

Class and HUB24 announce amendment of Scheme Implementation Deed to simplify Scheme Consideration

- HUB24 and Class have simplified the Scheme Consideration under the proposed Scheme by amending the Scheme Implementation Deed.
- HUB24 has increased the Cash Consideration from \$0.10 per Class Share to \$0.125 per Class Share. However, Class will not be entitled to declare any dividend, including any interim dividend.
- HUB24 Shares issued as the Scrip Consideration will now include the right to receive the interim dividend paid HUB24 in respect of 1H22 (if any) provided that the Scheme is implemented prior to the ex-dividend date for the HUB24 interim dividend.

Class Limited (ASX:CL1) (**Class**) refers to its market release on 18 October 2021, in which it announced that Class had entered into a Scheme Implementation Deed with HUB24 Limited (ASX:HUB) (**HUB24**) under which HUB24 agreed to acquire all of the issued shares in Class by way of a recommended court-approved Scheme of Arrangement (**Scheme**). Terms not otherwise defined have the meaning given in the Scheme Implementation Deed released to the ASX in connection with the Scheme (**Scheme Implementation Deed**).

Class is pleased to announce that it has agreed amendments to the Scheme Implementation Deed with HUB24 to simplify the Scheme Consideration structure under which:

- the Cash Consideration is increased from \$0.10 to \$0.125 per Class share;
- HUB24 shares received as part of the Scrip Consideration will now include an entitlement to any HUB24 interim dividend and associated franking credit for 1H22¹ (**HUB24 Dividend**) provided the Scheme is implemented before the date on which HUB24 shares begin to trade ex-dividend; and
- Class will not declare or pay any dividend, including any ordinary interim dividend of up to 2.5 cents per share in respect of FY22.

As a result of this change to the Scheme Consideration structure, Class Shareholders will receive the full cash value of the previously permitted interim dividend of up to 2.5 cents per share in respect of FY22 as part of the Cash Consideration.

For the avoidance of doubt, Class shareholders will receive Scrip Consideration comprising 1 HUB24 share for every 11 Class ordinary shares held on the record date in addition to the increased Cash Consideration and HUB24 Dividend (if any).

The Class Board unanimously recommends that all Class shareholders vote in favour of the Scheme, in the absence of any superior proposal and subject to an Independent Expert concluding and continuing to conclude that the Scheme is in the best interests of Class shareholders. Each Class Director intends to vote all the Class shares that they hold or control at the time of the meeting in favour of the Scheme subject to the same qualification.

Amended Scheme Implementation Deed

A copy of the amended and restated Scheme Implementation Deed which reflects the revised Scheme Consideration structure is attached to this announcement. Electronic copies can also be downloaded for review on Class' website (www.class.com.au) and can be accessed on ASX's website (www.asx.com.au).

Timetable and next steps

Class shareholders do not need to take any action in relation to the Scheme at this stage. A Scheme Booklet containing information in relation to the transaction, reasons for the Class Board's voting

¹ The potential value in franking credits attached to any HUB24 interim dividend will depend on individual circumstances of each HUB24 shareholder.



recommendation, an Independent Expert's Report and meeting details for the Scheme is expected to be made available on or around 15 December 2021.

This announcement has been authorised by the Class Board.

ENDS

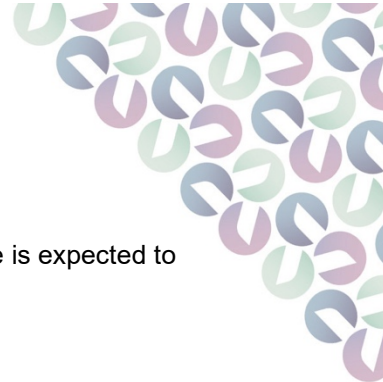
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HUB24 Limited

Class Limited

Amendment and Restatement Deed

Scheme Implementation Deed

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This Deed is made on **13 December 2021**

Parties

- 1 **HUB24 Limited** (ACN 124 891 685) of Level 2, 7 Macquarie Place Sydney NSW 2000 (**Bidder**).
- 2 **Class Limited** (ACN 116 802 058) of Level 20, 580 George St Sydney NSW 2000 (**Class**).

Recitals

- A The Bidder and Class are parties to a Scheme Implementation Deed dated 18 October 2021 (**Scheme Implementation Deed**).
- B Clause 17.1 of the Scheme Implementation Deed provides that the Scheme Implementation Deed may only be amended by another deed executed by or on behalf of each of the parties.
- C The parties have agreed to amend and restate the terms of the Scheme Implementation Deed on the terms and in the manner set out in this deed.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

Words defined in the Scheme Implementation Deed and not in this deed have the same meaning in this deed as in the Scheme Implementation Deed unless expressly amended by this deed or the context requires otherwise.

1.2 Interpretation

Clause 1.2 of the Scheme Implementation Deed apply as if incorporated in this deed but as if references to 'this deed' in the Scheme Implementation Deed are to this deed.

2 Amendment

With effect on and from the date of this deed, the Scheme Implementation Deed is amended and restated as set out in the Schedule and is to be read as a single integrated document incorporating the amendment effected by this deed.

3 Remaining provisions unaffected

Except as specifically amended by this deed, the provisions of the Scheme Implementation Deed remain in full force and effect.

4 Amendments to not affect validity, rights and obligations

The parties acknowledge that:

- (a) this deed is intended only to vary the Scheme Implementation Deed and not to terminate, discharge, rescind or replace it;
- (b) the amendments to the Scheme Implementation Deed do not affect the validity or enforceability of the Scheme Implementation Deed; and
- (c) nothing in this deed:
 - (i) prejudices or adversely affects any right, power, authority, discretion or remedy which arose under or in connection with the Scheme Implementation Deed before the date of this deed; or

- (ii) discharges, releases or otherwise affects any liability or obligation which arose under or in connection with the Scheme Implementation Deed before the date of this deed.

5 Deed Poll

HUB24 irrevocably confirms and undertakes to Class and the Scheme Shareholders that the Deed Poll in respect of the Scheme executed by the Bidder prior to the date of this deed will continue to bind HUB24 to satisfy its obligations under the Deed Poll, as they apply to the Scheme as amended and restated by this deed (including the amendments to the Scheme Consideration).

6 General

Clauses 17.3, 17.4, 17.5 and 17.6 of the Scheme Implementation Deed apply as if incorporated in this deed but as if references to 'this deed' in the Scheme Implementation Deed are to this deed.

7 Governing law and jurisdiction

This deed is governed by the laws of New South Wales. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

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Schedule

Amended and Restated Scheme Implementation Deed

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HUB24 Limited
Class Limited

Scheme Implementation Deed

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This Deed is made on 18 October 2021

Parties

- 1 **HUB24 Limited** (ACN 124 891 685) of Level 2, 7 Macquarie Place Sydney NSW 2000 (**Bidder**).
- 2 **Class Limited** (ACN 116 802 058) of Level 20, 580 George St Sydney NSW 2000 (**Class**).

Recitals

- A The parties have agreed that Bidder will acquire all of the Scheme Shares by means of a scheme of arrangement under Part 5.1 of the Corporations Act between Class and its shareholders.
- B Class has agreed to propose and implement the Scheme, and Bidder has agreed to assist Class to propose and implement the Scheme, on the terms of this deed.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

AFSL means an Australian Financial Services Licence.

Adviser means, in relation to an entity, a financial, corporate, legal, or other technical or expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Transaction by the entity.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if:

- (a) section 12(1) of the Corporations Act included a reference to this deed; and
- (b) the 'designated body' is Class.

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 Due Diligence Materials means:

- (a) the written responses to the due diligence questionnaire dated 29 September 2021 provided by or on behalf of Bidder to Class and its Representatives on 13 October 2021; and
- (b) any other documents, information, responses or disclosures agreed in writing by the parties to comprise the Bidder Due Diligence Material.

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

Bidder Incentive Rights means performance rights, options and shares issued in accordance with the Bidder's existing 'Performance Rights Plan', 'Employee Share Option Plan' and 'Employee Share Plan'.

Bidder Information means information about the Bidder Group provided or approved by Bidder or any of its Advisers to Class in writing for inclusion in the Scheme Booklet, as required by clauses 5.3(a) and 5.3(h).

Bidder Material Adverse Change means any event, occurrence or matter occurring after the date of this deed, which has resulted in, or is reasonably likely to result in, either individually or when aggregated with all such events, occurrences or matters of a like kind, a diminution in:

- (a) the consolidated net assets of the Bidder Group excluding cash and cash equivalents by an amount equal to \$36.2 million or more as compared to what the consolidated net assets of the Bidder Group was as at 30 June 2021; or
- (b) the consolidated Bidder Underlying EBITDA for the financial year ending 30 June 2022 of the Bidder Group being reduced by an amount of \$9.28 million or more as compared to what the consolidated Bidder Underlying EBITDA for the financial year ending 30 June 2022 could reasonably be expected to have been but for the relevant event(s), occurrence(s) or matter(s),

in each case:

- (c) as calculated in a manner consistent with the Bidder Group's annual accounts;
- (d) as calculated after taking into account any events, occurrences or matters after the date of this deed that has or could reasonably be expected to have a positive effect on consolidated net assets or consolidated Bidder Underlying EBITDA (as applicable),

other than any event, occurrence or matter:

- (e) required or expressly permitted by this deed or the Scheme;
- (f) which Class has previously approved or requested in writing;
- (g) to the extent that it was Fairly Disclosed in:
 - (i) the Due Diligence Material;
 - (ii) public announcements by Bidder to ASX made at any time in the three years prior to the date of this deed; or
 - (iii) public filings of Bidder with ASIC filed at any time in the three years prior to the date of this deed;
- (h) that is within the actual knowledge of Class on or before the date of this deed;
- (i) arising from any actual or proposed change in any law, regulation, rule, generally accepted accounting standards or principles or the interpretation of any such standards or principles or other change in accounting standards;
- (j) arising from general economic, business, financial or political conditions or changes in those conditions (including financial market fluctuations, changes in interest rates, commodity prices, foreign currency exchange rates, commodity prices or markets (including domestic or international financial markets)) that impact Australian businesses generally and does not disproportionately impact Bidder;
- (k) arising from an act of terrorism, war (whether or not declared), natural disaster, epidemic, pandemic or adverse weather conditions, cyber security incident or the like after the date of this deed; or
- (l) arising from the Coronavirus or COVID-19 pandemic (or any mutation, variation or derivative), including the outbreak, escalation or any impact of, or recovery from, the Coronavirus or COVID-19 pandemic, including as a result of lockdowns, travel restrictions, social distancing and restrictions of and on activities, venues and gatherings.

Bidder Party means any member of the Bidder Group or any officer, employee or Adviser of any of them.

Bidder Prescribed Occurrences means any of the occurrences set out in Schedule 3, other than an occurrence:

- (a) expressly required or expressly permitted by this deed or the Scheme;
- (b) to the extent that it was Fairly Disclosed in:
 - (i) the Bidder Due Diligence Material;
 - (ii) public announcements by Bidder to ASX made at any time in the three years prior to the date of this deed;
 - (iii) public filings of Bidder with ASIC filed at any time in the three years prior to the date of this deed; or
- (c) to the extent consented to in writing by Class.

Bidder Representation and Warranty means a representation and warranty of Bidder set out in Schedule 1.

Bidder Share means a fully paid ordinary shares issued in the capital of Bidder.

Bidder Underlying EBITDA means earnings before interest, tax, depreciation and amortisation, expenses relating to share based payments and discount on consideration and for the avoidance of doubt excluding any fees and costs payable to advisers or third party service providers in connection with the Transaction.

Break Fee means \$3.5 million (inclusive of GST).

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning given in the ASX Listing Rules; and
- (b) a day on which banks are open for business in Sydney, Australia.

Cash Consideration means the cash amount of \$0.125 for each Scheme Share held by a Scheme Shareholder.

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

Class Board means the board of directors of Class. A reference to a **Class Director** is a reference to a member of the Class Board.

Class Group means Class and each of its Subsidiaries. A reference to a member of the Class Group is a reference to Class or any such Subsidiary.

Class Information means all information in the Scheme Booklet, including, but not limited to information regarding the Class Group prepared by Class for inclusion in the Scheme Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the Corporations Regulations but excluding the Bidder Information, the Independent Expert's Report or any description of the taxation effect of the Transaction on Scheme Shareholders prepared by an external adviser to Class.

Class Material Adverse Change means any event, occurrence or matter occurring after the date of this deed, which has resulted in, or is reasonably likely to result in, either individually or when aggregated with all such events, occurrences or matters of a like kind:

- (a) a diminution in the consolidated net assets of the Class Group excluding cash and cash equivalents by an amount equal to \$8.3 million or more as compared to what the consolidated net assets of the Bidder Group was as at 30 June 2021; or
- (b) a diminution in the consolidated Class Underlying EBITDA for the financial year ending 30 June 2022 of the Class Group being reduced by an amount of \$4 million or more as compared to what the consolidated Class Underlying EBITDA for the financial year ending 30 June 2022 could reasonably be expected to have been but for the relevant event(s), occurrence(s) or matter(s),

in each case:

- (c) as calculated in a manner consistent with the Class Group's annual accounts;
- (d) as calculated after taking into account any events, occurrences or matters after the date of this deed that has or could reasonably be expected to have a positive effect on consolidated net assets or consolidated Class Underlying EBITDA (as applicable);

other than any event, occurrence or matter:

- (e) required or expressly permitted by this deed or the Scheme;
- (f) which Bidder has previously approved or requested in writing;
- (g) to the extent that it was Fairly Disclosed in:
 - (i) the Due Diligence Material or the Disclosure Letter;
 - (ii) public announcements by Class to ASX made at any time in the three years prior to the date of this deed; or
 - (iii) public filings of Class with ASIC filed at any time in the three years prior to the date of this deed;
- (h) that is within the actual knowledge of Bidder on or before the date of this deed;
- (i) arising from any actual or proposed change in any law, regulation, rule, generally accepted accounting standards or principles or the interpretation of any such standards or principles or other change in accounting standards;
- (j) arising from general economic, business, financial or political conditions or changes in those conditions (including financial market fluctuations, changes in interest rates, commodity prices, foreign currency exchange rates, commodity prices or markets (including domestic or international financial markets)) that impact Australian businesses generally and does not disproportionately impact Class;
- (k) arising from an act of terrorism, war (whether or not declared), natural disaster, epidemic, pandemic or adverse weather conditions, cyber security incident or the like after the date of this deed; or
- (l) arising from the Coronavirus or COVID-19 pandemic (or any mutation, variation or derivative), including the outbreak, escalation or any impact of, or recovery from, the Coronavirus or COVID-19 pandemic, including as a result of lockdowns, travel restrictions, social distancing and restrictions of and on activities, venues and gatherings.

Class Party means any member of the Class Group or any officer, employee or Adviser of any member of the Class Group.

Class Prescribed Occurrence means any of the occurrences set out in Schedule 4, other than an occurrence:

- (a) expressly required or expressly permitted by this deed or the Scheme;

- (b) to the extent that it was Fairly Disclosed in:
- (i) the Due Diligence Material or the Disclosure Letter;
 - (ii) public announcements by Class to ASX made at any time in the three years prior to the date of this deed;
 - (iii) public filings of Class with ASIC filed at any time in the three years prior to the date of this deed; or
- (c) to the extent consented to in writing by Bidder.

Class Representation and Warranty means a representation and warranty of Class set out in Schedule 2.

Class Share Registry means Link Market Services Limited or any replacement provider of share registry services to Class.

Class Share means a fully paid ordinary shares issued in the capital of Class.

Class Share Register means the register of members of Class maintained in accordance with section 168(1) of the Corporations Act.

Class Shareholder means a person who is registered as the holder of one or more Class Shares from time to time.

Class Underlying EBITDA means earnings before interest, tax, depreciation and amortisation, expenses relating to share based payments and discount on consideration and for the avoidance of doubt excluding any fees and costs payable to advisers or third party service providers in connection with the Transaction.

Competing Proposal means any proposal, offer, expression of interest, arrangement or transaction, which, if entered into or completed substantially in accordance with its terms, would result in a Third Party (either alone or together with any Associate):

- (a) directly or indirectly acquiring or having the right to acquire:
 - (i) a Relevant Interest in;
 - (ii) a legal, beneficial or economic interest (including by way of an equity swap, contract for difference or similar transaction or arrangement) in; or
 - (iii) control of,
 - 15% or more of the Class Shares;
- (b) acquiring control (as determined in accordance with section 50AA of the Corporations Act, but disregarding sub-section 50AA(4)) of Class;
- (c) directly or indirectly acquiring or becoming the holder of, or otherwise acquiring or having a right to acquire, a legal, beneficial or economic interest in, or control of, all or a substantial part of a party's business or assets otherwise directly or indirectly acquiring or merging with Class; or
- (d) requires Bidder to abandon, or otherwise fail to proceed with, the Transaction, whether by way of takeover bid, members' or creditors' scheme of arrangement, reverse takeover, shareholder approved acquisition, capital reduction, buy back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement, recapitalisation, refinancing or other transaction or arrangement.

Conditions Precedent has the meaning given in clause 3.1.

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Confidentiality Deed means the confidentiality deed between the Bidder and Class dated 28 September 2021.

Corporations Act means the *Corporations Act 2001* (Cth), as amended by any applicable ASIC class order, ASIC legislative instrument or ASIC relief.

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 agreed to in writing between the parties.

Data Room means the electronic data room hosted by Ansarada, prior to 5.00pm (Sydney time) on 16 October 2021, the index for which has been initialled for identification by each party's Advisers on execution of this deed and as included on a USB delivered to MinterEllison (acting on behalf of Bidder) as soon as reasonably practicable after the date of this deed.

Deed Poll means a deed poll in favour of all Scheme Shareholders in the form of Annexure B (or such other form agreed to in writing between the parties to this deed).

Deferred Share Right means a deferred share right granted by Class under the LTI Plan which entitles the holder to receive a Class Share in certain circumstances.

Disclosure Letter means the letter identified as such provided by Class to Bidder and countersigned by or on behalf of Bidder on or prior to the date of this deed and any document identified in that letter as having been disclosed to Bidder subject to such document having been Fairly Disclosed in the Data Room.

Due Diligence Material means the information disclosed by or on behalf of the Class Group (including in response to requests for information) to a Bidder Party through:

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

Effective means, when used in relation to this Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to this Scheme.

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

End Date means the date that is six months after the date of this deed or such other date as may be agreed in writing between Class and Bidder.

Exclusivity Period means the period from and including the date of this deed to the earliest of:

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

Executive Team means Andrew Russell, Alexis Rouch, Panos Alexandratos, David Coulter, Damien Smith, Jacqui Levings and Jason Wilson.

Fairly Disclosed means, in relation to a matter, event or circumstance, that information about the matter, event or circumstance is disclosed to a sufficient extent and in sufficient detail to enable a reasonable person experienced in the industries in which the Class Group and the Bidder Group operate or transactions similar to the Transaction to identify the nature and scope of the relevant matter, event or circumstance.

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

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

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

Government Agency means any Australian or foreign government or governmental, semi-governmental or judicial entity or authority. It also includes any government minister (and his or her delegate), any self-regulatory organisation established under statute or any securities exchange and, for the avoidance of doubt, includes ASIC, ASX and the Australian Foreign Investment Review Board.

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

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

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

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

Implementation Date means the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between Bidder and Class.

Independent Expert means an independent expert to be engaged by Class.

Independent Expert's Report means a report (including any written updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interests of Class Shareholders.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address, as shown in the Class Share Register (as at the Record Date), is in a place outside of:

- (a) Australia and its external territories;
- (b) New Zealand; and
- (c) any other jurisdiction as may be agreed in writing by the Bidder and Class,

unless the Bidder determines (acting reasonably), that the laws of that place permit the allotment and issue of Bidder Shares to that Scheme Shareholder pursuant to the Scheme, either unconditionally or after compliance with conditions that the Bidder in its sole discretion regards as acceptable and not unduly onerous or impracticable.

Insolvency Event means, in the case of any entity:

- (a) it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;
- (b) it stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts;
- (c) it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or Claim the subject of a good faith dispute);
- (d) it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;
- (e) an application or an order is made, proceedings are commenced, or a resolution is passed (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days) for:
- (i) its winding up, dissolution or administration; or
 - (ii) it entering into an arrangement, compromise or composition with, or assignment for, the benefit of its creditors or a class of them;
- (f) a:
- (i) receiver, receiver and manager, administrative receiver or similar officer is appointed to;
 - (ii) security interest becomes enforceable or is enforced over; or
 - (iii) distress, attachment or other execution is levied or enforced or applied for over,
 - (iv) all or a substantial part of its assets; or
- (g) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it.

Key Staff means the employees of Class as agreed in writing between the parties on or before the date of this deed.

LTI Plan means the Class Limited Performance Rights and Deferred Rights Plan adopted on 15 October 2018.

Option means an option granted by Class under the Class Employee Share Option Plan which entitles the holder to receive a Class Share in certain circumstances.

Order means any decree, judgment, injunction, direction, writ or other order, whether temporary, preliminary or permanent, made or given by a court of competent jurisdiction or by another Government Agency.

Performance Right means a performance right granted by Class under the LTI Plan which entitles the holder to receive a Class Share in certain circumstances.

PPS Register means the register established under the PPSA.

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

Recommendation has the meaning given in clause 7.1(a).

Regulatory Approvals means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with a Government Agency; or

- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Government Agency intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without notification.

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

Relevant Interest has the meaning given in the Corporations Act.

Representative means, in relation to Bidder or Class:

- (a) each other member of the Bidder Group or Class Group (as applicable);
- (b) an officer or employee of a member of the Bidder Group or Class Group (as applicable);
or
- (c) an Adviser to a member of the Bidder Group or Class Group (as applicable).

Required Regulatory Approvals has the meaning given in clause 3.3(a).

Sale Agent means a person appointed by Bidder, in consultation with Class, to sell the Sale Shares under clause 4.4(a).

Sale Proceeds means the gross proceeds of sale of the Sale Shares under clause 4.4(a), less any applicable taxes and charges incurred by Bidder or the Sale Agent in connection with the sale.

Sale Shares means the Bidder Shares to which Ineligible Foreign Shareholders would have been entitled under this Scheme but for the operation of clause 4.4(a).

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between Class and the Scheme Shareholders in the form of Annexure A (or such other form agreed to in writing between the parties to this deed).

Scheme Booklet means the scheme booklet to be prepared in accordance with clause 5.1(a) for despatch to Class Shareholders.

Scheme Consideration means the consideration to be provided to Scheme Shareholders under the terms of the Scheme for the transfer to the Bidder of their Scheme Shares, being:

- (a) the Cash Consideration; and
- (b) the Scrip Consideration.

Scheme Meeting means the meeting of Class Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

Scheme Record Date means 7:00pm on the second Business Day after the Effective Date or such other time and date agreed to in writing between the parties.

Scheme Shareholder means a person registered in the Class Share Register as the holder of one or more Scheme Shares at the Scheme Record Date.

Scheme Shares means the Class Shares on issue as at the Scheme Record Date.

Scrip Consideration means 0.09090909 Bidder Shares for each Scheme Share held by a Scheme Shareholder.

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

Subsidiary has the meaning given in the Corporations Act, provided that an entity will also be taken to be a Subsidiary of another entity if it is controlled by that entity (as 'control' is defined in section 50AA of the Corporations Act) and, without limitation:

- (a) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share;
- (b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation; and
- (c) an entity will also be deemed to be a Subsidiary of an entity if that entity is required by the accounting standards to be consolidated with that entity.

Superior Proposal means a bona fide Competing Proposal received by Class after the date of this deed that the Class Board considers, in order to satisfy what the Class Board considers to be its fiduciary or statutory obligations (after having consulted with their external legal and financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account relevant financial, regulatory and other matters with respect to such proposal, including the ability of the proposing party to consummate the transactions contemplated by the Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction that is more favourable to Class Shareholders as a whole than the terms of the Transaction (as completed), taking into account all material terms and conditions of the Competing Proposal, including consideration (including the value, nature, liquidity and attractiveness of any scrip based consideration), the identity of the proponent and any other matters affecting the attractiveness of the Competing Proposal for Class Shareholders.

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

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

Timetable means the indicative timetable for the implementation of the Transaction set out in Schedule 5.

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

Voting Power has the meaning given in the Corporations Act.

Voting Statement has the meaning given in clause 7.1(b).

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this deed.
- (f) A reference to an *agreement* or *document* (including a reference to this deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the

extent prohibited by this deed or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.

- (g) A reference to a party to this deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (k) A reference to *dollars* and \$ is to Australian currency.
- (l) All references to time are to Sydney, Australia time.
- (m) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (n) Nothing in this deed is to be interpreted against a party solely on the ground that the party put forward this deed or a relevant part of it.
- (o) A reference to *officer, relevant interest or voting power* is to that term as it is defined in the Corporations Act.

1.3 Business Day

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

1.4 Best and reasonable endeavours

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

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

1.5 Consents or approvals

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

1.6 Knowledge, belief or awareness of Class

- (a) Certain statements made in this deed (including certain Class Representations and Warranties) are given and made by Class only on the basis of its knowledge, belief or awareness. For the purposes of this deed, Class' knowledge, belief or awareness is limited to the actual knowledge, belief or awareness of each member of the Executive Team.
- (b) The knowledge, belief or awareness of any person other than the persons identified in clause 1.6(a) will not be imputed to Class.
- (c) None of the persons named in clause 1.6(a) will bear any personal liability in respect of the Class Representations and Warranties or otherwise under this deed.

1.7 Knowledge, belief or awareness of Bidder

- (a) Certain statements made in this deed (including certain Bidder Representations and Warranties) are given and made by Bidder only on the basis of its knowledge, belief or awareness. For the purposes of this deed, Bidder's knowledge, belief or awareness is limited to the actual knowledge, belief or awareness of:
 - (i) Andrew Alcock;
 - (ii) Jason Entwistle;
 - (iii) Kitrina Shanahan;
 - (iv) Paul Biggs; and
 - (v) Darren Stevens.
- (b) The knowledge, belief or awareness of any person other than the persons identified in clause 1.7(a) will not be imputed to Bidder.
- (c) None of the persons named in clause 1.7(a) will bear any personal liability in respect of the Bidder Representations and Warranties or otherwise under this deed.

1.8 Listing requirements included as law

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

2 Agreement to proceed with Scheme

2.1 Class to propose the Scheme

Class agrees to propose and implement the Scheme on and subject to the terms of this deed.

2.2 Bidder to assist

Bidder agrees to assist Class to propose and implement the Scheme, on and subject to the terms of this deed.

3 Conditions Precedent and pre-implementation steps

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder under clause 4.3 are not binding, unless each of the following Conditions Precedent (the **Conditions Precedent**) are satisfied or waived in accordance with clauses 3.2 and 3.4:

- (a) **(Class Shareholder approval)** Class Shareholders approve the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act at the Scheme Meeting;

- (b) **(Independent Expert)** the Independent Expert issues an Independent Expert's Report which concludes to the effect that the Scheme is in the best interests of Class Shareholders and does not publicly change or withdraw that conclusion before 8:00am on the Second Court Date;
- (c) **(Court approval)** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;
- (d) **(No restraints)** no applicable law shall have been enacted and no Order shall be in effect as at 8:00am on the Second Court Date (or the intended date for the Second Court Date, but for such law or Order) that prevents, makes illegal or prohibits the implementation of the Scheme;
- (e) **(No Class Prescribed Occurrence)** no Class Prescribed Occurrence occurs between the date of this deed and 8:00am on the Second Court Date;
- (f) **(No Class Material Adverse Change)** no Class Material Adverse Change occurs between the date of this deed and 8:00am on the Second Court Date;
- (g) **(No Bidder Prescribed Occurrence)** no Bidder Prescribed Occurrence occurs between the date of this deed and 8:00am on the Second Court Date;
- (h) **(No Bidder Material Adverse Change)** no Bidder Material Adverse Change occurs between the date of this deed and 8:00am on the Second Court Date;
- (i) **(Regulatory Approvals):**
- (i) **(ASIC and ASX)** Before 8:00am on the Second Court Date, ASIC and ASX issue or provide such consents or approvals as are necessary or which Class and the Bidder agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before 8:00am on the Second Court Date; and
- (ii) **(Other Government Agencies)** before 8:00am on the Second Court Date, each other relevant Government Agency issue or provide such consents, waivers, approvals which the Bidder and Class consider are necessary or desirable to implement the Scheme (noting that if such consents, waivers or approvals are subject to conditions those conditions must be acceptable to the parties (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before 8:00am on the Second Court Date;
- (j) **(No Regulatory Intervention)** Before 8:00am on the Second Court Date, there is no intervention by ASIC in respect of the AFSL held by the Class Group that is reasonably likely to result in:
- (i) the Class Group or any member of the Class Group being unable to carry out its business in all material respects; or
- (ii) any material financial impact on the Class Group.
- (k) **(No change of Class Board recommendation)** Between the date of this deed and the date of the Scheme Meeting, none of the members of the Class Board change, qualify or withdraw his or her unanimous Recommendation, other than a qualification or withdrawal of a Recommendation as permitted under this deed (including under clauses 7.2 and 7.3);
- (l) **(No Material Breach)** Before 8:00am on the Second Court Date, Class has not breached any provision of the deed to a material extent in the context of the Transaction taken as a whole; and

- (m) **(Performance Rights, Deferred Rights and Options)** Before 8:00am on the Second Court Date, legally binding arrangements have been put in place so that Class will comply with its obligations under clause 4.5(a).

3.2 Best endeavours and co-operation

Without prejudice to any other obligations of the parties under this deed:

- (a) Class must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(e), 3.1(f), 3.1(j), 3.1(k), 3.1(l), and 3.1(m);
- (b) Bidder must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(g) and 3.1(h);
- (c) each party must, to the extent it is within its power to do so, use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d) and 3.1(i); and
- (d) no party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition Precedent, except to the extent that such action is required to be done or procured pursuant to, or is otherwise permitted by, this deed or the Scheme, or is required by law.

3.3 Regulatory Approvals

Without limiting the generality of clause 3.2 and subject to clause 3.3(d):

- (a) Bidder must, to the extent it has not already done so prior to the date of this deed, apply for all necessary Regulatory Approvals for the Transaction (**Required Regulatory Approvals**) as soon as practicable (and in event within 10 Business Days after the date of this deed) and Class must provide such assistance in respect of any such application as Bidder may reasonably request, and each party must take all reasonable steps required as part of the approval process in respect of any such application, including responding to reasonable requests for information at the earliest practicable time;
- (b) Bidder must keep Class fully informed of progress in relation to the obtaining of the Required Regulatory Approvals, including:
 - (i) by promptly providing Class with reasonable details of all dealings with Government Agencies in relation to the applications for Required Regulatory Approvals (including any requests for information by such Government Agencies; and any conditions or other arrangements proposed by any Government Agency in respect of such Required Regulatory Approvals); and
 - (ii) by promptly providing Class with any material information or matter which is likely to result in a delay in receipt of a Required Regulatory Approval that would mean the Timetable is unlikely to be achieved, or indicate that a Required Regulatory Approval is unlikely to be given;
 - (iii) by consulting with Class, in advance, in relation to all proposed material communications and the proposed content of those communications (whether written or oral and whether direct or via an Adviser) with any Government Agency relating to any Required Regulatory Approval (**Communications**), and in relation to each proposed material step in the process of obtaining each Required Regulatory Approval; and
 - (iv) by allowing Class to be present or represented at any proposed meeting with any Government Agency relating to any Required Regulatory Approval;

- (c) without limiting clause 3.3(b), Bidder must:
- (i) provide Class with drafts of any material written Communications to be sent to a Government Agency, and allow Class a reasonable opportunity to make comments on them prior to them being sent; and
 - (ii) promptly provide copies of any material written Communications received from a Government Agency; and
- (d) before providing any document or other information to Class pursuant to this clause 3.3, Bidder may redact any part of that document, or not disclose any part of that information, which contains or constitutes confidential, competitively sensitive or privileged information relating to the existing business or affairs of Bidder or its Related Bodies Corporate, to the extent that the Bidder reasonably considers that the disclosure of such information to Class would be unlawful or damaging to the commercial or legal interests of Bidder or its Related Bodies Corporate, or would be reasonably likely to legal professional privilege.

3.4 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a) to 3.1(d) (other than clauses 3.1(b)) and 3.1(i) are for the benefit of Class and Bidder. Any breach or non-satisfaction of any of the Conditions Precedent in clause 3.1(a), 3.1(c) or 3.1(d) cannot be waived. Any breach or non-satisfaction of the Condition Precedent in clause 3.1(i) may only be waived (if capable of waiver) with the written consent of both parties.
- (b) The Conditions Precedent in clause 3.1(b), 3.1(g) and 3.1(h) are for the sole benefit of Class, and any breach or non-satisfaction of those Conditions Precedent may only be waived by Class giving its written consent.
- (c) The Condition Precedent in clauses 3.1(e), 3.1(f), 3.1(j), 3.1(k), 3.1(l) and 3.1(m) are for the sole benefit of Bidder, and any breach or non-satisfaction of that Condition Precedent may only be waived by Bidder giving its written consent.
- (d) A party entitled to waive the breach or non-satisfaction of a Condition Precedent pursuant to this clause 3.4 may do so in its absolute discretion.
- (e) If a waiver by a party of a Condition Precedent is itself expressed to be conditional and the other party accepts the conditions, the terms of the conditions apply accordingly. If the other party does not accept the conditions, the relevant Condition Precedent has not been waived.
- (f) If a party waives the breach or non-satisfaction of a Condition Precedent, that waiver will not preclude it from suing the other party for any breach of this deed constituted by the same event that gave rise to the breach or non-satisfaction of the Condition Precedent.
- (g) Waiver of a breach or non-satisfaction in respect of one Condition Precedent does not constitute:
- (i) a waiver of breach or non-satisfaction of any other Condition Precedent resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-satisfaction of that Condition Precedent resulting from any other event or circumstance.

3.5 Notifications

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;

- (b) promptly notify the other party in writing if it becomes aware that any Condition Precedent has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition Precedent has been satisfied; and
- (c) promptly notify the other party in writing of a failure to satisfy a Condition Precedent or of any fact or circumstance that results in that Condition Precedent becoming incapable of being satisfied or that may result in that Condition Precedent not being satisfied in accordance with its terms.

3.6 Scheme voted down because of Headcount Test

- (a) If the Scheme is not approved by Class Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test, and Class and Bidder considers, acting reasonably, that the splitting by a holder of Class Shares into two or more parcels of Class Shares (whether or not it results in any change in beneficial ownership of the Class Shares) or some abusive or improper conduct may have caused or materially contributed to the Headcount Test not having been satisfied then Class must:
 - (i) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
 - (ii) make such submissions to the Court and file such evidence as counsel engaged by Class to represent it in Court proceedings related to the Scheme, in consultation with Bidder, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.
- (b) If the Court's approval of the Scheme under section 411(4)(b) of the Corporations Act is given, notwithstanding that the Headcount Test has not been satisfied, the Condition Precedent in clause 3.1(c) is deemed to be satisfied.

3.7 Failure of Conditions Precedent

- (a) If:
 - (i) there is a breach or non-satisfaction of a Condition Precedent which is not waived in accordance with this deed by the time or date specified in this deed for the satisfaction of the Condition Precedent;
 - (ii) there is an act, failure to act, event or occurrence which would or does prevent a Condition Precedent being satisfied by the time or date specified in this deed for the satisfaction of the Condition Precedent (and the breach or non-satisfaction which would otherwise occur has not already been waived in accordance with this deed); or
 - (iii) it becomes more likely than not that a Condition Precedent will not be satisfied by the End Date,

then either party may serve a written notice on the other party, and the parties must promptly consult in good faith with a view to determining whether:

- (iv) the Scheme or the Transaction may proceed by way of alternative means or methods;
- (v) to extend the relevant time or date for satisfaction of the Condition Precedent;

- (vi) to change the First Court Date or to adjourn the application for orders pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting to another date agreed by the parties;
- (vii) to change the Second Court Date or to adjourn the application for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme to another date agreed by the parties; or
- (viii) to extend the End Date.
- (b) If Class and Bidder are unable to reach agreement under clause 3.7(a)(iv), 3.7(a)(v), 3.7(a)(vi), 3.7(a)(vii) or 3.7(a)(viii) within five Business Days after the delivery of the notice under that clause or any shorter period ending at 5:00pm on the day before the Second Court Date, either party may terminate this deed by notice in writing to the other party, provided that:
- (i) the Condition Precedent to which the notice relates is for the benefit of that party (whether or not the Condition Precedent is also for the benefit of the other party); and
- (ii) there has been no failure by that party to comply with its obligations under this deed, 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,
- in which case clause 13.3 will have effect.

3.8 Certificates in relation to Conditions Precedent

- (a) On the Second Court Date each party must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8:00am on the Second Court Date the Conditions Precedent have been satisfied or waived in accordance with this deed.
- (b) Each party must provide to the other party a draft of the certificate to be provided by it pursuant to clause 3.8(a) by 5:00pm on the day that is two Business Days prior to the Second Court Date, and must provide to the other party on the Second Court Date a copy of the final certificate or other evidence provided to the Court.

4 Transaction Steps

4.1 Scheme

Class must propose a scheme of arrangement under which:

- (a) all of the Scheme Shares will be transferred to Bidder; and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration.

4.2 Scheme Consideration

The Scheme Consideration in respect of each Scheme Share is:

- (a) the Scrip Consideration; and
- (b) the Cash Consideration.

4.3 Provision of Scheme Consideration

Bidder undertakes to Class (in its own right and as trustee on behalf of the Scheme Shareholders) that, in consideration of the transfer to Bidder of the Scheme Shares under the terms of the Scheme, on the Implementation Date it will:

- (a) accept that transfer; and
- (b) provide or procure the provision of the Scheme Consideration for each Scheme Share in accordance with this deed, the Scheme and the Deed Poll.

4.4 Treatment of Ineligible Foreign Shareholders

- (a) Bidder will be under no obligation under this Scheme to issue, and will not issue, any Bidder Shares to any Ineligible Foreign Shareholder as part of the Scheme Consideration. Instead, unless Class and Bidder agree:
 - (i) Bidder must issue the Bidder Shares that would otherwise have been issued to the Ineligible Foreign Shareholder be issued to the Sale Agent on the Implementation Date (rounded up or down, in the case of fractional entitlements, to the nearest whole number, in accordance with the Scheme);
 - (ii) Bidder must procure that as soon as reasonably practicable after the Implementation Date, the Sale Agent sells the Bidder Shares issued to it on-market in such manner, at such price and on such other terms as the Sale Agent determines in good faith;
 - (iii) promptly after the last sale of those Bidder Shares, Bidder will procure that the Sale Agent pays to each Ineligible Foreign Shareholder the amount calculated in accordance with the following formula, rounded down to the nearest cent:

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

where:

- A** is the amount to be paid to the Ineligible Foreign Shareholder;
 - B** is the number of Bidder Shares attributable to, and that would otherwise have been issued to, that Ineligible Foreign Shareholder had it not been a Ineligible Foreign Shareholder and which were instead issued to the Sale Agent;
 - C** is the total number of Bidder Shares attributable to, and which would otherwise have been issued to, all Ineligible Foreign Shareholders collectively and which were instead issued to the Sale Agent; and
 - D** is the Sale Proceeds.
- (b) Bidder must appoint the Sale Agent on terms reasonably acceptable to Class at least two weeks prior to the date of the Scheme Meeting.

4.5 Performance Rights, Deferred Share Rights and Options

- (a) Class must ensure that, by no later than the Scheme Record Date, there are no outstanding Performance Rights, Deferred Share Rights or Options.
- (b) In order to comply with its obligation under clause 4.5(a), Class may (in each case in the manner agreed with Bidder prior to the date of this deed):
 - (i) cause some or all of the outstanding Performance Rights, Deferred Share Rights and/or Options to vest (including by modifying or waiving any conditions for vesting) and, following such vesting, cause the relevant number of Class Shares to be transferred or issued (as applicable) to allow the relevant former holders of the relevant Performance Rights, Deferred Share Rights and/or Options to participate in the Scheme; and

- (ii) take such action as may be necessary to cancel or have lapse any outstanding Performance Rights, Deferred Share Rights and/or Options which it does not cause to vest in accordance with clause 4.5(b)(i) (if any).

4.6 Bidder Shares

The Bidder undertakes and warrants in favour of Class (in its own right and on behalf of each Class Shareholder) that, on issue, the Bidder Shares issued as the Scrip Consideration:

- (a) will have the rights set out in the HUB24 constitution;
- (b) rank equally in all respects among themselves and with all other Bidder Shares on issue in Bidder; and
- (c) are fully paid and free from any Encumbrance.

4.7 Fractional entitlements

- (a) If the number of Scheme Shares held by an Scheme Shareholder as at the Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration:

- (i) includes a fractional entitlement to a Bidder Share; and/or
- (ii) includes a fractional entitlement to a cent,

then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Bidder Shares or cents (as applicable), and any such fractional entitlement of 0.5 or more being rounded up to the nearest whole number of Bidder Shares or cents (as applicable).

- (b) Any fraction of a Bidder Share arising from a rounding down under this clause will be paid in cash of an amount equal to the fraction multiplied by the issue price of one Bidder Share (calculated as the closing price per share of HUB24 Shares on ASX as at the Scheme Record Date) and rounded down to the nearest whole cent.

5 Implementation

5.1 Class' obligations

Class must take all steps reasonably necessary to propose and implement the Scheme as soon as is reasonably practicable after the date of this deed and must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step, including by doing any acts it is authorised and able to do on behalf of Class Shareholders and each of the following.

- (a) **(Preparation of Scheme Booklet)** Subject to clauses 5.3(a), 5.3(b) and 5.3(e), prepare the Scheme Booklet so that it complies with the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the ASX Listing Rules and which must include the Scheme, an explanatory statement complying with the requirements of the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the ASX Listing Rules, the Independent Expert's Report, notice of the Scheme Meeting and a proxy form for the Scheme Meeting. The Scheme Booklet must also include a statement that:
 - (i) other than the Bidder Information, the Independent Expert's Report and any description of the general taxation effect of the Schemes prepared by an external adviser to Class, the Scheme Booklet has been prepared by Class and is the

- responsibility of Class, and that no Bidder Party assumes any responsibility for the accuracy or completeness of the Scheme Booklet (other than the Bidder Information); and
- (ii) the Bidder Information has been provided by Bidder and is the responsibility of Bidder, and that no Class Party assumes any responsibility for the accuracy or completeness of the Bidder Information.
- (b) **(Independent Expert)** Promptly appoint the Independent Expert (if the Independent Expert has not been appointed prior to the date of this deed), and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report.
- (c) **(Consultation with Bidder)** Consult with Bidder as to the content and presentation of the Scheme Booklet, such consultation to include allowing Bidder a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet a reasonable time before its lodgement with ASIC and obtain Bidder's written consent to the inclusion of Bidder Information (including in respect of the form and context in which Bidder Information appears in the Scheme Booklet) prior to lodgement of the Scheme Booklet with ASIC. Class must consider in good faith any comments on drafts of the Scheme Booklet provided by or on behalf of Bidder.
- (d) **(Due diligence and verification):** Undertake appropriate due diligence and verification processes in relation to the Class Information and, after those processes have been completed, provide on or before the First Court Date an affidavit to the Court confirming the due diligence and verification processes undertaken and their completion.
- (e) **(Liaison with ASIC)** As soon as reasonably practicable after the date of this deed but no later than 14 days before the First Court Date (subject to Bidder giving confirmation or providing changes as contemplated by clause 5.3(f)):
- (i) provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
- (ii) keep Bidder reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet (and of any resolution of those matters), and use reasonable endeavours, in consultation with Bidder, to resolve any such matters (provided that Class may not resolve any such matters without the prior written consent of Bidder to the extent that such matters relate to the Bidder Information).
- (f) **(Indication of intent)** Apply to ASIC for a letter indicating whether ASIC proposes to make submissions to the Court, or intervene to oppose the Scheme, on the First Court Date.
- (g) **(Approval of Scheme Booklet)** As soon as reasonably practicable after ASIC has provided its indication of intent in accordance with clause 5.1(f), procure that a meeting of the Class Board is convened for the purpose of approving the Scheme Booklet for despatch to Class Shareholders, subject to approval of the Court under section 411(1) of the Corporations Act.
- (h) **(Court direction)** Apply to the Court for orders directing Class to convene the Scheme Meeting, and consult with Bidder as to the content of all relevant originating process, affidavits, submissions and draft minutes of Court orders. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court documents before they are lodged, and Class must consider in good faith any comments provided by or on behalf of Bidder.

- (i) **(ASIC registration)** Request ASIC to register the Scheme Booklet in the form approved by the Court.
- (j) **(Despatch)** Send the Scheme Booklet to Class Shareholders following receipt of Bidder's written consent to the inclusion of the Bidder Information in the form and context in which the Bidder Information appears in such version of the Scheme Booklet.
- (k) **(Update Scheme Booklet)** If, after the Scheme Booklet has been sent to Class Shareholders, Class becomes aware of information that is:
- (i) not included in the Scheme Booklet and that is:
 - (A) material for disclosure to Class Shareholders in deciding whether to approve the Scheme; or
 - (B) required to be disclosed to Class Shareholders under any applicable law; or
 - (ii) included in the Scheme Booklet and is misleading or deceptive in a material respect in the form and context in which it appears in the Scheme Booklet,
- inform Class Shareholders of the information in an appropriate and timely manner, in accordance with applicable law. Class must consult with Bidder as to the form and content of any supplementary disclosure before it is made to Class Shareholders, and, to the extent reasonably practicable, must provide Bidder with a reasonable opportunity to review and comment on such disclosure before it is made and must consider in good faith any comments provided by or on behalf of Bidder. To the extent that any supplementary disclosure relates to (or constitutes) Bidder Information, it may only be made with Bidder's prior written consent (not to be unreasonably withheld or delayed).
- (l) **(Promote Transaction)** Participate in efforts reasonably requested by Bidder to promote the merits of the Transaction and the Scheme Consideration, including, where requested by Bidder:
- (i) meet with key Class Shareholders; and
 - (ii) undertake reasonable actions to assist in soliciting proxy votes; and
 - (iii) appoint a proxy solicitation firm after consulting in good faith with Bidder or if requested by the Bidder.
- (m) **(Information):**
- (i) Keep Bidder reasonably informed on the status of proxy or other voting instructions or revocations received for the Scheme Meeting before the Scheme Meeting and comply with reasonable requests from Bidder for such information.
 - (ii) Comply with reasonable requests to provide Bidder with:
 - (A) a copy of the Class Share Register; and
 - (B) the most recently available information in Class' possession regarding the beneficial ownership of Class Shares including a copy of the most recent beneficial ownership analysis report received by Class (which, for the avoidance of doubt, may be as at a date prior to the date of this deed).
- (n) **(Scheme Meeting)** Convene the Scheme Meeting to approve the Scheme (in accordance with any orders made by the Court).
- (o) **(No objection statement)** Apply to ASIC for the production of a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme.

- (p) **(Court approval)** Subject to all Conditions Precedent in clause 3.1 (other than that in clause 3.1(c)) being satisfied or waived in accordance with this deed, apply to the Court for orders approving the Scheme, and consult with Bidder as to the content of all relevant affidavits, submissions and draft minutes of Court orders. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court documents before they are lodged, and Class must consider in good faith any comments provided by or on behalf of Bidder.
- (q) **(Court order)** Lodge with ASIC an office copy of any Court order approving the Scheme by not later than the first Business Day after the day such office copy is received (or such later date as Bidder may agree in writing).
- (r) **(Representation)** Allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at the Court hearings in relation to the Scheme.
- (s) **(Implementation)** If the Scheme becomes Effective:
- (i) procure ASX to suspend trading in Class Shares from the close of trading on the Effective Date;
 - (ii) close the Class Share Register at the Scheme Record Date to determine the identity of Scheme Shareholders and their entitlements to the Scheme Consideration; and
 - (iii) subject to Bidder satisfying its obligations under clause 4.3, execute proper instruments of transfer of the Scheme Shares on behalf of the Scheme Shareholders in favour of Bidder and procure the registration in the Class Share Register of all transfers of Scheme Shares to Bidder under those instruments on the Implementation Date.
- (t) **(ASX listing)** Maintain Class' inclusion in the official list of ASX and the quotation of Class Shares on ASX up to and including the Implementation Date.

5.2 Appeal process

If the Court refuses to make any orders convening the Scheme Meeting or approving the Scheme:

- (a) Class and Bidder must consult with each other in good faith as to whether to appeal the Court's decision; and
- (b) Class must appeal the Court's decision unless the parties agree otherwise, or an independent senior counsel of the New South Wales bar advises that, in their view, an appeal would have no reasonable prospect of success before the End Date.

5.3 Bidder's obligations

Bidder must take all steps reasonably necessary to assist Class to propose and implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step, including by doing each of the following.

- (a) **(Bidder Information)** Prepare and provide to Class the Bidder Information for inclusion in the Scheme Booklet to comply with all applicable laws, including the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules relevant to the Bidder Information and consult with Class as to the content and presentation of the Bidder Information in the Scheme Booklet, such consultation to include allowing Class a reasonable opportunity to review and make comments on successive drafts of the Bidder Information before

lodgement of the Scheme Booklet with ASIC. Bidder must consider in good faith any comments on drafts of the Bidder Information provided by or on behalf of Class.

- (b) **(Review drafts of Scheme Booklet)** As soon as practicable after delivery, review drafts of the Scheme Booklet prepared by Class and provide any comments on those drafts.
- (c) **(Liaison with ASIC)** Provide reasonable assistance to Class to assist Class to resolve any matter raised by ASIC regarding the Scheme Booklet or the Scheme during its review of the Scheme Booklet.
- (d) **(Verification):** Undertake appropriate verification processes in relation to the Bidder Information and, after those processes have been completed, provide on or before the First Court Date an affidavit to the Court confirming the verification processes undertaken and their completion.
- (e) **(Independent Expert information)** Provide all assistance and information reasonably requested by Class or by the Independent Expert in connection with the preparation of the Independent Expert's Report.
- (f) **(Confirmation of Bidder Information)** Before the Scheme Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, procure that a meeting of the board of directors of Bidder is held to consider the Bidder Information included in the Scheme Booklet as being in a form appropriate for provision to ASIC for review, and either:
- (i) confirm in writing to Class that the Bidder Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
 - (ii) provide to Class the changes required to ensure that the Bidder Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect and does not contain any material omission.
- (g) **(Approval and consent to inclusion of Bidder Information)** As soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet:
- (i) to the extent that there are any changes to the Bidder Information following the review by ASIC, procure that a meeting of the board of directors of Bidder is held to consider the Bidder Information included in the Scheme Booklet as being in a form appropriate for despatch to Class Shareholders, subject to approval of the Court; and
 - (ii) confirm in writing to Class that Bidder consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which the Bidder Information appears.
- (h) **(Update Bidder Information)** If at any time after the despatch of the Scheme Booklet, Bidder becomes aware:
- (i) of new information which, were it known at the time of despatch, should have been included in any Bidder Information included in that version of the Scheme Booklet; or
 - (ii) that any part of the Bidder Information included in that version of the Scheme Booklet is misleading or deceptive in any material respect (whether by omission or otherwise),

it must advise Class so that Class can determine whether supplementary disclosure to Class Shareholders is required in accordance with (and subject to the terms of) clause 5.1(k).

- (i) **(Official quotation)** Apply to ASX for official quotation by ASX of the Bidder Shares to be issued pursuant to the Schemes;
- (j) **(Deed Poll)** At least three Business Days before the First Court Date, execute and deliver the Deed Poll to Class.
- (k) **(Court representation)** Procure that it is represented by counsel at the Court hearings convened in relation to the Scheme, at which, through its counsel or solicitors, Bidder 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 deed and the Scheme.
- (l) **(Scheme Consideration)** If the Scheme becomes Effective, provide the Scheme Consideration in the manner and amount contemplated by clause 4.3 and the terms of the Scheme.
- (m) **(Promote Transaction)** Participate in efforts reasonably requested by Class to promote the merits of the Transaction and the Scheme Consideration, including, where requested by Class, meeting with key Class Shareholders.
- (n) **(Tax)** Take reasonable actions to facilitate the Scheme Shareholders qualifying for roll-over under Subdivision 124-M of the Tax Act.

5.4 Appointment of directors

On the Implementation Date, but subject to the Scheme Consideration having been provided by Bidder in accordance with the Scheme, Class must:

- (a) cause the appointment of the persons nominated by Bidder as new directors of Class and other members of the Class Group, subject to receiving the consent of such person to act as a director of Class or a member of the Class Group (as applicable); and
- (b) procure that all directors on the Class Board or the board of another member of the Class Group (other than the directors of Class nominated by Bidder pursuant to clause 5.4(a)) resign from the Class Board or such other board of the Class Group (as applicable).

6 Conduct of business and requests for access

6.1 Conduct of Class business

During the period from the date of this deed up to and including the Implementation Date, Class must, and must procure that each other member of the Class Group must:

- (a) conduct its business and operations in the ordinary course and substantially consistent (subject to any applicable laws and regulations) with the manner in which each such business and operation has been conducted in the 12 months period prior to the date of this deed;
- (b) use reasonable endeavours to preserve their relationships with key customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all Key Staff (including, if considered appropriate or necessary by Class or Bidder, entering into retention arrangements with Key Staff on terms acceptable to Bidder);
- (c) use reasonable endeavours to ensure that all material assets are maintained in the normal course consistent with past practice;
- (d) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the Class Group is a party, and with laws, authorisations and licences applicable to each member of the Class Group;

- (e) keep Bidder informed of any material developments concerning the Class Group;
- (f) not take or fail to take any action that constitutes a Class Prescribed Occurrence;
- (g) to the extent that the Class Group has reserved any amounts solely for the payment of an ordinary interim dividend in respect of the 6 months ending 31 December 2021, not use, pay, incur or agree to pay such reserved amounts; and
- (h) to the extent consistent with the obligation in clause 6.1(a), not:
- (i) incur any additional Financial Indebtedness (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs), guarantee or indemnify the obligations of any person other than a member of the Class Group, other than in the usual and ordinary course of business and consistent with past practice or take any action that would be reasonably likely to result in a risk to the continuity of any existing Financial Indebtedness;
 - (ii) make or agree to make any material change to the terms of, or waive any claims or rights under, or waive the benefit of, any material provisions of, any contract of employment with any officer of Class or of any Subsidiary of Class;
 - (iii) increase the remuneration or compensation of any person, including an officer, director, executive or other employee of the Class Group that would result in an increase of \$1,000,000 (in aggregate) or more than \$100,000 per individual other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Materials or increases in remuneration or compensation as part of annual reviews conducted in the ordinary course of business and consistent with past practice;
 - (iv) amend the terms of, or accelerate the right of employees to compensation or benefits under, the Class Employee Share Option Plan, the LTI Plan or any option, performance right, incentive or share plan other than as contemplated under this deed and/or set out in the Disclosure Letter;
 - (v) terminate or encourage the resignation of any Key Staff except for cause (acting reasonably) in accordance with contractual arrangements in effect on the date of this deed or otherwise in accordance with current personnel practices;
 - (vi) pay any of its officers, directors, executives or other employees a bonus payment, a severance, termination or retention payment in excess of \$1,000,000 (in aggregate), other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Materials;
 - (vii) commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding (including tax audits or tax claims) that relates to potential costs or liability of more than \$1,000,000 (after allowing for insurance recoveries), other than pursuing debts in the ordinary course of business;
 - (viii) enter into any enterprise bargaining agreement or similar collective employment agreement, except under contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Materials;
 - (ix) enter into, vary or terminate any contract, joint venture, partnership or commitment (or any series of related contracts, joint ventures, partnerships or commitments):
 - (A) restraining any material member of the Class Group from competing with any person or conducting activities in any market; or

- (B) with any related entity of any member of the Class Group (other than a member of the Class Group);
- (x) write-down any of its material assets other than in accordance with current accounting standards;
- (xi) pay, incur or agree to pay or incur transaction costs (being any investment banking, financial adviser, legal, accounting, share registry and other costs payable to other advisers or third party service providers, and any payments to employees that relate directly to the Transaction such as deal or retention bonuses) other than as Fairly Disclosed in the Due Diligence Material prior to the date of this deed;
- (xii) issue, or agree to issue, or grant an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been Fairly Disclosed in the Due Diligence Materials;
- (xiii) alter in any material respect any accounting policy of any member of the Class Group other than any change required by the generally accepted accounting standards or principles or the interpretation of any such standards;
- (xiv) engage in any activities which would require an AFSL;
- (xv) acquire, lease or dispose of, or agree to acquire, lease or dispose of, or offer, propose or announce a bid or tender for any entity, business or assets, other than:
- (A) trading inventories and consumables in the ordinary course of business;
- (B) as legally committed in any contract Fairly Disclosed to Bidder in the Due Diligence Material or the Disclosure Letter; or
- (C) in the ordinary course of business,
- where the value of such entity, business or assets, or the amount involved in the relevant transaction, exceeds \$2 million (either individually or, in the case of related businesses or classes of assets or a series of related transactions, collectively); or
- (xvi) other than as legally committed in any contract Fairly Disclosed to Bidder in the Due Diligence Material or the Disclosure Letter, enters into or amend any contract, joint venture, partnership or commitment (or any series of related contracts or commitments) that requires or is likely to result in expenditure by Class (either alone or together with any Subsidiary) of \$2 million or more in any given year, or Class or any Subsidiary of Class undertakes capital expenditure in excess of \$2 million.
- (i) Nothing in this clause 6.1 restricts the ability of the Class Group to take any action:
- (i) expressly required or expressly permitted by this deed or the Scheme;
- (ii) Fairly Disclosed in:
- (A) the Due Diligence Material or the Disclosure Letter;
- (B) public announcements by Class to ASX made at any time in the three years prior to the date of this deed;
- (C) public filings of Class with ASIC filed at any time in the three years prior to the date of this deed;

- (iii) which in the reasonable opinion of Class, is a reasonable and prudent response to an emergency, disaster or health advice of any Government Agency;
 - (iv) required by any applicable law or regulation, or by an Order;
 - (v) the relevant expenditure is provided for in the budgets or other business plans for the Class Group (including any capital expenditure program set out in budgets and/or business plans) which are contained in the Due Diligence Material; or
 - (vi) agreed to in writing by Bidder (such agreement not to be unreasonably withheld or delayed).
- (j) For the avoidance of doubt, nothing in this clause 6.1 restricts the ability of Class to respond to a Competing Proposal in accordance with clause 11.

6.2 Access to information and co-operation

(a) (Provision of access and information):

- (i) During the period from the date of this deed up to and including the Implementation Date, Class must respond to reasonable requests from Bidder for information concerning material developments of the Class Group as soon as reasonably practicable after such requests have been made (without materially disturbing ordinary course business).
- (ii) During the period from the date of this deed and up to the Implementation Date, Class must, as soon as reasonably practicable following a reasonable request by Bidder, provide Bidder (and its Representatives) with access to:
 - (A) documents and information relating to the Class Group; and
 - (B) directors, executives and senior managers of the Class Group (as agreed with Class from time to time),

in each case, as the party reasonably requires, and without materially disturbing ordinary course business, for the purposes of:

- (C) planning the transition of the Class Group and other matters relating to the conduct of the Class Group following the Implementation Date;
 - (D) refinancing of existing financial indebtedness of the Class Group;
 - (E) holding discussions with Key Staff regarding retention arrangements, with such arrangements being on terms acceptable to Bidder (acting reasonably); and
 - (F) holding discussions with third parties, with the consent of Class (such consent not to be unreasonably withheld or delayed) that Bidder and its Representatives reasonably wish to enter into with respect to the Transaction prior to the Implementation Date, including procuring that employees of any member of Class Group participate in such discussions.
- (iii) During the period from the date of this deed up to and including the Implementation Date, Class must provide Bidder with complete copies of monthly accounts of the Class Group prepared by management of the Class Group as soon as reasonably practicable after it is provided to the Class Board.
 - (iv) During the period from the date of this deed up to and including the Implementation Date, Class must promptly inform Bidder of any notices of

resignation received from any Key Staff, including details of the Key Staff concerned.

- (b) **(Limits on Class obligations)** The obligations in clauses 6.2(a) and 6.3 do not require Class to:
- (i) do anything which would cause undue disruption to the operation of its business in the ordinary course;
 - (ii) require a member of the Class Group to take any action that would reasonably be expected to conflict with or violate the entity's constituent documents or any law;
 - (iii) require a member of the Class Group to take any action that would breach an obligation to any person (including any confidentiality obligations) or prejudice its relationship with Government Agencies, ratings agencies, customers, suppliers, licensors, licensees and others having business dealings with it;
 - (iv) provide information to Bidder concerning the Class Board's and management's consideration of the Scheme; or
 - (v) provide any confidential, competitively sensitive or privileged information where the provision of such information is reasonably likely to cause prejudice to the commercial or legal interests of the Class Group taken as a whole, or would be reasonably likely to jeopardise any legal professional privilege.
- (c) The parties acknowledge that all information that is provided pursuant to this clause 6.2 will be provided subject to the terms of the Confidentiality Deed.

6.3 Change of control consents

As soon as practicable after the date of this deed, Class and Bidder must use reasonable endeavours to identify any change of control or unilateral termination rights in material contracts to which Class or another member of the Class Group is party which may be triggered by or exercised in response to the implementation of the Transaction. In respect of those contracts:

- (a) Class and Bidder will use reasonable endeavours to agree a proposed course of action to obtain any consents or confirmations required (which, among other things, will have due regard to applicable legal restrictions) and then, if agreed between Bidder and Class as part of the agreed course of action, Class will initiate contact, including joint discussions if required, with the relevant counterparties and request that they provide any consents or confirmations required. Bidder must not contact any counterparties (other than those with a pre-existing relationship with Bidder prior to the date of this deed in connection with matters not related to the Transaction) without Class present or without Class' prior written consent;
- (b) Class must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by counterparties (but nothing in this clause 6.3 requires Class or Bidder to incur material expense);
- (c) Bidder must take all action necessary to comply with any requirements of the counterparties that are reasonably necessary to obtain the relevant consent or confirmation, including providing any information required and entering into parent guarantees or such other forms of guarantee or security as counterparties may reasonably require and make officers and employees available, where necessary to meet with counterparties to deal with any issues arising in relation to the obtaining of the relevant consent or confirmation; and

- (d) a failure by a member of the Class Group to obtain any third party consent or confirmation, or the exercise of a termination right, will not constitute a breach of this deed by Class and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

6.4 Directors' and officers' insurance and indemnities

- (a) Subject to the Scheme becoming Effective and the Transaction completing, Bidder undertakes in favour of each member of the Class Group and each other person who is a director or officer of Class or a Subsidiary of Class that it will:
- (i) for a period of seven years from the Implementation Date or until a company ceases to be part of the Class Group (whichever is earlier), ensure that the constitutions of Class and each other member of the Class Group continues to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its current and previous directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Class Group; and
 - (ii) procure that each member of the Class Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained, for a period of seven years from the retirement date of each director and officer (and Class may, at its election, pay any amounts necessary to ensure such maintenance upfront prior to the implementation of the Scheme).
- (b) Bidder acknowledges that, notwithstanding any other provision of this deed, Class may, prior to the Implementation Date, enter into arrangements to secure directors' and officers' run-off insurance for up to such seven year period (**D&O Policy**), and that any actions to facilitate that insurance or in connection therewith will not be a Class Prescribed Occurrence or breach any provision of this deed provided that:
- (i) Class has consulted in good faith with Bidder regarding the cost and terms of the D&O Policy (including if the cost of the D&O Policy is materially higher than the cost of the D&O Policy currently in effect, consulting in good faith with Bidder regarding possible alternative coverage solutions);
 - (ii) prior to the Effective Date, Class has engaged its existing insurance broker to run a tender process for the D&O Policy seeking proposals from reputable insurers that have a rating that is the same as, or better than, the rating of the insurers for the directors' and officers' insurance policy in place for the current financial year to provide the D&O Policy on the following basis:
 - (A) the same amount of coverage;
 - (B) the same deductible or excess; and
 - (C) otherwise on terms that are no less favourable to the current directors or officers of Class for the current financial year but which for the avoidance of doubt may be at a higher premium than the current directors' and officers' insurance policy;
 - (iii) Class keeps Bidder reasonably informed of all material developments in the tender process and provide a copy of the proposals received under the tender process; and

- (iv) prior to the Implementation Date enter into the D&O Policy which is the lowest cost (inclusive of the costs of brokerage, stamp duty and any other transaction costs in relation thereto) of the proposals received under the tender process in clause 6.4(b)(ii) and pay all premiums required so as to ensure that insurance cover is provided under the D&O Policy on those terms until that date.
- (c) If Class enters into arrangements with respect to a D&O Policy, from the Implementation Date, Class must not, and Bidder must procure that Class does not:
 - (i) vary or cancel the D&O Policy; or
 - (ii) unless required under the D&O Policy, commit any act or omission that may prejudice any claim by a director or officer of Class under the D&O Policy.
- (d) The undertakings contained in clause 6.4(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (e) Class receives and holds the benefit of clause 6.4(a), to the extent it relates to the other Class Parties, as trustee for them.
- (f) The undertakings contained in clause 6.4(a) are given until the earlier of the end of the relevant period specified in clause 6.4(a) or the relevant member of the Class Group ceasing to be part of the Class Group.

6.5 Conduct of Bidder business

During the period from the date of this deed up to and including the Implementation Date, Bidder must, and must procure that each other member of the Bidder Group must:

- (a) conduct its business and operations in the ordinary course and substantially consistent (subject to any applicable laws and regulations) with the manner in which each such business and operation has been conducted in the 12 months period prior to the date of this deed;
- (b) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them;
- (c) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
- (d) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the Bidder Group is a party, and with laws, authorisations and licences applicable to each member of the Bidder Group;
- (e) keep Class informed of any material developments concerning the Bidder Group; and
- (f) not take or fail to take any action that constitutes a Bidder Prescribed Occurrence.
- (g) Nothing in this clause 6.5 restricts the ability of the Bidder Group to take any action:
 - (i) expressly required or expressly permitted by this deed or the Scheme;
 - (ii) Fairly Disclosed in:
 - (A) the Due Diligence Material or the Disclosure Letter;
 - (B) public announcements by Bidder to ASX made at any time in the three years prior to the date of this deed;
 - (C) public filings of Bidder with ASIC filed at any time in the three years prior to the date of this deed;
 - (iii) which in the reasonable opinion of Bidder, is a response and prudent response to an emergency, disaster or health advice of any Government Agency;

- (iv) required by any applicable law or regulation, or by an Order; or
- (v) agreed to in writing by Class (such agreement not to be unreasonably withheld or delayed).

7 Class Board recommendation

7.1 Recommendation and Voting Statement

Subject to clauses 7.2 and 7.3, Class must use reasonable endeavours to ensure that:

- (a) the Class Board unanimously recommends that Class Shareholders vote 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 at all times prior to the Second Court Date (including in any update of, or any revision, amendment or supplement to, the Independent Expert's Report) to the effect that the Scheme is in the best interests of Class Shareholders (the **Recommendation**);
- (b) the Scheme Booklet includes a statement by the Class Board to that effect, and to the effect that each Class Director will, in the absence of a Superior Proposal and subject to the Independent Expert concluding and continuing to conclude at all times prior to the Second Court Date (including in any update of, or any revision, amendment or supplement to, the Independent Expert's Report) to the effect that the Scheme is in the best interests of Class Shareholders, vote (or procure the voting of) all Class Shares held or controlled by him or her in favour of the Scheme at the Scheme Meeting (the **Voting Statement**); and
- (c) No Class Director changes, withdraws or modifies his or her Recommendation or Voting Statement.

7.2 Withdrawal of Recommendation or Voting Statement

The obligations in clause 7.1 will cease to apply:

- (a) if the Independent Expert opines in the Independent Expert's Report (or any update of, or any revision, amendment or supplement to, the Independent Expert's Report) that the Scheme is not in the best interests of Class Shareholders;
- (b) if Class receives a Competing Proposal that constitutes a Superior Proposal, other than as a result of a breach of clause 11 (including ensuring that all of Bidder's rights under clause 11.7 have been exhausted); or
- (c) in respect of the Recommendation or Voting Statement of any Class Director:
 - (i) if that Class Director has determined, after consulting its external legal adviser, that, by virtue of his or her fiduciary or statutory duties, he or she is required to change, withdraw, qualify or modify, or abstain from making, his or her Recommendation or Voting Statement;
 - (ii) if a Court, ASIC, the Australian Takeovers Panel or other Government Agency requests that Class Director change, withdraw, qualify or modify, or abstain from making, his or her Recommendation or Voting Statement; or
 - (iii) Class reasonably determines, after consulting its external legal adviser, that the relevant Class Director has an interest in the Scheme that renders it inappropriate for him or her to make or maintain such Recommendation or Voting Statement and the Court would be unlikely to grant the orders contemplated under clause 3.1(c) as a result of such interest.

Class will not be in breach of this deed, and will not be liable to Bidder under this deed, solely as a result of a Class Director publicly (or otherwise) failing to make, or adversely changing, withdrawing, adversely modifying or adversely qualifying of, a Recommendation or Voting Statement, in each case as permitted by clause 7.2(c).

7.3 Qualification of Recommendation or Voting Statement

For the purposes of clauses 7.1 and 13.1(b), customary qualifications and explanations contained in:

- (a) the Scheme Booklet or any public announcement in relation to a Recommendation or Voting Statement to the effect that the Recommendation or Voting Statement is made:
 - (i) in the absence of a Superior Proposal;
 - (ii) in respect of any public announcement issued before the issue of the Scheme Booklet, 'subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) to the effect that the Scheme is in the best interests of Class Shareholders'; or
 - (iii) in respect of the Scheme Booklet or any public announcements issued at the time of or after the issue of the Scheme Booklet, 'subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) to the effect that the Scheme is in the best interests of Class Shareholders'; or
- (b) any public announcement or other statement made by Class, the Class Board or any Class Director to the effect that no action should be taken by Class Shareholders pending the assessment of a Competing Proposal by the Class Board,

will not be regarded as a failure to make, or an adverse change, withdrawal, adverse modification or adverse qualification of, a Recommendation or Voting Statement, or an endorsement of a Competing Proposal, and will not contravene this clause 7 or trigger a right for Bidder to terminate this deed under clause 13.

7.4 Class Directors

Class represents and warrants to Bidder that it has been advised by each Class Director at the date of this deed that he or she will make and maintain the Recommendation and Voting Statement in accordance with clauses 7.1.

8 Representations and warranties

8.1 Bidder Representations and Warranties

- (a) Bidder represents and warrants to Class (in its own right and separately as trustee or nominee for each of the other Class Parties) that each Bidder Representation and Warranty is true and correct.
- (b) Class acknowledges and agrees that the Bidder Representations and Warranties and the Bidder indemnity in clause 8.1(c) are given subject to those matters that:
 - (i) are expressly provided for in this deed;
 - (ii) are Fairly Disclosed in the Bidder Due Diligence Material;
 - (iii) would have been Fairly Disclosed to Class had Class conducted a search of ASIC records or the PPS Register in relation to Bidder, in each case, on the date that is 2 Business Days prior to the date of this deed; and
 - (iv) are within the actual knowledge of Class as at the date of this deed.

- (c) Bidder indemnifies Class against, and must pay Class on demand the amount of, any losses, liabilities, damages, costs, charges or expenses suffered or incurred by any member of the Bidder Group as a result of, or in connection with, a breach of a Bidder Representation and Warranty.

8.2 Class Representations and Warranties

- (a) Class represents and warrants to Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Parties) that each Class Representation and Warranty is true and correct in all material respects.
- (b) Bidder acknowledges and agrees that the Class Representations and Warranties and the Class indemnity in clause 8.2(c) are given subject to those matters that:
 - (i) are expressly provided for in this deed;
 - (ii) are Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
 - (iii) would have been Fairly Disclosed to Bidder had Bidder conducted a search of ASIC records or the PPS Register in relation to Class, in each case, on the date that is 2 Business Days prior to the date of this deed; and
 - (iv) are within the actual knowledge of Bidder as at the date of this deed.
- (c) Class indemnifies Bidder against, and must pay Bidder on demand the amount of, any losses, liabilities, damages, costs, charges or expenses suffered or incurred by any member of the Bidder Group as a result of, or in connection with, a breach of a Class Representation and Warranty.

8.3 Timing of representations and warranties

Unless expressed to be given at a particular time or during a particular period (in which case it is given at that time or during that period), each Bidder Representation and Warranty and each Class Representation and Warranty is given:

- (a) at the date of this deed; and
- (b) at 8:00am on the Second Court Date.

8.4 Survival of representations and indemnities

Each Bidder Representation and Warranty and Class Representation and Warranty and the indemnities in clauses 8.1(c) and 8.2(c):

- (a) is severable; and
- (b) survives the termination of this deed (but does not survive, and will be taken to have no further force or effect following, implementation of the Scheme).

8.5 Reliance by parties

Each party (**Representor**) acknowledges that:

- (a) in entering into this deed the other party has relied on the representations and warranties provided by the Representor under this clause 8; and
- (b) it has not entered into this deed in reliance on any warranty or representation made by or on behalf of the other party except those warranties and representations set out in this deed.

8.6 Notifications

Each party will promptly advise the other party in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations or warranties given under this clause 8.

9 Releases

9.1 Class Parties

- (a) Without limiting Bidder's rights under clause 12, Bidder releases its rights against, and agrees with Class that it will not make a Claim against, any Class Party (other than Class) in connection with:
- (i) any breach of any representation, covenant and warranty of Class in this deed; or
 - (ii) any disclosure made (at any time) by any Class Party that contains any statement which is false or misleading whether in content or by omission,
- except to the extent the relevant Class Party has acted fraudulently or has engaged in wilful misconduct.
- (b) This clause 9.1 is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Class receives and holds the benefit of this clause as trustee for each other Class Party.

9.2 Bidder Parties

- (a) Class releases its rights against, and agrees with Bidder that it will not make a Claim against, any Bidder Party (other than Bidder) in connection with:
- (i) any breach of any representation, covenant and warranty of Bidder in this deed; or
 - (ii) any disclosure made (at any time) by any Bidder Party that contains any statement which is false or misleading whether in content or by omission,
- except to the extent that the relevant Bidder Party has not acted fraudulently or has engaged in wilful misconduct.
- (b) This clause 9.2 is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Bidder receives and holds the benefit of this clause as trustee for each other Bidder Party.

10 Public announcements

10.1 Announcement of the Transaction

Immediately after the execution of this deed, Class and Bidder must each issue a public announcement in a form previously agreed to in writing between the parties. Subject always to the qualifications and limitations in clause 7 and elsewhere in this deed, the Class announcement must include the Recommendation and Voting Intention contemplated under clause 7.1.

10.2 Other public announcements

- (a) Prior to making any public announcement or disclosure of or in relation to the Transaction or any other transaction the subject of this deed or the Scheme, each party must, to the

extent reasonably practicable and lawful, consult with the other party as to the timing, form and content of that announcement or disclosure.

- (b) For the avoidance of doubt, clause 10.2(a) does not apply to any announcement or disclosure relating to any Competing Proposal.

11 Exclusivity

11.1 No current discussions regarding a Competing Proposal

Class represents and warrants that, as at the date of this deed, it is not in negotiations or discussions in respect of any Competing Proposal with any Third Party.

11.2 No-shop, no talk and no due diligence

During the Exclusivity Period, Class must not, and must ensure its Representatives do not, directly or indirectly:

- (a) **(no shop)** solicit, invite, encourage or initiate any Competing Proposal, or any enquiries, proposal, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to encourage or lead to, any actual, proposed or potential Competing Proposal or which may otherwise lead to the Transaction not being completed;
- (b) **(no talk)** subject to clause 11.3, enter into, continue or participate in negotiations or discussions with, or negotiate or enter into any agreement, arrangement or understanding with, any Third Party in relation to, or that may reasonably be expected to encourage or lead to, any Competing Proposal even if:
 - (i) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Class or its Representatives; or
 - (ii) that person has publicly announced the Competing Proposal; and
- (c) **(no due diligence)** subject to clause 11.3, disclose or otherwise make available to any Third Party any material non-public information relating to Class for the purposes of such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, any Competing Proposal. If Class proposes that any non-public information be provided to a third party, then:
 - (i) before Class provides such information, the third party must enter into a confidentiality agreement on customary terms, including standstill provisions on terms which are no less onerous on the third party in any material respect than the obligations of Bidder under the Confidentiality Deed; and
 - (ii) the Confidentiality Deed will be read down such that the obligations of Bidder under the Confidentiality Deed are no more onerous on Bidder in any material respect than the obligations on the third party under the confidentiality agreement.

11.3 Fiduciary exception

Clauses 11.2(b) and 11.2(c) do not prevent Class or its Representatives from taking, or omitting to take, any action in connection with a Competing Proposal, provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the Class Board considers is of sufficient commercial standing; and
- (b) the Class Board determines:

- (i) after having consulted with its financial adviser, the Competing Proposal is, or could reasonably be expected to lead to, a Superior Proposal if it is completed substantially in accordance with its terms; and
- (ii) after having consulted with its legal adviser, failing to respond to such Competing Proposal would, or would be reasonably likely to, be contrary to the fiduciary or statutory duties of any member of the Class Board; and
- (iii) Class notifies promptly and in any event within 48 hours Bidder of each action or inaction by Class or the Class Board in reliance on this clause 11.3.

11.4 Notification by Class

- (a) During the Exclusivity Period, Class must notify Bidder in writing of any approach, inquiry or request to initiate any negotiations or discussions in respect of any Competing Proposal which is received by Class or its Representatives, whether direct, indirect, solicited or unsolicited, as soon as reasonably practicable and in any event within two Business Days of becoming aware of such matter.
- (b) Subject to clause 11.3, a notification given under clause 11.4(a) must include a summary of the material terms and conditions of the Competing Proposal (if any) and the identity of the Third Party making or proposing the Competing Proposal (to the extent known by Class or its Representatives).
- (c) For the purposes of this clause 11.4, each successive material modification of any third party expression of interest, offer or proposal in relation to a Competing Proposal will constitute a new Competing Proposal.

11.5 Compliance with law

This clause 11 imposes obligations on Class only to the extent that the performance of all or part of those obligations:

- (a) does not constitute unacceptable circumstances as declared by the Australian Takeovers Panel; and
- (b) is not determined to be unlawful by a court (including by virtue of it being a breach of the Class Board's fiduciary or statutory duties).

11.6 Normal provision of information

Nothing in this clause 11 prevents a party from:

- (a) providing information to its Representatives or financiers;
- (b) providing information to any Government Agency;
- (c) providing information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure under the ASX Listing Rules or to any Government Agency;
- (e) making presentations to, and responding to enquiries from, brokers, portfolio investors, analysts, institutional investors and institutional lenders in the ordinary course in relation to its business generally; or
- (f) engaging with its shareholders (in their capacity as a shareholder) in the ordinary course in relation to Class Group.

11.7 Matching right

During the Exclusivity Period, Class must not enter into any legally binding agreement pursuant to which Class agrees to implement a Competing Proposal or pay a break fee or any cost reimbursement fee to a third party (which, for the avoidance of doubt, does not include Class entering into a confidentiality agreement or like agreement for the purpose of providing non-public information in relation to an actual, proposed or potential Competing Proposal) unless:

- (a) the Board determines that the Competing Proposal would be or would be reasonably likely to be an actual, proposed or potential Superior Proposal;
- (b) Class has provided Bidder with the material terms and conditions of the written Competing Proposal, including price and the identity of the Third Party making the written Competing Proposal;
- (c) Class has given Bidder at least five Business Days after the date of the provision of the information referred to in clause 11.7(b) to provide a superior proposal to the terms of the written Competing Proposal (**Counterproposal**); and
- (d) Bidder has not announced or otherwise proposed in writing to Class a proposal that the Board, acting reasonably and in good faith, determines to be superior to the terms of the Competing Proposal by the expiry of the five Business Day period referred to in clause 11.7(c).

Any material modification to any Competing Proposal notified to Bidder under clause 11.7(b) (which will include any modification relating to the price or value of any Competing Proposal) will be taken to make that proposal a new Competing Proposal in respect of which Class must comply with its obligations under this clause 11.7 again.

11.8 Counterproposal

- (a) If Bidder provides Class with a Counterproposal before the expiry of the five Business Day period in clause 11.7(c), Class must use reasonable endeavours to procure that the Board reviews the Counterproposal and if the Board, acting reasonably and in good faith, determines that the Counterproposal would provide a superior outcome for Class Shareholders as a whole compared with the Competing Proposal, taking into account all of the material terms and conditions of the Counterproposal, then:
 - (i) Class and Bidder must use their reasonable endeavours to agree the amendments to this deed and the Schemes that are reasonably necessary to reflect the Counterproposal and to implement the Counterproposal, in each case as soon as reasonably practicable; and
 - (ii) Class must use its reasonable endeavours to procure that each Class Director continues to recommend the Schemes (as modified by the Counterproposal) to Class Shareholders (other than as permitted by this deed).
- (b) Despite any other provision in this deed, any public announcement or other statement by Class, the Board or any Class Director to the effect that:
 - (i) the Board has determined that a Competing Proposal is a Superior Proposal and has commenced the matching right process set out in clause 11.7; or
 - (ii) Class Shareholders should take no action pending the completion of the matching right process set out in clause 11.7,does not:

- (iii) constitute a failure to make, or an adverse change, withdrawal, adverse modification or adverse qualification of, a Recommendation or Voting Statement or an endorsement of a Competing Proposal;
- (iv) contravene clause 7.1 or any other provision of this deed; or
- (v) give rise to a termination right under clause 13 or any other provision of this deed.

12 Break Fee

12.1 Background

This clause 12 has been agreed to in circumstances where:

- (a) Class believes the implementation of the Scheme will provide significant benefits to it and its shareholders, and acknowledges that, if Bidder enters into this deed and the Scheme is subsequently not implemented, Bidder will have incurred significant costs, including significant opportunity costs;
- (b) Bidder requested provision be made for the relevant payment outlined in this clause 12, without which it would not have entered into this deed;
- (c) the Class Board believes that it is appropriate to agree to the payment referred to in this clause 12 to secure Bidder's entry into this deed; and
- (d) Class has received separate legal advice in relation to this deed and the operation of this clause 12.

The parties acknowledge and agree that the costs actually incurred by Bidder as referred to in clause 12.1(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 that would actually be suffered by Bidder.

12.2 Payment of Break Fee

Subject to clauses 12.3 and 12.6, Class must pay Bidder the Break Fee if:

- (a) **(Change of recommendation)** at any time before the End Date or, if earlier, the date the deed is terminated under clause 13, any Class Director makes a public statement:
 - (i) withdrawing or adversely changing or modifying their Recommendation or Voting Statement; or
 - (ii) supporting or endorsing a Competing Proposal,
 in each case provided that Bidder has terminated this deed in accordance with clause 13.1(b), and unless:
 - (iii) the Independent Expert concludes to the effect that the Scheme is not the best interests of Class Shareholders (except in circumstances where the sole or predominate reason for that conclusion is the announcement of a Superior Proposal);
 - (iv) the withdrawal or adverse change or modification is permitted by clauses 7.2, 7.3 or 11.8(b); or
 - (v) Class is or would have been entitled to terminate this deed pursuant to clause 13.1(a) or 13.2;
- (b) **(Competing Proposal)** at any time before the End Date or, if earlier, the date the deed is terminated under clause 13, a Competing Proposal is announced by a Third Party and,

within three months after that occurring, the Third Party or an Associate of the Third Party:

- (i) completes in all material respects a transaction of the kind referred to in the definition of Competing Proposal; or
 - (ii) has a relevant interest in at least 50% of Class Shares under a transaction that is or has become wholly unconditional or otherwise comes to control (within the meaning of section 50AA of the Corporations Act) Class or acquires substantially all of the assets of Class;
- (c) **(Competing Proposal executed)** at any time before termination of this deed, Class enters into any agreement with a third party in respect of a Competing Proposal under which that third party and Class agree to undertake or give effect to such Competing Proposal (which, for the avoidance of doubt, does not include Class entering into a confidentiality agreement or like agreement for the purpose of providing non-public information in relation to an actual, proposed or potential Competing Proposal); or
- (d) **(Termination)** Bidder validly terminates this deed under clause 13.1(a)(i).

12.3 Payment conditions

- (a) Notwithstanding the occurrence of any event under clause 12.2, no amount is payable under that clause if the Scheme becomes Effective, and if any amount has already been paid under clause 12.2 that amount must be refunded by Bidder.
- (b) Class can only ever be liable to pay the Break Fee once.

12.4 Timing of payment

If the Break Fee is payable under this clause 12, Class must pay the Break Fee without set-off or withholding within five Business Days of receipt of a demand for payment from Bidder.

12.5 Nature of payment

The amount payable by Class to Bidder under clause 12.2 is an amount to compensate Bidder for:

- (a) advisory costs (including costs of Advisers other than success fees);
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of Bidder management from conducting the Bidder business as usual caused by pursuing the Schemes;
- (e) opportunity costs incurred in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which could have been developed to further business and objectives; and
- (f) damage to Bidder's reputation associated with a failed transaction and the implications of that damage to the Bidder's business.

12.6 Compliance with law

- (a) This clause 12 imposes obligations on Class only to the extent that the performance of all or part of those obligations:
 - (i) does not constitute 'unacceptable circumstances' as declared by the Australian Takeovers Panel; and

(ii) is not determined to be unlawful by a court (including by virtue of it being a breach of the Class Board's fiduciary or statutory duties),
subject to all proper avenues of appeal and review, judicial and otherwise, having been exhausted.

(b) The parties must not make, or cause or permit to be made, any application to the Australian Takeovers Panel or a court for or in relation to a declaration or determination of a kind referred to in clause 12.6(a).

12.7 Limitation of liability

Notwithstanding any other provision of this deed:

- (a) the maximum aggregate liability of Class to Bidder under or in connection with this deed including in respect of any breach of this deed will be the amount of the Break Fee;
- (b) a payment by Class of the Break Fee in accordance with this clause 12 represents the sole and absolute liability of Class to Bidder under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Class to Bidder in connection with this deed, other than in relation to a wilful or intentional breach by Class of this deed; and
- (c) the amount of the Break Fee payable to Bidder under this clause 12 shall be reduced by the amount of any loss or damage recovered by Bidder in relation to a breach of any other clause of this deed.

13 Termination

13.1 General rights

- (a) Either party may terminate this deed by written notice to the other at any time before 8.00am on the Second Court Date:
 - (i) if:
 - (A) either:
 - (1) the other party is in material breach of any provision of this deed (other than a Bidder Representation and Warranty or a Class Representation and Warranty not being true and correct); or
 - (2) a representation and warranty given by the other party (being the Bidder Representations and Warranties where the "other party" is Bidder, and being the Class Representations and Warranties where the "other party" is Class) is not true and correct, where that breach of representation and warranty is material in the context of the Transaction as a whole;
 - (B) the party wishing to terminate has given written notice to the other setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (C) the relevant circumstances continue to exist for five Business Days from the time the notice of intention to terminate is given (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date); or
 - (ii) in the circumstances set out in, and in accordance with, clause 3.7(b).
- (b) Bidder may terminate this deed by written notice to Class at any time before 8:00am on the Second Court Date if any of the directors of Class have changed, withdrawn or adversely

modified their Recommendation or Voting Statement or has recommended or made a statement supporting or endorsing a Competing Proposal (in each case other than as permitted by this deed).

- (c) Without limiting Class' obligations under clause 7, Class may terminate this deed by written notice to Bidder at any time before 8:00am on the Second Court Date if any of the directors of Class Board withdraw its recommendation that Class Shareholders vote in favour of the Scheme at the Scheme Meeting, and, if required to pay the Break Fee as a result of such withdrawal, Class has paid Bidder the Break Fee.

13.2 Automatic termination

Without limiting any other term of this deed, this deed will terminate automatically if, at the Scheme Meeting, Class Shareholders do not pass the resolution to approve the Scheme in accordance with the requirements of section 411(4)(a)(ii) of the Corporations Act.

13.3 Effect of termination

If this deed is terminated by a party under clause 3.7(b) or 13.1 or pursuant to clause 13.2, this deed will be of no force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued before termination and the provisions of this clause 13 and of clauses 1.1, 8.4, 9, 10, 12, 14, 15, 16 and 17, which will remain in force after the termination.

13.4 Termination by written agreement

The parties may terminate this deed by another written agreement between them.

14 Confidentiality

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

15 GST

15.1 Recovery of GST

If GST is or becomes payable, or notionally payable, on a supply made under or in connection with this deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the **GST Amount**) as calculated by the party making the supply (the **Supplier**) in accordance with the GST law. Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time and in the same manner that the other consideration for the supply is provided. This clause 15 does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

15.2 Liability net of GST

Notwithstanding any other provision in this deed, where any indemnity, reimbursement or similar payment under this deed is based on any cost, expense or other liability incurred by a party, it may be reduced by any input tax credit entitlement, or notional input tax credit entitlement, of that party (or its representative member) in relation to the relevant cost, expense or other liability.

15.3 Adjustment events

If an adjustment event occurs in relation to a supply under or in connection with this deed, the GST Amount will be recalculated in accordance with the GST law to reflect that adjustment and

an appropriate payment will be made between the parties and the Supplier shall issue an adjustment note to the recipient within 10 Business Days after becoming aware of the occurrence of the adjustment event.

15.4 Survival

This clause will not merge upon completion and will continue to apply after expiration or termination of this deed.

15.5 Definitions

Unless the context requires otherwise, words used in this clause 15 that have a specific meaning in the GST law (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) have the same meaning in this clause 15.

16 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this deed:

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient:
 - (i) by prepaid post (or, if posted to an address in another country, by registered airmail) or by hand to the address below or the address last notified by the intended recipient to the sender; or
 - (ii) by email to the email address below or the email address last notified by the intended recipient to the sender:

to Bidder:	Address:	Level 2, 7 Macquarie Place Sydney NSW 2000
	Email:	aalcock@hub24.com.au
	Attention:	Andrew Alcock, Chief Executive Officer & Managing Director

with a copy to (which by itself does not constitute a Notice) bart.oude-vrielink@minterellison.com and keith.tan@minterellison.com.

to Class:	Address:	Level 20, 580 George St Sydney NSW 2000
	Email:	andrew.russell@class.com
	Attention:	Andrew Russell, Chief Executive Officer & Managing Director

with a copy to (which by itself does not constitute a Notice) Tom.Story@allens.com.au and Adrian.Amer@allens.com.au.
- (c) will be conclusively taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, six Business Days after the date of posting (if posted to an address in the same country) or ten Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of delivery by email, the earlier of:

- (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
- (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
- (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that two hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made:

- (iv) on a day that is not a business day in the place to which the Notice is sent or later than 5:00pm (local time), then it will be taken to have been duly given or made at the start of business on the next business day in that place; or
- (v) before 9:00am (local time) on a business day in the place to which the Notice is sent, then it will be taken to have been duly given or made at 9:00am (local time) on that business day in that place.

17 General provisions

17.1 Amendment

This deed may be amended only by another deed executed by or on behalf of each of the parties.

17.2 Assignment

A party cannot assign, charge, encumber or otherwise deal with at law or in equity any of its rights or obligations under this deed, or attempt or purport to do so, without the prior consent of the other party.

17.3 Costs and stamp duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this deed. All stamp duty (including fines, penalties and interest) payable on or in connection with this deed and any instrument executed under or any transaction evidenced by this deed must be borne by Bidder.

17.4 Counterparts

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

17.5 Entire agreement

This deed, the Confidentiality Deed and any other documents specified by the parties for the purposes of this clause 17.5 contain the entire agreement between the parties with respect to their subject matter. This deed, the Confidentiality Deed and any other documents specified by the parties for the purposes of this clause 17.5 set out the only conduct relied on by the parties and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their subject matter.

17.6 Further assurances

Each party must do anything necessary (including executing agreements and documents) to give full effect to this deed and the transactions contemplated by it.

17.7 Governing law and jurisdiction

This deed is governed by the laws of New South Wales. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

17.8 No merger

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

17.9 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this deed does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

17.10 Remedies cumulative

The rights, powers and remedies provided to each party in this deed are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

17.11 Severability of provisions

Any provision of this deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this deed nor affect the validity or enforceability of that provision in any other jurisdiction.

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Schedule 1**Bidder Representations and Warranties**

- 1 **(Status)** It is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
- 2 **(Power)** It has the power to enter into and perform its obligations under this deed to carry out the transactions contemplated by this deed.
- 3 **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into and the performance of this deed by it and to carry out the transactions contemplated by this deed.
- 4 **(Documents binding)** This deed is its valid and binding obligation enforceable in accordance with its terms.
- 5 **(Transactions permitted)** The execution and performance by it of this deed and each transaction contemplated by this deed did not and will not violate any provision of:
- (a) a law or treaty or a judgment, ruling, order or decree of a Government Agency binding on it or any of its Subsidiaries; or
 - (b) its constituent documents.
- 6 **(Bidder capital structure)** as at the date of this deed, Bidder has:
- (a) 68,624,619 fully paid ordinary shares on issue;
 - (b) 882,509 fully paid options on issue; and
 - (c) 2,032,516 performance rights on issue,
- and there are no other securities, issued and outstanding at the date of this deed.
- 7 **(Continuous disclosure):**
- (a) it has complied in all material respects with its continuous disclosure obligations under ASX Listing Rule 3.1; and
 - (b) as at the date of this deed, it is not withholding any information from public disclosure in reliance on ASX Listing Rule 3.1A (other than the information in relation to the Transaction).
- 8 **(Solvency)** No member of the Bidder Group is the subject of an Insolvency Event.
- 9 **(No regulatory approvals)** No approval from any Government Agency is required to be obtained by Bidder in order to execute and perform this deed, other than the Required Regulatory Approvals disclosed to Class in writing prior to the date of this deed.
- 10 **(No regulatory action)** As at the date of this deed, no regulatory action of any nature of which Bidder is aware has been taken or threatened that may prevent or in any way restrict its liability to fulfil its obligations under this deed, the Scheme or the Deed Poll.
- 11 **(No shareholder approvals)** No approvals are required from shareholders of Bidder, or from any shareholders of any other member of the Bidder Group, to execute, deliver or perform this deed or the Deed Poll.
- 12 **(No Voting Power)** No member of the Bidder Group nor any of their associates has any Voting Power in, or any right to acquire, any Class Shares (whether issued or not or held by Bidder or not), and no member of the Bidder Group nor any of their associates, have entered into any agreement, arrangement or understanding that confers rights or interests the economic effect of which is equivalent or substantially equivalent to holding, acquiring or disposing of Class Shares

- or any member of the Class Group or of any assets of the Class Group or any of its Related Entities (including cash-settled derivative contracts, contracts for difference or other derivative contracts) other than in its capacity as custodian or sub-custodian for third party clients.
- 13 **(No dealings with Class Shareholders)** No member of the Bidder Group has any agreement, arrangement or understanding with any Class Shareholder under which that Class Shareholder (or an Associate of that Class Shareholder) would be entitled to receive any collateral benefit in relation to the Scheme, or under which the Class Shareholder has agreed to vote in favour of the Scheme (or against any Competing Proposal).
- 14 **(No dealings with Class directors or employees)** Other than as disclosed to Class and approved by the Class Board, no member of the Bidder Group has any agreement, arrangement or understanding with any director or employee of Class relating in any way to the Transaction or operations of Class after the Effective Date.
- 15 **(Funding – Reasonable basis)** At all times between the date of this deed and 8:00am on the Second Court Date, Bidder has a reasonable basis to expect that it will, by the Implementation Date, have sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- 16 **(Funding – Unconditional cash reserves)** By 8:00am on the Second Court Date, the Bidder will have available to it on an unconditional basis (other than conditions relating to, or which will cease to apply or be satisfied following, the approval of the Court and other conditions within the control of Bidder) sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- 17 **(Other dealings)** No member of the Bidder Group (or any of their respective Representatives) has any written agreement, arrangement or understanding with any person in relation to the securities, business, operations or assets of a member of the Class Group or the performance or conduct of the business of the Class Group (in whole or in part) except as disclosed in the Bidder Due Diligence Materials.
- 18 **(Scrip Consideration)** The Bidder Shares constituting the Scrip Consideration to be issued in accordance with this deed and the terms of the Scheme will be duly authorised and validly issued or transferred without shareholder approval, fully paid and free of all Encumbrances and third party rights and will rank equally with all other Bidder Shares then on issue (including to receive any dividends or distribution of capital paid and any other entitlements accruing in respect of Bidder Shares after the Implementation Date).
- 19 **(Bidder Information)** The Bidder Information provided for inclusion in the Scheme Booklet, as at the date the Scheme Booklet is despatched to Class Shareholders, complies with all applicable laws, will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise.
- 20 **(Basis of Bidder Information)** The Bidder Information:
- (a) will be provided to Class in good faith and on the understanding that Class and each other Class Party will rely on that information for the purposes of preparing the Scheme Booklet and determining to proceed with the Transaction; and
 - (b) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, ASIC Regulatory Guide 60 and the ASX Listing Rules.

- 21 **(New information)** The Bidder will, as a continuing obligation, provide to Class all further or new information which arises after the Scheme Booklet has been despatched to Class Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive in any material respect (including by way of omission).
- 22 **(Bidder Due Diligence Materials)** The Bidder has collated and prepared the Bidder Due Diligence Material in good faith and those are accurate in all material respects and not misleading (including by omission).
- 23 **(Material licences and authorisations)** So far as Bidder is aware, the Bidder Group has all material licences, permits and authorisations necessary for it to conduct its activities as they are conducted as at the date of this deed.
- 24 **(No material breach of laws)** Bidder is not aware of any material breach of law by any member of the Bidder Group of any Australian or foreign laws and regulations applicable to it or orders of Australian or foreign Government Agencies having jurisdiction over it, which breach would be reasonably likely to have a material adverse effect on the financial or operational performance of the Bidder Group or the reputation of the Bidder Group, including any implication in relation to its good standing with any Government Agency having jurisdiction over the conduct of business of the Bidder Group.
- 25 **(Information provided to Independent Expert)** All information Bidder has provided or will provide to the Independent Expert will be or has been provided in good faith, is accurate in all material respects and not misleading, and Bidder has not omitted or will not omit any information required to make the information provided to the Independent Expert not misleading. All information Bidder has provided or will provide to the Independent Expert has been or will be on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.
- 26 **(Financial Statements)** As far as Bidder is aware, as at the date of this deed, there has not been any event, change, effect or development that would require Bidder to restate Bidder's financial statements as disclosed to ASX, and Bidder's financial statements for the financial year ended 30 June 2021:
- (a) comply with applicable statutory requirements and were prepared in accordance with the Australian Corporations Act, accounting standards and all other applicable laws and regulations; and
 - (b) give a true and fair view of the financial position and the assets and liabilities of the Bidder Group.
- 27 **(Litigation)** As at the date of this deed:
- (a) there are no material actions, suits, arbitrations, legal or administrative proceedings taking place, or to Bidder's knowledge, pending or threatened against any member of the Bidder Group (other than any proceedings which could reasonably be regarded as frivolous or vexatious);
 - (b) to Bidder's knowledge, no member of the Bidder Group is the subject of any material, or any material pending or material threatened, investigation, inquiry or commission; and
 - (c) no member of the Bidder Group or the respective assets, properties or business of any member of the Bidder Group is subject to any judgment, order, writ, injunction or decree of any court, Government Agency or arbitration tribunal.
- 28 **(No knowledge of Bidder Material Adverse Change)** As at the date of this deed, Bidder is not aware of any information relating to the Bidder Group or its respective businesses or operations that has or could reasonably be expected to give rise to a Bidder Material Adverse Change that

has not been Fairly Disclosed to ASX prior to the date of this deed or Fairly Disclosed in the Bidder Due Diligence Materials.

- 29 **(Roll-over) Bidder:**
- (a) has not made, and will not make, a choice under subsection 124-795(4) of the Tax Act; and
 - (b) is the ultimate holding company (as defined in the Tax Act) of a wholly-owned group (as defined in the Tax Act), and no member of the wholly owned group has issued or will issue equity (other than the Scheme Consideration), or owes or will owe new debt, under the arrangement for the acquisition of the Scheme Shares:
 - (i) to any entity that is not a member of the same wholly-owned group; and
 - (ii) in relation to the issue of the Scheme Shares.
- 30 **(Sanctions)** During the five year period prior to the date of this deed and so far as Bidder is aware, no current or former director or officer of any member of the Bidder Group is or was a Sanctioned Person and, so far as Bidder is aware, no member of the Bidder Group or any of their respective current or former employees or their respective intermediaries is or was a Sanctioned Person. For the purposes of this representation, a Sanctioned Person means:
- (a) any person listed in any sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, the United Kingdom, Canada, or Australia;
 - (b) any person operating organised or resided in a U.S Sanctioned Country (including Iran, Syria, Sudan, Cuba, the Democratic Republic of Korea, or the Crimea Region of Ukraine); or
 - (c) any person owned or controlled by any such person.
- 31 **(Anti-Bribery)** During the 5 year period prior to the date of this deed, no member of the Bidder Group nor, to the Bidder Group's knowledge, any of the officers, directors, employees, agents, intermediaries, representatives, suppliers or joint venture partners of any member of the Bidder Group has, directly or indirectly, in connection with the business of the Bidder Group:
- (a) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;
 - (b) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (c) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
 - (d) established or maintained any unlawful fund of corporate monies or other properties;
 - (e) created or caused the creation of any false or inaccurate books and records of any member of the Bidder Group related to any of the foregoing;
 - (f) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the Bidder Group; or

- (g) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any person in Cuba, Iran, the Democratic People's Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any person in Cuba, Iran, the Democratic People's Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine

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Schedule 2

Class Representations and Warranties

- 1 **(Status)** It is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
- 2 **(Power)** It has the power to enter into and perform its obligations under this deed to carry out the transactions contemplated by this deed.
- 3 **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into and performance of this deed by it and to carry out the transactions contemplated by this deed.
- 4 **(Documents binding)** This deed is its valid and binding obligation enforceable in accordance with its terms.
- 5 **(Transactions permitted)** The execution and performance by it of this deed and each transaction contemplated by this deed did not and will not violate any provision of:
- (a) a law or treaty or a judgment, ruling, order or decree of a Government Agency binding on it or any of its Subsidiaries; or
 - (b) its constitution or other constituent documents.
- 6 **(Capital structure)**
- (a) As at the date of this deed, Class has
 - (i) 124,423,456 Class Shares on issue;
 - (ii) 844,663 Options on issue;
 - (iii) 238,809 Deferred Share Rights on issue; and
 - (iv) 1,972,527 Performance Rights on issue,and there are no other securities, issued and outstanding at the date of this deed.
 - (b) No member of the Class Group is subject to any obligation (including any contingent obligation) to issue or have transferred to any person securities in or of it or any other member of the Class Group other than Class Shares that may be issued under the terms of the Performance Rights, Deferred Share Rights and Options that Class has issued and outstanding at the date of this deed.
- 7 **(Continuous disclosure):**
- (a) it has complied in all material respects with its continuous disclosure obligations under ASX Listing Rule 3.1; and
 - (b) as at the date of this deed, it is not withholding any information from public disclosure in reliance on ASX Listing Rule 3.1A (other than the information in relation to the Transaction).
- 8 **(Solvency)** No member of the Class Group is the subject of an Insolvency Event.
- 9 **(Scheme Booklet)** At the time Class commenced sending the Scheme Booklet to Class Shareholders, the information contained in the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report) is true and correct in all material respects, complies with all applicable laws and does not contain any statement which is misleading or deceptive in any material respect (whether by omission or otherwise).
- 10 **(New Information)** Class will, as a continuing obligation (but in respect of the Bidder Information, only to the extent that Bidder provides Class with updates to the Bidder Information), ensure that

the Scheme Booklet is updated or supplemented to include all further or new information which arises after the Scheme Booklet has been despatched to Class Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including by way of omission).

- 11 **(Due Diligence Material)** The Due Diligence Material has been collated and prepared in good faith, and Class is not aware after reasonable due enquiry of any information contained in the Due Diligence Material that is false or misleading in any material respect (including by omission). However, Class does not make any representation or warranty as to the accuracy or adequacy of a forecast, prediction or projection, budget, business plan or other forward looking statement in respect of the future financial position of Class.
- 12 **(Material licences and authorisations)** So far as Class is aware, the Class Group has all material licences, permits and authorisations necessary for it to conduct its activities as they are conducted as at the date of this deed.
- 13 **(AFSL)** At all times, Class Technology Pty Ltd has complied with all applicable obligations of an AFSL holder under the Corporations Act and the Corporations Regulations with respect to AFSL No. 313512. No member of the Class Group and no authorised representative of Class Technology has at any time provided any financial services for which the AFSL is required and as a consequence the AFSL has always been dormant.
- 14 **(No material breach of laws)** Class is not aware of any material breach of law by any member of the Class Group of any Australian or foreign laws and regulations applicable to it or orders of Australian or foreign Government Agencies having jurisdiction over it, which breach would be reasonably likely to have a material adverse effect on the financial or operational performance of the Class Group or the reputation of the Class Group, including any implication in relation to its good standing with any Government Agency having jurisdiction over the conduct of business of the Class Group.
- 15 **(Information provided to Independent Expert)** All information Class has provided or will provide to the Independent Expert will be or has been provided in good faith, is accurate in all material respects and not misleading, and Class has not omitted or will not omit any information required to make the information provided to the Independent Expert not misleading. All information Class has provided or will provide to the Independent Expert has been or will be on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.
- 16 **(Financial Statements)** As far as Class is aware, as at the date of this deed, there has not been any event, change, effect or development that would require Class to restate Class' financial statements as disclosed to ASX, and Class' financial statements for the financial year ended 30 June 2021:
- (a) comply with applicable statutory requirements and were prepared in accordance with the Australian Corporations Act, accounting standards and all other applicable laws and regulations; and
 - (b) give a true and fair view of the financial position and the assets and liabilities of the Class Group.
- 17 **(Litigation)** As at the date of this deed:
- (a) there are no material actions, suits, arbitrations, legal or administrative proceedings taking place, or to Class' knowledge, pending or threatened against any member of the Class Group (other than any proceedings which could reasonably be regarded as frivolous or vexatious);

- (b) to Class' knowledge, no member of the Class Group is the subject of any material, or any material pending or material threatened, investigation, inquiry or commission;
- (c) no member of the Class Group or the respective assets, properties or business of any member of the Class Group is subject to any judgment, order, writ, injunction or decree of any court, Government Agency or arbitration tribunal;
- (d) so far as Class is aware, there is no agreement (written or verbal) between NowInfinity 3505 Pty Ltd and any third party (including View Legal Pty Ltd) providing that third party with any right to use or entitlement over to the Estate Planning Platform owned by NowInfinity 3505 Pty Ltd; and
- (e) so far as Class is aware, View Legal Pty Ltd has no entitlements or rights in respect of any intellectual property in the Estate Planning Platform owned by NowInfinity 3505 Pty Ltd or the template documents that would be used for that platform or otherwise in the NowInfinity business.
- 18 **(No knowledge of Class Material Adverse Change)** As at the date of this deed, Class is not aware of any information relating to the Class Group or its respective businesses or operations that has or could reasonably be expected to give rise to a Class Material Adverse Change that has not been Fairly Disclosed to ASX prior to the date of this deed or Fairly Disclosed in the Due Diligence Materials.
- 19 **(Third party rights)** As at the date of this deed, Class is not aware of any facts or circumstances that will cause a third party, as a result of the entry into this deed and the implementation of the Transaction to exercise a right to terminate a contract which is material to the business of the Class Group or vary the performance of any material obligation of Class under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the Class Group.
- 20 **(Change of Control)** So far as Class is aware, as at the date of this deed, the Due Diligence Materials contain sufficient information for Bidder to identify each third party to whom a member of the Class Group is required to give notice, or from whom a member of the Class Group is required to obtain consent or approval under a contract to which a member of the Class Group is a party, in connection with this deed or the transactions contemplated by it (including in respect of the change of control of Class resulting from the implementation of the Transaction), except where the failure to give such notice to or obtain such consent or approval from (as applicable) the relevant third party could not reasonably be expected to give rise to a material liability on the part of any member of the Class Group.
- 21 **(Fee mandates)** So far as Class is aware, Class has provided complete and accurate information regarding fee levels in all retainers and mandates with Advisers and fee estimates for other advisers in relation to the Transaction as at the date of this deed.
- 22 **(Financial Indebtedness)** So far as Class is aware, Class has provided all information relating to any material development that would be reasonably likely to materially adversely affect any Financial Indebtedness or debt arrangements of the Class Group, from or after the date of this deed.
- 23 **(Security interests)** So far as Class is aware, there is no security interest over all or any of the Class Group's present or future assets or revenues of the Class Group's businesses other than as disclosed in the Due Diligence Materials, security interests which arise in the ordinary course of trading or security interests which arise by operation of law.
- 24 **(Sanctions)** During the five year period prior to the date of this deed and so far as Class is aware, no current or former director or officer of any member of the Class Group is or was a Sanctioned Person and, so far as Class is aware, no member of the Class Group or any of their

respective current or former employees or their respective intermediaries is or was a Sanctioned Person. For the purposes of this representation, a Sanctioned Person means:

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

25 **(Anti-Bribery)** During the 5 year period prior to the date of this deed, no member of the Class Group nor, to the Class Group's knowledge, any of the officers, directors, employees, agents, intermediaries, representatives, suppliers or joint venture partners of any member of the Class Group has, directly or indirectly, in connection with the business of the Class Group:

- (a) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;
- (b) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
- (c) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
- (d) established or maintained any unlawful fund of corporate monies or other properties;
- (e) created or caused the creation of any false or inaccurate books and records of any member of the Class Group related to any of the foregoing;
- (f) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the Class Group; or
- (g) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any person in Cuba, Iran, the Democratic People's Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any person in Cuba, Iran, the Democratic People's Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine.

Schedule 3**Bidder Prescribed Occurrences**

- (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.
- (c) Any member of the Bidder Group:
- (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act, other than any buy-back for the purpose of treasury shares held by the HUB24 Employee Share Ownership Trust.
- (d) Any member of the Bidder Group issues shares or other securities to a person, or grants an option over or a right to receive its shares or other securities, or agrees to make such an issue or grant such an option or right, other than:
- (i) where the shares or other securities are issued, or where the options are granted, by a member of the Bidder Group (other than the Bidder) to another member of the Bidder Group;
 - (ii) where the shares or other securities are issued upon exercise or vesting of Bidder Incentive Rights which are on issue as at the date of this deed; or
 - (iii) an issue or grant of Bidder Incentive Rights under an employment contract or employee incentive scheme in place as at the date of this deed which has been Fairly Disclosed in the Bidder Due Diligence Material.
- (e) Any member of the Bidder Group making any change to its constitution or other constituent documents.
- (f) Any member of the Bidder Group issues, or agrees to issue, convertible notes or any other instrument or security convertible into shares or securities in or of any member of the Bidder Group, other than to another member of the Bidder Group.
- (g) Any member of the Bidder Group disposes, or agrees to dispose, of the whole or a substantial part of the business or property of the Bidder Group.
- (h) Any member of the Bidder Group grants, or agrees to grant, a security interest in or over the whole or a substantial part of the business or property of the Bidder Group other than any security interest that arises by operation of law or in the ordinary course of business.
- (i) Any member of the Bidder Group resolves to be wound up.
- (j) Any disposal of shares or securities by a member of the Bidder Group in any member of the Bidder Group (other than to another member of the Bidder Group).
- (k) An Insolvency Event occurs in relation to a member of the Bidder Group.
- (l) The Bidder ceases to be admitted to the official list of ASX or Bidder Shares cease to be quoted by ASX or the Bidder is suspended from trading by ASX for a consecutive period of more than 2 weeks.
- (m) Bidder resolving to pay or paying any dividend, distribution or share of its profits or assets or returning or agreeing to return any capital to its shareholders (whether in cash or in specie) other than an interim dividend in respect of first half financial year 2022 and a final dividend in respect of second half financial year 2022, provided that any such

dividends are each declared and paid in the ordinary course and in accordance with Bidder's existing dividend policy as at the date of this deed.

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

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Schedule 4**Class Prescribed Occurrences**

- (a) Class converts all or any of its shares into a larger or smaller number of shares.
- (b) Any member of the Class Group resolves to reduce its share capital in any way.
- (c) Any member of the Class Group:
- (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act.
- (d) Any member of the Class Group issues shares or other securities to a person, or grants an option over or a right to receive its shares or other securities, or agrees to make such an issue or grant such an option or right, other than the issue of Class Shares upon the exercise or vesting of Performance Rights. Deferred Share Rights or Options which are on issue as at the date of this deed.
- (e) Any member of the Class Group making any change to its constitution or other constituent documents.
- (f) Any member of the Class Group issues, or agrees to issue, convertible notes or any other instrument or security convertible into shares or securities in or of any member of the Class Group.
- (g) Any member of the Class Group disposes, or agrees to dispose, of the whole or a substantial part of the business or property of the Class Group.
- (h) Any member of the Class Group grants, or agrees to grant, a security interest in or over the whole or a substantial part of the business or property of the Class Group other than any security interest that arises by operation of law or in the ordinary course of business.
- (i) Any member of the Class Group resolves to be wound up.
- (j) Any disposal of shares or securities by a member of the Class Group in any member of the Class Group (other than to another member of the Class Group).
- (k) An Insolvency Event occurs in relation to a member of the Class Group.
- (l) Class ceases to be admitted to the official list of ASX or Class Shares cease to be quoted by ASX or Class is suspended from trading by ASX for a consecutive period of more than 2 weeks.
- (m) Class resolving to pay or paying any dividend, distribution or share of its profits or assets or returning or agreeing to return any capital to its shareholders (whether in cash or in specie).
- (n) Any member of the Class Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (m) inclusive above insofar as it applies to the member of the Class Group the subject of such direct or indirect authorisation, commitment, agreement or announcement.

Schedule 5**Timetable**

Event	Date
Class submits draft Scheme Booklet to ASIC	Mid-late November 2021
Bidder to execute Deed Poll	Early-mid December 2021
First Court hearing for Scheme	Early-mid December 2021
Class sends Scheme Booklet to Class Shareholders	Early-mid December 2021
Scheme Meeting	Mid-late January 2022
Second Court hearing for Scheme	Early February 2022
Effective Date	Early February 2022
Scheme Record Date	Early-mid February 2022
Implementation Date	Mid-late February 2022

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Executed and delivered as a Deed.

Class

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Class Limited:**

Director Signature

Director/Secretary Signature

Print Name

Print Name

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

For personal use only

Bidder

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **HUB24 Limited**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

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

For personal use only

Annexure A

Form of Scheme

For personal use only

Scheme of Arrangement pursuant to section 411 of the *Corporations Act 2001* (Cth)**Between**

Class Limited (ACN 116 802 058) of Level 20, 580 George St Sydney NSW 2000 (**Class**).

And

Each holder of Class Shares recorded in the Class Share Register as at the Scheme Record Date (each a **Scheme Shareholder** and, together, the **Scheme Shareholders**).

Recitals

- A Class is an Australian public company limited by shares, registered under the Corporations Act, and has been admitted to the official list of the ASX. Class Shares are quoted for trading on the ASX.
- B Bidder is an Australian public company limited by shares, registered under the Corporations Act, and has been admitted to the official list of the ASX. Bidder Shares are quoted for trading on the ASX.
- C Class and Bidder have entered into a Scheme Implementation Deed dated 18 October 2021 as amended from time to time (the **Scheme Implementation Deed**) pursuant to which:
- (a) Class has agreed to propose this Scheme to Class Shareholders; and
 - (b) Class and Bidder have agreed to take certain steps to give effect to this Scheme.
- D If this Scheme becomes Effective, then:
- (a) all of the Scheme Shares and all of the rights and entitlements attaching to them on the Implementation Date will be transferred to Bidder; and
 - (b) the Scheme Consideration will be provided to the Scheme Shareholders in accordance with the terms of this Scheme and the Deed Poll; and
 - (c) Class will enter the name and address of Bidder in the Class Share Register as the holder of all of the Scheme Shares.
- E Bidder has entered into the Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders that Bidder will observe and perform the obligations contemplated of it under this Scheme.

It is agreed as follows.

1 Definitions and interpretation**1.1 Definitions**

In this document, unless the context requires otherwise:

ASIC means the Australian Securities and Investments 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 ASX.

Bidder Share Registry means Link Market Services Limited or any replacement provider of

share registry services to Bidder.

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning given in the ASX Listing Rules; and
- (b) a day on which banks are open for business in Sydney, Australia.

Cash Consideration means the cash amount of \$0.125 for each Scheme Share held by a Scheme Shareholder.

Class Share means a fully paid ordinary shares issued in the capital of Class.

Class Share Register means the register of members of Class maintained by or on behalf of Class in accordance with section 168(1) of the Corporations Act.

Class Share Registry means Link Market Services Limited or any replacement provider of share registry services to Class.

Class Shareholder means a person who is registered in the Class Share Register as a holder of Class Shares.

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

Constitution means the constitution of Class, as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth), as amended by any applicable ASIC class order, ASIC legislative instrument or ASIC relief.

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act agreed to in writing between Class and Bidder.

Deed Poll means the deed poll executed on 9 December 2021 by Bidder in favour of the Scheme Shareholders.

Effective means, when used in relation to this Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to this Scheme.

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

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

End Date means the date which is six months after the date of the Scheme Implementation Deed, subject to any extension under clause 3.7 of the Scheme Implementation Deed.

Implementation Date means the fifth Business Day after the Scheme Record Date, or such other date as Class and Bidder may agree in writing.

Ineligible Foreign Shareholder means an Scheme Shareholder whose address, as shown in the Class Share Register (as at the Scheme Record Date), is in a place outside:

- (a) Australia and its external territories;
- (b) New Zealand; and
- (c) any other jurisdiction as may be agreed in writing by the Bidder and Class,

unless the Bidder determines (acting reasonably), that the laws of that place permit the allotment and issue of Bidder Shares to that Scheme Shareholder pursuant to the Scheme, either unconditionally or after compliance with conditions that the Bidder in its sole discretion regards as acceptable and not unduly onerous or impracticable.

Registered Address means, in relation to a Scheme Shareholder, the address of that Scheme Shareholder shown in the Class Share Register as at the Scheme Record Date.

Sale Agent means a person appointed by Bidder, in consultation with Class, to sell the Sale Shares under clause 5.1(b).

Sale Proceeds means the gross proceeds of sale of the Sale Shares under clause 5.1(b), less any applicable taxes and charges incurred by Bidder or the Sale Agent in connection with the sale.

Sale Shares means the Bidder Shares to which Ineligible Foreign Shareholders would have been entitled under this Scheme but for the operation of clause 5.1(b).

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between Class and the Scheme Shareholders as set out in this document, subject to any alterations or conditions made or required by the Court and agreed to by Bidder and Class (such agreement not to be unreasonably withheld or delayed) made or required by the Court under section 411(6) of the Corporations Act and agreed to by Class and Bidder.

Scheme Consideration means the consideration to be provided to Scheme Shareholders under the terms of the Scheme for the transfer to the Bidder of their Scheme Shares, being:

- (a) the Cash Consideration; and
- (b) the Scrip Consideration.

Scheme Meeting means the meeting of Class Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to this Scheme, and includes any adjournment or postponement of that meeting.

Scheme Orders means 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.

Scheme Record Date means 7:00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between Class and Bidder, which may be a master transfer of all or part of all of the Scheme Shares.

Scheme Shares means the Class Shares on issue as at the Scheme Record Date.

Scheme Transfer means, in relation to each Scheme Shareholder, a proper instrument of transfer of their Scheme Shares for the purpose of section 1071B of the Corporations Act.

Scrip Consideration means 0.09090909 Bidder Shares for each Scheme Share held by a Scheme Shareholder.

Second Court Date means the first day of hearing of an application made to the Court for orders pursuant to section 411(4)(b) of the Corporations Act approving this Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Trust Account means an Australian dollar denominated trust account held with an Australian bank operated by Class (or by the Class Share Registry on behalf of Class) as trustee for the Scheme Shareholders.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.

- (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (v) A reference to a clause is a reference to a clause of this Scheme.
- (vi) A reference to an agreement or document (including a reference to this document) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this document or that other agreement or document.
- (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
- (viii) A reference to a person includes the person's successors, permitted substitutes and permitted assigns (and, where applicable, the person's legal personal representatives).
- (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (x) A reference to *dollars* or \$ is to Australian currency.
- (xi) Words and phrases not specifically defined in this Scheme have the same meanings (if any) given to them in the Corporations Act.
- (xii) A reference to time is to Sydney, Australia time.
- (xiii) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.

2 Conditions

2.1 Conditions Precedent

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

- (a) as at 8:00am on the Second Court Date each of the conditions precedent set out in clause 3.1 of the Scheme Implementation Deed (other than the condition precedent relating to the approval of the Court set out in clause 3.1(c) of the Scheme Implementation Deed) has been satisfied or waived in accordance with the Scheme Implementation Deed;
- (b) as at 8:00am on the Second Court Date, neither the Scheme Implementation Deed nor the Deed Poll has been terminated in accordance with its terms;
- (c) the Court makes orders approving this Scheme under section 411(4)(b) of the Corporations Act, including with such alterations made or required by the Court under section 411(6) of the Corporations Act and that are agreed to Class and Bidder (such agreement not to be unreasonably withheld or delayed);
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme and that are agreed to Class and Bidder (such agreement not to be unreasonably withheld or delayed); and

- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme come into effect, pursuant to section 411(10) of the Corporations Act on or before the End Date.

2.2 Lapsing

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

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms,

unless Class and Bidder otherwise agree in writing.

3 Scheme becoming Effective

Subject to clause 2, this Scheme will take effect on and from the Effective Date.

4 Implementation of Scheme

- (a) If the conditions precedent in clause 2.1 are satisfied or waived (other than the condition precedent in clause 2.1(e)), Class must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Orders as soon as possible and in any event before 5.00pm on the Business Day immediately following the day on which the Scheme Orders are entered, or such other date as agreed by Class and Bidder.

- (b) On the Implementation Date, subject to:

- (i) the payment by Class of the Cash Consideration in the manner contemplated by clause 5.3; and
- (ii) the Bidder having satisfied its obligation to provide the Scrip Consideration in the manner contemplated by clause 5.4,

all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Class or any of its directors and officers as attorney and agent for Scheme Shareholders under this Scheme), by:

- (iii) Class delivering to Bidder for execution duly completed Scheme Transfers to transfer all of the Scheme Shares to Bidder (and one or more Scheme Transfers can be a master transfer of all or part of all of the Scheme Shares), duly executed by Class (or any of its directors and officers) as the attorney and agent of each Scheme Shareholder as transferor under clause 8.3;
- (iv) Bidder executing the Scheme Transfers as transferee and delivering them to Class for registration; and
- (v) Class, immediately after receipt of the Scheme Transfers under clause 4(b)(iv), entering, or procuring the entry of, the name and address of Bidder in the Class Share Register as the holder of all of the Scheme Shares.

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

- (a) The Scheme Consideration in respect of each Scheme Share is:

- (i) the Scrip Consideration; and
- (ii) the Cash Consideration.
- (b) Bidder will be under no obligation under this Scheme to issue, and will not issue, any Bidder Shares to any Ineligible Foreign Shareholder as part of the Scheme Consideration. Instead, unless Class and Bidder agree:
- (i) Bidder must issue the Bidder Shares that would otherwise have been issued to the Ineligible Foreign Shareholder be issued to the Sale Agent on the Implementation Date (rounded up or down, in the case of fractional entitlements, to the nearest whole number, in accordance with clause 5.7);
- (ii) Bidder must procure that as soon as reasonably practicable after the Implementation Date, the Sale Agent sells the Bidder Shares issued to it on-market in such manner, at such price and on such other terms as the Sale Agent determines in good faith;
- (iii) promptly after the last sale of those Bidder Shares, Bidder will procure that the Sale Agent pays to each Ineligible Foreign Shareholder (in accordance with clause 5.1(e)) the amount calculated in accordance with the following formula, rounded down to the nearest cent:

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

where:

- A** is the amount to be paid to the Ineligible Foreign Shareholder;
- B** is the number of Bidder Shares attributable to, and that would otherwise have been issued to, that Ineligible Foreign Shareholder had it not been an Ineligible Foreign Shareholder and which were instead issued to the Sale Agent;
- C** is the total number of Bidder Shares attributable to, and which would otherwise have been issued to, all Ineligible Foreign Shareholders collectively and which were instead issued to the Sale Agent; and
- D** is the Sales Proceeds.
- (c) Each Ineligible Foreign Shareholder acknowledges that the Bidder, Class or the Sale Agent do not give any assurance as to the price that will be achieved for the sale of the Sale Shares by the Sale Agent. The sale of Sale Shares by the Sale Agent will be at the risk of the Ineligible Foreign Shareholders.
- (d) Each Ineligible Foreign Shareholder appoints Class as its agent to receive on its behalf any financial services or other notices (including any update of those documents) that the Sale Agent is required to provide to the Ineligible Foreign Shareholder under the Corporations Act.
- (e) The Sale Proceeds may be paid by Bidder in the following manner:
- (i) where the Ineligible Foreign Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Class Share Registry to receive dividend payments from Class by electronic funds transfer to a bank account nominated by the Ineligible Foreign Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
- (ii) otherwise, whether or not the Ineligible Foreign Shareholder has made an election referred to in clause 5.1(e)(i), 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 (as at the Scheme Record Date), such cheque being drawn in the name of the Ineligible Foreign Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.5).

5.2 Deposit of Scheme Consideration

Bidder must, by no later than 12.00pm on the date that is one Business Day before the Implementation Date:

- (a) deposit (or procure the deposit) in cleared funds into the Trust Account an amount at least equal to the aggregate amount of the Cash Consideration payable to each Scheme Shareholder provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account; and
- (b) provide written confirmation to Class as soon as reasonably practicable after making such deposit.

5.3 Provision of Cash Consideration

- (a) On the Implementation Date, subject to Bidder having satisfied its obligations in clause 5.2, Class must pay or procure the payment, from the Trust Account, to each Scheme Shareholder the Cash Consideration where the Scheme Shareholder is entitled under this clause 5.
- (b) The obligations of Class under clause 5.3(a) will be satisfied by Class (in its absolute discretion):
 - (i) where a Scheme Shareholder who is entitled under this clause 5 to receive the Cash Consideration has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Class Share Registry to receive dividend payments from Class by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (ii) otherwise, whether or not the Scheme Shareholder who is entitled under this clause 5 to receive the Cash Consideration has made an election referred to in clause 5.3(b)(i), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.5).
- (c) If:
 - (i) a Scheme Shareholder does not have a Registered Address and no account has been notified in accordance with clause 5.3(b)(i) or a deposit into such an account is rejected or refunded; or
 - (ii) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.8(b),

Class as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Class (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with under the *Unclaimed Money Act 1995* (NSW). To avoid doubt, if the amount is not

credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with under *Unclaimed Money Act 1995* (NSW). Until such time as the amount is dealt with under *Unclaimed Money Act 1995* (NSW), Class must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of the Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Class must maintain records of the amounts paid, the people who are intitled to the amount and any transfers of the amounts.

5.4 Provision of Scrip Consideration

Bidder must, subject to clauses 5.5 and 5.7:

- (a) procure that on the Implementation Date:
 - (i) Bidder issues the Bidder Shares to each Scheme Shareholder who is entitled under this clause 5 to receive the Scrip Consideration in respect of that Scheme Shareholder's Scheme Shares; and
 - (ii) the name and address of each such Scheme Shareholder is entered in the Bidder Share Registry as the holder of the Bidder Shares issued to that Scheme Shareholder on the Implementation Date;
- (b) procure that on or before the date that is five Business Days after the Implementation Date, a holding statement (or equivalent document) is sent to the Registered Address of each Scheme Shareholder to whom Bidder Shares are provided in accordance with clause 5.4(a) representing the number of Bidder Shares provided to that Scheme Shareholder pursuant to this Scheme; and
- (c) ensure that the Bidder Shares issued, at the time they are issued:
 - (i) have the rights set out in the Bidder constitution;
 - (ii) rank equally in all respects among themselves and with all other Bidder Shares on issue in Bidder; and
 - (iii) are fully paid and free from any Encumbrance.

5.5 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any amount comprising the Cash Consideration payable in respect of those Scheme Shares is payable to the joint holders and any cheque required to be sent under the Schemes will be made payable to the joint holders and sent to either, at the sole discretion of Class, the holder whose name appears first in the Class Share Register as at the Scheme Record Date or to the joint holders;
- (b) any Bidder Shares to be provided under the Scheme must be provided to and registered in the names of the joint holders; and
- (c) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Class, the holder whose name appears first in the Class Share Register as at the Scheme Record Date or to the joint holders.

5.6 Foreign resident capital gains withholding

- (a) If Bidder determines, having regard to legal advice, that Bidder is either:

- (i) required by law to withhold any amount from a payment or an issue of Bidder Shares (or a combination) to a Scheme Shareholder; or
- (ii) liable to pay an amount to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) in respect of the acquisition of Scheme Shares from a Scheme Shareholder,
- (either of the above being the **Relevant Amount**), then Bidder is entitled to:
- (iii) withhold the Relevant Amount before making the payment or issuing the Bidder Shares to the Scheme Shareholder (as applicable); and
- (iv) where the Scheme Consideration consist of only Bidder Shares (i.e. there is no Cash Consideration), reduce the number of Bidder Shares issued by a number calculated by the following factor, RA/VS , rounded up to the nearest whole number of Bidder Shares, where:
- (A) **RA** means the Relevant Amount; and
- (B) **VS** means the value (as reasonably assessed by Bidder) of one Bidder Share; and
- (v) where the Scheme Consideration is a combination of Cash Consideration and Bidder Shares, first withhold the Relevant Amount from any Cash Consideration, and payment of the reduced amount or issue of the reduced number of Bidder Shares (or a combination) and payment of the Relevant Amount to the relevant taxation authority pursuant to clause 5.6(b) will be taken to be full payment of the Relevant Amount for the purposes of this Scheme, including clauses 5.3 and 5.4.
- (b) Bidder must pay any Relevant Amount so withheld to the relevant taxation authority within the time permitted by law, and, if requested in writing by the relevant Scheme Shareholder, provide a receipt or other appropriate evidence (or procure the provision of such receipt or other evidence) of such payment to the relevant Scheme Shareholder.

5.7 Fractional entitlements

- (a) If the number of Scheme Shares held by an Scheme Shareholder as at the Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration:
- (i) includes a fractional entitlement to a Bidder Share; and/or
- (ii) includes a fractional entitlement to a cent,
- then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Bidder Shares or cents (as applicable), and any such fractional entitlement of 0.5 or more being rounded up to the nearest whole number of Bidder Shares or cents (as applicable).
- (b) Any fraction of a Bidder Share arising as a result of a rounding down under clause 5.7(a) will be paid in cash of an amount equal to the fraction multiplied by the issue price of one Bidder Share (calculated as the closing price per share of Bidder Shares on ASX as at the Scheme Record Date) and rounded down to the nearest whole cent.
- (c) If Class and Bidder are of the reasonable opinion that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.7(a)) have, before the Scheme Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding or shareholding splitting or division, then Class and Bidder must consult in

good faith to determine whether such matters have arisen and if agreement is reached between Class and Bidder following such consultation, Bidder may give notice to those Scheme Shareholders:

- (i) setting out their names and Registered Addresses;
- (ii) stating that opinion; and
- (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

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

5.8 Unclaimed monies

- (a) 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)).
- (b) Class may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to Class; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (c) During the period of six years commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Class (or the Class Share Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Class must reissue a cheque that was previously cancelled under this clause 5.8.

5.9 Remaining monies (if any) in Trust Account

To the extent that, following satisfaction of Class' obligations under the other provisions of this clause 5, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of this Scheme, the Deed Poll and the Scheme Implementation Deed, that surplus (less any bank fees and related charges) shall be paid by Class (or the Class Share Registry on Class' behalf) to Bidder.

5.10 Orders of a court

- (a) If written notice is given to Class (or the Class Share Registry) of an order or direction made by a court that:
 - (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by Class in accordance with this clause 5, then Class shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or

- (ii) prevents Class from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibitive by applicable law, Class shall be entitled to (as applicable):
- (A) retain an amount equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration; or
 - (B) direct Bidder not to issue, or to issue to a trustee or nominee, such number of Bidder Shares as that Scheme Shareholder would otherwise be entitled to under this clause,
- (as applicable), until such time as payment in accordance with this clause 5 is permitted by that (or another) court or direction or otherwise by law.
- (b) To the extent that amounts are so deducted or withheld in accordance with clause 5.10(a), such deducted or withheld amounts will be treated for all purposes under this Scheme as having been paid to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts are actually remitted as required.

6 Dealings in Class Shares

6.1 Dealings in Class Shares by Scheme Shareholders

For the purpose of establishing the persons who are Scheme Shareholders, dealings in Class Shares will be recognised by Class provided that:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Class Share Register as the holder of the relevant Class Shares by the Scheme Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Class Share Registry by 5.00pm on the day which is the Scheme Record Date at the place where the Class Share Register is located (in which case Class must register such transfers or transmission applications before 7.00pm on that day),

and Class will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Shareholders nor for any other purpose (other than to transfer to Bidder pursuant to this Scheme and any subsequent transfers by Bidder and its successors in title), any transfer or transmission application in respect of Class Shares received after such times, or received prior to such times but not in actionable or registrable form (as appropriate).

6.2 Class Share Register

- (a) Class will, until the Scheme Consideration has been provided and the name and address of Bidder has been entered in the Class Share Register as the holder of all of the Scheme Shares, maintain, or procure the maintenance of, the Class Share Register in accordance with this clause 6, and the Class Share Register in this form and the terms of this Scheme will solely determine entitlements to the Scheme Consideration.
- (b) As from the Scheme Record Date (and other than for Bidder following the Implementation Date), each entry in the Class Share Register as at the Scheme Record Date relating to Scheme Shares will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration in respect of those Scheme Shares.

- (c) As soon as possible on or after the Scheme Record Date, and in any event within two Business Days after the Scheme Record Date, Class will ensure that details of the names, Registered Addresses and holdings of Class Shares for each Scheme Shareholder as shown in the Class Share Register are available to Bidder.

6.3 Effect of share certificates and holding statements

As from the Scheme Record Date (and other than for Bidder following the Implementation Date), all share certificates and holding statements for Scheme Shares (other than statements of holding in favour of Bidder) will cease to have effect as documents of title in respect of those Scheme Shares.

6.4 No disposals after Scheme Record Date

If this Scheme becomes Effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after 5.00pm on the Scheme Record Date (other than to Bidder in accordance with this Scheme and any subsequent transfers by Bidder and its successors in title), and any attempt to do so will have no effect and Class shall be entitled to disregard any such disposal, purported disposal or agreement.

7 Suspension and termination of quotation of Class Shares

- (a) Class must use best endeavours to ensure that ASX suspends trading of the Class Shares on ASX with effect from the close of business on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidder, Class must apply to ASX for termination of official quotation of the Class Shares on ASX and the removal of Class from the official list of ASX.

8 General provisions

8.1 Further assurances

- (a) Each Scheme Shareholder and Class will do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of this Scheme and the transactions contemplated by it.
- (b) Without limiting Class' other powers under this Scheme, Class has power to do all things that it considers necessary or desirable to give effect to this Scheme, the Scheme Implementation Deed and the transactions contemplated by them.

8.2 Scheme Shareholders' agreements and consents

Each Scheme Shareholder:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Bidder in accordance with the terms of this Scheme;
- (b) agrees to the modification or variation (if any) of the rights attaching to their Scheme Shares constituted by or resulting from the Scheme;
- (c) who receives Bidder Shares as the Scheme Consideration, agrees:
- (i) to become a shareholder of Bidder and be bound by the terms of the Bidder constitution; and

- (ii) to have their name registered in the register on which Bidder Shares are recorded as a holder of Bidder Shares (in respect of the Bidder Shares which they are issued pursuant to the Schemes);
 - (d) acknowledges and agrees that this Scheme binds Class and all Scheme Shareholders (including those that did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting) and, to the extent of any inconsistency, overrides the Constitution; and
 - (e) irrevocably consents to Class and Bidder doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it,
- without the need for any further act by that Scheme Shareholder.

8.3 Appointment of Class as attorney for implementation of Scheme

Each Scheme Shareholder, without the need for any further act by that Scheme Shareholder, irrevocably appoints Class as that Scheme Shareholder's agent and attorney for the purpose of:

- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of this Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Transfers) under clause 4(b)(iii); and
- (b) enforcing the Deed Poll against Bidder,

and Class accepts such appointment. Class, as agent and attorney of each Scheme Shareholder, may sub delegate its functions, authorities or powers under this clause 8.3 to all or any of its directors and officers (jointly, severally, or jointly and severally).

8.4 Warranty by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to Bidder, and, to the extent enforceable, to have appointed and authorised Class as that Scheme Shareholder's agent and attorney to warrant to Bidder, that all of their Scheme Shares (including all rights and entitlements attaching to those Scheme Shares) will, at the time of the transfer of them to Bidder pursuant to this Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Shares (together with any rights and entitlements attaching to those Scheme Shares) to Bidder pursuant to this Scheme. Class undertakes in favour of each Scheme Shareholder that it will provide such warranty, to the extent enforceable, to Bidder on behalf of that Scheme Shareholder.

8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.3 and 5.4, Bidder will be

beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Class of the name and address of Bidder in the Class Share Register as the holder of the Scheme Shares.

8.6 Appointment of Bidder as attorney and agent for Scheme Shares

- (a) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.3 and 5.4 until Bidder is registered in the Class Share Register as the holder of all Scheme Shares, each Class Shareholder:
- (i) without the need for any further act by that Class Shareholder, irrevocably appoints Bidder as its proxy to (and irrevocably appoints Bidder as its agent and attorney for the purpose of appointing any director or officer of Bidder as that Class Shareholder's proxy and, where appropriate, its corporate representative to):
 - (A) attend shareholders' meetings of Class;
 - (B) exercise the votes attaching to the Class Shares registered in the name of the Class Shareholder; and
 - (C) sign any Class Shareholders' resolution;
 - (ii) must take all other action in the capacity of a Class Shareholder as Bidder reasonably directs; and
 - (iii) acknowledges and agrees that in exercising the powers referred to in clause 8.6(a), Bidder and any person nominated by Bidder under clause 8.6(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.3 and 5.4 until Bidder is registered in the Class Share Register as the holder of all Scheme Shares, no Class Shareholder may attend or vote at any meetings of Class Shareholders or sign any Class Shareholders' resolution (whether in person, by proxy or by corporate representative) other than under this clause 8.6.

8.7 Alterations and conditions to Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions, Class may, by its counsel or solicitors, and with the prior written consent of Bidder:

- (a) consent on behalf of all persons concerned, including each Class Shareholder, to those alterations or conditions; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which Class has consented to.

8.8 Enforcement of Deed Poll

Class undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder on behalf of and as agent and attorney for the Scheme Shareholders.

8.9 Consent

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

8.10 Notices

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

8.11 Duty

Bidder will:

- (a) pay all duty (including stamp duty and any related fines, penalties and interest) payable on the transfer by Scheme Shareholders of the Scheme Shares to Bidder pursuant to this Scheme; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 8.11(a).

8.12 No liability when acting in good faith

Each Scheme Shareholder agrees that none of Class and Bidder nor any director, officer, secretary or employee of Class or 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.

8.13 Governing law and jurisdiction

This document is governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there and courts of appeal from them in connection with matters concerning this document. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

Annexure B

Form of Deed Poll

For personal use only

Deed Poll

This Deed Poll is made on

By

HUB24 Limited (ACN 124 891 685) of Level 2, 7 Macquarie Place Sydney NSW 2000 (**Bidder**)

In favour of

Each Scheme Shareholder

Recitals

- A Bidder and Class Limited (ACN 116 802 058) of Level 20, 580 George St Sydney NSW 2000 (**Class**) have entered into a Scheme Implementation Deed dated 18 October 2021 (the **Scheme Implementation Deed**).
- B Class has agreed in the Scheme Implementation Deed to propose the Scheme, pursuant to which, subject to the satisfaction or waiver of certain conditions precedent, Bidder will acquire all of the Scheme Shares from Scheme Shareholders for the payment of the Scheme Consideration.
- C In accordance with the Scheme Implementation Deed, Bidder is entering into this Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders that Bidder will observe and perform the obligations attributed to it under the Scheme.

It is agreed as follows.

1 Definitions and interpretation

1.1 Definitions

Terms defined in the Scheme Implementation Deed have the same meaning in this Deed Poll, unless the context requires otherwise.

1.2 Interpretation

The provisions of clause 1.2 of the Scheme Implementation Deed form part of this Deed Poll as if set out in full in this Deed Poll, and on the basis that references to 'this deed' in that clause are references to 'this Deed Poll'.

2 Nature of Deed Poll

Bidder acknowledges that:

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

3 Condition precedent and termination

3.1 Condition precedent

The obligations of Bidder under this Deed Poll are subject to the Scheme becoming Effective.

3.2 Termination

If the Scheme Implementation Deed is terminated in accordance with its terms before the Effective Date or the Scheme does not become Effective on or before the End Date, the obligations of Bidder under this Deed Poll will automatically terminate and the terms of this Deed Poll will be of no further force or effect, unless Class and Bidder otherwise agree in writing.

3.3 Consequences of termination

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

- (a) Bidder is released from its obligations under this Deed Poll, except those obligations under clause 8.6; and
- (b) each Scheme Shareholder retains any rights, powers or remedies that Scheme Shareholder has against Bidder in respect of any breach of Bidder's obligations under this Deed Poll that occurred before termination of this Deed Poll.

4 Compliance with Scheme obligations

4.1 Obligations of Bidder

Subject to clause 3, Bidder covenants in favour of each Scheme Shareholder that it will duly and punctually observe and perform all actions attributed to Bidder under the Scheme, including the relevant obligations relating to the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme.

5 Representations and warranties

Bidder represents and warranties in respect of itself that each of the following representations and warranties is true and correct.

- (a) **(Status)** It is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
- (b) **(Power)** It has the power to enter into and perform its obligations under this Deed Poll, and to carry out the transactions contemplated by this Deed Poll.
- (c) **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into and performance of this Deed Poll by it and to carry out the transactions contemplated by this Deed Poll.
- (d) **(Document binding)** This Deed Poll is its valid and binding obligation enforceable in accordance with its terms.
- (e) **(Transactions permitted)** The execution and performance by it of this Deed Poll and each transaction contemplated by this Deed Poll did not and will not violate in any respect a provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution or other constituent documents.
- (f) **(Insolvency)** It is not subject to an Insolvency Event.

6 Continuing obligations

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

- (a) Bidder having fully performed its obligations under this Deed Poll; and

- (a) termination of this Deed Poll under clause 3.

7 Further assurances

Bidder will, on its own behalf and, to the extent authorised by the Scheme, on behalf of each Scheme Shareholder, do all things and execute all deeds, instruments, transfers or other documents as may be necessary to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

8 General

8.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed Poll:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be sent by regular ordinary post (airmail if appropriate) to the addresses referred to below, or sent by email to the addresses referred to below:

- | | | | |
|-----|------------|------------|---|
| (i) | to Bidder: | Address: | Level 2, 7 Macquarie Place
Sydney NSW 2000 |
| | | Email: | aalcock@hub24.com.au |
| | | Attention: | Andrew Alcock, Chief Executive
Officer & Managing Director |

- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
- (ii) in the case of delivery by post, six Business Days after the date of posting (if posted to an address in the same country) or ten Business Days after the date of posting (if posted to an address in another country); and
- (iii) in the case of email, at the earliest of:
- (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
- (B) the time that the intended recipient confirms receipt of the email by reply email; and
- (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made:

- (iv) in the case of delivery by hand or post, at a time that is later than 5pm;
- (v) in the case of delivery by email, at a time that is later than 7pm; or
- (vi) on a day that is not a business day,

in the place specified by the intended recipient as its postal address under clause 8.1(b), it will be conclusively taken to have been duly given or made at the start of business on the next business day in that place.

8.2 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by Bidder or by any Scheme Shareholder operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy. A waiver is not valid or binding on the person granting that waiver unless made in writing.

8.3 Remedies cumulative

The rights, powers and remedies of Bidder and of each Scheme Shareholder under this Deed Poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

8.4 Amendment

No amendment or variation of this Deed Poll is valid or binding unless:

- (a) either:
 - (i) before the Second Court Date, the amendment or variation is agreed to in writing by Class and Bidder (which such agreement may be given or withheld without reference to or approval by any Scheme Shareholder); or
 - (ii) on or after the Second Court Date, the amendment or variation is agreed to in writing by Class and Bidder (which such agreement may be given or withheld without reference to or approval by any Scheme Shareholder), and is approved by the Court; and
- (b) Bidder enters into a further deed poll in favour of the Scheme Shareholders giving effect to that amendment or variation.

8.5 Assignment

The rights and obligations of Bidder and of each Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, encumbered or otherwise dealt with and no person may attempt, or purport, to do so without the prior consent of Bidder and Class.

8.6 Duty

Bidder will:

- (a) pay all duty (including stamp duty and any related fines, penalties and interest) payable on the transfer by Scheme Shareholders of the Scheme Shares to Bidder pursuant to the Scheme; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 8.6(a).

8.7 Governing law and jurisdiction

This document is governed by the laws of New South Wales. Bidder submits to the non-exclusive jurisdiction of courts exercising jurisdiction there and courts of appeal from them in connection with matters concerning this document. Bidder irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

Executed and delivered as a Deed Poll.

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* (Cth) by **HUB24 Limited**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

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

For personal use only


Amendment and Restatement Deed

Executed and delivered as a Deed.

Class

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by


Class Limited:

DocuSigned by:

05E7C15783B44BD...

Director Signature

Andrew Russell

Print Name

DocuSigned by:

B76260BD1EF2446...

Director/Secretary Signature

Jasmin Chew

Print Name

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

For personal use only

Bidder

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **HUB24 Limited**:

For personal use only



Director Signature



Director/Secretary Signature

Andrew Alcock

Print Name

Kitrina Shanahan

Print Name

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