested to be effected as soon as practicable) in relation to the Target Group provided to a Third Party at any time within the 12 months prior to the date of this agreement where such information was provided for the purpose of facilitating, or could reasonably be expected to lead to, a Competing Proposal and must not waive any standstill obligations in such documents.
- (b) If requested by Bidder, Target must confirm in writing that it has complied with its obligations in clause 16.1(a)(ii) in the context of terminating any existing discussions, negotiations or other communication, with a third party that concern, or that could reasonably be expected to lead to, a Competing Proposal.

16.2 No shop restriction

During the Exclusivity Period, except with the prior written consent of Bidder, Target must not, and must ensure that none of its Related Bodies Corporate nor any of its Authorised Persons on their behalf, directly or indirectly solicit, invite, encourage 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 lead to, a Competing Proposal, or communicate any intention to do any of those things.

16.3 No talk restriction

Subject to clause 16.5, during the Exclusivity Period, Target must not, and must ensure that none of its Related Bodies Corporate nor any of its Authorised Persons on their behalf (whether directly or indirectly):

- (a) negotiate or enter into or participate in negotiations or discussions with any Third Party;
 - (b) negotiate, accept, or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding ; or
 - (c) communicate any intention to do any of these things,
- in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:
- (d) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Target or any of its Related Bodies Corporate; or
 - (e) that person has publicly announced the Competing Proposal,

provided that nothing in this clause 16.3 prevents or restricts the Target or any of its Related Persons or Authorised Persons from responding to a Third Party to merely (A) acknowledge receipt and/or (B) advise that Third Party that Target is bound by the provisions of this clause 16.3

and is only able to engage in negotiations, discussions or other communications if the fiduciary exception set out in clause 16.5 applies.

16.4 No due diligence

- (a) Subject to clause 16.5, during the Exclusivity Period, except with the prior written consent of Bidder, Target must not, and must ensure that its Related Bodies Corporate and its Authorised Persons do not, directly or indirectly:
- (i) solicit, invite, initiate, or encourage, or facilitate or permit, any person (other than Bidder) to undertake due diligence investigations in respect of Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
 - (ii) make available to any person (other than Bidder, a Governmental Agency and other than as required by law or the rules of any prescribed financial market (including, but not limited to, the Listing Rules)) or permit any such person to receive any material non-public information relating to Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.
- (b) If Target proposes that any non-public information be provided to a Third Party, then:
- (i) before Target 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 Bidder and Target under the Confidentiality Deed; and
 - (ii) any non-public information provided to that Third Party must also be provided to Bidder (unless the information has already been provided to Bidder or an Authorised Person).

16.5 Exceptions

Clauses 16.3 and 16.4 do not prohibit or restrict any action or inaction by Target, any other Target Group Member, or any of their Authorised Persons if the Target Board, acting in good faith, determines:

- (a) where there is a written Competing Proposal, that the Competing Proposal is, or may reasonably be expected to lead to, a Superior Proposal; and
- (b) after receiving written legal advice from Target's external legal advisers experienced in transactions of this nature, that failing to take the action or refusing to take the action (as the case may be) in relation to the Competing Proposal would, or would be reasonably likely to, constitute a breach of the fiduciary or statutory duties of the Target Directors.

16.6 Notice of Competing Proposal

- (a) During the Exclusivity Period, Target must promptly (and in any event within 2 Business Days) notify Bidder in writing of:
- (i) any approach, inquiry or proposal made by any person to Target, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Competing Proposal; and
 - (ii) any request made by any person to Target, any of its Related Bodies Corporate or any of their respective Authorised Persons, for any information relating to Target, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of a Competing Proposal,

(Competing Proposal Notice).

- (b) A Competing Proposal Notice must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 16.6(a)(i) or who made the relevant request for information referred to in clause 16.6(a)(ii); and
 - (ii) the material terms and conditions (including price, form of consideration, proposed deal protection provisions, financing, conditions precedent, timetable and any break or reimbursement fee) of any Competing Proposal or any proposed Competing Proposal (to the extent known).
- (c) If Target gives Bidder a Competing Proposal Notice, Bidder agrees that the notice will be Confidential Information of Target (as defined in the Confidentiality Deed).
- (d) During the Exclusivity Period, Target must also notify Bidder in writing as soon as reasonably practicable after becoming aware of any material amendments or updates to any of the information previously notified to Bidder under this clause 16.6.

16.7 Target's response to Competing Proposal and Bidder's right to respond

- (a) Without limiting clauses 16.1 to 16.4 (inclusive) and clause 16.6, Target must:
 - (i) not, and must procure that each member of the Target Group does not, enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which one or more of a third party, Target or a member of the Target Group proposes or propose to undertake, implement or give effect to a Competing Proposal (which, for the avoidance of doubt, excludes a confidentiality agreement entered into between a Target Group Member and a third party for the purpose of facilitating an actual, proposed or potential Competing Proposal, to the extent permitted under the terms of this clause 16); and
 - (ii) use its reasonable endeavours to ensure that no Target Director, in connection with a Competing Proposal, publicly:
 - (A) withdraws, adversely changes, adversely modifies or adversely qualifies his or her Recommendation;
 - (B) recommends or endorses the Competing Proposal; or
 - (C) recommends against the Proposed Transaction,
 or makes any public statement to the effect that he intends to do so at a future point,
 unless:
 - (iii) the Target Directors have determined that the Competing Proposal is a Superior Proposal; and
 - (iv) each of the following has occurred:
 - (A) Target has given Bidder written notice (**Relevant Notice**) of the Target Directors proposal to take the action referred to in clause 16.7(a)(i) or clause 16.7(a)(ii) (subject to Bidder's rights under clause 16.7(b)), including the material terms and conditions (including price, form of consideration, proposed deal protection provisions, financing, conditions precedent, timetable and any break or reimbursement fee) of the Competing Proposal (to the extent known) and unless the consideration under the Competing Proposed contemplates all-cash consideration, the high level basis on which the Target Board has concluded that the actual, proposed or potential Competing Proposal is superior and the identity of the Third Party making the actual, proposed or potential Competing Proposal; and
 - (B) Bidder's rights under clause 16.7(b) have been exhausted.

- (b) If Target gives a Relevant Notice to Bidder under clause 16.7(a)(iv)(A), Bidder will have the right, but not the obligation, at any time during the 5 Business Days following the receipt of the Relevant Notice, to announce or formally propose to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing another form of transaction (each a **Counter Proposal**), and if it does so then the Target must procure that the Target Directors must promptly review the Counter Proposal in good faith. If the Target Directors determine, after consultation with reputable external Australian legal advisers specialising in the area of corporate law, that the Counter Proposal would be more favourable, or at least no less favourable, to Target and the Target Shareholders as a whole than the Competing Proposal (such determination to be made by the Target Board within 5 Business Days of receipt of the Counter Proposal), then Target must promptly notify Bidder of the determination in writing and Target and Bidder must use their best endeavours to agree the amendments to this agreement (and any other transaction documents required) and the contents of the Explanatory Booklet that are reasonably necessary to reflect the Counter Proposal, and to enter into an amended agreement (and any other transaction documents required) to give effect to those amendments and to implement the Counter Proposal, and Target must use its best endeavours to procure that the Target Directors recommend the Counter Proposal to the Target Shareholders and not recommend the applicable Competing Proposal, in each case, as soon as reasonably practicable.
- (c) If the Target Board determines that a Counter Proposal is not more favourable, or at least no less favourable to, Target Shareholders than the Competing Proposal, then:
- (i) Target must promptly, and in any event within 48 hours, notify Bidder of the determination in writing; and
 - (ii) Target must not do any of the things referred to in clause 16.7(a)(i), and must use its reasonable endeavours to ensure that the Target Board does not do any of the things referred to in clause 16.7(a)(ii), before it has notified Bidder of the Target Board's determination under clause 16.7(c)(i).
- (d) Despite any other provision in this agreement, a statement by a Target Director:
- (i) that no action should be taken by Target Shareholders pending the assessment of a Competing Proposal or the completion of the matching right process set out in this clause 16.7;
 - (ii) that the Target Board has determined that a Competing Proposal is a Superior Proposal and has commenced matching right process set out in this clause 16.7; or
 - (iii) recommending the Proposed Transaction on the basis of the Cash Consideration only and/or not making any recommendation in relation to the Scrip Consideration,
- will not constitute a breach of clause 16.7(a).
- (e) For the purposes of this clause 16.7, 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. Modification of Target Break Fee, Bidder Break Fee or exclusivity arrangements

17.1 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 clause 14 or 15 or an exclusivity arrangement under clause 16 is unacceptable or unenforceable, is a breach of the fiduciary or statutory duties of the Target Board or the Bidder Board (as applicable) or a breach of applicable law for any other reason; or

- (b) as a result of an application to the Takeovers Panel by a Third Party, 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 Target Break Fee or the Bidder Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 16, it will make a declaration of unacceptable circumstances,

then, subject to clause 17.2:

- (c) the parties must amend clauses 14, 15, and/or 16 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 17.1(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clause 17.1(a) or 17.1(b) nor the amendment of clauses 14, 15, and/or 16 will be taken to be a breach of, or permit any party to terminate, this agreement.

17.2 No requirement to act unless decision final

The parties are only required to take steps under 17.1(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) Bidder and Target agree in writing not to appeal or seek review of the decision to impose that requirement.

17.3 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 17.1(a) or clause 17.1(b).

17.4 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the Target Break Fee or the Bidder Break Fee is unacceptable, unenforceable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the Target Board or the Bidder 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 Target or Bidder (as applicable) to pay the Target Break Fee or the Bidder Break Fee (as applicable) does not apply to the extent of the Impugned Amount; and
- (b) if Bidder or Target (as applicable) 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 an appeal (if any) has expired, whichever is later.

18. Withholding tax

- (a) If Bidder is required to make any withholding, deduction or payment for or on account of Tax (including under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) (**Subdivision 14-D**)) or by any Governmental Agency in respect of the acquisition of Scheme Shares from the Scheme Shareholders, Bidder (subject to clauses 18(b) and 18(c)):
- (i) must pay or procure the payment of the full amount of the withholding or deduction, or make or procure the making of the payment, to the appropriate Governmental Agency under applicable law; and

- (ii) will not be required to pay any additional amount and will be deemed for all purposes to have paid the full amount of the Scheme Consideration (or other payment) required under this agreement.
- (b) Bidder acknowledges and agrees that it will not withhold or deduct any Subdivision 14-D amounts under clause 18(a) with respect to a Scheme Shareholder where:
- (i) a Scheme Shareholder holds less than a 10% of the issued shares of Target (on an associate inclusive basis); or
- (ii) Bidder has no knowledge or reasonable belief that a particular Scheme Shareholder is a foreign resident; or
- (iii) Bidder receives a declaration in accordance with the requirements of section 14-225 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) that covers, at least, the period between (and including) the date of this agreement and the Implementation Date (**Scheme Shareholder Declaration**) from the Scheme Shareholder prior to the Implementation Date and does not know the Scheme Shareholder Declaration to be false.
- (c) Where:
- (i) Bidder either:
- (A) knows that a particular Scheme Shareholder is not, or reasonably believes that a particular Scheme Shareholder is not, an Australian resident; or
- (B) does not reasonably believe that a particular Scheme Shareholder is an Australian resident and either has an address outside of Australia or directs Bidder to pay some or all of the Scheme Consideration to a place outside of Australia; and
- (ii) that Scheme Shareholder holds more than 10% of the issued shares of Target (on an associate inclusive basis),
- Bidder can withhold in accordance with clause 18(a) if required to do so.
- (d) Target agrees that Bidder may approach the Australian Taxation Office to obtain clarification as to the application of Subdivision 14-D to the Scheme and will provide all information and assistance that Bidder reasonably requires in making any such approach. Bidder agrees:
- (i) to provide Target a reasonable opportunity to review the form and content of all materials to be provided to the Australian Taxation Office; and
- (ii) not to contact any Scheme Shareholders in connection with the application of Subdivision 14-D to the Scheme without Target's prior written consent, such consent not to be unreasonably withheld.
- (e) The parties agree to consult in good faith as to the application of Subdivision 14-D, including taking into account any clarification provided by the Australian Taxation Office following any process described in clause 18(b). The parties agree to take all actions that they agree (each acting reasonably) are necessary or desirable following that consultation which may include, without limitation, making amendments to this agreement, the Scheme and the Deed Poll to ensure that relevant representations are obtained from Scheme Shareholders.

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 or posted by prepaid post 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 prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) **(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
 - (iii) **(in the case of email)** 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

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 Payments

Unless otherwise provided in this agreement, the Scheme or the Deed Poll 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.

20.3 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 20.3(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.

20.4 GST

- (a) Any reference in this clause 20.4 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply 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 20.4(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. This clause 20.4(c) does not apply to any taxable supply under or in connection with this agreement that is stated to include GST.

- (d) The amount on account of GST payable in accordance with this clause 20.4 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- (e) 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.

20.5 Stamp duty

Bidder must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this agreement or the Scheme or the steps to be taken under this agreement or the Scheme (including without limitation the acquisition or transfer of Scheme Shares under the Scheme).

20.6 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 and the Scheme.

20.7 Amendments

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

20.8 Assignment

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.

20.9 Business Day

Except where otherwise expressly provided, where under this agreement the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

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 email address of the other party specified in clause 19, 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 Electronic execution

Each party consents to the signing of this agreement by electronic means. The parties agree to be legally bound by this agreement signed in this way.

20.13 Electronic exchange of documents

In relation to the electronic exchange of documents:

- (a) parties may exchange executed counterparts of this document, or any other document required to be executed under this document, by delivery from one party to the other party by emailing a pdf (portable document format) copy of the executed counterpart to that other party (**Electronic Delivery**); and
- (b) Electronic Delivery of an executed counterpart will be deemed effective delivery of the original executed counterpart, from the date and time of receipt by the other party.

20.14 Entire agreement

- (a) This agreement, the Confidentiality Deed and any other documents specified in writing by the parties for the purpose of this clause 20.14:
 - (i) embody the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersede any prior agreement (whether or not in writing) between the parties.
- (b) 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.

20.15 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.

20.16 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.

20.17 Governing law

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

Schedule 1 - Indicative timetable

Event	Date
Lodge Explanatory Booklet with ASIC and ASX for review and comment	Late January 2024 / Early February 2024
First Court Date	Late February 2024
Explanatory Booklet registered by ASIC	Late February 2024
Dispatch Explanatory Booklet to Target Shareholders	Late February 2024
Election Date	Mid March 2024
Scheme Meeting	Late March 2024
Second Court Date	Early April 2024
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	Early April 2024
Record Date	Early April 2024
Implementation Date: Payment of Cash Consideration and issue of HoldCo Shares to Scheme Shareholders. Reconstitute boards of each Target Group Company	Mid April 2024

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Schedule 2 - Deed Poll

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Schedule 3 – Scheme

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Schedule 4 - HoldCo Term Sheet

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HoldCo Shareholders Deed term sheet

This term sheet (**Term Sheet**) addresses the key terms of a Shareholders Deed governing the rights and obligations of SoftBank Robotics Singapore Pte Ltd (**SBRS**) and shareholders of Millennium Services Group Limited (**TargetCo**) electing stub equity that would be proposed to be issued by MXS Ventures Pte. Ltd. (**HoldCo**) under the Scheme Implementation Agreement (**SIA**).

HoldCo structure		
1.	Company Type	HoldCo is an unlisted Singaporean private company limited by shares. HoldCo will be the entity that will acquire 100% of the shares in TargetCo under a scheme of arrangement (Scheme).
2.	Proposed share structure	The share capital of HoldCo will initially be divided into the following classes of shares: <u>(a)</u> Class A Shares; <u>(b)</u> Class B Shares; <u>(c)</u> Class C Shares; and <u>(d)</u> Class M Shares.
3.	Shareholders	HoldCo will initially be 100% held by SBRS and Terence Yap. Shareholders in HoldCo following the implementation of the Scheme will be: <u>(a)</u> SBRS; <u>(b)</u> Terence Yap; and <u>(c)</u> any TargetCo shareholders that are entitled to receive, and are issued with, scrip under the Scheme (Participating Shareholder).
4.	Class A Shares	Class A Shares will be ordinary shares/common stock. Class A Shares will be issued as fully paid and will rank equally with all other Class A Shares. Class A Shares will only be held by SBRS (unless otherwise approved by SBRS).
5.	Class B Shares	Class B Shares will not have voting rights but will otherwise have all of the rights of an ordinary share. Class B Shares will be issued as fully paid and will rank equally with all other Class B Shares. Class B Shares will held by Participating Shareholders.
6.	Class C Shares	Class C Shares will not have voting rights but will otherwise have all of the rights of an ordinary share. Class C Shares will rank equally with all other Class C Shares. Class C Shares will be held by Terence Yap and may be offered from time to time to the directors or employees of, or advisers to, HoldCo and/or SBRS or its affiliates.
7.	Class M Shares	Class M Shares will not have voting or dividend rights. Class M Shares will rank equally with all other Class M Shares. Class M Shares may be offered from time to time to persons eligible to participate in a Management Equity Plan to be established by HoldCo.
HoldCo management		
8.	Board of directors	The board will comprise a maximum of 7 directors, unless otherwise determined by SBRS. SBRS may appoint and remove all of the directors by written notice to HoldCo. SBRS may also appoint and remove the Chair of the board. Without limiting the discretion of SBRS to appoint and remove all of the directors of the board, SBRS may, in its discretion, at any time invite one or more representatives of Class B Shareholders to be appointed to the board (Class B Representative(s)). Any Class B Representative(s) must be acceptable to SBRS. SBRS may at any time appoint, remove, and at its discretion replace, a Class B Representative to or from the board.

		<p>For so long as the Class B Shareholders maintain a shareholding in HoldCo of at least 10% of the total shares on issue in HoldCo and a Class B Representative is not a director, Class B Shareholders will be entitled to appoint (by simple majority approval of Class B Shareholders) one representative that is acceptable to SBRS (acting reasonably) to be an observer of meetings of the board.</p> <p>An observer will not have the right to vote or to be counted in a quorum. The rights of Class B Shareholders to appoint an observer immediately cease if Class B Shareholders hold less than 10% of the total shares on issue in HoldCo. The rights of Class B Shareholders to appoint an observer are immediately suspended if a Class B Representative is a director.</p>
9.	Quorum for board meeting	The quorum for a board meeting will be 2 directors. Where one or more Class B Representatives have been appointed as a director, a quorum for a board meeting must include at least one director who is not a Class B Representative.
10.	Decision making for board meeting	<p>Each director (or in their absence their alternate) has one vote. The Chair will have a casting vote in addition to his/her deliberative vote.</p> <p>Subject to those matters requiring a reserved decision of the board or shareholders (as applicable), all decisions of the board must be passed:</p> <p>(a) for a meeting, by a simple majority of directors who are present at the relevant Board meeting and are entitled to vote on the resolution; or</p> <p>(b) for a written resolution, by a simple majority of directors who sign the resolution and are entitled to vote on the resolution.</p>
11.	Delegation	Subject to those matters requiring a reserved decision of the shareholders, the board may, on any terms it determines, delegate (or revoke a prior delegation) to management the authority to do or commit to do anything (with or without further board approval).
12.	Management	SBRS will have the right to nominate the appointment of the CEO, CFO and Financial Controller of HoldCo by notice in writing to HoldCo and HoldCo must effect that nomination. SBRS is entitled to direct that HoldCo remove and replace the CEO, CFO or Financial Controller from time to time by notice in writing to HoldCo and HoldCo must effect that removal and replacement.

Shareholder Matters

13.	Reserved Matters	<p>The prior written approval of holders of Class B Shares holding in excess of 50% of the aggregate of all Class B Shares, will be required in relation to the following matters:</p> <p>(a) vary or alter the rights attaching to Class B Shares or other classes of shares in the capital of HoldCo in circumstances where the amendment has an adverse impact on: (i) the rights of, or increases the obligations of, the Class B Shares; or (ii) the economic value of the Class B Shares, in each case in a way that is materially and adversely disproportionate as compared to the impact on the Class A Shares;</p> <p>(b) create a new class of shares in the capital of HoldCo in circumstances where the new class of shares has an adverse impact on the economic value of the Class B Shares that is materially and adversely disproportionate as compared to the impact on the economic value of the Class A Shares;</p> <p>(c) amend or vary the constitution of HoldCo in a way which adversely impacts the rights of the holders of Class B Shares, or adopt a new constitution on terms which adversely impacts the rights of the holders of Class B Shares, where that amendment or those terms adopted are materially and adversely disproportionate as compared to the impact on the rights of the holders of the Class A Shares, except where that change or adoption occurs to correct any inconsistency with the Shareholders Deed;</p>
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		<p>(d) enter into or materially vary any contract or other arrangement between HoldCo and/or any of its subsidiaries (each a Group Company and together the Group) and SBRS or any related body corporate of SBRS, other than on arm's length terms;</p> <p>(e) take any steps to dissolve or wind up HoldCo, except where required by law.</p> <p>In the event that Class B Shareholders hold less than 10% of the shares (on an as converted basis), then the Reserved Matters in paragraphs (d) and (e) will lapse and cease to apply.</p> <p>The prior written approval of holders of Class C Shares holding in excess of 50% of the aggregate of all Class C Shares, will be required in relation to the following matters:</p> <p>(f) vary or alter the rights attaching to Class C Shares or other classes of shares in the capital of HoldCo in circumstances where the amendment has an adverse impact on: (i) the rights of, or increases the obligations of, the Class C Shares; or (ii) the economic value of the Class C Shares, in each case in a way that is materially and adversely disproportionate as compared to the impact on the Class A Shares;</p> <p>(g) create a new class of shares in the capital of HoldCo in circumstances where the new class of shares has an adverse impact on the economic value of the Class C Shares that is materially and adversely disproportionate as compared to the impact on the economic value of the Class A Shares;</p> <p>(h) amend or vary the constitution of HoldCo in a way which adversely impacts the rights of the holders of Class C Shares, or adopt a new constitution on terms which adversely impacts the rights of the holders of Class C Shares, where that amendment or those terms adopted are materially and adversely disproportionate as compared to the impact on the rights of the holders of the Class A Shares, except where that change or adoption occurs to correct any inconsistency with the Shareholders Deed.</p>
14.	Dividends	The board will set the dividend policy from time to time. Initially, no dividends will be paid and all profits will be reinvested or used to pay down debt. No dividend may be paid without SBRS's approval.
Shares		
15.	Future issues of equity securities	<p>Subject to the exceptions set out below, HoldCo will offer all future issues of equity securities (shares, options, convertible notes etc) to holders of Class A Shares, Class B Shares and Class C Shares (but excluding holders of Class M Shares) pro rata to their existing shareholdings. To the extent that one or more shareholders do not wish to participate, then the shortfall will be offered to SBRS (or its nominated affiliate). To the extent that SBRS (or its nominated affiliate) does not take up all of the shortfall, the remaining equity securities will be offered to a third party investor approved by the board.</p> <p>Pre-emption rights on future issues of equity securities will not apply to an issue of equity securities in the following circumstances:</p> <p>(a) pursuant to the conversion of convertible equity securities or convertible securities of any other type (including debt securities) issued by HoldCo in accordance with their terms, provided the convertible equity securities or other convertible securities were issued in accordance with the Shareholders Deed;</p> <p>(b) pursuant to an IPO (including a pre-IPO round);</p> <p>(c) pursuant to a unanimous approval of the board (but only where a Class B Representative is a director);</p>

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		<p>(d) where the issue is an issue of Class M Shares or any other equity securities issued in accordance with, and subject to any management equity plan adopted by the board of HoldCo, provided that the aggregate percentage of equity securities issued under the management equity plan does not exceed 10% of the fully diluted share capital of HoldCo from time to time (see item 24);</p> <p>(e) a non cash consideration for an arm's-length acquisition of a company, business or assets by a Group Company, approved by the board;</p> <p>(f) pursuant to emergency funding provided by SBRS or any of its affiliates by way of an issue of Class A Shares, provided that the emergency funding is followed by an opportunity for each holder of Class B Shares and Class C Shares (but excluding holders of Class M Shares) to subscribe for shares of the same class(es) then held by that shareholder at the same price paid by SBRS to retain their relevant proportion of shares held immediately prior to the emergency funding event;</p> <p>(g) to a provider of debt financing (or any agent, trustee or nominee of or for the provider) as part of any bona fide debt finance provided to any Group Company;</p> <p>(h) an issue of Class A Shares to SBRS to provide funding to meet transaction costs in connection with the Scheme, or to finance payment of cash consideration under the Scheme or repay debts of TargetCo and/or its subsidiaries in place prior to implementation of the Scheme;</p> <p>(i) an issue of Class B Shares in connection with scrip consideration under the Scheme;</p> <p>(j) an issue of equity securities to a strategic partner provided that the holders of Class A Shares, Class B Shares and Class C Shares are diluted proportionately and provided that the aggregate percentage of equity securities issued to strategic partners in a financial year in reliance on this limb does not exceed 15% of the fully diluted share capital of HoldCo in that financial year;</p> <p>(k) an issue of equity securities under a reorganisation event, provided the reorganisation event does not dilute the relevant proportion of any shareholder.</p> <p>Rights to be offered equity securities (whether under pre-emptive rights or otherwise) are subject to those rights not resulting in HoldCo having more than 50 shareholders or not requiring HoldCo to issue a disclosure document (including a prospectus) or a product disclosure statement (or equivalent in any jurisdiction) or to undertake any registration or filing with any governmental agency, unless otherwise approved by the board.</p>
16.	Disposal and encumbrances	<p>No disposal of shares is permitted by a shareholder (other than SBRS) except:</p> <p>(a) with the prior consent of SBRS;</p> <p>(b) to permitted affiliates;</p> <p>(c) pursuant to a drag along notice (see item 17);</p> <p>(d) pursuant to tag along rights (see item 18);</p> <p>(e) pursuant to a compulsory transfer (see item 19);</p> <p>(f) pursuant to a forfeiture event (see item 20);</p> <p>(g) pursuant to an SBRS approved exit event (see item 21);</p> <p>(h) pursuant to a small holdings buy back (see item 22);</p> <p>(i) pursuant to the bare trustee provisions (see item 23).</p> <p>No grant of encumbrances over shares without prior approval of SBRS.</p>

17.	Drag along rights	If SBRS accepts an offer from a third party to buy all or a proportion of its equity securities, SBRS will be entitled to serve 'drag-along' notices on all other shareholders to ensure that an equivalent proportion of equity securities held by all other shareholders is delivered to the third party on terms which are materially no less favourable to the other shareholders (taken as a whole) than the terms on which SBRS is proposing to sell its equity securities to the third party (taking into account the market values of the class or classes of equity securities being sold by SBRS and the other shareholders and the relative rights of same under the constitution and the Shareholders Deed).
18.	Tag along rights	If SBRS accepts an offer from a third party to buy all or a proportion of its equity securities and SBRS does not serve 'drag-along' notices on all other shareholders, holders of Class B Shares and Class C Shares will have a right to tag along by selling the same proportion of their equity securities to the third party on terms which are materially no less favourable to the tagging shareholders (taken as a whole) than the terms on which SBRS is proposing to sell its equity securities to the third party (taking into account the market values of the class or classes of equity securities being sold by SBRS and the tagging shareholders and the relative rights of same under the constitution and the Shareholders Deed).
19.	Compulsory transfer	<p>If, in relation to a shareholder (other than SBRS) there is a trigger event, the Board may, at any time within 6 months of becoming aware of the trigger event, give notice to the relevant shareholder (Departing Shareholder) requiring:</p> <p>(a) a compulsory sale by the Departing Shareholder of all or some of its equity securities (being those equity securities remaining after any forfeiture under item 20) to any person nominated by the board (including any shareholder(s)) at a 15% discount to market value to be determined by the board, or if that market value determination is disputed by the Departing Shareholder, at a 15% discount to the market value determined by an independent accountant (Market Value); and/or</p> <p>(b) a compulsory redemption, buyback or purchase by HoldCo of all or some of the equity securities of the Departing Shareholder at the Market Value.</p> <p>Discount to market value will not apply where: (a) the trigger event is that the shareholder or the related person of the shareholder ceases to be employed or otherwise engaged by a Group Company and the shareholder or related person (as applicable) is a good leaver or is subject to the forfeiture provision in item 20; or (b) where the trigger event is an insolvency event.</p> <p>Trigger events will include, in relation to a shareholder:</p> <p>(a) insolvency event;</p> <p>(b) change of control;</p> <p>(c) unremedied material breach of the Shareholders Deed;</p> <p>(d) a shareholder becoming a shareholder pursuant to a transfer of equity securities in breach of the Shareholders Deed;</p> <p>(e) an affiliate who has received a permitted transfer of equity securities from the original shareholder, ceases to be an affiliate and does not transfer all of its equity securities to the original shareholder; or</p> <p>(f) where a shareholder is designated an employee shareholder (to be a shareholder who is, or whose related person is, employed or engaged by a Group Company (including as a director or consultant)), the shareholder or its related person (as applicable) ceases to be employed or otherwise engaged by a Group Company, unless waived by the board.</p>
20.	Forfeiture	Where a holder of Class B Shares is a KMP Shareholder, 50% of the equity securities of the KMP Shareholder will be subject to forfeiture and buyback or transfer for no consideration where the shareholder or its related person (as applicable) ceases to be employed or otherwise engaged by a Group

		<p>Company before the date which is 4 years from implementation of the scheme, and the shareholder or related person (as applicable) is a bad leaver. The balance of the Equity Securities of the shareholder (ie remaining 50%) will be subject to the compulsory disposal trigger (as per item 19(f)) at Market Value.</p> <p>A KMP Shareholder or its related person will be deemed to be a 'bad leaver' for the purposes of this item 20 where:</p> <p>(1) resignation occurs before the date which is 4 years from the implementation of the scheme; or</p> <p>(2) employment is terminated for (i) fraud, (ii) wilful default, (iii) a breach entitling summary dismissal, or (iv) an effective repudiation of the employment agreement.</p> <p>For the purposes of this term sheet, a KMP Shareholder means a Class B shareholder who is, or whose related person is an employee or contractor of a Group Company holding one of the positions noted in the document titled MIL Management Team – October 2023 disclosed in the Target Data Room, excluding the "Operational Leaders".</p>
21.	Exit	<p>SBRS will be entitled to require the listing of HoldCo's shares on a stock exchange, a sale of HoldCo's share capital or sale of the assets of HoldCo (Exit) at any time in its absolute discretion. Where SBRS commences an Exit process, HoldCo and the other shareholders are to assist with implementation of the Exit and must (and HoldCo must procure that the Group Companies) do all things, execute all documents and provide all such assistance as may be required by HoldCo or SBRS to facilitate the Exit on terms acceptable to SBRS, including without limitation exchanging equity securities for securities in a company which is proposed by the board to become (and following such exchange will become) the ultimate holding company of the Group.</p> <p>If any underwriter, manager or financial adviser for the Exit advises that not all equity securities proposed to be sold by any shareholder(s) can be sold without adversely affecting the pricing or prospects of the Exit, for an IPO, SBRS may require that the number of equity securities to be sold in an IPO by any shareholder(s) be reduced, or for a trade sale, SBRS may require the other shareholders to roll over a portion of their equity securities, or reinvest a portion of their proceeds, into equity securities in the relevant purchaser or holding company or other affiliate of the purchaser.</p>
22.	Small holdings buy back	<p>The board may give notice to the holders of Class B Shares with a holding valued at less than \$345,000 (based on the value implied by the Scheme) (Small Shareholder) requiring:</p> <p>(a) a compulsory sale by the Small Shareholder of all its Class B Shares to any person nominated by the board (including any shareholder(s)) at: (i) where bought back within 12 months of completion of the Scheme, at a price per share equal to the value implied by the Scheme (Implied Value); and (ii) otherwise at market value determined by an external valuer appointed by SBRS (Market Value); and/or</p> <p>(b) a compulsory redemption, buyback or purchase by HoldCo of all Class B Shares of the Small Shareholder at Implied Value or Market Value (as applicable).</p> <p>HoldCo and the shareholders must do all things, execute all documents and provide all such assistance as may be required by HoldCo or SBRS to facilitate the purchase, redemption or buyback of Class B Shares from Small Shareholders in accordance with any direction from the board or SBRS.</p>

23.	Custodian/nominee arrangements	In the event that HoldCo becomes reasonably likely to have more than 50 non-employee shareholders, then if requested by the board, a shareholder (other than SBRS) must dispose of its equity securities to an independent third party trustee or custodian approved by the board, to hold those equity securities on bare trust for that shareholder on terms approved by the board. The restrictions on dealing in the Shareholders' Deed will apply to dealings in a Shareholder's beneficial interest in shares and any dealings in the legal title to shares by the trustee/custodian.
24.	Management Equity Plan	Subject to the approval of SBRSG, up to 10% of the fully diluted share capital of HoldCo from time to time may be available to be issued to officers and employees (and other persons approved by the board from time to time) as options, Class M Shares or other equity securities under any management equity plan established by the board of HoldCo.
Other provisions		
25.	Information	HoldCo will provide holders of Class A Shares, Class B Shares and Class C Shares with annual audited financial statements.
26.	Financial Year	The financial year of HoldCo and each other Group Company will be each 12 month period commencing 1 April and ending 31 March.
27.	Funding	SBRSG will implement a revolving loan facility for the benefit of HoldCo, in the amount of A\$8 million for the Group's working capital on arm's length terms.
28.	Power of attorney	The Shareholders Deed will include an irrevocable appointment by each shareholder (other than SBRS) in favour of HoldCo, with power to act severally or jointly, as its attorney to complete and execute such documents for and on its behalf and take such actions as are necessary or desirable to cure any breach of the Shareholders Deed by that shareholder or any of its affiliates (as applicable), including as is necessary or desirable to give effect to any transactions in accordance with the Shareholders Deed (including transactions contemplated by items 16 to 23 (inclusive)) if the shareholder or its affiliate (as applicable) has failed to take the relevant actions in accordance with the Shareholders Deed.
29.	Restraint	Each KMP Shareholder and each other shareholder (other than SBR Shareholder and a Class B Shareholder) that is designated as an employee shareholder, will undertake to HoldCo not to, and will procure that its affiliates not to, compete with any Group Company or solicit customers or employees from any group company while they are a shareholder of HoldCo and for 24 months after they stop being a shareholder. The restraint for KMP Shareholders will be limited to the business of Target Co and its subsidiaries.
30.	Confidentiality	Each shareholder will be subject to customary obligations in relation to the confidential information of the Group.
31.	Management services	From time to time, affiliates of SBRS may provide services to the Group on arms-length terms. Prior to implementation of the Scheme, HoldCo will enter into agreements for the following services with affiliates of SBRS (which will be deemed to have been approved for all purposes under the Shareholders Deed): (a) distribution agreements for robots, equipment and services; (b) royalty and licence agreements for the use of SBRS intellectual property; (c) management services and secondment agreements; and (d) revolving loan facility.
32.	Amendment	The Shareholders Deed may be amended with the consent of HoldCo, SBRS and the holders of Class B Shares holding in excess of 50% of the aggregate of all Class B Shares and Class C Shares holding in excess of 50% of the aggregate of all Class C Shares. The Shareholders Deed may be amended

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		<p>without the consent of the holders of Class B Shares holding in excess of 50% of the aggregate of all Class B Shares and Class C Shares holding in excess of 50% of the aggregate of all Class C Shares if:</p> <ul style="list-style-type: none">(a) the amendment is made to cure any manifest error, mistake or defect or inconsistency identified by the board;(b) the amendment does not adversely affect the rights, or increase the obligations, of the holders of Class B Shares and Class C Shares in a way that is materially and adversely disproportionate as compared to holders of Class A Shares; or(c) the amendment, variation or waiver relates only to a particular shareholder and is made with the consent of that shareholder.
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Schedule 5- Capital structure

The capital structure of the Target as at the date of this agreement is as follows:

1. **Target Shares**

47,163,259 Target Shares

2. **Target Performance Rights**

1,080,000 Target Performance Rights

3. **Target Options**

1,500,000 Target Options, the terms of which include but are not limited to those set out below:

- 500,000 Target Options having an exercise price of \$0.90 and expiring on 31 December 2024
- 500,000 Target Options having an exercise price of \$1.20 and expiring on 31 December 2024
- 500,000 Target Options having an exercise price of \$1.40 and expiring on 31 December 2024

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EXECUTED as an agreement.

Executed by Millennium Services Group Limited in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

Darren Perry

Name of director (print)



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

Rohan Garnett

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 MS Journey 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.

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EXECUTED as an agreement.

Executed by Millennium Services Group Limited in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

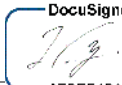
Signature of director/company secretary
(Please delete as applicable)

Name of director (print)

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 MS Journey Pty Ltd in accordance with Section 127 of the *Corporations Act 2001*

DocuSigned by:


A7BEF49AA5AA41C...
Signature of director

DocuSigned by:
Kazuo Nohara

89F8573690E2138...
Signature of director/company secretary
(Please delete as applicable)

Fumihide Tomizawa

Name of director (print)

Kazuo Nohara

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.

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