

ASX ANNOUNCEMENT

8th November 2021

PARAGON CARE TO MERGE WITH QUANTUM HEALTH GROUP VIA A QUANTUM SCHEME OF ARRANGEMENT

Highlights

- Paragon Care and Quantum have entered into a scheme implementation deed to combine the two companies through an all scrip transaction.
- The merged entity creates a leading medical equipment, devices, and consumables supplier across Asia Pacific and is anticipated to provide opportunities for growth for existing Paragon Care products into the Asian markets in which Quantum operates.
- The merger is to be implemented via a Quantum scheme of arrangement, with Paragon Care to be the ongoing ASX listed entity (**Transaction**).
- Quantum shareholders will receive 0.243 Paragon Care shares for each Quantum share held at the scheme record date.
- Following implementation of the Transaction, the merged entity will be owned approximately 56.17% by Paragon Care shareholders and approximately 43.83% by Quantum shareholders.
- The Quantum Board unanimously recommends that Quantum shareholders vote in favour of the Transaction and each Quantum Director intends to vote all Quantum shares that they hold or control in favour of the Transaction in the absence of a superior proposal and subject to the independent expert concluding that the scheme is in the best interests of Quantum shareholders.
- **The** key features of the merged entity are
 - Expansion of geographical reach across the Asia Pacific region
 - Proforma FY21 Revenues of \$291m and an FY21 EBITDA of \$37m¹
 - Transaction expected to result in a materially strengthened balance sheet for the merged entity with a Net Debt/EBITDA improvement to less than 2.0x²

¹Based on FY21 underlying revenue and EBITDA for Paragon Care and Quantum. Proforma numbers are based on the published FY21 Annual Reports of Paragon Care and Quantum Health. No cost or revenue synergies across Asia Pacific have been considered in the consolidation.

² Based on the Net Debt of both Quantum and Paragon Care at 30 June 2021 and the combined EBITDA of Quantum and Paragon Care for the year ended 30 June 2021 as disclosed in the Quantum and Paragon Care FY21 Annual Reports.

- Paragon Care intends for Quantum to become the 5th business pillar within Paragon Care, with a strong focus on growth within the Asia Pacific region.
- Proforma FY21 post merger NPBT of \$21m (PGC 59% and QTM 41%)³
- The Transaction is subject to certain conditions, including approval by the requisite majorities of Quantum shareholders and the Court.

About Paragon

Paragon Care Limited (ASX: PGC) ("**Paragon Care**" or "**PGC**"), a leading provider of medical equipment, devices, and consumables to the healthcare markets in Australia and New Zealand, is pleased to announce that it has entered a scheme implementation deed ("**SID**") to merge with ASX-listed healthcare distributor, Quantum Health Group Limited (ASX: QTM) ("**Quantum**" or "**QTM**") by way of an all scrip Scheme of Arrangement between Quantum and its shareholders (the "**Transaction**"). Under the Transaction, on Implementation Paragon Care will acquire 100% of Quantum shares in exchange for the issue of new Paragon Care shares to existing Quantum shareholders

About Quantum

Quantum is a leading independent high-end distributor of medical equipment across Australia and New Zealand, as well as key Asian markets including Korea, Thailand, the Philippines, China, and Vietnam. Quantum specialises in the sales and service of diagnostic equipment for radiology, oncology, molecular imaging and aesthetics, and represents leading multi-national manufacturers across Asia with long-standing relationships.

Quantum has a proven track record developing its Asia-wide medical equipment distribution platform with a high margin, recurring revenue business model. The medical equipment industry in Asia is expected to grow at attractive rates due to a growing middle class and historical underinvestment in healthcare. The ageing population in Asia will place increased demands on the medical system, resulting in significant returns for the medical devices and broader healthcare market in Asia over the years ahead.

Quantum's business strategy is to provide equipment and service with a long term renewing rental model. Quantum has an installed base of over 3,500 medical systems across Asia. For the year ended 30 June 2021 ("**FY21**"), Quantum reported \$55m revenue, \$10.8m EBITDA and \$8.7m NPBT.⁴ It has 178 employees across six countries, including 75 trained field service engineers.⁵

Strategic Rationale for the Transaction

Paragon Care and Quantum are highly complementary businesses. The merged entity will have an opportunity to cross-sell the combined product portfolio into the higher growth Asian markets and attract new suppliers over time based on its larger distribution footprint and commitment to high levels of corporate governance in Asian markets.

³ NPBT is net profit before tax

⁴ NPBT is net profit before tax

⁵ Management data

Paragon Care believes that the successful implementation of the Transaction will lead to:

- Diversification across revenue streams, product portfolios, customers and geographies;
- The creation of an expanded Asia Pacific operation that will benefit existing suppliers to both companies and attract new suppliers;
- Enhanced growth opportunities in Asia, particularly for the Immulab business in Paragon Care's diagnostics pillar;
- Economies of scale and savings in overhead costs; and
- an expanded earnings base with strengthened balance sheet capacity that will provide additional opportunities for growth in the future.

On an unaudited pro-forma FY21 basis, the merged entity would have generated approximately \$291m in revenue (\$236m for Paragon Care and \$56m for Quantum), \$37.3m in EBITDA (\$26.5m for Paragon Care and \$10.8m for Quantum) and \$21m in NPBT (\$12.4m for Paragon Care and \$8.7m for Quantum) in FY21.⁶

Paragon Care's bankers National Australia Bank are supportive of the merger and have provided their consent under the terms and conditions of the banking facilities Paragon Care holds with them.

Key Transaction Terms

Paragon Care has agreed to acquire 100% of the shares of Quantum through a Quantum scheme of arrangement. Under the Transaction, Quantum shareholders will receive consideration of 0.243 Paragon Care shares for each Quantum share held on the scheme record date.

Upon implementation of the Transaction, Paragon Care shareholders will own approximately 56.17% and Quantum shareholders will own approximately 43.83% of the merged entity.

Quantum will be entitled to nominate two directors to join the Board of Paragon Care immediately following implementation.

The parties have entered into the attached Scheme Implementation Deed ("SID") which contains the terms upon which Paragon Care and Quantum will implement the Transaction. Key conditions to the Transaction include:

- approval by the requisite majorities of Quantum shareholders and the Court;
- the Independent Expert concluding that the Transaction is in the best interests of Quantum shareholders;
- no material adverse change, prescribed event, material litigation or breach of warranty (as defined in the SID) occurring in relation to either Quantum or Paragon Care;
- John Walstab entering into a voluntary escrow deed in respect of the Paragon Care shares received under the Transaction;
- the repayment of Quantum related party loans;
- certain key executives of Quantum (to be agreed between Paragon Care and Quantum) to enter into new employment agreements; and
- no regulatory restraints to implementation of the Transaction.

⁶ Based on FY21 underlying revenue and EBITDA for Paragon Care and Quantum.

The SID also includes reciprocal customary exclusivity arrangements (including “no shop”, “no talk” and notification obligations (with fiduciary carve-outs)) as well as a reciprocal break fee payable in certain circumstances, as detailed in the SID.

There is no capital raising associated with the transaction and Paragon Care shareholders do not need to take any action.

A copy of SID is attached to this announcement as Annexure A.

Leadership of the Merged Entity

Paragon Care has commenced the search for a global Managing Director to drive the growth of the merged entity within Asia Pacific. Phil Nicholl will continue in his role as CEO of Paragon Care, Australia, and New Zealand. If the Transaction proceeds to implementation, John Walstab will continue in his role as CEO of Quantum’s operations.

John Walstab currently holds 45.6% of Quantum shares on issue. Following implementation of the Transaction, John is expected to hold 19.99% of the then issued shares in Paragon Care. As a condition to the Transaction, John has agreed to enter into a voluntary escrow agreement in respect of the Paragon Care shares he will receive under the Transaction, with 50% of those shares released after 12 months and the remaining 50% to be released after 24 months from implementation of the Transaction.

Paragon Care Chair, Shane Tanner said, “We are very pleased to announce that Paragon Care will be joining forces with Quantum. Our highly complementary distribution networks of suppliers and customers will ensure that the merged entity is well positioned to scale into the high growth Asian markets in the years ahead. We look forward to providing Paragon’s suppliers a platform to expand their partnership with us into the Asia Pacific region.”

Quantum Chair, Drew Townsend said, “Over the past few years, we have built a leading healthcare distribution business in Asia, and we are confident that the merged entity will be attractive to existing and new suppliers who are looking to access the Asia Pacific market in the next decade. We have trusted relationships with our customers and a commitment to high levels of corporate governance in the Asian market, which is important to global suppliers.”

Timetable and Next Steps

A scheme booklet containing information in relation to the Transaction, including an Independent Expert’s Report, is expected to be dispatched to Quantum shareholders and available on ASX in late December 2021 or early January 2022.

An indicative timetable is set out below*:

Event	Date
First Court Date	Mid December 2021
Dispatch of Scheme Booklet to Quantum shareholders	Late December 2021 or early January 2022
Quantum Scheme Meeting	Late January 2022
Second Court Date	Early February 2022
Lodge Court order with ASIC (Effective Date)	Early February 2022
Record Date	Early-mid February 2022
Implementation Date	Mid-late February 2022

* All dates are indicative only and subject to change.

For further information please contact:

Shane Tanner

Chair

Shane.Tanner@paragoncare.com.au

This announcement is authorised for release to the market by the Board of Directors of Paragon Care Limited.

About Paragon Care Limited

Paragon Care (ASX:PGC) is an Australian based listed company in the healthcare sector. It is a leading provider of medical equipment, devices, and consumables for the Australian and New Zealand healthcare markets. These are high growth markets driven by the ageing of the population, continuously rising consumer expectations and increasing government spending. By combining a series of strategic acquisitions of class leading companies, Paragon Care has positioned itself to provide advanced technology solutions including equipment, consumables, and services for acute and ancillary care environments.

Forward-Looking Statements

Certain statements in this announcement are forward-looking statements relating to the operations of Paragon Care and Quantum that are based on Paragon Care management's own current expectations, estimates and projections about matters relevant to Paragon's and Quantum's future financial performance which may ultimately prove to be materially incorrect. Forward-looking statements can generally be identified by the use of words such as "anticipate", "estimate", "expect", "project", "intend", "plan", "believe", "target", "may", "assume" and words of similar import. These forward-looking statements speak only as at the date of this announcement.

References in this announcement to current assumptions, estimates and outcomes and forward-looking statements about current assumptions, estimates and outcomes, are based on internal business data and external sources and, by their nature, are subject to a number of known and unknown risks and uncertainties that could cause the actual results, performances and achievements to differ materially from any expected future results, performance or achievements expressed or implied by such forward-looking statements. No assurance or guarantee is, or should be taken to be, given in relation to, and no reliance should be placed on, the future business performance or results of Paragon Care or Quantum or the likelihood that the current assumptions, estimates or outcomes will be achieved. Any past performance information included in this announcement is given for illustrative purposes only and should not be relied upon as (and is not) a promise, representation, warranty or guarantee as to the past, present or an indication of future performance.

While management has taken every effort to ensure the accuracy of the material in this announcement, this announcement is provided for information only and no representation, warranty or assurance (express or implied) are made as to, and no reliance should be placed on, the accuracy or completeness of such information.. To the maximum extent permitted by law, Paragon Care, its subsidiaries and its interests in associates and jointly controlled operations and their directors, officers, employees and advisers expressly exclude and disclaim any liability (including, without limitation, any liability arising out of fault or negligence on the part of any person) in respect of anything done or not done, directly or indirectly, in reliance on this announcement or information contained in the announcement.

This announcement should not be construed in any manner as a recommendation to any investor or potential investor or other reader of this communication. This announcement and its content is not intended to be relied upon as a forecast or advice to investors or potential investors and does not take into account an individual investor's investment objectives or financial situation. You should make your own enquiries and take your own advice in Australia and elsewhere (including financial, taxation and legal advice) before making an investment in the Paragon Care's shares, Quantum's shares or in making a decision to hold or sell your shares.

Subject to any continuing obligation under applicable law or relevant listing rules of the ASX, Paragon Care disclaims any obligation or undertaking to disseminate any updates or revisions to any forward-looking statements in these materials to reflect any change in expectations in relation to any forward-looking statements or any change in events, conditions or circumstances on which any statement is based. Nothing in these materials shall under any circumstances create an implication that there has been no change in the affairs of Paragon Care since the date of the announcement.

Annexure A – Scheme Implementation Deed

For personal use only

Quantum Health Group Limited

Paragon Care Limited

Scheme Implementation Deed

JOHNSON WINTER & SLATTERY

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Scheme Implementation Deed

Date 6 November 2021

Parties

- 1 Quantum Health Group Limited (ABN 19 003 677 245) (Target)**

Address: 22 Rosebery Avenue, Rosebery, NSW 2018

Email: jwalstab@qhealthcare.com.au

Contact: John Walstab
- 2 Paragon Care Limited (ABN 76 064 551 426) (Bidder)**

Address: Level 4, 100 Albert Road, South Melbourne, VIC 3205

Email: mleydin@leydinfreyer.com.au

Contact: Melanie Leydin, Company Secretary

Recitals

- A** The Target and Bidder have agreed that the Target will propose a scheme of arrangement under Part 5.1 of the Corporations Act between the Target and its shareholders, pursuant to which the Bidder will acquire all of the ordinary shares in the Target.
- B** The Target and Bidder have agreed to implement the Scheme upon and subject to the terms and conditions of this document.
- C** The Target and Bidder have agreed certain other matters in connection with the Scheme as set out in this document.

Operative part

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this document, unless the context requires otherwise.

Agreed Announcement means a public announcement to be issued by each of the Bidder and the Target each in the form agreed by the parties.

ASIC means the Australian Securities and Investments Commission.

ASIC Review Period means the period from the date on which a draft of the Scheme Booklet is submitted by the Target to ASIC to the date on which ASIC confirms that it has no objection to the form of the Scheme Booklet.

Associate has the meaning given in section 12(2) of the Corporations Act but as though the Target or the Bidder (as applicable) is the 'designated body' and, for the avoidance of doubt, is to be read together with the exclusions in section 16 of the Corporations Act.

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

ASX Listing Rules means the official listing rules of ASX.

Bidder Directors means the directors of the Bidder from time to time.

Bidder Disclosure Information means the information under the heading "Bidder Disclosures" in the Disclosure Letter.

Bidder Due Diligence Information means all information relating to the Scheme or the Bidder Group:

- (a) provided to the Target Group and its Representatives at least two days prior to the date of this document in the data room established for the purpose of the Transaction, a copy of the index which is in the Agreed Form; or
- (b) contained in the ASX announcements of the Bidder from 30 June 2020 until two days prior to the date of this document.

Bidder Group means the Bidder and its Related Bodies Corporate.

Bidder Indemnified Party means each member of the Bidder Group and their respective Representatives.

Bidder Material Adverse Change means:

- (a) any event, change, or circumstance which: (i) occurs or is reasonably likely to occur or is announced on or after the date of this document; or (ii) occurs on or before the date of this document but which only becomes known to Target after the date of this document, or
- (b) any Third Party counterparty to a contract held by a member of the Bidder Group as at the date of this document does not provide its consent, approval or waiver as may be required having regard to the terms of the Transaction,

(each a **Specified Event**) that, individually or in the aggregate with other such events, changes or circumstances of a similar kind or category, has or would, with the lapse of time, be reasonably likely to result in a diminution in the consolidated EBITDA of the Bidder Group by at least \$4,000,000 in any financial year against what it would reasonably have been expected to be but for the Specified Event, except any such event, change or circumstance:

- (c) resulting from or arising in connection with:
 - (i) any disruption to the financial markets or economic conditions of any relevant jurisdiction, including but not limited to Australia and New Zealand to the extent that such disruption has not had a disproportionate effect on the Bidder Group relative to other participants in the same industry;
 - (ii) any change in accounting standards, principles or interpretations in any jurisdiction;
 - (iii) any adoption, implementation or change in generally applicable law or policy or any interpretation of generally applicable law or policy by any Governmental Agency (including in relation to any Tax);
 - (iv) any change in global, national or regional political conditions (including the outbreak of war or acts of terrorism) to the extent that such change has not had a disproportionate effect on the Bidder Group relative to other participants in the same industry;
 - (v) any climatic or other natural event or condition (including any weather conditions and any natural disaster) or other act of God, war (whether or not declared), terrorism or civil unrest to the extent that such event has not

had a disproportionate effect on the Bidder Group relative to other participants in the same industry; or

- (vi) other than in relation to an event in limb (b) above, the execution, announcement or performance of this document or the implementation of the Scheme or the consummation of any transaction expressly required or expressly permitted by this document or the Scheme;
- (d) fairly disclosed in the Bidder Due Diligence Information or in the Bidder Disclosure Information; or
- (e) in relation to which any member of the Target Group has consented in writing.

Bidder Material Contract means an arrangement, agreement or understanding that the parties agree in writing to be a Bidder Material Contract.

Bidder Prescribed Event means any of the following:

- (a) the Bidder converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Bidder Group resolves to reduce its share capital in any way or reclassifies, splits, combines, redeems or buys back directly or indirectly any of its shares;
- (c) the Bidder declares any dividend or pays, makes or incurs any liability to pay any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets to its members;
- (d) any member of the Bidder Group issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (e) any member of the Bidder Group issues, or agrees to issue, securities convertible into shares or debt securities or enters into any new debt facility, or amends or extends the terms of any existing debt facility;
- (f) the constitution of the Bidder or any other member of the Bidder Group is amended, repealed or replaced;
- (g) any member of the Bidder Group disposes, or agrees to dispose, of the whole or a substantial part of the Bidder Group's business or property;
- (h) any member of the Bidder Group creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or property;
- (i) an Insolvency Event occurs in relation to the Bidder or any member of the Bidder Group; or
- (j) any member of the Bidder Group breaches clause 6.2(a), 6.2(b), 6.2(c), 6.2(d), 6.2(g) or 6.2(i) (to the extent that clause is breached as a result of a breach of any of the foregoing clauses),

provided that a Bidder Prescribed Event shall not include:

- (k) any wholly intra group transaction between members of the Bidder Group;
- (l) any event, change or circumstance:
 - (i) expressly permitted or expressly required by, this document or the Scheme;

- (ii) fairly disclosed in the Bidder Due Diligence Information or in the Bidder Disclosure Information; or
- (iii) in relation to which any member of the Target Group has consented in writing.

Bidder Registry means Link Market Services Limited.

Bidder Scheme Booklet Information means all information in the Scheme Booklet (or in any update to the Scheme Booklet released by the Target) regarding any member of the Bidder Group or the Merged Group.

Bidder Share means a fully paid ordinary share in the Bidder.

Bidder Shareholder means a person who is recorded in the register of members of the Bidder as the holder of Bidder Shares.

Bidder Warranty means each representation and warranty set out in clause 7.2.

Board means, in respect of a body corporate, the board of directors of that body corporate in place from time to time.

Break Fee means AU\$1,000,000 (excluding GST).

Business Day has the meaning given in the ASX Listing Rules.

CoC Contract means an arrangement, agreement or understanding that the parties agree in writing to be a CoC Contract.

Competing Proposal means any transaction or arrangement, or any proposal, offer or expression of interest in relation to a transaction or arrangement, pursuant to which:

- (a) any Third Party (either alone or together with any Associate) would, if the transaction or arrangement is entered into or completed:
 - (i) directly or indirectly acquire or become, or obtain the right to acquire or become, the holder of a legal, beneficial and/or economic interest in, or control of, all or a substantial part of the business or assets of either Target Group or the Bidder Group (each taken as a whole);
 - (ii) directly or indirectly acquire a Relevant Interest in, or otherwise acquire or have a right to acquire a legal, beneficial and/or economic interest in, more than 20% of the Target Shares on issue (or the shares on issue in a material Subsidiary of the Target) or the Bidder Shares on issue (or the shares on issue in a material Subsidiary of the Bidder) (each including by way of an equity swap, contract for difference of similar transaction or arrangement); or
 - (iii) acquire or obtain the right to acquire control of a party within the meaning of section 50AA of the Corporations Act or otherwise acquire or merge with a party or a material member of the Target Group or the Bidder Group (as applicable);
- (b) a party would be required to not proceed with the Scheme or as a result of which the Scheme otherwise would not proceed,

in each case, whether by way of takeover bid, scheme of arrangement, shareholder approved transaction, capital reduction or buy-back, sale or purchase of shares, other securities or

assets, joint venture, dual-listed company structure (or other synthetic merger), or other transaction or arrangement.

Confidentiality Agreement means the confidentiality agreement between the Bidder and the Target.

Consideration Share means a Bidder Share issued as Scheme Consideration.

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

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

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act as agreed by the Target and the Bidder in writing.

Deed Poll means a deed poll substantially in the form of Annexure 2 (or in such other form as is agreed between the Target and the Bidder).

Disclosure Letter means the letter entitled "Disclosure Letter" in the Agreed Form.

EBITDA means earnings before interest, tax, depreciation and amortisation, calculated in a manner consistent with the principles, policies and procedures used to prepare the parties most recent audited accounts.

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

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

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

End Date means seven months after the date of this document or such other date as the Target and the Bidder agree in writing.

Escrow Deed means the escrow deed substantially in the form of Annexure 3 (or in such other form as is agreed between the Target and the Bidder).

Exclusivity Period means the period commencing on the date of this document and ending on the earlier of:

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

First Court Date means the first day on which the application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is, or is to be, heard or, if the application is adjourned for any reason, the first day on which the adjourned application is heard.

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 in any jurisdiction. It includes ASIC, ASX (and any other securities exchange) and the Takeovers Panel and any self-regulatory organisation established under statute.

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

Implementation means the implementation of the Scheme in accordance with its terms following it becoming Effective.

Implementation Date means the fifth Business Day following the Record Date or such other date agreed by the Target and Bidder in writing.

Independent Expert means such person as the Target appoints to prepare the Independent Expert's Report in accordance with clause 4.1(b).

Independent Expert's Report means a report that accompanies the Scheme Booklet by the Independent Expert stating whether or not in its opinion the Scheme is in the best interests of the Target Shareholders and setting out reasons for that opinion, and includes any update or supplement to that report.

Insolvency Event means, for a person:

- (a) being in liquidation or provisional liquidation or administration;
- (b) having a controller or analogous person appointed to it or any of its property,
- (c) an application being made to a court to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property (or such an application being granted);
- (d) the holder of an Encumbrance, or any agent on its behalf, appointing a controller or taking possession of any of the person's property;
- (e) an application being made to a court for an order for its winding up (or such an order being made) or its dissolution or deregistration;
- (f) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (g) being unable to pay its debts when they fall due or otherwise insolvent;
- (h) becoming an insolvent under administration, or entering into a compromise or arrangement with, or assignment for the benefit of, any of its creditors; or
- (i) anything analogous to any of the foregoing events under the laws of any jurisdiction other than Australia.

Key Executives means those key executives of the Target identified by the Bidder in the Disclosure Letter.

Merged Group means the combination of the Bidder Group and the Target Group, as comprised by Bidder and its Subsidiaries following implementation of the Scheme.

Officer means, in relation to an entity, any director, company secretary or employee of that entity.

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

Record Date means 7pm (Sydney time) on the fifth Business Day following the Effective Date or such other date as the Target and the Bidder agree in writing.

Regulator's Draft means the draft of the Scheme Booklet provided, or to be provided, to ASIC pursuant to section 411(2) of the Corporations Act.

Related Party Loan means any amounts owing by a member of the Target Group to any Target Shareholder, any Officer of a member of the Target Group or any of their Associates, including any amounts owing by the Target to each of John Walstab, Drew Townsend, Nightdoc Pty Ltd as trustee for the Tomlin Super Fund and H.W. Jang.

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

Relevant Governmental Agency has the meaning in clause 2.5(a) but excludes the Court.

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

Representative means, in relation to a party:

- (a) a Related Body Corporate of the party; or
- (b) an Officer of the party or any of the party's Related Bodies Corporate; or
- (c) an adviser, consultant, agent or representative of the party or any of the party's Related Bodies Corporate.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act to be made between the Target and the Scheme Shareholders substantially in the form of Annexure 1, subject to any alterations or conditions (whether proposed by a party or required by the Court) which are agreed in writing by the Target and the Bidder.

Scheme Booklet means the explanatory statement to be approved by the Court and despatched by the Target to Target Shareholders, and which includes, amongst other things, the Scheme and an explanatory statement under section 412 of the Corporations Act.

Scheme Consideration means the consideration to be provided or procured by the Bidder to Scheme Shareholders in consideration for the transfer of the Scheme Shares held by Scheme Shareholders to the Bidder, being 0.243 Consideration Shares per Scheme Share.

Scheme Meeting means the meeting(s) of the Target Shareholders (or any class of them) to be ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act in respect of the Scheme.

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

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

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

Subsidiary has the meaning given in the Corporations Act.

Superior Proposal means a bona fide Competing Proposal (excluding the kind referred to in paragraph (a)(ii) of the definition of "Competing Proposal"):

- (a) in respect of the Target Group or the Bidder Group, which the Board of the Target (in the case of the Target Group) or the Board of the Bidder (in the case of the Bidder Group) determines, acting in good faith and in order to satisfy what the Board of the Target (in the case of the Target Group) or the Board of the Bidder (in the case of the Bidder Group) consider to be their fiduciary or statutory duties (and after

consulting with their financial advisers and having taken written advice from their legal advisers and having taken into account any factors considered relevant):

- (i) is capable of being valued and consummated; and
- (ii) would, if consummated substantially in accordance with its terms, result in a transaction more favourable to the Target Shareholders or the Bidder Shareholders (as applicable) (as a whole) than the Scheme,

taking into account all material terms and conditions of the Competing Proposal; and

- (b) which is not an Unsolicited Competing Proposal.

Target Directors means the directors of the Target from time to time.

Target Disclosure Information means the information under the heading "Target Disclosures" in the Disclosure Letter.

Target Due Diligence Information means all information relating to the Scheme or the Target Group:

- (a) provided to the Bidder Group and its Representatives at least two days prior to the date of this document in the data room established for the purpose of the Transaction, a copy of the index which is in the Agreed Form; or
- (b) contained in the ASX announcements of the Target from 30 June 2020 until two days prior to the date of this document.

Target Group means the Target and its Related Bodies Corporate.

Target Indemnified Party means each member of the Target Group and their respective Representatives.

Target Material Adverse Change means:

- (a) any event, change, or circumstance which: (i) occurs or is reasonably likely to occur or is announced on or after the date of this document; or (ii) occurs on or before the date of this document but which only becomes known to Target after the date of this document; or
- (b) any Third Party counterparty to a contract held by a member of the Target Group as at the date of this document does not provide its consent, approval or waiver as may be required having regard to the terms of the Transaction,

(each a **Specified Event**) that, individually or in the aggregate with other such events, changes or circumstances of a similar kind or category, has or would, with the lapse of time, be reasonably likely to result in a diminution in the consolidated EBITDA of the Target Group by at least \$1,500,000 in any financial year against what it would reasonably have been expected to be but for the Specified Event, except any such event, change or circumstance:

- (c) resulting from or arising in connection with:
 - (i) any disruption to the financial markets or economic conditions of any relevant jurisdiction, including but not limited to Australia and New Zealand, to the extent that such disruption has not had a disproportionate effect on the Target Group relative to other participants in the same industry;
 - (ii) any change in accounting standards, principles or interpretations in any jurisdiction;

- (iii) any adoption, implementation or change in generally applicable law or policy or any interpretation of generally applicable law or policy by any Governmental Agency (including in relation to any Tax);
- (iv) any change in global, national or regional political conditions (including the outbreak of war or acts of terrorism) to the extent that such change has not had a disproportionate effect on the Target Group relative to other participants in the same industry;
- (v) any climatic or other natural event or condition (including any weather conditions and any natural disaster) or other act of God, war (whether or not declared), terrorism or civil unrest to the extent that such event has not had a disproportionate effect on the Target Group relative to other participants in the same industry; or
- (vi) other than in relation to an event in limb (b) above, the execution, announcement or performance of this document or the implementation of the Scheme or the consummation of any transaction expressly required or expressly permitted by this document or the Scheme;
- (d) fairly disclosed in the Target Due Diligence Information or in the Target Disclosure Information; or
- (e) in relation to which any member of the Bidder Group has consented in writing.

Target Material Contract means an arrangement, agreement or understanding that the parties agree in writing to be a Target Material Contract.

Target Prescribed Event means any of the following:

- (a) the Target converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Target Group resolves to reduce its share capital in any way or reclassifies, splits, combines, redeems or buys back directly or indirectly any of its shares;
- (c) the Target declares any dividend or pays, makes or incurs any liability to pay any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets to its members;
- (d) any member of the Target Group issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (e) any member of the Target Group issues, or agrees to issue, securities convertible into shares or debt securities or enters into any new debt facility, or amends or extends the terms of any existing debt facility;
- (f) the constitution of the Target or any other member of the Target Group is amended, repealed or replaced;
- (g) any member of the Target Group disposes, or agrees to dispose, of the whole or a substantial part of the Target Group's business or property;
- (h) any member of the Target Group creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or property;
- (i) an Insolvency Event occurs in relation to the Target or any member of the Target Group; or

- (j) any member of the Target Group breaches clause 6.2(a), 6.2(b), 6.2(c), 6.2(d), 6.2(g) or 6.2(i) (to the extent that clause is breached as a result of a breach of any of the foregoing clauses),

provided that a Target Prescribed Event shall not include:

- (k) any wholly intra group transaction between members of the Target Group;
- (l) any event, change or circumstance:
- (i) expressly permitted or expressly required by, this document or the Scheme;
 - (ii) fairly disclosed in the Target Due Diligence Information or in the Target Disclosure Information; or
 - (iii) in relation to which any member of the Bidder Group has consented in writing.

Target Register means the register of members of the Target.

Target Registry means Boardroom Pty Limited.

Target Scheme Booklet Information means information included in the Scheme Booklet (or in any update or supplement to the Scheme Booklet released by the Target) other than:

- (a) the Bidder Scheme Booklet Information;
- (b) the Independent Expert's Report; and
- (c) (if applicable) any statement of the tax consequences of the Scheme and associated matters for the Target Shareholders on the letterhead of the Target's tax advisers as may be included in the Scheme Booklet.

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

Target Shareholder means a person who is recorded in the Target Register as the holder of the Target Shares.

Target Warranty means each representation and warranty set out in clause 7.1.

Tax means any tax, levy, impost, charge, duty (including stamp and transaction duties) or similar liability paid, payable or assessed as being payable by any Governmental Agency together with any fines, penalties and interest in connection with them.

Third Party means:

- (a) in relation to the Target, a person other than a member of the Target Group; and
- (b) in relation to the Bidder, a person other than a member of the Bidder Group.

Timetable means the indicative timetable in Schedule 1, subject to any modifications as the Target and Bidder may agree in writing.

Transaction means the acquisition of the Scheme Shares by Bidder through implementation of the Scheme in accordance with the terms of this document.

Unsolicited Competing Proposal means any bona fide approach by a Third Party in respect of a Competing Proposal not solicited in breach of clause 9.2 (it being understood that any actions by the Representatives of the Target or the Bidder (as the context requires) not permitted by clause 9 will be deemed to be a breach by that party for the purposes hereof).

Warranty Claim means any claim arising out of a breach of a Target Warranty or Bidder Warranty (as applicable).

1.2 Interpretation

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

- (a) Any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document.
- (b) The singular includes the plural and vice versa.
- (c) A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Governmental Agency.
- (d) A reference to:
 - (i) a person includes that person's successors, permitted substitutes and permitted assigns;
 - (ii) a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this document;
 - (iii) this document or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;
 - (iv) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;
 - (v) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
 - (vi) "include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
 - (vii) dollars or \$ is to Australian dollars;
 - (viii) time is to the time in Sydney, New South Wales;
 - (ix) "fairly disclosed" in relation to a matter is to such matter being disclosed in sufficient detail to enable a reasonable person experienced in transactions such as this Transaction and the industry in which the Bidder Group and the Target Group operate to identify the nature and scope of the relevant matter (including, in each case, that the potential financial effect of the relevant matter, event or circumstance was reasonably ascertainable from the information disclosed); and
 - (x) "Agreed Form" means in the form agreed by or on behalf of the Bidder and the Target prior to execution of this document (with any subsequent changes that the Bidder and the Target may agree in writing).
- (e) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.

- (f) A provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document.
- (g) A period of time expressed to commence:
 - (i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
 - (ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

2 Conditions precedent

2.1 Conditions precedent

Subject to this clause 2, the obligations of the parties to proceed to Implementation of the Scheme do not become binding, and the Scheme will not become Effective, unless each of the following conditions precedent is satisfied or is waived in accordance with clause 2.2:

Conditions precedent for the benefit of all parties

- (a) **(ASIC and ASX)** before 5pm on the Business Day before the Second Court Hearing, ASIC and ASX issue or provide all relief, waivers, confirmations, exemptions, consents or approvals, and do all other acts, necessary (or which Target and Bidder agree in writing are desirable), to implement the Scheme and such relief, waivers, confirmations, exemptions, consents, approvals or other acts (as the case may be) remain in full force and effect in all respects and have not been withdrawn, revoked, suspended, restricted or amended (or become subject to any notice, intimation or indication of intention to do any such thing) before 8am on the Second Court Date;
- (b) **(Shareholder approval of Scheme)** at the Scheme Meeting, the Target Shareholders approve the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act (having regard to any order made under section 411(4)(a)(ii)(A));
- (c) **(Court approval)** the Court makes orders under section 411(4)(b) of the Corporations Act approving the Scheme;
- (d) **(No restraints)** no temporary restraining order, preliminary or permanent injunction or other order is issued by any court of competent jurisdiction, no action or investigation is announced, commenced or threatened by any Governmental Agency or other legal restraint or prohibition preventing any aspect of the Scheme unless such order, injunction decision, decree, action, investigation or application has been disposed of to the satisfaction of Bidder or is otherwise not in effect or enforceable as at 8am on the Second Court Date;

Conditions precedent for the benefit of the Target

- (e) **(Independent Expert)** the Independent Expert's Report concludes that the Scheme is in the best interests of the Target Shareholders on or before the date the Scheme Booklet is lodged with ASIC;
- (f) **(No Bidder Prescribed Events)** no Bidder Prescribed Event occurs between the date of this document and 8am on the Second Court Date;
- (g) **(No Bidder Material Adverse Change)** no Bidder Material Adverse Change occurs between the date of this document and 8am on the Second Court Date;

- (h) **(Bidder Warranties)** the representations and warranties of the Bidder set out in clause 7.2 of this document are true and correct in all material respects (taken in the context of the Scheme as a whole) as at the dates at which they are expressed to be given;
- (i) **(No material litigation)** no legal proceedings, claim, investigation, arbitration or other like proceeding is instituted or made against any member of the Bidder Group that would result, or would reasonably likely result, in payment by a member of the Bidder Group of an amount exceeding \$4,000,000;

Conditions precedent for the benefit of the Bidder

- (j) **(No Target Prescribed Events)** no Target Prescribed Event occurs between the date of this document and 8am on the Second Court Date;
- (k) **(No Target Material Adverse Change)** no Target Material Adverse Change occurs between the date of this document and 8am on the Second Court Date;
- (l) **(Target Warranties)** the representations and warranties of the Target set out in clause 7.1 of this document are true and correct in all material respects (taken in the context of the Scheme as a whole) as at the dates at which they are expressed to be given;
- (m) **(Related Party Loans)** any and all Related Party Loans are fully repaid before 5pm on the Business Day prior to the Second Court Date;
- (n) **(Escrow Deed)** the Escrow Deed is validly executed on or before 5pm on the Business Day before the Second Court Date in respect of any Consideration Shares to be issued to John Walstab or any of his Associates;
- (o) **(No material litigation)** no legal proceedings, claim, investigation, arbitration or other like proceeding is instituted or made against any member of the Target Group that would result, or would reasonably likely result, in payment by a member of the Target Group of an amount exceeding \$1,500,000; and
- (p) **(Employment agreements)** new employment agreements between the Key Executives and a Bidder Group or Target Group member are entered into before 5pm on the Business Day before the Second Court Date in a form approved by the Bidder in writing (acting reasonably).

2.2 Benefit and waiver of conditions precedent

- (a) The conditions precedent in clauses 2.1(a) to 2.1(d) are for the benefit of each of the parties. Any breach or non-fulfilment of any of the conditions precedent in clauses 2.1(b) and 2.1(c) cannot be waived. Any breach or non-fulfilment of the condition precedent in clauses 2.1(a) and 2.1(d) may only be waived with the written consent of the Target and the Bidder.
- (b) The conditions precedent in clauses 2.1(e) to 2.1(i) are for the sole benefit of the Target, and any breach or non-fulfilment of any of those conditions precedent may only be waived by the Target giving its written consent.
- (c) The conditions precedent in clauses 2.1(j) to 2.1(p) are for the sole benefit of the Bidder, and any breach or non-fulfilment of any of those conditions precedent may only be waived by the Bidder giving its written consent.

- (d) A party entitled to waive the breach or non-fulfilment of a condition precedent pursuant to this clause 2.2 may do so in its absolute discretion and, subject to the other party agreeing to abide by the conditions, may do so subject to conditions.
- (e) If a party waives the breach or non-fulfilment of a condition precedent in accordance with this clause 2.2, that waiver will preclude it from suing the other party for any breach of this document constituted by the event which gave rise to the breach or non-fulfilment of the condition precedent.
- (f) A waiver of a breach or non-fulfilment in respect of one condition precedent does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other condition precedent resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-fulfilment of that condition precedent resulting from any other events or circumstances.

2.3 ***Reasonable endeavours and notification***

- (a) Without prejudice to any other obligations of the parties under this document, but subject to the other provisions of this document:
 - (i) each of the parties must use all reasonable endeavours to satisfy, or procure the satisfaction of, the conditions precedent in clauses 2.1(a) to 2.1(e);
 - (ii) the Bidder must use all reasonable endeavours to satisfy, or procure the satisfaction of, the condition precedent in clauses 2.1(f) to 2.1(i); and
 - (iii) the Target must use all reasonable endeavours to satisfy, or procure the satisfaction of, the conditions precedent in clauses 2.1(j) to 2.1(o),

as soon as practicable after the date of this document and in any event with a view to the Effective Date occurring on or before the End Date.
- (b) The parties must:
 - (i) promptly inform each other of a failure to satisfy a condition precedent or of any circumstance which may result in any of the conditions precedent not being satisfied or capable of being satisfied;
 - (ii) promptly inform each other of the happening of any fact, matter, change, event, circumstance or occurrence that does, will or would reasonably be likely to prevent a condition precedent from being satisfied or mean that any condition precedent will not otherwise be satisfied before the End Date;
 - (iii) promptly advise each other in writing of the satisfaction of a condition precedent;
 - (iv) each give the Court on the Second Court Date a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its own knowledge) whether or not all of the conditions precedent in clause 2.1 (other than the condition precedent in clause 2.1(c)) have been satisfied or waived in accordance with this document; and
 - (v) give each other a draft of the certificate or other evidence to be provided by it under clause 2.3(b)(iv) by 5pm on the day that is two Business Days prior to the Second Court Date, and must provide to each other on the

Second Court Date a copy of the final certificate or other evidence provided to the Court.

2.4 **Condition precedent not satisfied or waived**

- (a) If:
- (i) any condition precedent has not been fulfilled or waived in accordance with clause 2.2 by the time or date specified in clause 2.1 for satisfaction of the condition precedent; or
 - (ii) there is an act, omission, event, occurrence or circumstance which will prevent a condition precedent from being satisfied by the time or date specified in clause 2.1 for its satisfaction or, if no time or date is specified, by the End Date (and the non-fulfilment of the condition precedent which would otherwise occur has not already been waived in accordance with this document),
- either the Bidder or the Target may serve notice on the other of them and then the Target and the Bidder will consult in good faith with a view to determining whether:
- (iii) the Scheme may proceed by way of alternative means or methods;
 - (iv) to extend the relevant time or date for satisfaction of the condition precedent;
 - (v) to adjourn or change the date of an application to the Court; or
 - (vi) to extend the End Date.
- (b) If Target and Bidder are unable to reach agreement under clause 2.4(a) within five Business Days following the delivery of the notice (or any shorter period ending at 5pm on the day before the Second Court Date), either of them may terminate this document by notice in writing to the other, provided that:
- (i) there has been no failure by that party to comply with its obligations under this document, where that failure directly and materially contributed to the condition precedent to which the notice relates becoming incapable of satisfaction, or being breached or not fulfilled before the End Date; and
 - (ii) the relevant condition precedent is for its benefit (whether solely or jointly with another party).

For the avoidance of doubt, nothing in this clause 2.4(b) affects the obligation of either party to pay the Break Fee, if it is required to do so under clause 10.

2.5 **Communications regarding regulatory approvals**

To the extent permitted by law and each party's respective legal obligations and without limiting clause 2.3:

- (a) as soon as practicable after the date of this document, the parties must cooperate in good faith to develop a plan for communications with Governmental Agencies that are required to be approached for the purpose of procuring the satisfaction of any condition precedent (each a **Relevant Governmental Agency**);
- (b) each party must provide any Relevant Governmental Agency with all information reasonably required by the Relevant Governmental Agency in connection with the Scheme;

- (c) each party:
- (i) subject to the requirements of the Relevant Governmental Agency, shall have the right to be present and make submissions at or in relation to any proposed meeting by the other party or its advisers with a Relevant Governmental Agency in relation to the Scheme (except to the extent that such meeting involves the discussion of commercially sensitive information); and
 - (ii) must promptly provide copies to the other parties of any written communication sent to or received from a Relevant Governmental Agency in connection with the Scheme (except to the extent that such written communication contains commercially sensitive information of the party in correspondence with the Relevant Governmental Agency); and
- (d) notwithstanding any other provision of this document, for the purposes of obtaining any approval of a Relevant Governmental Agency, none of the parties is required to agree to any conditions or to provide or to agree to provide any written undertakings to a Relevant Governmental Agency which are not reasonably acceptable to that party.

3 Scheme

3.1 Outline of Scheme

Subject to the terms and conditions of this document, the Target must propose and implement the Scheme, under which, on the Implementation Date, all of the Scheme Shares will be transferred to the Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration.

3.2 No amendment to the Scheme without consent

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

3.3 Scheme Consideration

Subject to the Scheme becoming Effective, the Bidder undertakes to the Target that, in consideration of the transfer of each of the Scheme Shares held by Scheme Shareholders to the Bidder under the Scheme, it will accept the transfer and provide the Scheme Consideration in accordance with the Scheme.

4 Implementation of the Scheme

4.1 Target's obligations

The Target must take all steps to propose and implement the Scheme as soon as is reasonably practicable and use all reasonable endeavours to do so in accordance with the Timetable, including taking each of the following steps:

- (a) **(Agreed Announcement)** make the Agreed Announcement in accordance with clause 12.1;
- (b) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert to enable it to finalise the Independent Expert's Report on a timely basis;

- (c) **(preparation of Scheme Booklet)**
- (i) prepare the Scheme Booklet in accordance with the requirements of the Corporations Act, Corporations Regulations, the ASX Listing Rules, all ASIC Regulatory Guides (including ASIC Regulatory Guide 60) and applicable Takeovers Panel guidance notes applicable to members' schemes of arrangement under Part 5.1 of the Corporations Act;
 - (ii) make available to the Bidder successive drafts of the Scheme Booklet (including any draft of a report by the Independent Expert but excluding those sections containing the Independent Expert's opinions or conclusions) with a final draft no later than two Business Days prior to lodgement with ASIC for review and consult with the Bidder in relation to: the content of those drafts, and consider in good faith, for the purpose of amending those drafts, comments from the Bidder and its advisers on those drafts received on a timely basis;
 - (iii) obtain written consent from the Bidder for the form and content in which the Bidder Information appears in the Scheme Booklet; and
 - (iv) confirm in writing to the Bidder that the Target Scheme Booklet Information in the Scheme Booklet does not contain any material statement that is false or misleading in a material respect including because of any material omission from that statement.
- (d) **(lodgement of draft Scheme Booklet with ASIC)** as soon as reasonably practicable, but by no later than 14 days before the First Court Date, provide the Regulator's Draft to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and provide a copy of the Regulator's Draft to Bidder as soon as practicable thereafter, and liaise with ASIC during the ASIC Review Period;
- (e) **(ASIC and ASX review of Scheme Booklet)** keep the Bidder promptly informed of any matters raised by ASIC or ASX in relation to the Scheme Booklet or the Transaction (and any resolution of those matters), and use reasonable endeavours, with the cooperation of the Bidder, to resolve any such matters;
- (f) **(ASIC indication of intent)** apply to ASIC for a letter indicating whether it intends to appear before the Court on the First Court Date;
- (g) **(approval of Scheme Booklet)** as soon as practicable after the end of the ASIC Review Period, procure that a meeting of the Board of the Target is convened to approve the Scheme Booklet and also to approve an application to the Court for orders that the Scheme Meeting be convened by the despatch of the Scheme Booklet to the Target Shareholders;
- (h) **(Court direction)** apply to the Court for orders under section 411(1) of the Corporations Act directing the Target to convene the Scheme Meeting;
- (i) **(Court documents)** promptly prepare all documents necessary for the Court proceedings (including any appeals) relating to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) in accordance with all applicable laws, and provide the Bidder with drafts of those documents for review and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments from the Bidder and its Representatives on those drafts;

- (j) **(despatch Scheme Booklet)** promptly, after, and provided that, the approvals and orders in clauses 4.1(g) and 4.1(h) have been received, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act and then despatch a copy of the Scheme Booklet to each Target Shareholder and to all other persons entitled to receive notice of the Scheme Meeting;
- (k) **(update the Scheme Booklet)** if, after the Scheme Booklet has been sent to Target Shareholders, the Target becomes aware of information that is:
- (i) not included in the Scheme Booklet and is material for disclosure to Target Shareholders in deciding whether to approve the Scheme or required to be disclosed to Target Shareholders under any applicable law; or
 - (ii) false, misleading or deceptive in a material respect in the form and context in which it appears in the Scheme Booklet,
- inform Target Shareholders of the information in an appropriate and timely manner, in accordance with applicable law. To the extent reasonably practicable, the Target must consult with the Bidder as to the content of any supplementary disclosure before it is made to Target Shareholders in accordance with clause 4.1(c);
- (l) **(Scheme Meeting)** convene the Scheme Meeting in accordance with the Court order 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 of Bidder (such approval not to be unreasonably withheld or delayed, except where there is a Competing Proposal);
- (m) **(section 411(17)(b) statement)** apply to ASIC for the production of a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (n) **(Court approval)** if the Scheme is approved by Target Shareholders under subparagraph 411(4)(a)(ii) of the Corporations Act and it can be reasonably expected that all of the conditions precedent in clause 2.1, other than clause 2.1(c), will be satisfied or waived in accordance with this document before 8am on the Second Court Date, apply to the Court for an order approving the Scheme in accordance with section 411(4)(b) and, if applicable, section 411(6) of the Corporations Act;
- (o) **(lodge copy of Court order, etc)** lodge with ASIC an office copy of the order approving the Scheme in accordance with section 411(10) of the Corporations Act by no later than 4pm on the first Business Day after the date on which the Court makes the order (or such later date as agreed in writing by Bidder);
- (p) **(Target Register)** promptly provide to the Bidder a copy of the Target Register as requested by the Bidder from time to time in electronic form as reasonably requested by Bidder; and
- (q) **(implementation)**
- (i) apply to ASX to suspend trading in the Target Shares with effect from the close of trading on the Effective Date;
 - (ii) if the Scheme becomes Effective, close the Target Register as at the Record Date and determine who are Scheme Shareholders and their entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme and Deed Poll;

- (iii) subject to the Scheme becoming Effective and Bidder satisfying its obligations under clause 3.3, execute proper instruments of transfer of, and register all transfers of, the Scheme Shares to the Bidder on the Implementation Date; and
 - (iv) promptly do all other things contemplated by, or necessary to lawfully give effect to, the Scheme and the orders of the Court approving the Scheme;
- (r) **(promotion)** subject to the proper performance by the directors of the Target of their fiduciary and statutory duties and provided that nothing in this paragraph requires the provision by any member of the Target Group or its Representatives of any information in breach of any obligation of confidentiality or any law, during the period from the date of this document to the Implementation Date, the Target will cooperate with the Bidder in its efforts to promote the merits of the Scheme, including, where agreed to be appropriate by the parties acting reasonably:
 - (i) through communications with the Target Shareholders; or
 - (ii) holding meetings between Representatives of the Target and key Target Shareholders at the reasonable request of the Bidder;
- (s) **(ASX listing)**
 - (i) not do anything to cause the Target Shares to cease being quoted on ASX or to become permanently suspended from quotation prior to the close of business on the Implementation Date unless the Bidder has agreed in writing; and
 - (ii) not request ASX to remove the Target from the official list of ASX other than a request taking effect after the Implementation Date in accordance with the directions of the Bidder.
- (t) **(registration of Scheme Booklet)** take all reasonable measures within its control to cause ASIC to register the Scheme Booklet under subsection 412(6) of the Corporations Act;
- (u) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (v) **(assistance)** up to the Implementation Date and subject to obligations of confidentiality owed to third parties (appropriate consents in relation to which Target must use all reasonable endeavours to obtain) and undertakings to Governmental Agencies, provide Bidder and its Representatives with reasonable access during normal business hours to information and personnel of the Target Group that Bidder reasonably requests, including for the purpose of:
 - (i) collation and provision of the Bidder Scheme Booklet Information;
 - (ii) implementation of the Scheme;
 - (iii) the Bidder obtaining an understanding of the operations of the Target Group's business, financial position, prospects and affairs; and
 - (iv) Bidder developing and implementing plans for the carrying on of the businesses of the Target Group following implementation of the Scheme.

- (w) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws and regulations;
- (x) **(proxy solicitation)** if requested by the Bidder, undertake in consultation with the Bidder reasonable shareholder engagement and proxy solicitation actions so as to promote the merits of the Transaction and encourage Target Shareholders to vote on the Scheme in accordance with the recommendation of the Target Board, subject to applicable law and ASIC policy;
- (y) **(proxy information)** upon request by Bidder made prior to commencement of the Scheme Meeting, inform Bidder of the total number of proxy votes received by Target:
 - (i) to vote in favour of the Scheme;
 - (ii) to vote against the Scheme;
 - (iii) to abstain from voting on the Scheme; and
 - (iv) where the proxy may vote at the proxy's discretion;
- (z) **(Timetable)** keep the Bidder informed about their progress against the Timetable, and notify the Bidder if it believes that any of the dates in the Timetable are not achievable; and
- (aa) **(new information)**: it will, as a continuing obligation, ensure that the Scheme Booklet is updated or supplemented to include all further or new information (but in respect of the Bidder Scheme Booklet Information, only to the extent that Bidder provides Target with updates to the Bidder Scheme Booklet Information) which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive (including by way of omission).

4.2 **Obligations of Bidder**

Subject to the terms and conditions of this document, the Bidder must take all reasonably necessary steps to assist the Target to propose and implement the Scheme as soon as is reasonably practicable and use all reasonable endeavours to do so in accordance with the Timetable, including the Bidder taking each of the following steps:

- (a) **(Agreed Announcement)** make the Agreed Announcement in accordance with clause 12.1;
- (b) **(preparation of Scheme Booklet)**
 - (i) provide to the Target such information regarding the Bidder Group as is required to ensure that the Scheme Booklet complies with the requirements of the Corporations Act, the ASX Listing Rules and all ASIC Regulatory Guides (including ASIC Regulatory Guide 60) and applicable Takeovers Panel guidance notes applicable to members' schemes of arrangement under Part 5.1 of the Corporations Act;
 - (ii) provide to the Target such assistance as the Target may reasonably require in order to adapt such information for inclusion in the Scheme Booklet;
 - (iii) provide the Target with drafts of the Bidder Scheme Booklet Information for inclusion in the Scheme Booklet in a timely manner with a final draft no

later than two Business Days prior to lodgement with ASIC for review and, acting reasonably in good faith, take into account all reasonable comments from the Target and its Representatives on those drafts; and

- (iv) as soon as practicable after delivery, review drafts of the Scheme Booklet prepared by the Target and provide any comments on those drafts;
- (c) **(Independent Expert information)** provide all assistance and information reasonably requested by the Target or by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (d) **(confirmation of Bidder Scheme Booklet Information)** as soon as reasonably practicable after receipt from the Target of a proposed Regulator's Draft, either:
 - (i) confirm in writing to the Target that the Bidder Scheme Booklet Information in the form and context in which it appears in the proposed Regulator's Draft is not misleading or deceptive and does not contain any material omission; or
 - (ii) provide the Target with the textual changes required to ensure that the proposed Regulator's Draft is not misleading or deceptive and does not contain any material omission;
- (e) **(ASIC Review Period)** provide reasonable assistance to the Target in connection with resolving any matter raised by ASIC regarding the Scheme Booklet or the Scheme during the ASIC Review Period;
- (f) **(approval of Scheme Booklet)** as soon as practicable after the end of the ASIC Review Period, procure that a meeting of the Board of the Bidder is convened to approve those sections of the Scheme Booklet that comprise the Bidder Scheme Booklet Information as being in a form appropriate for despatch to the Target Shareholders;
- (g) **(updates to Scheme Booklet)** if, after the Scheme Booklet has been sent to Target Shareholders, the Bidder becomes aware of information that is:
 - (i) not included in the Bidder Scheme Booklet Information and is material for disclosure to Target Shareholders in deciding whether to approve the Scheme or required to be disclosed to Target Shareholders under any applicable law; or
 - (ii) is misleading or deceptive in a material respect in the form and context in which it appears in the Scheme Booklet,

the Bidder must advise the Target so that the Target can determine whether any supplementary disclosure to Target Shareholders is required in accordance with (and subject to the terms of) clause 4.1(k);

- (h) **(Deed Poll)** execute the Deed Poll before 8am on the First Court Date;
- (i) **(Court representation)** if requested by the Target, or if otherwise desired by the Bidder, procure that the Bidder is represented by counsel at the Court hearings convened for the purposes of sections 411(1), 411(4)(b) and 411(6) of the Corporations Act, at which, through its counsel, it will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this document and the Scheme;

- (j) **(Scheme Consideration)** if the Scheme becomes Effective, provide the Scheme Consideration in accordance with the Deed Poll and the Scheme;
- (k) **(share transfer)** if the Scheme becomes Effective, accept a transfer of the Scheme Shares as contemplated by clause 3.3 and execute proper instruments of transfer of the Scheme Shares to the Bidder in accordance with the Scheme;
- (l) **(other)** do all things lawfully within its power that are reasonably necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (m) **(assistance)** up to (and including) the Implementation Date and subject to obligations of confidentiality owed to third parties and undertakings to Government Agencies, provide Target and its Representatives with reasonable access during normal business hours to information and personnel of Bidder Group that Target reasonably requests for the purpose of preparation of the Scheme Booklet and implementation of the Transaction;
- (n) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws and regulations; and
- (o) **(Timetable)** keep the Target informed about its progress against the Timetable, and notify the Target if it believes that any of the dates in the Timetable are not achievable.

4.3 **Responsibility**

- (a) The parties acknowledge that the Scheme Booklet will contain statements to the effect that:
 - (i) the Target is responsible for the contents of the Scheme Booklet other than, to the maximum extent permitted by law, the Bidder Scheme Booklet Information, the Independent Expert's Report and (if applicable) any statement of the tax consequences of the Scheme and associated matters for the Target Shareholders on the letterhead of the Target's tax advisers as may be included in the Scheme Booklet. The Bidder and its respective directors, officers and advisers do not assume any responsibility for the accuracy or completeness of any such Target information; and
 - (ii) the Bidder is responsible for the Bidder Scheme Booklet Information. The Target and its directors, officers and advisers do not assume any responsibility for the accuracy or completeness of the Bidder Scheme Booklet Information.
- (b) The Bidder must consent to the form and content of the Bidder Scheme Booklet Information (which consent must not be unreasonably withheld, delayed or conditioned).

4.4 **Disagreement on content of Scheme Booklet**

If the parties disagree on the form or content of the Scheme Booklet (including any update to the Scheme Booklet), they must consult in good faith to try to settle an agreed form of the Scheme Booklet and failing agreement within five Business Days:

- (a) if the disagreement relates to the form or content of the Bidder Scheme Booklet Information, the Target will make any amendments as the Bidder requires; and

- (b) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the Target Directors will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet, provided that, if Bidder disagrees with such final form and content, Target must include a statement to that effect in the Scheme Booklet.

4.5 Verification

Each party must undertake appropriate verification processes for the information supplied by that party in the Scheme Booklet.

4.6 Appeal process

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

- (a) the parties agree otherwise; or
- (b) an independent senior counsel of the New South Wales or Victorian bar advises that, in their opinion, an appeal would have no reasonable prospect of success before the End Date,

in which case either party may terminate this document in accordance with clause 11.1(e).

4.7 Headcount Test

If the Bidder considers (acting in good faith and reasonably) that share splitting or some other improper conduct has caused the Headcount Test to not be satisfied, then the Bidder may by written notice to the Target within three Business Days of the Scheme Meeting, require the Target to:

- (a) apply for an order to the Court as contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval for the Scheme under section 411(4)(b) of the Corporations Act; and
- (b) make such submissions to the Court and file such evidence as the Target's counsel, in consultation with the Bidder's counsel, considers is reasonably required for the Court to exercise its discretion to disregard the Headcount Test.

4.8 No partnership or joint venture

Subject to this document, nothing in this clause 4 requires the Bidder or Bidder to act at the direction of the Target (or vice versa). The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

5 Target Directors' recommendations and intentions

- (a) The Target must authorise and issue the Agreed Announcement as soon as reasonably practicable after the execution of this document which will include (on the basis of confirmations made to the Target by each of the Target Directors) a statement to the effect that each of the Target Directors:
 - (i) recommends that Target Shareholders vote in favour of the Scheme at the Scheme Meeting; and

- (ii) intends to vote (or procure the voting of) all Target Shares held or controlled by the Target Director in favour of the Scheme at the Scheme Meeting,

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 the Target Shareholders.

- (b) The Target must use best endeavours to ensure that:

- (i) the Scheme Booklet and any other public statements made by the Target in relation to the Scheme will include a statement by the Target Directors to the effect set out in clause 5.1(a); and
- (ii) no Target Director adversely changes or withdraws their statements referred to in clause 5.1(a), makes a recommendation or statement or takes any action (including, for the avoidance of doubt, voting against, abstaining from voting or failing to procure that all Target Shares held or controlled by a Target Director are voted in favour of the Scheme at the Scheme Meeting) that is inconsistent with any of them.

- (c) Despite clauses 2.3 and 5.1(b), a Target Director may change or withdraw their recommendation if:

- (i) the Independent Expert concludes (either initially or in any updated report), that the Scheme is not in the best interests of the Target Shareholders;
- (ii) the Target Directors have determined in good faith after having obtained written advice from their legal and, if appropriate, their financial advisers, that the Target Directors are by virtue of their fiduciary or statutory duties:
 - (A) no longer able to recommend to Target Shareholders that the Scheme be approved; or
 - (B) no longer consider that the Scheme is in the best interests the Target Shareholders and accordingly are required to withdraw such recommendation;
- (iii) there is a requirement or order from a Governmental Agency, after the date of this document, requiring the Target Director to abstain from making a recommendation that Target Shareholders approve the Scheme having regard to the Target Director's personal interests or conflicting fiduciary or statutory duties and such requirement or order has been in no way initiated, caused or relates to any action by the Target, its Representatives, a Target Director or any of their Associates;
- (iv) the Target receives a Competing Proposal that constitutes a Superior Proposal to the Scheme; or
- (v) this document is terminated,

and Target has complied with its obligations under clause 9.

6 Pre-implementation obligations

6.1 Conduct of business

From the date of this document up to and including the Implementation Date, each of the Bidder and the Target must, and must procure that each member of the Bidder Group and Target Group (as applicable):

- (a) conducts its business:
 - (i) in the ordinary course, in substantially the same manner, and at the same locations, as previously conducted in the 12 month period prior to the date of this document; and
 - (ii) in accordance in all material respects with its legal and contractual obligations; and
- (b) not enter into any line of business or other activities in which it has not engaged as at the date of this document;
- (c) keep the other party informed of any material developments concerning the conduct of its business;
- (d) in respect of:
 - (i) the Target only, ensure that no Target Prescribed Event occurs; and
 - (ii) the Bidder only, ensure that no Bidder Prescribed Event occurs; and
- (e) to the extent consistent with clause 6.1(a), use reasonable endeavours to:
 - (i) preserve intact its current business organisation including keeping available the services of its senior officers and employees;
 - (ii) preserve its relationships with material customers and suppliers and others having material business dealings with it; and
 - (iii) maintain the condition of its business and assets, including maintaining at least its current level of insurance (provided such level of insurance continues to be generally available on commercially reasonable terms).

6.2 Prohibited actions

Without limiting clause 6.1, from the date of this document up to and including the Implementation Date, the Bidder and the Target must not and must ensure that each other member of the Bidder Group and Target Group (as applicable) do not:

- (a) **(disposals)** other than in the ordinary course of business, dispose or agree or offer to dispose of, or lease or agree or offer to lease, any one or more assets, businesses or entities or any one or more items of real property, plant or equipment (or any interest in any of the foregoing), the value or aggregate value of which exceeds: \$250,000, to any person other than a member of the Bidder Group or Target Group (as applicable);
- (b) **(acquisitions)** other than in the ordinary course of business, acquire or agree or offer to acquire any one or more assets, businesses or entities or any one or more items of real property, plant or equipment (or any interest in any of the foregoing), the value or aggregate value of which exceeds \$250,000, from any person other than a member of the Bidder Group or Target Group (as applicable);

- (c) **(agreements)**
- (i) enter into, terminate, extend, renew or vary any commitment (including any non-contractual commitment or undertaking) which has a value or involves a liability or expenditure, as the case may be of:
 - (A) in respect of the Target, \$300,000 or more, or any commitment which, when aggregated with related transactions, is in aggregate \$300,000 or more; or
 - (B) in respect of the Bidder, \$1,000,000 or more, or any commitment which when aggregated with related transactions, is in aggregate \$1,000,000; or
 - (ii) exercise a contractual right or other option to renew or extend, or otherwise renewing or extending, an existing agreement (including under any lease) which has a value or involves a liability or expenditure, as the case may be, of:
 - (A) in respect of the Target, \$300,000 or more, or any number of which, when aggregated with related transactions, is in aggregate \$300,000 or more; or
 - (B) in respect of the Bidder, \$1,000,000 or more, or any number of which, when aggregated with related transactions, is in aggregate \$1,000,000 or more;
- (d) **(joint ventures)** without limiting any other agreements between members of the Target Group and the Bidder Group, enter, or propose to enter, into or amend, or propose to amend, in any material respect any joint venture, partnership or similar agreement with any person;
- (e) **(employment)**
- (i) accelerate the rights of any of its directors or other personnel or contractors to compensation or benefits of any kind;
 - (ii) pay or agree to pay a director or executive a termination payment except as otherwise required by law (including pre-existing contractual entitlements); or
 - (iii) change the terms of employment (including remuneration or other benefits) of any of any employees.
- (f) **(settle proceedings)** settle any legal proceedings, claim, investigation, arbitration or other like proceeding where the amount claimed by or against a member of the Target Group or the Bidder Group (as applicable) exceeds \$250,000;
- (g) **(indebtedness)** incur any financial indebtedness or issue any debt securities, other than:
- (i) any financial indebtedness incurred within existing limits of any existing debt facility or debt securities;
 - (ii) trade credit or other liabilities incurred in the ordinary course of business;
 - (iii) indebtedness to another member of the Bidder Group or Target Group (as applicable);

- (iv) under a related party agreement or arrangement, including as between any members of the Bidder Group or members of the Target Group (as applicable) or any of their respective directors, officers or employees or affiliates of the foregoing;
- (v) any contract, agreement or arrangement not on arm's length terms;
- (h) **(related party agreements)** enter into any related party agreement or arrangement, including as between any member of the Bidder Group or member of the Target Group (as applicable) or any of their respective directors, officers or employees or affiliates of the foregoing; or
- (i) **(agree)** agree to do any of the matters set out above.

6.3 **Exceptions**

Nothing in clauses 6.1 or 6.2 restricts:

- (a) anything which a party is expressly required to do, expressly permitted to do or expressly permitted not to do under any provision of this document or the Scheme;
- (b) anything which is consented to by the Bidder or Target (as the case may be) in writing, such consent not to be unreasonably withheld, delayed or conditioned;
- (c) any transaction, expenditure or other action fairly disclosed before the date of this document in writing in any of the Target Due Diligence Information or the Target Disclosure Information;
- (d) any agreement or other arrangement which is conditional on the Scheme not being Implemented other than to the extent to which entry into such agreement or arrangement would be in breach of clause 9; or
- (e) any agreement or other arrangement relating to the renewal of existing leases of real property.

For the avoidance of doubt, the exceptions in this clause 6.3 apply for the purposes of clauses 6.1 and 6.2 only and not for the purposes of any other clause in this document.

6.4 **Change of control consents**

As soon as practicable after the date of this document, the Target must identify any change of control or unilateral termination rights in contracts to which a member of the Target Group is party which may be triggered by or exercised as a result of the implementation of the Scheme. In respect of those contracts (which includes CoC Contracts):

- (a) the parties will use reasonable endeavours to agree a proposed course of action (which, among other things, will have due regard to applicable legal restrictions) and then the Target will initiate contact, including joint discussions if required, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate;
- (b) the Target will use reasonable endeavours to obtain, prior to 8am on the Second Court Date, any required consents or confirmations. A failure by a member of the Target Group to obtain any required consents or confirmations, or the exercise of a termination right by a relevant counterparty, will not constitute a breach of this document by the Target and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this document;

- (c) the Bidder must not contact any counterparties in relation to the process set out in this clause 6.4 without the Target being present or without the Target's prior written consent and must cooperate with, and provide reasonable assistance to, the Target to obtain such consents or confirmations as expeditiously as possible; and
- (d) each party must use its best endeavours to comply with any requirements of the counterparties that are reasonably necessary to obtain the relevant consent or confirmation, but nothing in this clause 6.4 requires a party to incur material expense.

7 Representations and warranties

7.1 Target Warranties

Subject to clause 7.3, the Target represents and warrants to the Bidder (on its own behalf and on behalf of each of the Bidder Indemnified Parties) that:

- (a) **(status)** each member of the Target Group is a corporation duly incorporated, validly existing and limited by shares under the Corporations Act or other applicable legislation;
- (b) **(power)** it has full legal capacity and power to enter into and perform its obligations under this document;
- (c) **(authorisations)** the execution, delivery and performance of this document by the Target has been properly authorised by all necessary corporate action and the Target has full corporate power to execute, deliver and perform this document;
- (d) **(validity of this document)** this document constitutes legal, valid and binding obligations on the Target (subject to laws generally affecting creditors' rights and the principles of equity);
- (e) **(Insolvency Events)** neither it nor any other member of the Target Group is affected by an Insolvency Event;
- (f) **(provision of information to Independent Expert)** all information provided by or on behalf of the Target to the Independent Expert has been provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (g) **(Target Scheme Booklet Information)** as at the date the Scheme Booklet is despatched to the Target Shareholders, the Target Scheme Booklet Information:
 - (i) has been prepared and included in the Scheme Booklet in good faith and on the understanding that the Bidder and its directors will rely on that information for the purpose of considering and approving the Bidder Scheme Booklet Information; and
 - (ii) complies in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and relevant ASIC regulatory guides and the terms of this document as they apply to such information;
- (h) **(Scheme Booklet)** as at the date the Scheme Booklet is despatched to the Target Shareholders, the Scheme Booklet (excluding the Bidder Scheme Booklet Information, the Independent Expert's Report, and (if applicable) any statement of the tax consequences of the Scheme and associated matters for the Target Shareholders on the letterhead of the Target's tax advisers as may be included in the Scheme Booklet) is accurate in all material respects and does not contain any

statement which is false, misleading or deceptive (with any statement of belief or opinion being honestly held and formed on a reasonable basis) in any material respect (whether by omission or otherwise);

- (i) **(continuous disclosure)** as at the date of this document, the Target is not in breach of its continuous disclosure obligations under the ASX Listing Rules and, other than in respect of the Scheme, it is not relying on the carve-out in ASX Listing Rule 3.1A to withhold any material information from public disclosure;
- (j) **(securities)** as at the date of this document:
 - (i) the Target has on issue 1,128,308,291 Target Shares; and
 - (ii) there are no other shares, options, performance rights or convertible instruments or other securities or financial products granted or on issue by the Target;
- (k) **(no default)** neither this document nor the carrying out by Target of the transactions contemplated by this document does or will conflict with or result in the breach of or a default under:
 - (i) any provision of Target's constitution; or
 - (ii) any material term or provision of any Target Material Contract (including any financing arrangements) or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other member of the Target Group is bound,

and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this document;
- (l) **(compliance)** each member of the Target Group has complied in all material respects with all Australian and foreign laws, rules and regulations applicable to them and orders of Australian and foreign Government Agencies having jurisdiction over them and there is no judgment, injunction, order or decree binding on any member of the Target Group that constitutes or would be likely to constitute a Target Material Adverse Change;
- (m) **(material licences)** 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 document, and no member of the Target Group:
 - (i) is in material breach of, or default under, any such licence, authorisation or permit; or
 - (ii) has received any notice in respect of the termination, revocation, variation or non-renewal of any such licence, authorisation or permit;
- (n) **(Target Due Diligence Information)** it has collated and prepared all of the Target Due Diligence Information in good faith for the purposes of a due diligence process and in this context, as far as Target is aware:
 - (i) the Target Due Diligence Information have been collated with all reasonable care and skill;
 - (ii) the information contained in the Target Due Diligence Information is accurate in all material respects;

- (iii) the Target Due Diligence Information do not include information that is misleading in any material respect; and
 - (iv) no information has been omitted from the Target Due Diligence Information that, in Target's reasonable opinion, would render the Target Due Diligence Information misleading in any material respect, or be material to a reasonable buyer's evaluation of the Target Group or decision whether to proceed with the Transaction;
- (o) **(all information)** it 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 document that has or could reasonably be expected to give rise to a Target Material Adverse Change that has not been disclosed in the Target Due Diligence Information or in the Target Disclosure Materials;
- (p) **(no contravention of Corporations Act or ASX Listing Rules)** neither ASIC nor ASX has made a determination against any member of the Target Group for any contravention of the requirements of the Corporations Act or the ASX Listing Rules or any rules, regulations or regulatory guides under the Corporations Act or the ASX Listing Rules and, as far as Target is aware, no event has occurred which reasonably could or would reasonably be likely to result in such a determination being made;
- (q) **(not misleading)** all information it has provided or will provide to the Independent Expert, as contemplated by clause 4.1(b) or otherwise, or to Bidder, is accurate in all material respects and not misleading, and it has not omitted any information required to make the information provided to the Independent Expert or Bidder not misleading;
- (r) **(encumbrances)** other than any security interest disclosed in the Target Due Diligence Information or the Target Disclosure Information, there is no security interest over all or any of the Target Group's present or future assets or revenues;
- (s) **(litigation)** there are no current material actions, suits, arbitrations or legal or administrative proceedings against any member of the Target Group and, as far as Target is aware:
 - (i) there are no: (A) current, pending or threatened material claims, disputes or demands; or (B) pending or threatened material actions, suits, arbitrations or legal or administrative proceedings, in each case against any member of the Target Group; and
 - (ii) no member of the Target Group is the specific focus of any material formal investigation by a Governmental Agency (not being an industry-wide investigation); and
- (t) **(Target Material Contracts)** as far as Target is aware, no member of the Target Group is in material default under a Target Material Contract to which it is a party, and nothing has occurred which is (or would be following the giving of notice or the lapse of time) an event of default or would give another party a termination right or right to accelerate any material right or obligation under any Target Material Contract.

7.2 Bidder Warranties

Subject to clause 7.4, the Bidder represents and warrants in respect of itself and each other member of the Bidder Group, to the Target (on its own behalf and on behalf of each of the Target Indemnified Parties) that:

- (a) **(status)** each member of the Bidder Group is a corporation duly incorporated, validly existing and limited by shares under the Corporations Act or other applicable legislation;
- (b) **(power)** it has full legal capacity and power to enter into and perform its obligations under this document;
- (c) **(authorisations)** its execution, delivery and performance of this document has been properly authorised by all necessary corporate action and it has full corporate power to execute, deliver and perform this document;
- (d) **(validity of this document)** this document constitutes legal, valid and binding obligations on it (subject to laws generally affecting creditors' rights and the principles of equity);
- (e) **(Insolvency Events)** neither it nor any other member of the Bidder Group is affected by an Insolvency Event;
- (f) **(provision of information to Independent Expert)** as at the date the Scheme Booklet is despatched to the Target Shareholders, all information provided by or on behalf of it to the Independent Expert has been 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;
- (g) **(Bidder Scheme Booklet Information)** as at the date the Scheme Booklet is despatched to the Target Shareholders, the Bidder Scheme Booklet Information (to the extent that the Bidder has consented to inclusion of that information in accordance with clause 4.3(b)):
- (i) has been prepared in good faith and on the understanding that the Target and each of its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme;
 - (ii) is accurate in all material respects and does not contain any statement which is false, misleading or deceptive (with any statement of belief or opinion being honestly held and formed on a reasonable basis) in any material respect (whether by omission or otherwise); and
 - (iii) complies in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and relevant ASIC regulatory guides and the terms of this document as they relate to such information;
- (h) **(continuous disclosure)** as at the date of this document, the Bidder is not in breach of its continuous disclosure obligations under the ASX Listing Rules and, other than in respect of the Scheme, it is not relying on the carve-out in ASX Listing Rule 3.1A to withhold any material information from public disclosure;
- (i) **(securities)** as at the date of this document:
- (i) the Bidder has on issue:
 - (A) 351,400,699 Bidder Shares; and
 - (B) 11,414,507 performance rights.
 - (ii) there are no other shares, options, performance rights or convertible instruments or other securities or financial products granted or on issue, or

the subject of any agreement or arrangement or understanding that they will be issued, by the Bidder;

- (j) **(no dealing with Target Shareholders)** neither it nor any of its Associates:
- (i) has a Relevant Interest in any Target Shares; or
 - (ii) is a party to any agreement, arrangement or understanding involving the conferring of rights on it the economic effect of which is equivalent, substantially equivalent, or similar to it acquiring, holding or disposing of Target Shares (whether combined with a financing arrangement or not); and
- (k) **(Scheme Consideration)**
- (i) the Consideration Shares will, on their issue, rank equally in all respects with all other Bidder Shares on issue at the Implementation Date;
 - (ii) the holders of the Consideration Shares will be entitled to participate in and receive any dividends or distribution of capital paid and any other entitlements accruing in respect of Bidder Shares after the Implementation Date; and
 - (iii) on issue, each Consideration Share will be validly issued, fully paid and free from any Encumbrance.
- (l) **(no default)** neither this document nor the carrying out by Bidder of the transactions contemplated by this document does or will conflict with or result in the breach of or a default under:
- (i) any provision of the Bidder's constitution; or
 - (ii) any material term or provision of any Bidder Material Contract (including any financing arrangements) or any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other member of the Bidder Group is bound,
- and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this document;
- (m) **(compliance)** each member of the Bidder Group has complied in all material respects with all Australian and foreign laws, rules and regulations applicable to them and orders of Australian and foreign Government Agencies having jurisdiction over them and there is no judgment, injunction, order or decree binding on any member of the Bidder Group that constitutes or would be likely to constitute a Bidder Material Adverse Change;
- (n) **(material licences)** the Bidder Group has all material licences, authorisations and permits necessary for it to conduct the business of the Bidder Group as it is being conducted as at the date of this document, and no member of the Bidder Group:
- (i) is in material breach of, or default under, any such licence, authorisation or permit; or
 - (ii) has received any notice in respect of the termination, revocation, variation or non-renewal of any such licence, authorisation or permit;

- (o) **(Bidder Due Diligence Information)** it has collated and prepared all of the Bidder Due Diligence Information in good faith for the purposes of a due diligence process and in this context, as far as Bidder is aware:
- (i) the Bidder Due Diligence Information have been collated with all reasonable care and skill;
 - (ii) the information contained in the Bidder Due Diligence Information is accurate in all material respects;
 - (iii) the Bidder Due Diligence Information do not include information that is misleading in any material respect; and
 - (iv) no information has been omitted from the Disclosure Materials that, in Bidder's reasonable opinion, would render the Bidder Due Diligence Information misleading in any material respect, or be material to a reasonable buyer's evaluation of the Bidder Group or decision whether to proceed with the Transaction;
- (p) **(all information)** it is not aware of any information relating to the Bidder Group or its respective businesses or operations (having made reasonable enquiries) as at the date of this document that has or could reasonably be expected to give rise to a Bidder Material Adverse Change that has not been disclosed in an announcement by Bidder to ASX or in the Bidder Due Diligence Information or in the Bidder Disclosure Information;
- (q) **(not misleading)** all information it has provided or will provide to the Independent Expert, as contemplated by clause 4.2(c) or otherwise, or to Bidder, is accurate in all material respects and not misleading, and it has not omitted any information required to make the information provided to the Independent Expert or Target not misleading;
- (r) **(no contravention of Corporations Act or ASX Listing Rules)** neither ASIC nor ASX has made a determination against any member of the Bidder Group for any contravention of the requirements of the Corporations Act or the ASX Listing Rules or any rules, regulations or regulatory guides under the Corporations Act or the ASX Listing Rules and, as far as Bidder is aware, no event has occurred which reasonably could or would reasonably be likely to result in such a determination being made;
- (s) **(encumbrances)** other than any security interest disclosed in the Bidder Due Diligence Information or the Bidder Disclosure Information, there is no security interest over all or any of the Bidder Group's present or future assets or revenues;
- (t) **(litigation)** there are no current material actions, suits, arbitrations or legal or administrative proceedings against any member of the Bidder Group and, as far as Bidder is aware:
- (i) there are no: (A) current, pending or threatened material claims, disputes or demands; or (B) pending or threatened material actions, suits, arbitrations or legal or administrative proceedings, in each case against any member of the Bidder Group; and
 - (ii) no member of the Bidder Group is the specific focus of any material formal investigation by a Governmental Agency (not being an industry-wide investigation); and
- (u) **(Material Contracts)** as far as Bidder is aware, no member of the Bidder Group is in material default under a Bidder Material Contract to which it is a party, and nothing

has occurred which is (or would be following the giving of notice or the lapse of time) an event of default or would give another party a termination right or right to accelerate any material right or obligation under any Bidder Material Contract.

7.3 Qualifications and Target limitation of liability

- (a) The Target is not liable in respect of a Warranty Claim in relation to a Target Warranty if the fact, matter, circumstance or act giving rise to the Warranty Claim:
 - (i) was required to be done by the Target under or in connection with this document;
 - (ii) was approved by a member of the Bidder Group in writing (prior to the fact, matter, circumstance or act occurring);
 - (iii) has been fairly disclosed in writing by the Target to the Bidder prior to the date the parties entered into this document in the Target Due Diligence Information or the Target Disclosure Information; or
 - (iv) was within the actual knowledge of the Bidder's Representatives designated in the Bidder Disclosure Information for the purposes of this clause 7.3(a)(iv).
- (b) The Target Warranties are qualified by, and are given subject to, the facts, matters, circumstances and acts referred to in clause 7.3(a).

7.4 Qualifications and Bidder's limitation of liability

- (a) The Bidder is not liable in respect of a Warranty Claim in relation to a Bidder Warranty if the fact, matter, circumstance or act giving rise to the Warranty Claim:
 - (i) was required to be done by the Bidder under or in connection with this document; or
 - (ii) was approved by the Target in writing (prior to the fact, matter, circumstance or act occurring);
 - (iii) has been fairly disclosed in writing by the Bidder to the Target prior to the date the parties entered into this document in the Bidder Due Diligence Information or the Bidder Disclosure Information; or
 - (iv) was within the actual knowledge of the Target's Representatives designated in the Target Disclosure Information for the purposes of this clause 7.4(a)(iv).
- (b) The Bidder Warranties are qualified by, and are given subject to, the facts, matters, circumstances and acts referred to in clause 7.4(a).

7.5 Reliance

Each party acknowledges that:

- (a) the others have entered into this document in reliance on the representations and warranties that are given by the party in this clause 7; and
- (b) it has not relied on any representation or warranty in deciding whether to enter into this document, other than as expressly set out in this clause 7.

7.6 Nature of provisions

- (a) Except as otherwise stated in this clause 7, each of the representations and warranties in this clause 7 shall be deemed to be given as at the date of this document and repeated continuously thereafter until 8am on the Second Court Date by reference to the circumstances then existing.
- (b) Each of the representations and warranties given by a party in this clause 7 must be construed as a separate and independent provision and will not be limited or restricted by reference to the terms of any other representation or warranty in this clause 7 or any other term of this document.

7.7 Notification

A party must promptly advise the others in writing of any representation or warranty provided in this clause 7 by the party being false or misleading in any material respect when given.

8 Indemnities**8.1 Indemnity from the Target**

The Target indemnifies the Bidder and the other 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 Target Warranties.

8.2 Indemnity from the Bidder

The Bidder indemnifies the Target and the other 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 Bidder Warranties.

9 Exclusivity**9.1 Existing discussions**

Each party represents and warrants that, as at the time of execution of this document, it is not in any negotiations or discussions, and that it has ceased any existing negotiations or discussions, in respect of any Competing Proposal (or which may reasonably be expected to lead to a Competing Proposal) with any person.

9.2 No-shop

During the Exclusivity Period, each party must not and must ensure that each of its Representatives does not:

- (a) directly or indirectly solicit or invite; or
- (b) initiate any enquiries, negotiations or discussions, or communicate any intention to do any of these things, with a view to obtaining,

any offer, expression of interest or proposal from any person in relation to a Competing Proposal.

9.3 No talk obligation and no due diligence

Subject to clause 9.4:

- (a) during the Exclusivity Period, each party must not and must ensure that each of its Representatives does not enter into, continue or participate in negotiations or discussions with, any person regarding or in connection with a Competing Proposal (or potential Competing Proposal); and
- (b) without limiting clause 9.3(a), during the Exclusivity Period, each party must not, and must ensure that its Representatives do not:
 - (i) solicit, initiate, facilitate or encourage any person (other than the other party or its Representatives) to undertake due diligence on the Target or its Related Bodies Corporate; or
 - (ii) make available to any person (other than the other party or its Representatives) or permit such person to receive any non-public information relating to the party or its Related Bodies Corporate in connection with a Competing Proposal (or potential Competing Proposal).

9.4 Fiduciary carve out

Nothing in clauses 9.3 prevents or requires any action by or on behalf of the Bidder or the Target in relation to any Unsolicited Competing Proposal if, after receiving written legal advice from its external legal advisers, its Board has determined in good faith that:

- (a) the Unsolicited Competing Proposal is or, if it was proposed, is reasonably capable of becoming, a Superior Proposal; and
- (b) failure to take such action (where such action would otherwise be prevented by clause 9.3) would involve, or would be likely to involve, a breach of the fiduciary or statutory duties of the directors of the Target or the Bidder; and
- (c) notification of the Unsolicited Competing Proposal has been made in accordance with clause 9.5.

9.5 Notification of approaches

- (a) During the Exclusivity Period, the Bidder and the Target must as soon as reasonably practicable, and in any event within 48 hours, notify the other in writing if it or any of its Representatives becomes aware of any:
 - (i) receipt of any Competing Proposal in respect of itself;
 - (ii) approach, enquiry or request to initiate any negotiations or discussions in respect of, or that may reasonably be expected to lead to, any genuine bona fide Competing Proposal; or
 - (iii) provision by the party or any of its Representatives, to any Third Party, of any material non-public information relating to any member of the Bidder Group or the Target Group (as applicable) in relation to any Competing Proposal,

whether direct, indirect, solicited or unsolicited, and in writing or otherwise. For the avoidance of doubt, any of the acts described in paragraphs (i) to (iii) may only be taken by Target, its Related Bodies Corporate or their respective Representatives if not proscribed by clauses 9.2 or 9.3 or if permitted by clause 9.4.

- (b) A notification given under clause 9.5(a) must include a summary of the material terms and conditions of the actual, proposed or potential Competing Proposal (if any) (including price and form of consideration, conditions precedent, proposed deal protection arrangements and timetable) and the identity of the Third Party making or proposing the Competing Proposal, in each case to the extent known by Target or any of its Representatives.

9.6 ***Bidder matching right***

- (a) Without limiting clauses 9.2 and 9.3, during the Exclusivity Period, the Target:
- (i) must 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) in relation to a Competing Proposal; other than a member of the Target Group entering into a confidentiality agreement or like agreement with a third party for the purpose of providing non-public information in relation to an actual, proposed or potential Competing Proposal, provided that such confidentiality or like agreement are on terms that are no less onerous to the third party than the terms of the Confidentiality Agreement are to the Bidder;
 - (ii) must use its best endeavours to ensure that no Target Director adversely changes or withdraws their statements referred to in clause 5.1(a), or makes a recommendation or statement that is inconsistent with any of them (including recommending, supporting or endorsing a Competing Proposal) unless the change, withdrawal, recommendation or statement is permitted by clauses 5.1(c) or 9.6(c),
- unless:
- (iii) the Target Directors acting in good faith and in order to satisfy what the Target Directors consider to be their statutory or fiduciary duties (having received written legal advice from its external legal advisers) determine that the Competing Proposal is a Superior Proposal;
 - (iv) the Target Directors have provided the Bidder with all material terms of the actual, proposed or potential Competing Proposal, including, but not limited to, price and form of consideration, proposed deal protection arrangements, timetable (in each case, to the extent known) and the identity of the Third Party making the actual, proposed or potential Competing Proposal;
 - (v) the Target has given Bidder at least five Business Days after the date of the provision of the information referred to in clause 9.6(a)(iv) to provide a counter proposal to the terms of the actual, proposed or potential Competing Proposal (**Bidder Counterproposal**); and
 - (vi) the Bidder has not, by the expiry of the period specified in clause 9.6(a)(v), announced or otherwise formally proposed to Target a Bidder Counterproposal that the Target Directors, acting reasonably and in good faith, determine to be equivalent or superior to the terms of the actual, proposed or potential Competing Proposal.
- (b) If the Bidder provides the Target with a Bidder Counterproposal by the expiry of the period specified in clause 9.6(a)(v), the Target must use reasonable endeavours to procure that the Target Directors review the Bidder Counterproposal and if the

Target Directors, acting reasonably and in good faith, determine that the Bidder Counterproposal would provide a matching or superior outcome for Target Shareholders as a whole compared with the Competing Proposal, taking into account all of the material terms and conditions of the Bidder Counterproposal, then:

- (i) the Target and Bidder must use their best endeavours to agree the amendments to this document, the Scheme and the Deed Poll (as applicable) that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable; and
 - (ii) the Target must use its best endeavours to procure that each Target Director continues to recommend the Transaction (as modified by the Bidder Counterproposal) to Target Shareholders (other than as permitted by this document).
- (c) Despite any other provision in this document, any public announcement or other statement by the Target or any one or more of the Target Directors that:
- (i) the Target Directors have determined that a Competing Proposal is a Superior Proposal and the Target has commenced the matching right process set out in this clause 9.6; or
 - (ii) Target Shareholders should take no action pending the completion of the matching right process set out in this clause 9.6,
- does not of itself:
- (iii) constitute an adverse change or withdrawal of a statement referred to in clause 5.1(a), or a recommendation or statement that is inconsistent with them (including a recommendation, statement of support or endorsement of a Competing Proposal);
 - (iv) contravene any provision of this document;
 - (v) give rise to an obligation to pay the Break Fee; or
 - (vi) give rise to a right to terminate this document; under clause 11 or otherwise.
- (d) For the purposes of this clause 9.6:
- (i) each successive material variation or amendment to a Competing Proposal will constitute a new Competing Proposal; and
 - (ii) for the avoidance of doubt, the process set out in this clause 9.6 must again be followed in respect of any such new Competing Proposal; except that the period referred to in clause 9.6(a)(v) (and other clauses that cross-refer to it) will instead be three Business Days where it relates to a material variation or amendment to a Competing Proposal that the Target has previously notified the Bidder of under clause 9.5 (including the identity of the Third Party and form of consideration offered).

9.7 Compliance with law

- (a) If it is finally determined by a court of competent jurisdiction, or the Takeovers Panel, that the agreement by the parties under this clause 9 or any part of it:

- (i) constituted, or constitutes, or would constitute, a breach of the fiduciary, statutory or general law duties of the Target Directors or Bidder Directors;
- (ii) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
- (iii) was, or is, or would be, unlawful for any other reason,

then, to that extent (and only to that extent) the Target or Bidder (to the extent that it relates to that party) will not be obliged to comply with that part of this clause 9.

- (b) The parties must not make or cause to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 9.7.

9.8 Normal provision of information

Nothing in this clause 9 prevents the Target or Bidder from:

- (a) providing information to rating agencies or any Governmental Agency in response to a request;
- (b) providing information to its auditors, advisers, financiers, customers, business partners and suppliers acting in that capacity in the ordinary course of business;
- (c) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business; or
- (d) complying with its continuous disclosure obligations.

9.9 Acknowledgements and undertaking

- (a) The Target acknowledges that:
 - (i) the Bidder has required the Target to agree to the obligations set out in this clause 9 in consideration of the Bidder proceeding with the Scheme and incurring significant costs in doing so; and
 - (ii) in the absence of obtaining these obligations, the Bidder would not have entered into this document.
- (b) The Bidder acknowledges that:
 - (i) the Target has required the Bidder to agree to the obligations set out in this clause 9 in consideration of the Target proceeding with the Scheme and incurring significant costs in doing so; and
 - (ii) in the absence of obtaining these obligations, the Target would not have entered into this document.

10 Break Fees

10.1 Acknowledgments

Each party acknowledges that:

- (a) the other party has incurred:
 - (i) significant external advisory costs;

- (ii) some internal costs (including directors and management time costs, risk management costs and capital costs);
- (iii) out-of-pocket expenses; and
- (iv) reasonable opportunity costs incurred by the other party in pursuing the Scheme or in not pursuing other alternative acquisitions or strategic initiatives,

in relation to the Scheme and will incur further costs after the date of this document if the Scheme is not successful; and

- (b) the costs and losses actually incurred by the Bidder and the Target as referred to in clause 10.1(a) will be of such nature that they cannot be accurately ascertained but that the Break Fee is a genuine and reasonable pre-estimate of the minimum cost and loss (including opportunity costs) that would actually be incurred or suffered by the Bidder and the Target if the Scheme is not successful.

10.2 Representations

Each party represents and warrants that:

- (a) it would not have entered into this document without the benefit of this clause 10 and it would not have entered into and continued the negotiations leading up to entry into this document unless it had a reasonable expectation that the other party would agree to the inclusion of this clause 10;
- (b) it has received legal advice on this document and the operation of this clause 10; and
- (c) it considers this clause 10 to be fair and reasonable and that it is appropriate to agree to the terms in this clause 10 in order to secure the significant benefits to it (and its shareholders) resulting from the Scheme.

10.3 Target Break Fee

- (a) Subject to the terms of this document, Target agrees to pay to Bidder the Break Fee if at any time during the Exclusivity Period, any of the following events occur:
 - (i) any Target Director fails to recommend Target Shareholders vote in favour of the Scheme or withdraws, adversely modifies or adversely qualifies their support for the Scheme or their recommendation that Target Shareholders vote in favour of the Scheme or makes any public statement, or takes any other action that is inconsistent with his or her recommendation that Target Shareholders vote in favour of the Scheme (including that they no longer support the Scheme or they support, endorse or recommend a Competing Proposal) other than:
 - (A) as a result of the Independent Expert concluding that the Scheme is not in the best interests of Target Shareholders (other than where the reason for that conclusion is a Competing Proposal);
 - (B) as a result of a change or withdrawal of the recommendation consistent with the circumstances specified in clause 5.1(c)(iii);
 - (C) as a result of a Court ordering a Target Director or its associates not to vote; or

- (D) after this document is terminated as a result of a failure of a condition in clauses 2.1(f) (No Bidder Prescribed Events), 2.1(g) (No Bidder Material Adverse Change), 2.1(h) (Bidder Warranties) or 2.1(i) (No material litigation);
- (ii) a Competing Proposal in respect of the Target Group is announced and, within 12 months of the Competing Proposal being announced, the person announcing the Competing Proposal (or its Associate) completes in all material respects a Competing Proposal, other than a transaction described in paragraph (a)(ii) of the definition of "Competing Proposal";
- (iii) the Bidder terminates this document under clause 11.1(c)(ii); or
- (iv) this document is terminated under clause 11.1(d)(i).
- (b) The payment of the Break Fee by the Target to the Bidder provided for in this clause 10 must be made within five Business Days of receipt of a written demand for payment by Bidder. The demand may only be made after the occurrence of an event referred to in clause 10.3(a).

10.4 Bidder Break Fee

- (a) Subject to the terms of this document, Bidder agrees to pay to the Target the Break Fee if at any during the Exclusivity Period, any of the following events occur:
 - (i) a Competing Proposal in respect of the Bidder Group is received or announced and any director of the Bidder makes a public statement that they no longer support the Scheme and recommend such Competing Proposal;
 - (ii) the Target terminates this document under clause 11.1(c)(i); or
 - (iii) this document is terminated under clause 11.1(d)(ii).
- (b) The payment of the Break Fee by the Bidder to the Target provided for in this clause 10 must be made within five Business Days of receipt of a written demand for payment by the Target. The demand may only be made after the occurrence of an event referred to in clause 10.4(a).

10.5 Qualifications

- (a) No Break Fee is payable if the Scheme becomes Effective. To the extent that any amounts have already been paid under this clause 10 and the Scheme becomes Effective, such amounts must be immediately refunded to the other party.
- (b) The Break Fee is only payable once and the only amount payable by the Target under clause 10.3(a) or by the Bidder under clause 10.4(a) is the amount of the Break Fee.

10.6 Target's limitation of liability

Despite any other provisions of this document:

- (a) the only liability of the Target to Bidder or any Target Indemnified Party under or in connection with this document including in respect of any breach of this document will be the Break Fee referred to in clause 10.3;
- (b) a payment by the Target in accordance with this clause 10 represents the sole and absolute liability of the Target under or in connection with this document and no

further damages, fees, expenses or reimbursements of any kind will be payable by the Target in connection with this document; and

- (c) where a Break Fee is paid to Bidder under this document (or would be payable if a demand was made), Bidder cannot make a claim against the Target in relation to any event, matter or circumstance referred to in clause 10.3(a).

10.7 Bidder's limitation of liability

Despite any other provisions of this document:

- (a) the only liability of Bidder to the Target under or in connection with this document including in respect of any breach of this document will be the Break Fee referred to in clause 10.4;
- (b) a payment by Bidder in accordance with this clause 10 represents the sole and absolute liability of Bidder under or in connection with this document and no further damages, fees, expenses or reimbursements of any kind will be payable by Bidder in connection with this document; and
- (c) where a Break Fee is paid to the Target under this document (or would be payable if a demand was made), the Target cannot make a claim against Bidder in relation to any event, matter or circumstance referred to in clause 10.4(a).

10.8 Compliance with law

- (a) If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court that all or any part of the Break Fee required to be paid under clause 10.3(a) or 10.4(a) (**Impugned Amount**):
 - (i) is unlawful;
 - (ii) involves a breach of directors' duties; or
 - (iii) constitutes unacceptable circumstances or breaches an order of the Takeovers Panel,
 then:
 - (iv) the requirement to pay the Break Fee does not apply to the extent of the Impugned Amount; and
 - (v) if the Target or Bidder (as the case may be) has received the Impugned Amount, it must refund it within five Business Days of the final determination being made.
- (b) The parties must not make, or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in clause 10.8(a).

10.9 Regulatory intervention

If any regulatory body (including ASIC or the Takeovers Panel) or a court requires any modification (including requiring such a modification as a condition of consenting to or approving the Scheme or as a condition of not opposing the Scheme) to the Break Fee, including as to the amount or circumstances in which it is to be paid, then:

- (a) the parties will accept this determination and amend this document to that extent; and

- (b) it will not result in a breach of this document or termination of the transactions contemplated by it.

For the avoidance of doubt, no party may be involved or concerned in the instigation of a regulatory intervention.

11 Termination

11.1 Termination events

This document may be terminated:

- (a) **(End Date)** by the Target or the Bidder, if the Scheme has not become, or will not become, Effective on or before the End Date;
- (b) **(lack of support)** by the Bidder at any time prior to 8am on the Second Court Date if, other than where any of the circumstances described in clause 5(c)(iii) apply, any Target Director:
 - (i) fails to recommend the Scheme;
 - (ii) withdraws, adversely changes, adversely modifies or adversely qualifies their support of the Scheme or their recommendation that Target Shareholders vote in favour of the Scheme;
 - (iii) makes a public statement indicating that he or she no longer recommends the Transaction or recommends, supports or endorses another transaction (including any Competing Proposal but excluding a statement that no action should be taken by Target Shareholders pending assessment of a Competing Proposal by the Target Board or the completion of the matching right process set out in clause 9.6); or
 - (iv) takes any other action that is inconsistent with his or her recommendation that Target Shareholders vote in favour of the Scheme (including that they no longer support the Scheme or they support, endorse or recommend a Competing Proposal).
- (c) **(material breach)**
 - (i) by the Target by written notice to Bidder at any time prior to 8am on the Second Court Date if the Bidder is in material breach of a term of this document (including any material breach of any Bidder Warranty), taken in the context of the Scheme as a whole; or
 - (ii) by the Bidder by written notice to Target at any time prior to 8am on the Second Court Date if the Target is in material breach of a term of this document (including any material breach of any Target Warranty), taken in the context of the Scheme as a whole,

provided that the Target or the Bidder (as the case may be) has given prompt written notice to the other setting out the relevant circumstances of the breach and the relevant circumstances continue to exist 10 Business Days (or any shorter period ending at 8am on the Second Court Date) after the time such notice is given;
- (d) **(Superior Proposal or Competing Proposal)**
 - (i) by the Target or the Bidder by written notice to the other at any time prior to 8am on the Second Court Date if the Target board determines that a

Competing Proposal in respect of the Target Group (which did not arise from a breach of clause 9) is a Superior Proposal and, in the case of termination by the Target, the Target has first paid the Break Fee to Bidder in accordance with clause 10.3; or

- (ii) by the Bidder or the Target by written notice to the other at any time prior to 8am on the Second Court Date if a Competing Proposal in respect of the Bidder Group is received or announced and the Bidder board makes a public statement that they no longer support the Scheme and that they recommend such Competing Proposal and, in the case of termination by the Bidder, the Bidder has first paid the Break Fee to the Target in accordance with clause 10.4;
- (e) **(condition precedent not satisfied or waived)** by the Target or Bidder in accordance with clause 2.4(b); or
- (f) **(material adverse change or prescribed event)**
 - (i) by the Target by written notice to Bidder at any time prior to 8am on the Second Court Date if there is a Bidder Material Adverse Change or a Bidder Prescribed Event; or
 - (ii) by the Bidder by written notice to the Target at any time prior to 8am on the Second Court Date if there is a Target Material Adverse Change or a Target Prescribed Event.

11.2 **Automatic termination**

This document will terminate automatically if, at any Scheme Meeting, the Target Shareholders do not approve the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act unless the Headcount Test was not satisfied and either the Bidder delivers a notice in accordance with clause 4.7, or within three Business Days of the Scheme Meeting, the Target gives written notice to the Bidder that the Target intends to apply for an order described in clause 4.7(a).

11.3 **Effect of termination**

If this document is terminated, it will have no further force or effect and the rights and obligations of the parties under this document will cease, save that:

- (a) clauses 1, 7, 8 and 10 to 20 will survive termination, as do any other clauses that are by their nature intended to survive the termination or expiry of this document; and
- (b) termination will be without prejudice to rights and liabilities of a party which have accrued before termination.

11.4 **Remedies**

The parties acknowledge that damages may not be a sufficient remedy for breach of this document. Specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this document by any party, notwithstanding the ability of a party to terminate this document or seek damages for such a breach or threatened breach or to demand payment of the Break Fee. This clause is not intended to, and does not, limit the operation of clause 10.5.

12 Public announcements

12.1 *Agreed Announcement*

As soon as reasonably practicable after the execution of this document, the Bidder and the Target must each release their Agreed Announcement, which has attached to it a summary of the key terms of this document, or a copy of this document.

12.2 *Restriction on other announcements*

- (a) No party may make any press release or announcement or make any other public disclosure relating to the subject matter of this document unless the release, announcement, publication or other public disclosure:
 - (i) is required by this document, or is required to give effect to this document or the Scheme;
 - (ii) is required to be made under any applicable law or the rules of any recognised securities exchange;
 - (iii) is required by a Governmental Agency to be made by the party; or
 - (iv) has the prior approval of the other parties (such approval not to be unreasonably withheld, delayed or conditioned).
- (b) Nothing in clause 12.2(a) prohibits a party from making any announcement or public disclosure if, in the reasonable opinion of its Board, failure to disclose at that time the information proposed to be contained in the announcement or public disclosure would reasonably be expected to be inconsistent with the proper exercise of the duties of the directors of that party.

12.3 *Notification*

If a party is required by law, the rules of any recognised securities exchange or any Governmental Agency to do any of the things referred to in clause 12.2, or if clause 12.2(b) otherwise applies, it must to the extent reasonably practicable and lawful, consult with the other parties as to the timing, form and content of that announcement or disclosure.

13 Board composition of the Bidder on Implementation

- (a) The Board of the Bidder will, on Implementation, comprise:
 - (i) Shane Francis Tanner (as non-executive chairman), Mark Anthony Simari, Geoffrey Joseph Sam and Brent Stewart, or such other person nominated by the Bidder up to four directors; and
 - (ii) up to two people nominated by the Target,
 (or as otherwise agreed between the Bidder and the Target in writing, acting reasonably).
- (b) The Bidder will take all action in its control to achieve an outcome that, other than the directors referred to in this clause 13, each other director of the Bidder will retire from the Bidder Board with effect from no later than the Implementation Date.
- (c) The Target must procure the directors nominated under clause 13.1(a)(ii) provide their written consent to act as a director of the Bidder with effect from Implementation no later than two 2 Business Days prior to the Implementation Date.

14 Confidentiality Agreement

Each party acknowledges and agrees that it remains bound by the Confidentiality Agreement, save that the terms of this document prevail over the Confidentiality Agreement to the extent of any inconsistency.

15 Indemnity, insurance and release

15.1 D&O insurance

- (a) Subject to the Scheme becoming Effective and subject to the Corporations Act, the Bidder undertakes in favour of the Target and each other Target Indemnified Party that it will:
 - (i) for a period of seven years from the Implementation Date, ensure that the constitutions of each member of the Target Group provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to the maximum extent permitted by law; and
 - (ii) procure that each member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time, for so long as each such member of the Target Group is controlled (within the meaning of section 50AA of the Corporations Act) by the Bidder.
- (b) Notwithstanding any other provision of this document, the Target may with the prior written consent of the Bidder, prior to the Implementation Date, enter into an arrangement to secure directors' and officers' run-off insurance for up to seven years from the Implementation Date, provided that:
 - (i) the Target seeks at least two proposals for directors and officers' run-off insurance from reputable insurers that have a rating that is similar to or better than the rating of the insurers for the Target's directors' and officers' insurance policy in place as at the date of this document for the current financial year, which directors' and officers' run-off insurance policy:
 - (A) has the same coverage;
 - (B) has the same deductible or excess; and
 - (C) is otherwise on terms substantially similar to,
 the directors' and officers' insurance policies in place for the current directors of the Target;
 - (ii) the Target keeps Bidder reasonably informed of all material developments in the tender process and provides a copy of the proposals received; and
 - (iii) the directors and officers' run-off insurance policy entered into by Target:
 - (A) is entered into before 7am (Sydney time) on the Second Court Date; and
 - (B) is the lowest cost policy (inclusive of the costs of brokerage, stamp duty and any other transaction costs) of the two proposals

received which complies with the requirements in clause 15.1(b)(i).

Any actions to facilitate, or in connection with, that insurance will not be a Target Prescribed Event or a breach of any provision of this document. Without limiting clause 15.1(a)(i), the Bidder must ensure that such run-off insurance cover is maintained on terms no less favourable to the directors and officers than was the case on the Implementation Date.

15.2 Release by the Bidder

To the maximum extent permitted by law, the Bidder releases its rights against each Target Indemnified Party (other than the members of the Target Group) and undertakes that it will not make any claim or demand of any nature (howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise) against any such Target Indemnified Party in connection with any breach of any representations, covenants or warranties in this document or any disclosures in connection with this document except where the Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct.

15.3 Release by the Target

To the maximum extent permitted by law, the Target releases its rights against each Bidder Indemnified Party (other than members of the Bidder Group) and undertakes that it will not make any claim or demand of any nature (howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise) against any such Bidder Indemnified Party in connection with any breach of any representations, covenants or warranties in this document or any disclosures in connection with this document except where the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct.

15.4 Benefit

- (a) The Target receives and holds the benefit of this clause 15 to the extent it relates to each Target Indemnified Party on behalf of each of them.
- (b) The Bidder holds and holds the benefit of this clause 15 to the extent it relates to each Bidder Indemnified Party on behalf of each of them

15.5 No limitation

The rights of the Target Indemnified Parties under this clause 15 are in addition to and without prejudice to any rights to indemnification or insurance coverage which a Target Indemnified Party may have under the constitution of, or in any deed or other agreement with, any member of the Target Group.

16 GST

16.1 GST gross-up

If a party (**supplier**) is required to pay GST in respect of a supply made under or in connection with (including by reason of a breach of) this document, except to the extent this document provides otherwise (for example, where a price is expressed to be inclusive of GST), the recipient of the supply must (in addition to any other payment for, or in connection with, the supply) pay to the supplier an amount equal to such GST (**GST gross-up**).

16.2 GST invoice

If a GST gross-up is payable, then the supplier must give the recipient a tax invoice for the supply.

16.3 Payment

Provided a tax invoice has been given, the GST gross-up must be paid by the recipient:

- (a) if any monetary consideration is payable for the supply, at the same time and in the same manner as that monetary consideration; or
- (b) if no monetary consideration is payable for the supply, within 10 Business Days after the day on which the tax invoice is given.

16.4 Reimbursements

If any payment to be made to a party under or in connection with this document is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with clause 16.1.

16.5 Adjustments

If an adjustment event has occurred in respect of a supply made under or in connection with this document, any party that becomes aware of the occurrence of that adjustment event must notify the other party as soon as practicable, and the parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply, or any refund of GST, is paid no later than one month after the supplier first becomes aware that the adjustment event has occurred.

16.6 Definitions

For the purposes of this document:

- (a) terms used in this clause 16 that are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the meaning given to them in that Act;
- (b) a reference to a payment in this clause 16 includes any payment of money and any form of consideration other than payment of money; and
- (c) all references to payments and obligations to make payments, including all references to compensation (including by way of reimbursement or indemnity), are, but for the operation of this clause 16.6(c), exclusive of GST.

17 Notices**17.1 How to give notices**

Any notice or other communication of a party contemplated by this document (including any agreement, request, demand, direction, consent, waiver or approval) must be:

- (a) in writing in English, legible and signed by the party or its agent; and
- (b) sent by express or registered post (with delivery confirmation) or email, or delivered, to the recipient, attention the recipient's contact, in each case using the relevant

details set out in the Parties section of this document or any new details later notified by the recipient.

If a party sends a communication contemplated by this document other than by email, it must use all reasonable endeavours to send a copy of the communication promptly by email.

17.2 Time of receipt

A communication contemplated by this document is taken to be received:

- (a) if hand-delivered, at the time of delivery;
- (b) if sent by express or registered post (with delivery confirmation), on the last day of the delivery period published by the relevant postal authority for delivery by that method to the recipient's location; and
- (c) if sent by email, the earlier of:
 - (i) when the sender receives a delivery confirmation report that records the time that the email was delivered to the recipient's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient's email address, or the sender knows or reasonably ought to know that the email was not delivered to the recipient's email address or the recipient could not open the communication due to its format);
 - (ii) the time the email becomes capable of being retrieved by the recipient's email address; and
 - (iii) the time it is otherwise established that the email (including any attachment) came to the attention of the recipient.

If due to this clause 17.2 a communication would be taken to be received on a day that is not, or after 5pm on, a business day in the place of receipt, the communication is taken to have been received at 9am on the first business day in the place of receipt after that day (other than in respect of a notice given on, and before 8am on, the Second Court Date). The place of receipt of an email is the address of the recipient contemplated by clause 17.1(b).

18 Governing law and jurisdiction

This document is governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of, and Commonwealth courts having jurisdiction in that place and waives any right to object to proceedings being brought in those courts on the basis that proceedings have been brought in an inconvenient forum.

19 General

19.1 Costs and duty

- (a) Except where expressly provided otherwise, each party must bear its own costs in relation to the negotiation, preparation, execution and performance of this document, the Scheme, the Deed Poll and the steps to be taken under or in connection with each of them.
- (b) The Bidder must:

- (i) pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in connection with of this document, the Scheme, the Deed Poll or the steps to be taken under or in connection with each of them; and
- (ii) indemnify the Target and each Scheme Shareholder against any liability arising from any failure to comply with clause 19.1(b)(i).

19.2 Entire agreement

This document (and the Confidentiality Agreement) embodies the entire agreement between the parties in respect of its subject matter.

19.3 Variation

This document can only be varied by a document signed by all of the parties.

19.4 Further acts

Each party must, at its own expense, do all things (including the execution and delivery of documents) required by law or reasonably requested by another party to give effect to this document and the transactions contemplated by it.

19.5 No assignment

A party cannot assign or otherwise deal with its rights under this document without the consent of each other party.

19.6 Exercise of rights

A party may exercise a right or a remedy, or give or withhold a consent, waiver or approval, in its absolute discretion (including by imposing conditions), unless this document expressly provides otherwise.

19.7 Waiver

A party is only bound by a waiver that it gives or confirms in writing. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given. No other conduct of a party (including a failure to exercise, or delay in exercising, a right) operates as a waiver of a right or otherwise prevents the exercise of a right.

19.8 Indemnities

Unless this document provides otherwise:

- (a) each indemnity in this document is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this document;
- (b) it is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this document; and
- (c) the making of a claim by a party under an indemnity contained in this document in respect of a particular event does not preclude that party from subsequently making further claims under that indemnity in respect of the same event.

19.9 Compliance with obligations

The Bidder must honour all of the its obligations under this document, the Scheme, the Deed Poll and any other obligations arising in connection with the Scheme.

19.10 No merger

The warranties, undertakings and indemnities in this document do not merge on completion of any transaction under or contemplated by this document.

19.11 Severance

If a provision of this document would, but for this clause 19.11, be void, unenforceable or illegal in a jurisdiction:

- (a) the provision is read down to the extent necessary to avoid that result; and
- (b) if the provision cannot be read down, to that extent, it is severed in that jurisdiction,

without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of this document. This clause 19.11 has no effect if its operation alters the basic nature of this document or is contrary to public policy.

20 Counterparts and execution**20.1 Counterparts**

This document may be executed in counterparts which together constitute one instrument but is not effective until each party has executed at least one counterpart and the counterparts have been exchanged. Each party consents to the exchange of counterparts by email or other electronic means.

20.2 Authority of signatory

Each person, who executes this document on behalf of a party under a power of attorney or other authority, declares and warrants that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that authority.

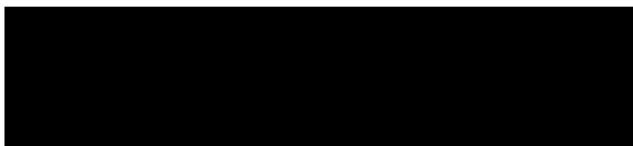
Schedule 1 – Timetable

Submit draft Scheme Booklet to ASIC	Early December 2021
First Court Date	Mid December 2021
Despatch of Scheme Booklet	Late December 2021 / Early January 2022
Scheme Meeting held	Late January 2022
Second Court Date	Early February 2022
Lodge Court order with ASIC (Effective Date)	Early February 2022
Record Date	Early-mid February 2022
Implementation Date	Mid-late February 2022

Execution

EXECUTED as a deed

Executed by Quantum Health Group Limited
in accordance with section 127 of the
Corporations Act 2001 (Cth) by:



Drew Townsend

Director full name
(BLOCK LETTERS)



John Walstab

Director full name
(BLOCK LETTERS)

Executed by Paragon Care Limited in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Director signature

Director full name
(BLOCK LETTERS)

Director/Secretary signature

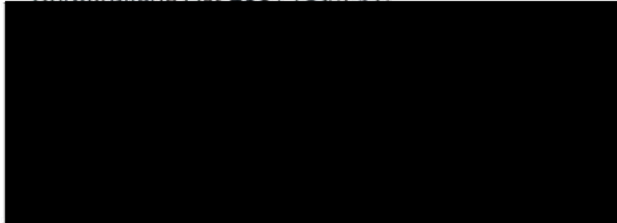
Director/Secretary full name
(BLOCK LETTERS)

Execution**EXECUTED** as a deed

Executed by Quantum Health Group Limited
in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Director signature_____
Director signature_____
Director full name
(BLOCK LETTERS)_____
Director full name
(BLOCK LETTERS)

Executed by Paragon Care Limited in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:

_____
Director/Secretary signature*Shane Tanner*

MARK SIMARI

Director full name
(BLOCK LETTERS)_____
Director/Secretary full name
(BLOCK LETTERS)

Annexure 1 – Scheme

For personal use only

Quantum Health Group Limited

**Each person registered in the Target Register as the holder of
Scheme Shares as at the Record Date**

Scheme of Arrangement

JOHNSON WINTER & SLATTERY

Level 25, 20 Bond Street
SYDNEY NSW 2000

T +61 2 8274 9555 | F +61 2 8274 9500

www.jws.com.au

Liability limited by a scheme approved under Professional Standards Legislation

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Scheme of Arrangement

Date

Parties

- 1 **Quantum Health Group Limited** (ABN 19 003 677 245) (**Target**)
 Address: 22 Rosebery Avenue, Rosebery, NSW 2018
 Email: jwalstab@qhealthcare.com.au
 Contact: John Walstab
- 2 **Each person registered in the Target Register as the holder of Scheme Shares as at the Record Date (Scheme Shareholder)**

Operative part

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this document, unless the context requires otherwise.

In this Scheme:

ASIC means the Australian Securities and Investment Commission.

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

ASX Listing Rules means the official listing rules of the ASX.

Bidder means Paragon Care Limited (ABN 76 064 551 426).

Bidder Group means the Bidder and its Related Bodies Corporate.

Bidder Constitution means any constitution adopted by the Bidder and, except to the extent overridden by such a constitution, the replaceable rules specified in section 141 of the Corporations Act.

Bidder Registry means Link Market Services Limited.

Bidder Share means a fully paid ordinary share in the Bidder.

Bidder Shareholder means a person who is recorded in the register of members of the Bidder as the holder of Bidder Shares.

Business Day has the meaning given in the ASX Listing Rules.

CHESS means the Clearing House Electronic Subregister System for electronic transfers of securities operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

Consideration Share means a Bidder Share issued as Scheme Consideration.

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

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act as agreed by the Target and the Bidder in writing.

Deed Poll means the deed poll dated [●] under which the Bidder covenants in favour of the Scheme Shareholders to perform the obligations attributed to it under this Scheme.

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

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

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

End Date means seven months after the date of the Scheme Implementation Deed or such other date as the Target and the Bidder agree in writing.

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 in any jurisdiction. It includes ASIC, ASX (and any other securities exchange) and the Takeovers Panel and any self-regulatory organisation established under statute.

Ineligible Foreign Shareholder mean a Scheme Shareholder whose address shown in the Target Register on the Record Date is a place outside Australia and its external territories or New Zealand (or any other jurisdictions agreed by the parties in writing (each acting reasonably)), unless the Target and the Bidder (each acting reasonably) determine that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with Consideration Shares when the Scheme becomes Effective.

Implementation Date means the fifth Business Day following the Record Date or such other date agreed by the Target and Bidder in writing.

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

Proceeds has the meaning given in clause 5.4(a)(ii).

Record Date means 7pm (Sydney time) on the fifth Business Day following the Effective Date or such other date as the Target and the Bidder agree in writing.

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

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

Sale Agent means a person appointed by the Target to sell the Consideration Shares that are to be issued to Ineligible Foreign Shareholders.

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between the Target and the Scheme Shareholders, subject to any alterations or conditions (whether proposed by a party or made or required by the Court) which are agreed in writing by the Target and the Bidder.

Scheme Booklet means the explanatory statement to be approved by the Court and despatched by the Target to Target Shareholders, and which includes, amongst other things, the Scheme and an explanatory statement under section 412 of the Corporations Act.

Scheme Consideration means the consideration to be provided or procured by the Bidder to Scheme Shareholders in consideration for the transfer of the Scheme Shares held by Scheme Shareholders to the Bidder, being 0.243 Consideration Shares per Scheme Share.

Scheme Implementation Deed means the scheme implementation deed dated [●] 2021 between the Target and the Bidder relating to the implementation of this Scheme, as amended, substituted or replaced from time to time.

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

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

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

Scheme Transfer means, in relation to each Scheme Shareholder, a duly completed and executed proper instrument of transfer of their Scheme Shares to the Bidder for the purpose of section 1071B of the Corporations Act, which will be in the form of a master share transfer form of all of the Scheme Shares.

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

Target Register means the register of members of the Target.

Target Registry means Boardroom Pty Ltd.

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

Target Shareholder means a person who is recorded in the Target Register as the holder of the Target Shares at the time of the relevant inquiry or as at the referenced date.

1.2 Interpretation

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

- (a) Any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document.
- (b) The singular includes the plural and vice versa.
- (c) A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Governmental Agency.
- (d) A reference to:
 - (i) a person includes that person's successors, permitted substitutes and permitted assigns;
 - (ii) a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this document;
 - (iii) this document or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;
 - (iv) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;

- (v) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (vi) “include”, “including” and “for example”, and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (vii) dollars or \$ is to Australian dollars; and
- (viii) time is to the time in Sydney, New South Wales.
- (e) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.
- (f) A provision of this document must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this document or the inclusion of the provision in this document.
- (g) A period of time expressed to commence:
 - (i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
 - (ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

2 Preliminary

- (a) The Target is a public company limited by shares, incorporated in Australia and registered in New South Wales, Australia. The Target is admitted to the official list of the ASX and the Target Shares are officially quoted on the ASX.
- (b) As at the date of the Scheme Implementation Deed, 1,128,308,291 Target Shares were on issue.
- (c) The Bidder is a corporation incorporated in Australia and registered in Western Australia, Australia. The Bidder is admitted to the official list of the ASX and the Bidder Shares are officially quoted on the ASX.
- (d) As at the date of the Scheme Implementation Deed:
 - (i) 351,400,699 Bidder Shares; and
 - (ii) 11,414,507 performance rights.
 were on issue.
- (e) The Target and the Bidder have agreed, by executing the Scheme Implementation Deed, to implement this Scheme.
- (f) If this Scheme becomes Effective, each of the following will occur:
 - (i) all of the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to the Bidder;
 - (ii) in consideration of the transfer of the Scheme Shares to the Bidder, the Bidder will provide or procure the provision of the Scheme Consideration

to the Scheme Shareholders in accordance with this Scheme and the Deed Poll;

- (iii) the Target will enter the Bidder's name in the Target Register as the holder of all of the Scheme Shares; and
 - (iv) the Bidder will enter the names of each Scheme Shareholder in the Bidder Register as the holder of their Consideration Shares.
- (g) This Scheme attributes actions to the Bidder but does not itself impose an obligation on it to perform those actions. The Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders subject to the Scheme becoming Effective.

3 Conditions precedent

3.1 Conditions precedent

This Scheme is conditional upon and will have no force or effect until each of the following conditions precedent is satisfied:

- (a) as at 8am on the Second Court Date, neither the Scheme Implementation Deed nor the Deed Poll has been terminated in accordance with its terms;
- (b) all of the conditions precedent set out in clause 2.1 of the Scheme Implementation Deed (other than the condition precedent in clause 2.1(c) (*Court approval*) of the Scheme Implementation Deed) have been satisfied or waived in accordance with the terms of the Scheme Implementation Deed;
- (c) the Court having approved this Scheme, with or without modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, the Target and (if required by clause 3.2 of the Scheme Implementation Deed) the Bidder having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by the Target and the Bidder having been satisfied or waived; and
- (e) the coming into effect, pursuant to section 411(10) of the Corporations Act on or before the End Date (or any later that the Target and Bidder agree in writing), of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

3.2 Conditions precedent and operation of clauses 4 and 5

The satisfaction of each condition of clause 3.1 is a condition precedent to the operation of clauses 4 and 5, which will not come into effect unless and until each of those conditions have been satisfied.

3.3 Certificate

- (a) At the Court hearing on the Second Court Date, the Target, and the Bidder will each provide the Court with a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its own knowledge) whether or not all of the conditions in clause 3.1(a) and 3.1(b) have been satisfied.

- (b) Where the certificates disclose that any of those conditions precedent has been satisfied or waived in accordance with the terms of the Scheme Implementation Deed, they will constitute conclusive evidence (in the absence of manifest error) of the satisfaction or waiver of the condition (as the case may be).

3.4 Lapse of Scheme

Without limiting any rights under the Scheme Implementation Deed, unless the Bidder and the Target agree otherwise in writing, the Scheme will lapse and be of no further force or effect if the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms, or if the Effective Date does not occur by the End Date unless the Target and the Bidder otherwise agree in writing.

4 Implementation of the Scheme

4.1 Lodgement of Court orders

- (a) By no later than 4pm on the first Business Day following the date on which the Court makes orders approving the Scheme (or such later date as agreed in writing by the Bidder), the Target must lodge with ASIC an office copy of the Court order approving this Scheme in accordance with section 411(10) of the Corporations Act.
- (b) Subject to clause 3.4, this Scheme will become Effective on and from the Effective Date.

4.2 Transfer of Scheme Shares

Subject to this Scheme becoming Effective in accordance with clause 4.1, the following actions will occur (in the order set out below) on the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, must be transferred to the Bidder without the need for any further act by any Scheme Shareholder (other than acts performed by the Target or any of its directors or officers as attorney and agent for Scheme Shareholders under clause 7.6), by:
- (i) the Target delivering to the Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by the Target, for registration; and
 - (ii) the Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to the Target for registration;
- (b) immediately following receipt of the duly executed Scheme Transfer from the Bidder under clause 4.2(a)(ii), but subject to the stamping of the Scheme Transfer (if required), the Target must enter, or must procure the entry of, the name and address of the Bidder in the Target Register as the holder of the Scheme Shares; and
- (c) the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to the Bidder will, at the time of transfer of them to the Bidder, vest in the Bidder free from all Encumbrances, third party interests (whether legal or equitable) or restrictions on transfer.

5 Scheme Consideration

5.1 *Provision of Scheme Consideration*

Subject to clauses 5.3, 5.4 and 5.5:

- (a) on or before the Implementation Date, the Bidder must issue the Scheme Consideration to the Scheme Shareholders and procure that the name and address of each Scheme Shareholder is entered in the Bidder Register in respect of those Consideration Shares; and
- (b) on or before the date that is five Business Days after the Implementation Date, the Bidder must send or procure the sending of a share certificate or holding statement (or equivalent document) to the Registered Address of each Scheme Shareholder, representing the number of Consideration Shares issued to the Scheme Shareholder pursuant to this Scheme.

5.2 *Status of Consideration Shares*

Subject to this Scheme becoming Effective, the Bidder must:

- (a) issue the Consideration Shares required to be issued by it under this Scheme on terms such that each such Consideration Share will rank equally in all respects with each other Bidder Share on issue at the time and will have the rights set out in the Bidder Constitution;
- (b) ensure that each such Consideration Share is duly and validly issued in accordance with all applicable laws and the Bidder Constitution, and is fully paid and free from any Encumbrances, third party interests (whether legal or equitable) or restrictions on transfer; and
- (c) use all reasonable endeavours to ensure that such Consideration Shares are, from the Business Day following the date this Scheme becomes Effective (or such later date as ASX requires), quoted for trading on the ASX initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis.

5.3 *Joint holders*

In the case of Scheme Shares held in joint names:

- (a) the Consideration Shares to be issued by the Bidder under this Scheme must be issued to and registered in the Bidder Register in names of the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded to the holder whose name appears first in the Target Register as at the Record Date.

5.4 *Ineligible Foreign Shareholders*

- (a) The Bidder will be under no obligation to issue any Consideration Shares under this Scheme to any Ineligible Foreign Shareholder and instead:
 - (i) subject to clause 5.6, Bidder must, on or before the Implementation Date, issue such Consideration Shares which would otherwise be required to be issued to those Ineligible Foreign Shareholders under this Scheme to the Sale Agent;

- (ii) the Bidder must procure that as soon as reasonably practicable on or after the Implementation Date and in any event no more than 30 Business Days after the Implementation Date, the Sale Agent:
- (A) in consultation with the Bidder and the Target, sells or procures the sale of all the Consideration Shares issued to the Sale Agent pursuant to clause 5.4(a)(i) on the ASX: and
 - (B) remits to the Target the proceeds received from the sale under clause 5.4(a)(ii)(A), after deducting any reasonable and applicable fees, brokerage, stamp duty, currency conversion costs, taxes and charges (**Proceeds**);

- (iii) promptly after receiving the Proceeds in respect of the sale of all of the Consideration Shares referred to in clause 5.4(a)(i), the Target must pay, or procure the payment, to each Ineligible Foreign Shareholder, of the amount 'A' calculated in accordance with the following formula and rounded down to the nearest cent:

$$A = (B \div C) \times D$$

where

B = the number of Consideration Shares that would otherwise have been issued to that Ineligible Foreign Shareholder had it not been an Ineligible Foreign Shareholder and which were issued to the Sale Agent;

C = the total number of Consideration Shares which would otherwise have been issued to all Ineligible Foreign Shareholders and which were issued to the Sale Agent; and

D = the Proceeds (as defined in clause 5.4(a)(ii)).

- (b) The Ineligible Foreign Shareholders acknowledge that none of the Target, the Bidder or the Sale Agent gives any assurance as to the price that will be achieved for the sale of Consideration Shares described in clause 5.4(a) and that Target, the Bidder and the Sale Agent expressly disclaim any fiduciary duty to the Ineligible Foreign Shareholders which may arise in connection with this clause 5.4.
- (c) The Target must make, or procure the making of, payments to Ineligible Foreign Shareholders under clause 5.4(a) by either (in the absolute discretion of the Target):
 - (i) where an Ineligible Foreign Shareholder has, before the Record Date, made a valid election in accordance with the requirements of the Target Registry to receive dividend payments from the Target by electronic funds transfer to a bank account nominated by that Ineligible Foreign Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;
 - (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the relevant Ineligible Foreign Shareholder by an appropriate authority from that Ineligible Foreign Shareholder to the Target; or
 - (iii) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Ineligible Foreign Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of that

Ineligible Foreign Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.3).

- (d) If the Target receives professional advice that any withholding or other tax is required by law or by a Government Agency to be withheld from a payment to an Ineligible Foreign Shareholder, the Target is entitled to withhold the relevant amount before making the payment to the Ineligible Foreign Shareholder (and payment of the reduced amount shall be taken to be full payment of the relevant amount for the purposes of this Scheme, including clause 5.4(a)(iii)). The Target must pay any amount so withheld to the relevant taxation authorities within the time permitted by law, and, if requested in writing by the relevant Ineligible Foreign Shareholder, provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Ineligible Foreign Shareholder.
- (e) Each Ineligible Foreign Shareholder appoints the Target as its agent to receive on its behalf any financial services guide (or similar or equivalent document) or other notices (including any updates of those documents) that the Sale Agent is required to provide to those Ineligible Foreign Shareholders under the Corporations Act or any other applicable law.
- (f) Payment of the amount calculated in accordance with clause 5.4(a) to an Ineligible Foreign Shareholder in accordance with this clause 5.4 satisfies in full the Ineligible Foreign Shareholder's right to Scheme Consideration.
- (g) Where the issue of Consideration Shares to which a Scheme Shareholder would otherwise be entitled under this Scheme would result in a breach of law:
 - (i) the Bidder will issue the maximum possible number of Consideration Shares to the Scheme Shareholder without giving rise to such a breach; and
 - (ii) any further Consideration Shares to which that Scheme Shareholder is entitled, but the issue of which to the Scheme Shareholder would give rise to such a breach, will instead be issued to the Sale Agent and dealt with under the preceding provisions in this clause 5.4, as if a reference to Ineligible Foreign Shareholders also included that Scheme Shareholder and references to that person's Consideration Schemes in that clause were limited to the Consideration Shares issued to the Sale Agent under this clause.
- (h) To the extent that a cheque properly despatched by or on behalf of the Target pursuant to clause 5.4(c)(iii) is returned to the Target (or its agents) as undelivered or the cheque is not presented by a Scheme Shareholder earlier than six months after the Implementation Date (**Unclaimed Consideration**):
 - (i) the Target may cancel the cheque and credit the amount to a separate bank account of the Target until the Unclaimed Consideration is claimed or otherwise dealt with in accordance with any applicable unclaimed moneys legislation; and
 - (ii) subject to the Target complying with its obligations under clause 5.4(h)(i) the Target is discharged from liability to any Scheme Shareholder in respect of the Unclaimed Consideration.

- (i) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).

5.5 **Fractional entitlements**

Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a Consideration Share, the fractional entitlement will be rounded down to the nearest whole number of Consideration Shares.

5.6 **Orders of a court or Governmental Agency**

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

- (a) which requires payment to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by the Bidder in accordance with this clause 5, then the Target or the Bidder (as applicable) shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) which would prevent the Bidder from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the issuance of such consideration is otherwise prohibited by applicable law, the Target or the Bidder (as applicable) shall be entitled:
 - (i) in the case of an Ineligible Foreign Shareholder, to retain an amount, in Australian dollars, equal to the relevant Ineligible Foreign Shareholder's share of the Proceeds; or
 - (ii) not to issue, or to issue to a trustee or nominees such number of Consideration Shares as that Scheme Shareholder would otherwise be entitled to under clause 5.1

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

6 **Dealings in Target Shares**

6.1 **Determination of Scheme Shareholders**

- (a) For the purpose of establishing who is a Scheme Shareholder, dealings in the Target Shares or other alterations to the Target Register will only be recognised if:
 - (i) in the case of dealings of the type to be effected using CHES, the transferee is registered in the Target Register as the holder of the relevant Target Shares by the Record Date; and
 - (ii) in all other cases, registrable transfers or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received at the place where the Target Register is kept by 5pm on the Record Date,

and the Target will not accept for registration or recognise for any purpose (except a transfer to the Bidder under this Scheme and any subsequent transfer by the Bidder

or its successors in title) any transfer or transmission application or other such request in respect of the Target Shares received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

- (b) The Target must register any registrable transfers or transmission applications of the type referred to in clause 6.1(a)(ii) by the Record Date, provided that, for the avoidance of doubt, nothing in this clause 6.1(b) requires the Target to register a transfer that would result in a Scheme Shareholder holding a parcel of Target Shares that is less than a 'marketable parcel' (as that term is defined in the ASX Listing Rules).

6.2 Target Register

- (a) The Target must, until the Scheme Consideration has been provided to Scheme Shareholders in accordance with this Scheme and the name and address of the Bidder has been entered in the Target Register as the holder of all Scheme Shares, maintain or procure the maintenance of the Target Register in accordance with the provisions of this clause 6 and the Target Register in this form will solely determine entitlements to Scheme Consideration.
- (b) As from the Record Date (other than for the Bidder after the Implementation Date), each entry current at that time in the Target Register in relation to the Scheme Shares will cease to be of any effect other than as evidence of the entitlement of Scheme Shareholders to the Scheme Consideration in accordance with this Scheme in respect of those Scheme Shares.

6.3 Certificates and holding statements

All certificates and statements of holding for Scheme Shares held by Scheme Shareholders shall, following the Record Date, cease to have any effect as documents of title in respect of such Scheme Shares.

6.4 Provision of information

- (a) As soon as practicable after the Record Date and in any event at least three Business Days before the Implementation Date, the Target must, or must procure, details of the names, Registered Addresses and registered holdings of Scheme Shares of each Scheme Shareholder as at the Record Date are given to the Bidder in the form the Bidder reasonably requires.
- (b) Each Scheme Shareholder agrees that this information may be disclosed to the Bidder, the Bidder Registry and the Bidder's advisers and other service providers to the extent necessary to effect the Scheme.

6.5 No disposals after Record Date

If the Scheme becomes Effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not in any way, deal with or dispose of or purport or agree to deal with or dispose of, any Scheme Shares or any interest in them except as set out in the Scheme, after the Record Date and any attempt to do so will be void and will have no legal effect whatsoever.

6.6 Quotation of Target Shares

- (a) The Target must apply for suspension of trading in the Target Shares on the ASX with effect from the close of trading on ASX on the Effective Date.

- (b) At a date on or after the Implementation Date to be determined by the Bidder, the Target will apply to ASX:
 - (i) for termination of the official quotation of the Target Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

7 General Scheme provisions

7.1 Binding effect of Scheme

Each Scheme Shareholder acknowledges that this Scheme binds the Target and all of the Scheme Shareholders (including those who do not attend the members' meeting of the Target to approve the Scheme or do not vote at that meeting or who vote against the Scheme at the meeting) and, to the extent of any inconsistency and as permitted by law, overrides the constitution of the Target.

7.2 Agreement by Scheme Shareholders

Each Scheme Shareholder (and, in respect of clause 7.2(c) only, the Sale Agent on behalf of all Ineligible Foreign Shareholders) irrevocably:

- (a) agrees to transfer its Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares to the Bidder in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification (if any) of the rights attached to its Scheme Shares constituted by or resulting from this Scheme;
- (c) agrees to become a member of the Bidder and to be bound by the terms of the Bidder Constitution;
- (d) who holds their Scheme Shares in a CHESS Holding agrees to the conversion of those Scheme Shares to an Issuer Sponsored Holding and irrevocably authorises the Target to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion; and
- (e) acknowledges and agrees that this Scheme binds the Target and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).

7.3 Warranties by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to the Target and the Bidder, and to have appointed and authorised the Target as its attorney and agent to warrant to the Bidder on the Implementation Date, that:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of transfer of them to the Bidder pursuant to the Scheme, be fully paid and free from all Encumbrances, third party interests (whether legal or equitable) or restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to the Bidder under the Scheme. The Target undertakes that it will provide such warranty to the Bidder and attorney of each Scheme Shareholder; and

- (c) they have no existing right to be issued any Target Shares or other securities in the Target. The Target undertakes that it will provide such warranty to the Bidder as agent and attorney of each Scheme Shareholder.

7.4 Title to and rights in Scheme Shares

To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to the Bidder will, at the time of transfer of them to the Bidder vest in the Bidder free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

7.5 Pending registration of transfers

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 5.1(a), and until the Target registers the Bidder as the holder of all Scheme Shares in the Target Register:

- (a) the Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme;
- (b) each Scheme Shareholder is deemed to have irrevocably appointed the Bidder as attorney and agent (and directed the Bidder in each capacity) to appoint any director, officer, secretary or agent nominated by the Bidder as its sole proxy and, where appropriate, its corporate representative, to attend the meetings of holders of Target Shares, exercise the votes attached to the Scheme Shares registered in their name and sign any resolution of holders of Target Shares (and each Scheme Shareholder acknowledges and agrees that as a result of each appointment they must not themselves attend or vote at any meetings or sign any resolution whether in person or by proxy or corporate representative);
- (c) each Scheme Shareholder must take all other action in the capacity of a registered holder of Scheme Shares as the Bidder reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers referred to in this clause 7.4, the Bidder and any director, officer, secretary or agent nominated by the Bidder under clause 7.4 may act in the best interests of the Bidder as the intended registered holder of Scheme Shares.

7.6 Authority to Target

- (a) Each Scheme Shareholder, without the need for any further act, irrevocably appoints the Target and each of its directors and officers (jointly, severally or jointly and severally) as its agent and attorney for the purpose of:
 - (i) executing any document or doing any other act necessary, expedient or desirable to give effect to the terms of this Scheme and the transactions contemplated by it including (without limitation) the execution and provision of the Scheme Transfer;
 - (ii) executing and delivering any deed or document required by the Target or the Bidder, that causes each Scheme Shareholder to become a shareholder of Bidder and to be bound by the Bidder Constitution; and
 - (iii) enforcing the Deed Poll against the Bidder,

and the Target accepts each such appointment. The Target as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers

under this clause 7.6 to all or any of its directors and officers (jointly, severally or jointly and severally).

- (b) The Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against the Bidder on behalf of and as agent and attorney for each Scheme Shareholder.

7.7 Instructions and elections

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

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

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

7.8 Amendments to the Scheme

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

- (a) the Target may consent on behalf of all persons concerned, by its counsel or solicitors, to those alterations or conditions to which (if required by clause 3.2 of the Scheme Implementation Deed) the Bidder has provided its prior written consent; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which the Target has consented to.

8 General

8.1 Stamp duty

The Bidder must:

- (a) pay all stamp duty (if any) and any related fines and penalties payable in connection with the transfer of the Scheme Shares under this Scheme; and
- (b) indemnify each Scheme Shareholder against any liability incurred by the Scheme Shareholder arising from the Bidder's failure to comply with clause 8.1.

8.2 Indemnities

Unless this document provides otherwise:

- (a) each indemnity in this document is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this document;

- (b) it is not necessary for a person to incur expense or make any payment before enforcing a right of indemnity conferred by this document; and
- (c) the making of a claim by a person under an indemnity contained in this document in respect of a particular event does not preclude that person from subsequently making further claims under that indemnity in respect of the same event.

8.3 Further assurance

Each Scheme Shareholder and the Target will execute all documents and do all acts and things as may be necessary or desirable to give full effect to the Scheme and the transactions contemplated by it.

8.4 Notices

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

8.5 Governing law and jurisdiction

This document is governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and Commonwealth courts having jurisdiction in that place and waives any right to object to proceedings being brought in those courts on the basis that proceedings have been brought in an inconvenient forum.

8.6 No liability when acting in good faith

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

Annexure 2 – Deed Poll

For personal use only

Paragon Care Limited

Deed Poll

JOHNSON WINTER & SLATTERY

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Liability limited by a scheme approved under Professional Standards Legislation

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Deed Poll

Date

Parties

By:

Paragon Care Limited (ABN 76 064 551 426) (Bidder)

Address: Level 4, 100 Albert Road,
South Melbourne, VIC 3205

Email: mleydin@leydinfreyer.com.au

Contact: Melanie Leydin (Company Secretary)

In favour of:

Each Scheme Shareholder

Recitals

- A** Quantum Health Group Limited (ABN 19 003 677 245) (**Target**) and the Bidder have entered into the Scheme Implementation Deed with respect to the Scheme and associated matters.
- B** The Target has agreed in the Scheme Implementation Deed to propose the Scheme, pursuant to which (amongst other things), subject to the satisfaction or waiver of certain conditions precedent, the Bidder will acquire all of the Scheme Shares from Scheme Shareholders for the Scheme Consideration.
- C** In accordance with the Scheme Implementation Deed, the Bidder enters into this document for the purpose of covenanting in favour of the Scheme Shareholders to perform the obligations attributed to it under the Scheme.

It is agreed as follows.

Operative part

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this document, unless the context requires otherwise.

Implementation has the meaning given in the Scheme Implementation Deed.

Insolvency Event has the meaning given in the Scheme Implementation Deed.

Liability means a debt, liability or obligation, whether actual, prospective, contingent or otherwise and whether or not ascertained, and whether or not owing or incurred alone, or jointly and severally, with any other person.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between the Target and Scheme Shareholders, substantially in the form of Annexure 1 to this document, subject to any alterations or conditions (whether proposed by the Target, Bidder or required by the Court) which are agreed in writing by the Target and the Bidder.

Terms defined in the Scheme have the same meaning when used in this document unless the context requires otherwise.

1.2 Interpretation

Clause 1.2 of the Scheme applies to this document.

2 Nature of deed poll

The Bidder acknowledges and agrees that:

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

3 Conditions

3.1 Conditions

This deed poll and the obligations of the Bidder under clause 4 are subject to the Scheme becoming Effective.

3.2 Termination

Unless the Target and the Bidder agree otherwise, the obligations of the Bidder under this document will automatically terminate and the terms of this document will be of no further force or effect if:

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

3.3 Consequences of termination

If this document is terminated under clause 3.2, then in addition and without prejudice to any other available rights, powers or remedies:

- (a) the Bidder is released from its obligations under this document; and
- (b) each Scheme Shareholder retains the rights they have against the Bidder in respect of any breach of this document by the Bidder which occurs before this document is terminated.

4 Payment of Scheme Consideration and performance of Scheme steps

4.1 Compliance with Scheme

- (a) Subject to clause 3, the Bidder undertakes in favour of each Scheme Shareholder to:
 - (i) provide, or procure the provision of, the Scheme Consideration to the Scheme Shareholders in accordance with clause 5 of the Scheme; and

- (ii) undertake all other actions, and give acknowledgement, representation and warranty (if any), attributed to it under the Scheme,

subject to and in accordance with the provisions of the Scheme.

4.2 ***Shares to rank equally***

- (a) Without limiting any provision of the Scheme or this document, the Bidder covenants in favour of each Scheme Shareholder that each Consideration Share issued to each Scheme Shareholder in accordance with the Scheme will:
 - (i) rank equally in all respects with all existing Bidder Shares;
 - (ii) have the rights set out in the Bidder Constitution; and
 - (iii) be fully paid and free from any Encumbrances, third party interests (whether legal or equitable) or restrictions on transfer.

5 **Representations and warranties**

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

- (a) **(status)** it is a corporation validly existing and limited by shares under the Corporations Act or other applicable legislation;
- (b) **(power)** it has full legal capacity and power to enter into and perform its obligations under this document;
- (c) **(authorisations)** its execution, delivery and performance of this document has been properly authorised by all necessary corporate action and it has full corporate power to execute, deliver and perform this document;
- (d) **(validity of this document)** this document constitutes legal, valid and binding obligations on it (subject to laws generally affecting creditors' rights and the principles of equity); and
- (e) **(Insolvency Event)** it is not affected by any Insolvency Event.

6 **Continuing obligations**

This document is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) the Bidder having each fully performed its obligations under this document; or
- (b) the termination of this document under clause 3.2.

7 **Notices**

7.1 ***How to give notices***

Any notice or other communication by a person contemplated by this document (including any agreement, request, demand, direction, consent, waiver or approval) must be:

- (a) in writing in English, legible and signed by the person or their agent; and

- (b) sent by express or registered post (with delivery confirmation) or email, or delivered, to the recipient, attention the recipient's contact, in each case using the relevant details set out in the Parties section of this document or any new details later notified by the recipient.

If a person sends a communication contemplated by this document other than by email, they must use all reasonable endeavours to send a copy of the communication promptly by email.

7.2 Time of receipt

A communication contemplated by this document is taken to be received by a recipient:

- (a) if hand-delivered, at the time of delivery to that recipient to their nominated address;
- (b) if sent by express or registered post (with delivery confirmation), on the date that communication is received by the recipient at the recipient's location; and
- (c) if sent by email, the earlier of:
 - (i) when the sender receives a read receipt from the recipient's email address; and
 - (ii) the time it is otherwise established that the email (including any attachment) came to the attention of the recipient.

If due to this clause 7.2 a communication would be taken to be received on a day that is not, or after 5pm on, a business day in the place of receipt, the communication is taken to have been received at 9am on the first business day in the place of receipt after that day. The place of receipt of an email is the address of the recipient contemplated by clause 7.1(b).

8 Governing law and jurisdiction

This document is governed by the laws of New South Wales. The Bidder irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and Commonwealth courts having jurisdiction in that place and waives any right to object to proceedings being brought in those courts on the basis that proceedings have been brought in an inconvenient forum.

9 General

9.1 Costs and duty

- (a) The Bidder must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in connection with of this document and the Scheme or the steps to be taken under each of them; and
- (b) The Bidder indemnifies each Scheme Shareholder against any liability arising from any failure to comply with clause 9.1(a).

9.2 Variation

A provision of this document may not be varied by the Bidder unless:

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

and in either case, the Bidder enter into a further deed poll in favour of the Scheme Shareholders giving effect to such amendment.

9.3 Further acts

The Bidder must, at its own expense, do all things (including the execution and delivery of documents) required by law or as may be necessary or desirable to give full effect to the provisions of this document and the transactions contemplated by it.

9.4 No assignment

- (a) The rights of a Scheme Shareholder and the Bidder under this document are personal. They cannot be assigned, charged or otherwise dealt with, and no person shall attempt or purport to do so, without the prior written consent of the Bidder.
- (b) Any purported dealing in contravention of clause 9.4(a) is invalid.

9.5 Waiver

A person waives a right under this document only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given. No other conduct of any person (including a failure to exercise, or delay in exercising, a right) operates as a waiver of a right or otherwise prevents the exercise of a right.

9.6 Remedies cumulative

The rights, powers and remedies of the Bidder and the Scheme Shareholders under this document are in addition to and do not exclude the rights, powers or remedies provided by law or equity or by any agreement.

Execution

EXECUTED as a deed poll

Executed by Paragon Care Limited in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Director signature

Director/Secretary signature

Director full name
(BLOCK LETTERS)

Director/secretary full name
(BLOCK LETTERS)

Annexure 1 – Scheme

For personal use only

Annexure 3 – Escrow Deed

For personal use only

John Walstab

Paragon Care Limited

Voluntary Escrow Deed

JOHNSON WINTER & SLATTERY

Level 25, 20 Bond Street
SYDNEY NSW 2000

T +61 2 8274 9555 | F +61 2 8274 9500

www.jws.com.au

Liability limited by a scheme approved under Professional Standards Legislation

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Execution

Voluntary Escrow Deed

Date

Parties

1 John Walstab (Holder)

Address: 22 Rosebery Avenue, Rosebery, NSW 2018

Email: jwalstab@qhealthcare.com.au

2 Paragon Care Limited (ABN 76 064 551 426) (Bidder).

Address: Level 4, 100 Albert Road, South Melbourne, VIC 3205

Email: mleydin@leydinfreyer.com.au

Contact: Melanie Leydin, Company Secretary

Recitals

- A** Quantum Health Group Limited (ABN 19 003 677 245) (**Target**) and the Bidder have entered into the Scheme Implementation Deed with respect to the Scheme and associated matters.
- B** Under the Scheme, on the Implementation Date, the Holder will be issued shares in the Bidder.
- C** The Holder agrees that it will only Deal with its shares in the Bidder upon the terms set out in this document for the purpose of showing their ongoing commitment to the long term value creation opportunities available to the Bidder.

Operative part

1 Definitions and interpretation

1.1 Definitions

In this document:

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

ASX Listing Rules means the official listing rules of the ASX.

Business Day has the meaning given in the ASX Listing Rules.

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

Deal means, in respect of any Restricted Security, to directly or indirectly:

- (a) sell, assign, transfer or otherwise Dispose of, that Restricted Security or any legal, beneficial or economic interest in that Restricted Security;
- (b) create, or agree or offer to create, any Security Interest in that Restricted Security or any legal, beneficial or economic interest in that Restricted Security;

- (c) enter into or grant any option which, if exercised, enables or requires the relevant security holder to sell, assign, transfer or otherwise Dispose of that Restricted Security;
- (d) do, or omit to do, any act if the act or omission would have the effect of transferring effective ownership or control of that Restricted Security or any legal, beneficial or economic interest in that Restricted Security; or
- (e) agree to do any of those things.

Dispose has the meaning given to that term in the ASX Listing Rules.

Escrow Pool means all of the Shares held by the Holder on Implementation.

Escrow Period means the period beginning on the date of Implementation and ending 24 months later.

Holding Lock has the meaning given to that term in the ASX Listing Rules.

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

Issuer Sponsored Sub-Register has the meaning given to that term in the ASX Listing Rules.

Recognised Trustee means a bank, a recognised trustee for ASX purposes, a provider of registry services to the Bidder or other nominee.

Restricted Securities means, from time to time, the Shares in the Escrow Pool other than any Shares excluded under clause 4.1 or which are the subject of an early release under clause 4.2.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act to be made between the Target and its shareholders.

Scheme Implementation Deed means the scheme implementation deed dated [●] 2021 between the Target and the Bidder relating to the implementation of the Scheme, as amended, substituted or replaced from time to time.

Security Interest means an interest or power:

- (a) reserved in or over an interest in any security including, but not limited to, any retention of title;
- (b) created or otherwise arising in or over any interest in any securities under a bill of sale, mortgage, charge, lien, pledge, trust or power; and
- (c) any agreement to grant or create any such interest or power.

Share means a fully paid ordinary share in the Bidder.

Trading Day has the meaning given in the ASX Listing Rules.

Transfer means sell or transfer the entire legal and beneficial interest in a security (including a Share).

1.2 Interpretation

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

- (a) Any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this document.
- (b) The singular includes the plural and vice versa.
- (c) A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Governmental Agency.
- (d) A reference to:
 - (i) a person includes that person's successors, permitted substitutes and permitted assigns;
 - (ii) a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this document;
 - (iii) this document or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;
 - (iv) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;
 - (v) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
 - (vi) "include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
 - (vii) dollars or \$ is to Australian dollars; and
 - (viii) time is to the time in Sydney, New South Wales.
- (e) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.
- (f) A period of time expressed to commence:
 - (i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
 - (ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

1.3 Compliance with ASX Listing Rules

For so long as the Bidder is listed on the official list of the ASX:

- (a) notwithstanding anything contained in this document, if the ASX Listing Rules prohibit an act being done, that act must not be done;

- (b) nothing contained in this document prevents an act being done that the ASX Listing Rules require to be done;
- (c) if the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the ASX Listing Rules require this document to contain a provision and it does not contain such a provision, this document is deemed to contain that provision;
- (e) if the ASX Listing Rules require this document not to contain a provision and it contains such a provision, this document is deemed not to contain that provision; and
- (f) if any provision of this document is or becomes inconsistent with the ASX Listing Rules, this document is deemed not to contain that provision to the extent of the inconsistency.

2 Effective date

The terms of this document and the transactions contemplated by it take effect on and from the date of Implementation.

3 Escrow restrictions

3.1 *Holder restrictions*

During the Escrow Period, the Holder must not Deal in any of the Restricted Securities.

3.2 *Perfecting the restrictions*

- (a) If any Restricted Securities are kept on a certificated sub-register, the Holder agrees to deposit the certificates for those Restricted Securities with a Recognised Trustee nominated by the Bidder for the duration of the Escrow Period.
- (b) If any Restricted Securities are kept on the Bidder's Issuer Sponsored Sub-Register or another sub-register administered by the Bidder, the Holder agrees to the application of a Holding Lock or similar transfer restriction to those Restricted Securities during the Escrow Period.
- (c) The Bidder will do all things reasonably necessary to ensure that any Holding Lock is removed so as to permit the Holder to Deal with the Restricted Securities as permitted by clause 4.1.

3.3 *Notice of Dealing in Restricted Securities*

If the Holder becomes aware:

- (a) that a Dealing in any of its Restricted Securities has occurred, or is likely to occur, in breach of this document; or
- (b) of any matter which is likely to give rise to a Dealing in any of its Restricted Securities in breach of this document,

it must notify the Bidder as soon as practicable after becoming aware of the Dealing or the matters giving rise to the Dealing, providing full details.

4 Exceptions

4.1 Exceptions

Notwithstanding clause 3.1, during the Escrow Period:

- (a) **(consented to by the Bidder)** the Holder may Dispose of the Restricted Securities where the Bidder provides written consent to the Disposal of Restricted Securities;
- (b) **(control transaction)** the Holder may Deal in any of their Restricted Securities if the Dealing arises solely as a result of:
 - (i) the acceptance of a bona fide third party takeover bid made under Chapter 6 of the Corporations Act in respect of the Shares, provided that the holders of at least half of the Shares that are not subject to any voluntary escrow deed (or other similar arrangement), and to which the offers under the bid relate, have accepted the bid; or
 - (ii) the transfer or cancellation of the Shares in the Bidder as part of a scheme of arrangement under Part 5.1 of the Corporations Act, provided that the scheme of arrangement has received all necessary approvals, including all such necessary court and shareholder approvals,

provided, in each case, that, if for any reason any or all Restricted Securities are not transferred or cancelled in accordance with such a takeover bid or scheme of arrangement, then the Holder agrees that the restrictions applying to the Restricted Securities under this document will continue to apply and without limiting the foregoing, the Holding Lock will be reapplied to all Restricted Securities not so transferred or cancelled;

- (c) **(buy back)** the Holder may Deal in any of their Restricted Securities if the Dealing is the participation by the Holder in an equal access share buyback, equal access capital return or equal access capital reduction, in each case made in respect of Restricted Securities held by them;
- (d) **(required by law)** the Holder may Deal in any of their Restricted Securities to the extent the Dealing is required by applicable law (including an order of a court of competent jurisdiction) provided that any recipient of the Restricted Securities will no longer be bound by any Holding Lock or restrictions on Dealing;
- (e) **(encumbrance)** the Holder may encumber any or all of its Restricted Securities provided it is an encumbrance of its Restricted Securities to a bona fide third party financial institution that provides loans in the ordinary course of its business **(Financial Institution)** solely as security for a loan or other financial accommodation, provided that:
 - (i) any such agreement with a Financial Institution must provide that the Restricted Securities are to remain in escrow and subject to the terms of this document as if the Financial Institution were a party to this deed; and
 - (ii) the Restricted Securities cannot be further encumbered or assigned except as part of the enforcement of the security as a result of a default by the Holder under the terms of the loan or financial accommodation provided by the Financial Institution;
- (f) **(related persons)** the Holder may transfer some or all of its Restricted Securities to:

- (i) a spouse, de facto partner, sibling, parent or child of the Holder (**Immediate Family Member**);
- (ii) a trust or fund in relation to which the Holder or their Immediate Family Member(s) has full and effective control, or, which is for the benefit of the Holder or one or more of their Immediate Family Member(s); or
- (iii) the trustee or custodian of a trust or fund referred to in clause 4.1(f)(ii);

(each a **Transferee**), provided that any such Transferee enters into an escrow deed on the same terms as this document for the remaining duration of the Escrow Period, provided that document does not contain an equivalent or similar clause to clause 4.1(e) or this clause 4.1(f) (except that the Transferee may transfer the Restricted Securities back to the Holder at any time) and contains an undertaking from the Transferee to the Bidder that the Transferee must transfer back the Restricted Shares to the Holder and procure that the Holder accepts such transfer within two Business Days of the Transferee ceasing to be a person described in clauses 4.1(f)(i) to 4.1(f)(iii) above; and

- (g) (**death**) the Restricted Securities may be transferred in the event of the death of the Holder by will or intestate succession.

4.2 Early release

Notwithstanding clause 3.1, during the Escrow Period, the Holder may Dispose (in one or more transactions) of up to 50% of its Restricted Securities after 4:30pm on the date that is 12 months after Implementation.

5 Rights attaching to Restricted Securities

Except as expressly provided for in this document, nothing in this document restricts the Holder from the exercise of any rights attaching to the Restricted Securities, including without limitation:

- (a) the exercise of voting rights attaching to the Restricted Securities;
- (b) receiving or being entitled to any dividend, return of capital or other distribution attaching to the Restricted Securities; and
- (c) receiving or participating in any rights or bonus issue in connection with the Restricted Securities.

6 Representations and warranties

6.1 Giving of warranties

Except as otherwise stated, each of the warranties and representations in clause 6.2 are given in favour of the Bidder:

- (a) as at the date of this document; and
- (b) at all times until and including the expiry of the Escrow Period.

6.2 ***Representations and warranties***

The Holder represents and warrants the following:

- (a) the Holder holds the Restricted Securities.
- (b) no Dealing is subsisting in relation to the Restricted Securities;
- (c) prior to the Escrow Period, it has not done, or omitted to do, any act which would result in it Dealing in Restricted Securities (except as permitted by clause 4.1) such that it will take effect during the Escrow Period;
- (d) the Restricted Securities are free from all Security Interests and other third party interests or rights and will (except as permitted by clause 4.1) remain so during the Escrow Period;
- (e) it has taken all necessary action to authorise the execution, delivery and performance of this document in accordance with its terms;
- (f) this document constitutes legal, valid and binding obligations and, subject to any necessary stamping and registration, is enforceable in accordance with its terms;
- (g) it has full power and authority, without the consent of any other person, to enter into and perform its obligations under this document (including, if the Holder has entered into this document as a trustee (**Trustee**), under the trust deed for the relevant trust (**Trust**));
- (h) if the Holder is a Trustee:
 - (i) the Trustee is the sole trustee of the Trust and, to the best of its knowledge and belief, there is no proposal to remove it as trustee of the Trust;
 - (ii) that Holder has the right to be fully indemnified out of the assets of the Trust in respect of any liability arising under, or in connection with, this document and the right has not been modified, released or diminished in any way. The assets of the Trust are sufficient to satisfy that right in full and that Holder has not released or disposed of its equitable lien over that Trust; and
 - (iii) the Trust has not been terminated and there is no effective proposal or requirement to wind up, deregister, terminate, reconstitute or resettle the Trust; and
- (i) the execution, delivery and performance by the Holder this document does not and will not violate, breach or result in a contravention of:
 - (i) any applicable law, regulation or authorisation;
 - (ii) its constitution or other constituent documents (or, if the Holder is a Trustee, the trust deed for the Trust); or
 - (iii) any agreement, undertaking, Security Interest or document which is binding on the Holder.

6.3 *Survival of representations and warranties*

The representations and warranties in this clause 6 survive termination of this document.

7 **Consequences of breaching this document**

- (a) If the Bidder considers in its reasonable opinion, that the Holder may breach this document, the Bidder may take the steps necessary to prevent the breach, or to enforce this document.
- (b) If the Holder breaches this document, each of the following applies:
 - (i) the Bidder may take the steps necessary to enforce this document, or to rectify the breach; and
 - (ii) the Bidder may refuse to acknowledge, deal with, accept or register any sale, assignment, transfer or conversion of any of the Restricted Securities. This is in addition to other rights and remedies of the Bidder.
- (c) The Holder acknowledges and agrees that damages alone may not be an adequate remedy for breach of its obligations under this document and the appropriate remedies for such breach will include orders for specific performance, injunctive relief and other equitable relief and/or damage.

8 **Notices**

8.1 *How to give notices*

Any notice or other communication of a party contemplated by this document (including any agreement, request, demand, direction, consent, waiver or approval) must be:

- (a) in writing in English, legible and signed by the party or its agent; and
- (b) sent by express or registered post (with delivery confirmation) or email, or delivered, to the recipient, attention the recipient's contact, in each case using the relevant details set out in the Parties section of this document or any new details later notified by the recipient.

If a party sends a communication contemplated by this document other than by email, it must use all reasonable endeavours to send a copy of the communication promptly by email.

8.2 *Time of receipt*

A communication contemplated by this document is taken to be received:

- (a) if hand-delivered, at the time of delivery;
- (b) if sent by express or registered post (with delivery confirmation), on the last day of the delivery period published by the relevant postal authority for delivery by that method to the recipient's location; and
- (c) if sent by email, the earlier of:
 - (i) when the sender receives a delivery confirmation report that records the time that the email was delivered to the recipient's email address (unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient's email address, or the sender knows or reasonably ought to know that the email was not delivered to the

recipient's email address or the recipient could not open the communication due to its format);

- (ii) the time the email becomes capable of being retrieved by the recipient's email address; and
- (iii) the time it is otherwise established that the email (including any attachment) came to the attention of the recipient.

If due to this clause 8.2 a communication would be taken to be received on a day that is not, or after 5pm on, a business day in the place of receipt, the communication is taken to have been received at 9am on the first business day in the place of receipt after that day. The place of receipt of an email is the address of the recipient contemplated by clause 8.1(b).

9 Governing law and jurisdiction

This document is governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and Commonwealth courts having jurisdiction in that place and waives any right to object to proceedings being brought in those courts on the basis that proceedings have been brought in an inconvenient forum.

10 General

10.1 *Independent legal advice*

The Holder acknowledges that it has had the opportunity to obtain independent legal advice with respect to this document.

10.2 *Entire agreement*

This document embodies the entire agreement between the parties in respect of its subject matter.

10.3 *Variation*

This document can only be varied by a document signed by all of the parties.

10.4 *Further acts*

Each party must, at its own expense, do all things (including the execution and delivery of documents) required by law or reasonably requested by another party to give effect to this document and the transactions contemplated by it.

10.5 *No assignment*

A party cannot assign or otherwise deal with its rights under this document without the consent of each other party.

10.6 *Exercise of rights*

A party may exercise a right or a remedy, or give or withhold a consent, waiver or approval, in its absolute discretion (including by imposing conditions), unless this document expressly provides otherwise.

10.7 *Waiver*

A party is only bound by a waiver that it gives or confirms in writing. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given. No other

conduct of a party (including a failure to exercise, or delay in exercising, a right) operates as a waiver of a right or otherwise prevents the exercise of a right.

10.8 No merger

The warranties and undertakings in this document do not merge on completion of any transaction under or contemplated by this document.

10.9 Severance

If a provision of this document would, but for this clause 10.9, be void, unenforceable or illegal in a jurisdiction:

(a) the provision is read down to the extent necessary to avoid that result; and

(b) if the provision cannot be read down, to that extent, it is severed in that jurisdiction,

without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of this document. This clause 10.9 has no effect if its operation alters the basic nature of this document or is contrary to public policy.

10.10 Remedies cumulative

The rights and remedies provided in this document are in addition to other rights and remedies given by law independently of this document, unless this document expressly provides otherwise.

10.11 Accrued rights

Termination or expiry of this document for any reason does not affect the accrued rights of the parties under it.

10.12 Clauses surviving termination

Clauses 1 and 5 to 11 survive termination or expiry of this document as do any other clauses that are by their nature intended to survive the termination or expiry of this document.

11 Counterparts and execution

11.1 Counterparts

This document may be executed in counterparts which together constitute one instrument but is not effective until each party has executed at least one counterpart and the counterparts have been exchanged. Each party consents to the exchange of counterparts by email or other electronic means.

11.2 Authority of signatory

Each person, who executes this document on behalf of a party under a power of attorney or other authority, declares and warrants that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that authority.

Execution

EXECUTED as a deed

Executed by Paragon Care Limited in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Director signature

Director/Secretary signature

Director name
(BLOCK LETTERS)

Director/Secretary full name
(BLOCK LETTERS)

**Signed, sealed and delivered by John
Walstab** in the presence of:

Witness signature

Party signature

Witness full name
(BLOCK LETTERS)