

ASX Announcement

Blackmores enters into Scheme Implementation Deed with Kirin

This announcement was authorised for release by the Board of Directors of Blackmores Limited.

KEY HIGHLIGHTS

- Blackmores Limited (**Blackmores**) has entered into a Scheme Implementation Deed with Kirin Holdings Company, Limited (**Kirin**) for the acquisition of 100% of the issued share capital of Blackmores by way of a scheme of arrangement (**Scheme**)
- Under the terms of the Scheme, Blackmores shareholders will receive cash consideration of \$95.00 per Blackmores share, less any special dividend declared or paid prior to implementation of the Scheme (**Scheme Consideration**)
- If the Scheme becomes effective, the Blackmores Board intends to declare a fully-franked special dividend of \$3.34 per Blackmores share (subject to availability of franking credits)¹ (**Special Dividend**) payable on or immediately prior to implementation of the Scheme, which is expected to enable eligible shareholders to benefit from franking credits of \$1.43¹ per Blackmores share attached to any such Special Dividend
- Blackmores' Board unanimously recommends the Scheme, subject to conditions outlined below
- Blackmores' largest shareholder, Marcus Blackmore, who holds or controls approximately 18% of Blackmores' ordinary shares outstanding as at the date of this announcement, has informed Blackmores that he has agreed with Kirin to vote 3,516,834 Blackmores shares held or controlled by him in favour of the Scheme, unless otherwise directed by Kirin
- The Scheme Consideration represents a 23.7% premium to last close, a 30.5% premium to the Blackmores one-month volume weighted average price up to and including 6 April 2023² and an implied acquisition multiple of 23.1x LTM Dec 22 EBITDA³
- The Scheme is subject to certain conditions, including informal clearance by the Australian Competition and Consumer Commission (**ACCC**), and approval by the Australian Foreign Investment Review Board (**FIRB**), and the State Administration for Market Regulation (**SAMR**) of the People's Republic of China
- Blackmores shareholders do not need to take any action at this time

OVERVIEW

Blackmores Limited (**ASX: BKL**) (**Blackmores** or the **Company**) announced today that it has entered into a Scheme Implementation Deed with Kirin Holdings Company, Limited (**TSE: 2503**) (**Kirin**) for the acquisition of 100% of the issued share capital of Blackmores by way of a scheme of arrangement (**Scheme**).

¹ Subject to availability of franking credits and provided that it will not result in the franking account of Blackmores being in deficit after the special dividend is paid.

² Being the last trading day prior to the date upon which Blackmores was the subject of media speculation that it may attract interest as a takeover target.

³ Based on Underlying EBITDA for the last twelve months to 31 December 2022 of \$79.7 million.

If the Scheme is implemented, Blackmores shareholders will receive total cash consideration of \$95.00 per share (**Scheme Consideration**), less any special dividend declared and paid to Blackmores shareholders on or before the date of implementation of the Scheme. A fully-franked special dividend of \$3.34 per Blackmores share (subject to availability of franking credits)⁴ (**Special Dividend**) is expected to be paid, resulting in franking credits of \$1.43⁴ per Blackmores share attached to any such Special Dividend.

DETAILS OF THE SCHEME CONSIDERATION

The Scheme Consideration values Blackmores' equity at approximately \$1,880 million⁵, and at an enterprise value of approximately \$1,840 million⁶, and represents:

- a 23.7% premium to the last close price of \$76.79;
- a 30.5% premium to the 1-month volume weighted average price (**VWAP**) up to and including 6 April 2023⁷ of \$72.80;
- a 29.7% premium to the 12-month VWAP up to and including 6 April 2023⁷ of \$73.22; and
- an implied EV / EBITDA multiple of 23.1x Blackmores' LTM Dec 22 underlying EBITDA⁸.

BLACKMORES DIRECTORS UNANIMOUSLY RECOMMEND THE SCHEME

Blackmores' Board of Directors unanimously recommends that Blackmores shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Blackmores shareholders. Each Blackmores Director intends to vote all of the Blackmores shares that he or she holds or controls in favour of the Scheme, subject to those same qualifications.

Blackmores Chair, Wendy Stops, said: "The Kirin Scheme represents an attractive, all-cash transaction. The Blackmores Board believes the agreed Scheme Consideration represents appropriate long-term value for the Company and an attractive outcome for Blackmores shareholders. The Blackmores Board has accordingly unanimously recommended that Blackmores shareholders vote in favour of the Scheme, subject to customary conditions such as independent expert conclusions and no superior proposal."

Blackmores Chief Executive Officer and Managing Director, Alastair Symington, said: "Today is an important day in the history of Blackmores. The Kirin proposal recognises the strong leadership position that Blackmores, through its brands and people, has established in the natural health sector across the Asia Pacific region over our long history. Importantly it also confirms the significant opportunity that lies ahead for our employees and other key stakeholders of Blackmores as both companies come together to combine their focus on growing Kirin's health science business across the world.

The combination of Kirin and Blackmores is testament to the clarity and ambition of our collective strategic direction and is recognition of the significant effort, and capital invested at Blackmores over the past 3 years in repositioning the business for sustainable profitable growth.

Kirin is a leading Food and Beverage, Pharmaceuticals and Health Science company, headquartered in Tokyo and listed on the Tokyo Stock Exchange with a market capitalisation of A\$22.9 billion⁹. For decades, Kirin has sought to leverage its evidence based ingredient technology outside of its core beverage categories, and has increased its focus on health-related products. The proposed acquisition of Blackmores will accelerate Kirin's aspiration to become the leading health science company in Asia-

⁴ Subject to availability of franking credits and provided that it will not result in the franking account of Blackmores being in deficit after the special dividend is paid.

⁵ Calculated based on 19,450,635 issued ordinary shares and 339,377 outstanding share rights (as disclosed by Blackmores to ASX on 13 April 2023).

⁶ Based on reported net cash of \$75.1 million, lease liabilities of \$21.9 million and equity attributable to non-controlling interests of \$13.0 million as at 31 December 2022.

⁷ Being the last trading day prior to the date upon which Blackmores was the subject of media speculation that it may attract interest as a takeover target.

⁸ Based on Underlying EBITDA for the last twelve months to 31 December 2022 of \$79.7 million.

⁹ Calculated based on last close of ¥2,225 and issued ordinary shares of 914,000,000, converted to AUD equivalent at an exchange rate of 88.80 JPY per 1.00 AUD.

Pacific. The combined company will have a larger platform to further leverage the Blackmores brand, accelerate penetration into high growth Asian markets, and expand its presence into new geographies.”

Kirin President and Chief Executive Officer, Yoshinori Isozaki, commented that “Blackmores presents an exciting opportunity to transform the scale and reach of our Health Science domain. Kirin Group is working to create social value and economic value by solving social issues through our business activities, and we have been transforming our business from a brewing business to the business model creating value across Food & Beverages and Pharmaceuticals domains, based on the concept of “CSV” (Creating Shared Value).”

Takeshi Minakata, Director of the Board, Senior Executive Officer, President of Health Science Business Division in charge of Strategy of the Health Science Domain said: “We believe Blackmores will accelerate the transformation of our Health Science Domain as both Kirin and Blackmores share a vision to improve people’s lives through our products as well as a commitment to quality, innovation and investment. We are excited about the growth potential for the Blackmores business and look forward to supporting its growth and development, and furthering its commitment to quality ingredients and product development.

Kirin will continue to invest in Blackmores, its brands and its foundations in complementary medicine to accelerate its growth across the Asia Pacific region and globally. We also recognise the strength and capability of the Blackmores team and will work with them to build on the proud legacy of the Blackmores business and to realise its full potential, whilst maintaining its headquarters and manufacturing operations in Australia.”

DETAILS OF THE SCHEME IMPLEMENTATION DEED

The implementation of the Scheme is subject to various customary conditions. A copy of the Scheme Implementation Deed (**SID**), which sets out the terms and conditions of the Scheme and associated matters, is attached to this announcement. Capitalised terms used in this section below have the meaning given to those terms in the SID.

In summary, conditions for implementation of the Scheme include:

- the Independent Expert issues an Independent Expert’s Report which concludes that the Scheme is in the best interests of Blackmores shareholders (and not changing or withdrawing that conclusion);
- informal clearance by the Australian Competition and Consumer Commission (**ACCC**);
- approval of the Foreign Investment Review Board (**FIRB**);
- approval of the State Administration for Market Regulation (**SAMR**) of the People’s Republic of China;
- approval of Blackmores shareholders and the Federal Court of Australia; and
- no Material Adverse Change, Regulated Event or Prescribed Occurrence event occurring.

The Scheme is not subject to any financing condition.

Under the SID, Blackmores will be subject to customary exclusivity obligations, including no shop, no talk and no due diligence obligations, notification obligations and a matching right. A break fee will be payable by Blackmores to Kirin in certain circumstances.

SPECIAL DIVIDEND

If the Scheme becomes effective, the Blackmores Board intends to declare and pay a fully-franked Special Dividend of \$3.34 per share (subject to the availability of franking credits)¹⁰ on or immediately prior to the implementation of the Scheme. This quantum of the Special Dividend will be dependent on the franking credits available at the time of the Scheme. Subject to the availability of franking credits,

¹⁰ Subject to availability of franking credits and provided that it will not result in the franking account of Blackmores being in deficit after the special dividend is paid.

there may be an opportunity for eligible shareholders to benefit from franking credits of \$1.43¹¹ per share attached to the Special Dividend. The Scheme Consideration will be reduced by the amount of any Special Dividend (but not for the amount of any franking credits). The payment and the amount of any Special Dividend remain at the discretion of the Blackmores Board¹².

Blackmores will provide an update on the expected quantum of the Special Dividend in due course.

MAJOR SHAREHOLDER VOTING

Marcus Blackmore (who has a relevant interest in approximately 18% of Blackmores' ordinary shares outstanding as at the date of this announcement) has informed the Company that he has agreed with Kirin to vote 3,516,834 Blackmores shares held or controlled by him in favour of the Scheme, unless otherwise directed by Kirin.

INDICATIVE TIMETABLE AND NEXT STEPS

Blackmores shareholders do not need to take any action at this point in time.

A Scheme Booklet containing information relating to the proposed acquisition, reasons for the Directors' recommendation, an Independent Expert's Report, and details of the Scheme meeting will be prepared and provided to the Australian Securities and Investments Commission for review, and subsequently sent to Blackmores shareholders.

Shareholders will then have the opportunity to vote on the Scheme at a court-convened shareholder meeting that is expected to be held in July 2023. Subject to shareholder approval being obtained by the requisite majorities and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented in the third quarter of 2023.

ADVISERS

Barrenjoey Capital Partners and Adara Partners are acting as joint financial advisers, and Herbert Smith Freehills is acting as legal adviser, to Blackmores in relation to the Scheme.

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¹¹ Subject to availability of franking credits and provided that it will not result in the franking account of Blackmores being in deficit after the special dividend is paid.

¹² Blackmores intends to apply to the ATO for a Class Ruling on the treatment of the Scheme Consideration and the Special Dividend in the hands of the shareholders.

About Blackmores

Blackmores is an ASX publicly listed Australian company employing 1,200+ people in 13 markets across Asia-Pacific. Founded in 1932, our vision is to connect every person on earth to the healing power of nature by combining our knowledge of nature and science to deliver quality health solutions to people and their pets everywhere, every day.

Our high-quality, evidence-based range of brands includes Blackmores – Australia’s No.1 natural health brand; BioCeuticals – Australia’s leading practitioner range; and PAW – natural health products for pets. Blackmores Institute is our academic and research centre of excellence.

Recognising that you can’t have healthy people without a healthy planet, we’re strongly committed to embedding sustainability across our business and giving back to the communities in which we operate. Blackmores’ headquarters is located on Sydney’s Northern Beaches and our tablet and soft gel capsule manufacturing facility is located in Braeside, Victoria.

About Kirin

Kirin is an international company that operates in the Food & Beverages domain (Food & Beverages businesses), Pharmaceuticals domain (Pharmaceuticals businesses), and Health Science domain (Health Science businesses), both in Japan and across the globe. Kirin is headquartered in Tokyo and listed on the Tokyo Stock Exchange with a market capitalisation of A\$22.9 billion¹³, employing some 30,000 around the world.

Kirin can trace its roots to Japan Brewery which was established in 1885. Japan Brewery became Kirin Brewery in 1907. Since then, the company expanded its business with fermentation and biotechnology as its core technologies, and entered the pharmaceuticals business in the 1980s, all of which continue to be global growth centers. In 2007, Kirin was established as a pure holding company and is currently focusing on boosting its Health Science domain.

Under the *Kirin Group Vision 2027 (KV 2027)*, a long-term management plan launched in 2019, the Kirin Group aims to become “A global leader in CSV*, creating value across our world of Food & Beverages to Pharmaceuticals.” Going forward, the Kirin Group will continue to leverage its strengths to create both social and economic value through its businesses, with the aim of achieving sustainable growth in corporate value.

* Creating Shared Value: combined added value for consumers as well as for society at large.

About Kirin Health Science Division

Since inception, Kirin has prioritised the quality of its products, and has developed its fermentation technology and biotechnology capability to science-grade levels. Since the 1980s, Kirin has sought to leverage its technology outside of its core beer segment, and has increased its focus on its Health Science business.

As part of KV2027, Kirin is currently executing on a number of initiatives across its key segments, including scaling up the Health Science Business Division, in which it is targeting sales of ¥200 billion (A\$2.3 billion)¹⁴ in 2027 (vs. ¥103.6 billion (A\$1.2 billion)¹⁴ in 2022).

Kirin’s Health Science business has a strong and established research and development capability. The business produces leading technologies such as LC-Plasma (postbiotic), the first product registered with Japan’s Consumer Affairs Agency, to be labelled as a Food with Functional Claims to support the maintenance of immunity, and produces ingredients such as Citicoline and Human Milk Oligosaccharides (HMO).

¹³ Calculated based on last close of ¥2,225 and issued ordinary shares of 914,000,000, converted to AUD equivalent at an exchange rate of 88.80 JPY per 1.00 AUD.

¹⁴ Converted to AUD at an exchange rate of exchange rate of 88.80 JPY per 1.00 AUD.

Kirin aspires to become the leading health science company in Asia-Pacific, covering all regions where there is growing focus on consumer health and wellbeing. In this regard, Kirin has completed a number of acquisitions in this space, including Thorne (c.30% stake), a personal supplements business in the US, FANCL (c.33% stake), one of the largest VDS (vitamin and dietary supplement) and skin care players in Japan, and Kyowa Hakko Bio (100%), a manufacturer of supplement ingredients in Japan.

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ATTACHMENT – SCHEME IMPLEMENTATION DEED

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HERBERT
SMITH
FREEHILLS

Deed

EXECUTION VERSION

Scheme Implementation Deed

Blackmores Limited

Kirin Holdings Company, Limited

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Attachment 1

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| Scheme of arrangement | |
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Attachment 2

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| Deed poll | |
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Attachment 3

Conditions Precedent certificate

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Scheme Implementation Deed

Date ►

Between the parties

Blackmores

Blackmores Limited

ACN 009 713 437 of 20 Jubilee Avenue, Warriewood, New South
Wales, Australia, 2102

Bidder

Kirin Holdings Company, Limited

Nakano Central Park South, 4-10-2 Nakano, Tokyo, 164-0001, Japan

Recitals

- 1 The parties have agreed that Bidder will acquire all of the ordinary shares in Blackmores by means of a scheme of arrangement under Part 5.1 of the Corporations Act between Blackmores and the Scheme Shareholders.
 - 2 The parties have agreed to implement the scheme of arrangement on the terms and conditions of this deed.
-

This deed witnesses as follows:



1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out in Schedule 1.

1.2 Interpretation

Schedule 1 contains interpretation rules for this deed.

1.3 Deed components

This deed includes any schedule.

2 Agreement to proceed with the Transaction

- (a) Blackmores agrees to propose the Scheme on and subject to the terms and conditions of this deed.
- (b) Bidder agrees to:
 - (1) assist Blackmores to propose the Scheme; and
 - (2) procure Bidder Sub to assist Blackmores propose the Scheme, on and subject to the terms and conditions of this deed.
- (c) Blackmores and Bidder agree to implement the Scheme on and subject to the terms and conditions 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 respective obligations of the parties in relation to the implementation of the Scheme are not binding, until each of the following Conditions Precedent is satisfied or waived to the extent and in the manner set out in this clause 3.

- (a) **FIRB**: before 5.00pm on the Business Day before the Second Court Date one of the following has occurred:
 - (1) Bidder has received written notice under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**), by or on behalf of the Treasurer of the Commonwealth of Australia (**Treasurer**), advising that the Commonwealth Government has no objections to the Transaction either unconditionally or on terms that are acceptable to Bidder acting reasonably;



- (2) the Treasurer becomes precluded by the passage of time from making an order or decision under Part 3 of the FATA in relation to the Transaction and the Transaction is not prohibited by section 82 of the FATA; or
- (3) where an interim order is made under section 68 of the FATA in respect of the Transaction, the subsequent period for making an order or decision under Part 3 of the FATA elapses without the Treasurer making such an order or decision.
- (b) **Competition approvals:** before 5.00pm on the Business Day before the Second Court Date one of the following has occurred:
- (1) **(ACCC)** Bidder obtaining written confirmation of clearance from the ACCC in relation to the Transaction, under which the ACCC confirms that it:
- (A) does not intend to conduct a public review of the Transaction; or
- (B) will not oppose the Transaction; and
- (2) **(PRC merger approval)** a merger control notification having been submitted to, and accepted by, the State Administration for Market Regulation (**SAMR**) under the Anti-Monopoly Law of the People's Republic of China (the **PRC AML**), and the Transaction having been cleared or deemed to have been cleared by SAMR under the PRC AML, and where such clearance is subject to conditions, such conditions being satisfactory to the parties, acting reasonably, (together, the **Competition Approvals**).
- (c) **Shareholder approval:** Blackmores Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under subparagraph 411(4)(a)(ii) of the Corporations Act.
- (d) **Independent Expert:** the Independent Expert:
- (1) issues an Independent Expert's Report which concludes that the Scheme is in the best interests of Blackmores Shareholders before the time when the Scheme Booklet is registered by ASIC; and
- (2) does not change its conclusion or withdraw its Independent Expert's Report before 8.00am on the Second Court Date.
- (e) **Court approval:** the Court approves the Scheme in accordance with paragraph 411(4)(b) of the Corporations Act.
- (f) **Restraints:** as at 8.00am on the Second Court Date, there is not in effect any temporary, preliminary or final order, injunction, decision or decree or other material legal restraint or prohibition issued by a court of competent jurisdiction or Government Agency that would prevent, make illegal or prohibit the implementation of the Scheme.
- (g) **No Blackmores Prescribed Occurrence:** no Blackmores Prescribed Occurrence occurs between (and including) the date of this deed and 8.00am on the Second Court Date.
- (h) **No Blackmores Regulated Event:** no Blackmores Regulated Event occurs between (and including) the date of this deed and 8.00am on the Second Court Date.



- (i) **No Blackmores Material Adverse Change:** no Blackmores Material Adverse Change occurs between (and including) the date of this deed and 8.00am on the Second Court Date.
- (j) **Blackmores Equity Incentives:** as at 8.00am on the Second Court Date, Blackmores has complied with its obligations under clause 4.4 so that there will be no Blackmores Equity Incentives on issue upon implementation of the Scheme.

3.2 Satisfaction of Conditions Precedent

- (a) Blackmores must, to the extent it is within its power to do so, use all reasonable endeavours to procure that each of the Conditions Precedent in clauses 3.1(g) (No Blackmores Prescribed Occurrence), 3.1(h) (No Blackmores Regulated Event), 3.1(i) (No Blackmores Material Adverse Change) and 3.1(j) (Blackmores Equity Incentives) is satisfied as soon as practicable after the date of this deed and continues to be satisfied at all times until the last time that the relevant clause provides that it is to be satisfied.
- (b) Bidder must, to the extent it is within its power to do so, use all reasonable endeavours to procure that each of the Conditions Precedent in clauses 3.1(a) (FIRB) and 3.1(b) (Competition Approvals) is satisfied as soon as practicable after the date of this deed and continues to be satisfied at all times until the last time that the relevant clause provides that it is to be satisfied.
- (c) Each party must, to the extent it is within its respective power to do so, use all reasonable endeavours to procure that:
 - (1) the Conditions Precedent in clauses 3.1(c) (Shareholder approval), 3.1(d) (Independent Expert), 3.1(e) (Court approval) and 3.1(f) (Restraints) are satisfied as soon as practicable after the date of this deed and continue to be satisfied at all times until the last time that the relevant clause provides that it is to be satisfied; and
 - (2) there is no occurrence within its control or the control of any of its Subsidiaries that would prevent any of the Conditions Precedent being or remaining satisfied.
- (d) Without limiting this clause 3.2 and except to the extent prohibited by a Government Agency, Bidder must:
 - (1) promptly and in any event within 5 Business Days after the date of this deed apply for the regulatory approvals referred to in clauses 3.1(a) (FIRB Approval) and 3.1(b) (Competition Approvals) and provide to Blackmores a copy of those applications. The time by which Bidder must apply for the regulatory approval referred to in clause 3.1(b)(2) may be extended:
 - (A) by an additional 5 Business Days by Bidder providing written notice to Blackmores that it requires such additional time to apply for such regulatory approval; or
 - (B) such longer time as may be agreed in writing between Bidder and Blackmores;
 - (2) take all steps required as part of the FIRB Approval and Competition Approvals process, including responding to requests for information from the relevant Government Agencies at the earliest practicable time;

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- (3) keep Blackmores informed of progress in relation to FIRB Approval and Competition Approvals (including in relation to any material matters raised by, or conditions or other arrangements proposed by, or to, any Government Agency in relation to FIRB Approval and Competition Approvals) and provide Blackmores with all information reasonably requested by Blackmores in connection with the application for, or progress of, FIRB Approval and Competition Approvals; and
 - (4) consult with Blackmores in advance in relation to the progress of obtaining, and all material communications with Government Agencies regarding FIRB Approval and Competition Approvals and processes.
- (e) Bidder acknowledges and agrees that the Standard Tax Conditions issued by FIRB from time to time are reasonable and acceptable to it if they are included in any “no objections” notification contemplated by clause 3.1(a) that is received in connection with the Transaction.

3.3 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a) (FIRB), 3.1(c) (Shareholder approval) and 3.1(e) (Court approval) cannot be waived.
- (b) The Conditions Precedent in clauses 3.1(g) (No Blackmores Prescribed Occurrence), 3.1(h) (No Blackmores Regulated Event), 3.1(i) (No Blackmores Material Adverse Change) and 3.1(j) (Blackmores Equity Incentives) are for the sole benefit of Bidder and may only be waived by Bidder in writing.
- (c) The Condition Precedent in clause 3.1(d) (Independent Expert) is for the sole benefit of Blackmores and may only be waived by Blackmores in writing.
- (d) The Conditions Precedent in clauses 3.1(b) (Competition Approvals) and 3.1(f) (Restraints) are for the benefit of both parties and may only be waived by written agreement between Bidder and Blackmores.
- (e) Waiver of a breach or non-satisfaction in respect of one Condition Precedent does not constitute:
 - (1) a waiver of breach or non-satisfaction of any other Condition Precedent resulting from the same event; or
 - (2) a waiver of breach or non-satisfaction of that Condition Precedent resulting from any other event.

3.4 Termination on failure of Condition Precedent

- (a) If there is an event or occurrence that would, does, or will prevent any of the Conditions Precedent being satisfied (including, for the avoidance of doubt, if Blackmores Shareholders do not agree to the Scheme at the Scheme Meeting by the requisite majorities), or if any of the Conditions Precedent will not otherwise be satisfied, by the earlier of:
 - (1) the time and date specified in this deed for the satisfaction of that Condition Precedent; and
 - (2) the End Date,or such Condition Precedent is otherwise not satisfied by that specified time and date or by the End Date (as applicable), then:



- (3) if Bidder has given notice to Blackmores under clause 3.5(b) in respect of an actual or alleged breach of one or more of the Conditions Precedent in clauses 3.1(g) (No Blackmores Prescribed Occurrence), 3.1(h) (No Blackmores Regulated Event), 3.1(i) (No Blackmores Material Adverse Change), if Blackmores remedies the breach within 20 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which that notice is given, the relevant Condition Precedent or Conditions Precedent (as applicable) will not be taken to have been breached or not satisfied; and
- (4) either party may give the other party written notice setting out the relevant circumstances (**Consultation Notice**) within 10 Business Days after a relevant notice being given under clause 3.5(b) and the parties then must consult in good faith to:
- (A) consider and, if agreed, determine, whether the Transaction may proceed by way of alternative means or methods;
 - (B) consider changing and, if agreed, change, the date of the application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed to in writing by Bidder and Blackmores (being a date no later than 5 Business Days before the End Date); or
 - (C) consider extending and, if agreed, extend, the time and date specified in this deed for the satisfaction of that Condition Precedent or End Date (as applicable),
- respectively.
- (b) Subject to clauses 3.4(c) and 3.4(d), if the parties are unable to reach agreement under clause 3.4(a) within 5 Business Days after the date on which the Consultation Notice is given, then, unless:
- (1) the relevant Condition Precedent has been waived in accordance with clause 3.3; or
 - (2) the party, or in the case of clause 3.3(d), each party, entitled to waive the relevant Condition Precedent in accordance with clause 3.3 confirms in writing to the other party that it will not rely on the event or occurrence that would or does prevent the relevant Condition Precedent from being satisfied, or would mean the relevant Condition Precedent would or will not otherwise be satisfied,
- either party may terminate this deed without any liability to the other party because of that termination.
- (c) A party may not terminate this deed pursuant to clause 3.4(b) if:
- (1) the relevant occurrence or event, the failure of the Condition Precedent to be satisfied, or the failure of the Scheme to become Effective, arises out of a breach of clauses 3.2 or 3.5 by that party, although in such circumstances the other party may still terminate this deed; or
 - (2) the relevant Condition Precedent is stated in clause 3.3 to be for the sole benefit of the other party.
- (d) If the Condition Precedent in clause 3.1(c) (Shareholder approval) is not satisfied only because of a failure to obtain the majority required by sub-

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subparagraph 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice to the other within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that sub-subparagraph, provided the party has, in good faith formed the view that the prospect of the Court exercising its discretion in that way is reasonable. If approval is given, the Condition Precedent in clause 3.1(c) (Shareholder approval) is deemed to be satisfied for all purposes.

3.5 Certain notices relating to Conditions Precedent

If a party becomes aware of:

- (a) the satisfaction of a Condition Precedent or of any material progress towards such satisfaction; or
- (b) the happening of an event or occurrence that would, does, will or is likely to:
 - (1) prevent a Condition Precedent being satisfied; or
 - (2) mean that any Condition Precedent will not otherwise be satisfied, before the time and date specified for its satisfaction (or being satisfied by the End Date, if no such time and date is specified) or such Condition Precedent is not otherwise satisfied by that time and date (including, for the avoidance of doubt, if Blackmores Shareholders do not agree to the Scheme at the Scheme Meeting by the requisite majorities),

it must advise the other by notice in writing, as soon as possible (and in any event within 2 Business Days).

4 Transaction steps

4.1 Scheme

Blackmores must propose the Scheme to Blackmores Shareholders on and subject to the terms and conditions of this deed and the Scheme.

4.2 Scheme Consideration

- (a) The parties acknowledge that each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder in accordance with the terms and conditions of this deed and the Scheme.
- (b) Bidder undertakes and warrants to Blackmores (in its own right and separately on behalf of the Scheme Shareholders) that, in consideration of the transfer to Bidder Sub of each Blackmores Share held by a Scheme Shareholder under the terms of the Scheme, on the Implementation Date Bidder will:
 - (1) procure that Bidder Sub will accept that transfer; and
 - (2) provide to each Scheme Shareholder the Scheme Consideration for each Scheme Share in accordance with the terms and conditions of this deed and the Scheme.

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4.3 Provision of Blackmores Share information

- (a) In order to facilitate the provision of the Scheme Consideration, Blackmores must provide, or procure the provision to Bidder of a complete copy of the Blackmores Share Register as at the Scheme Record Date (which must include the name, Registered Address and registered holding of each Scheme Shareholder as at the Scheme Record Date), within one Business Day after the Scheme Record Date.
- (b) The details and information to be provided under clause 4.3(a) must be provided in such form as Bidder may reasonably require.

4.4 Blackmores Equity Incentives

- (a) The parties agree that the Blackmores Equity Incentives will be treated in the manner agreed between the parties.
- (b) For the avoidance of doubt, the parties agree that the exercise of any power, right or discretion by the Blackmores Board, or any other action, which is in accordance with this clause 4.4 will not be a Blackmores Prescribed Occurrence, Blackmores Regulated Event or Blackmores Material Adverse Change or a breach of any provision of this deed, or give rise to any right to terminate this deed, and will be disregarded when assessing the operation of any other part of this deed.

4.5 Special Dividend

- (a) Subject to:
 - (1) the Scheme becoming Effective;
 - (2) Blackmores having received a draft class ruling from the Australian Tax Office or other indicative confirmation from the Australian Tax Office in a form acceptable to Blackmores; and
 - (3) Blackmores complying with the requirements of section 254T of the Corporations Act,

and notwithstanding anything else in this deed, Blackmores may (in its absolute discretion) declare and pay a special dividend of \$3.34 per Blackmores Share (subject to the availability of franking credits), which may be fully or partially franked subject to the availability of franking credits and provided that it will not result in the franking account of Blackmores being in deficit after the special dividend is paid (**Special Dividend**) to Blackmores Shareholders, provided that:

- (4) the Special Dividend is not in breach of the "benchmark rule" as defined in section 203-25 of the Tax Act;
- (5) the franking account of Blackmores is not in deficit immediately after the payment of the Special Dividend due to the payment of the Special Dividend and/or any tax refunds received by Blackmores before or immediately after the declaration of, or the resolution to pay, the Special Dividend;
- (6) Blackmores must provide a copy of the Blackmores franking account to Bidder, for information purposes only, on the following dates:
 - (A) 15 Business Days prior to the declaration or resolution to pay the Special Dividend; and

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- (B) 5 Business Days prior to the Implementation Date;
- (7) the record date for the Special Dividend must be at least two days before the Scheme Record Date;
- (8) the payment date for the Special Dividend will be determined by Blackmores (in its absolute discretion), provided that the payment date occurs on or before the Implementation Date; and
- (9) the aggregate amount of the Special Dividend paid to Blackmores Shareholders does not exceed \$65 million.
- (b) The Scheme Consideration will be reduced by the cash amount of the Special Dividend, but for the avoidance of doubt will not be reduced by:
- (1) the value attributed to any franking credits attached to the Special Dividend; or
- (2) the amount of any dividend announced, declared or paid by Blackmores prior to the date of this deed.
- (c) If Blackmores announces, declares and pays a Special Dividend in accordance with this clause 4.5, the Special Dividend is to be paid from accumulated profits, retained earnings or distributable reserves (or a combination or some or all of them) of the Blackmores Group immediately prior to the declaration of that dividend.
- (d) In respect of the ruling contemplated by clause 4.5(a):
- (1) Blackmores must provide a draft of the class ruling request within a reasonable time before submission to the ATO for the purpose of enabling Bidder to comment on the request; and
- (2) Blackmores must consider in good faith, for the purpose of amending the draft ruling request, any reasonable comments from Bidder on the draft ruling request which Bidder must provide on a timely basis; and
- (3) each party must provide the other party with such assistance and information as may reasonably be requested by the other party for the purposes of obtaining the ruling.
- (e) Blackmores must not operate, or recommence the operation of, its dividend reinvestment plan.
- (f) Bidder undertakes (on behalf of itself and the Bidder Group) that no amount of the Special Dividend shall be directly or indirectly funded on or after Implementation from the issue of equity interests (as defined in section 995-1 of the Income Tax Assessment Act 1997) by any company, whether such equity interests are issued before or after the implementation of the Scheme. For the avoidance of doubt, this includes an undertaking that no proceeds from an equity issuance will be applied by the Bidder Group towards the repayment of any portion of any debt facility that has been drawn by Blackmores prior to the Implementation Date to pay part or all of the Special Dividend.
- (g) Blackmores must use all reasonable endeavours to fund the payment of the Special Dividend from Blackmores' existing available cash (as determined by Blackmores) and existing debt facilities and only utilise the Dividend Facility if it is not practicable to fund the Special Dividend from its existing cash and existing debt facilities.



5 Implementation

5.1 Timetable

- (a) Subject to clause 5.1(b), the parties must each use all reasonable endeavours and commit necessary resources (including management and resources of external advisers) to:
- (1) comply with their respective obligations under this clause 5; and
 - (2) take all necessary steps and exercise all rights necessary to produce the Scheme Booklet, convene the Scheme Meeting and implement the Transaction,
- in accordance with the Timetable.
- (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 5.1(a) to the extent that such failure is due to circumstances and matters outside the party's control.
- (c) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable.
- (d) To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control, the parties will consult in good faith to agree to any necessary extension to ensure such matters are completed within the shortest possible timeframe.

5.2 Blackmores' obligations

Subject to any change of recommendation by the Blackmores Board that is permitted by clause 5.6(c), Blackmores must take all necessary steps to implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, (i) use all reasonable endeavours to ensure that each step in the Timetable is met by the relevant date set out beside that step, (ii) do any acts it is authorised and able to do on behalf of Blackmores Shareholders, and (iii) do each of the following:

- (a) **preparation of Scheme Booklet:** subject to clauses 5.3(a) and 5.3(b), prepare and despatch the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and the Corporations Regulations), RG 60, applicable Takeovers Panel guidance notes and the Listing Rules;
- (b) **directors' recommendation and voting intentions:** include in the Scheme Booklet:
- (1) a statement by the Blackmores Board unanimously recommending that Blackmores Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Blackmores Shareholders, unless there has been a change, withdrawal, modification or qualification of recommendation permitted by clause 5.6; and
 - (2) a statement that each Blackmores Director will vote (or cause to be voted) any Blackmores Shares held or controlled by them in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Blackmores Shareholders;



- (c) **paragraph 411(17)(b) statement:** apply to ASIC for the production of:
- (1) an indication of intent letter stating that it does not intend to appear before the Court on the First Court Date; and
 - (2) a statement under paragraph 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (d) **Court direction:** apply to the Court for orders pursuant to subsection 411(1) of the Corporations Act directing Blackmores to convene the Scheme Meeting;
- (e) **Scheme Meeting:** convene the Scheme Meeting to seek Blackmores Shareholders' agreement to the Scheme in accordance with the orders made by the Court pursuant to subsection 411(1) of the Corporations Act;
- (f) **Court documents:** prepare the documents required for the purpose of each of the Court hearings held for the purpose of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders), provide Bidder with copies of the relevant draft documents and consider, for the purpose of amending drafts of those documents, any reasonable and timely comments from Bidder on those documents;
- (g) **Court approval:** if the Scheme is approved by Blackmores Shareholders (other than Excluded Shareholders) under subparagraph 411(4)(a)(ii) of the Corporations Act and it can reasonably be expected that all of the Conditions Precedent (other than the Condition Precedent in clause 3.1(e)) will be satisfied or waived in accordance with this deed before 8.00am on the Second Court Date, apply to the Court for orders approving the Scheme as agreed to by the Blackmores Shareholders at the Scheme Meeting, and if it becomes apparent that a Condition Precedent (other than the Condition Precedent in clause 3.1(e)) will not be satisfied or waived in accordance with this deed before 8.00am on the Second Court Date, apply for an adjournment of that proposed Second Court Date to any date agreed in writing between Blackmores and Bidder;
- (h) **certificate:** at the hearing on the Second Court Date provide to the Court:
- (1) a certificate (signed for and on behalf of Blackmores) in the form of a deed (substantially in the form set out in Attachment 3) confirming, in respect of matters within its knowledge, whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(e)) have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided by Blackmores to Bidder by 4.00pm on the date that is two Business Days prior to the Second Court Date; and
 - (2) any certificate provided to it by Bidder pursuant to clause 5.3(i);
- (i) **lodge copy of Court order:** lodge with ASIC an office copy of the Court order in accordance with subsection 411(10) of the Corporations Act approving the Scheme by no later than the Business Day after the date on which the Court order was made (or such later date as agreed in writing by Bidder, acting reasonably);
- (j) **Scheme Consideration:** if the Scheme becomes Effective, finalise and close the Blackmores Share Register as at the Scheme Record Date, and determine entitlements to the Scheme Consideration, in accordance with the Scheme and the Deed Poll;



- (k) **transfer and registration:** if the Scheme becomes Effective and subject to Bidder having paid the Scheme Consideration in accordance with the Scheme and Deed Poll:
- (1) execute, on behalf of Scheme Shareholders, instruments of transfer of the Scheme Shares to Bidder Sub; and
 - (2) register all transfers of the Scheme Shares to Bidder Sub on the Implementation Date;
- (l) **consultation with Bidder in relation to Scheme Booklet:** consult with Bidder as to the content of the Scheme Booklet including:
- (1) providing to Bidder drafts of the Scheme Booklet and, to the extent permitted by the Independent Expert (which consent Blackmores will request), the Independent Expert's Report for the purpose of enabling Bidder to review and comment on those draft documents. In relation to the Independent Expert's Report, Bidder's review is to be limited to a factual accuracy review;
 - (2) considering timely and reasonable comments made by Bidder when producing a revised draft of the Scheme Booklet;
 - (3) providing to Bidder a revised draft of the Scheme Booklet before the Regulator's Draft is finalised to enable Bidder to review the Regulator's Draft before its submission; and
 - (4) obtain written consent from Bidder for the form and content in which the Bidder Information appears in the Scheme Booklet (which consent must not be unreasonably withheld, delayed or conditioned);
- (m) **accuracy of Blackmores Information:** undertake appropriate due diligence and verification processes in relation to the Blackmores Information;
- (n) **lodgement of Regulator's Draft:** by no later than 14 days before the First Court Date, provide the Regulator's Draft to ASIC for its review for the purposes of subsection 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder as soon as practicable thereafter;
- (o) **ASIC review of Scheme Booklet:** keep Bidder informed of any material matters raised by ASIC in relation to the Regulator's Draft, Scheme Booklet or the Transaction, and use reasonable endeavours to consult with, provide a reasonable opportunity to consider, and take into consideration any comments made by, Bidder in relation to any such matters raised by ASIC;
- (p) **registration of Scheme Booklet:** if the Court directs Blackmores to convene the Scheme Meeting, take all reasonable measures within its control to cause ASIC to register the Scheme Booklet under subsection 412(6) of the Corporations Act;
- (q) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (r) **Independent Expert:** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Scheme Booklet (including any updates to such report);
- (s) **compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws and regulations;



- (t) **listing:** subject to clause 5.2(y), not do anything to cause Blackmores Shares to cease being quoted on ASX or to become permanently suspended from quotation until at least one business day after the Implementation Date, unless Bidder has agreed in writing;
- (u) **update Scheme Booklet:** until the date of the Scheme Meeting, promptly update or supplement the Scheme Booklet with, or where appropriate otherwise inform the market by way of announcement of, any information that arises after the Scheme Booklet has been despatched that is necessary to ensure that the Scheme Booklet does not become false or misleading in a material respect including because of any material omission, and seek the Court's approval with respect to any updated or supplementary Scheme Booklet. Blackmores must consult with Bidder as to the content and presentation of the updated or supplementary Scheme Booklet, or the market announcement, in the manner contemplated by clause 5.2(l);
- (v) **promotion of Scheme:** provide reasonable co-operation and assistance to Bidder to promote the merits of the Transaction to Blackmores Shareholders as requested by Bidder (acting reasonably);
- (w) **Blackmores Registry information:** provide necessary directions to the Blackmores Registry to provide any information that Bidder reasonably requests in relation to the Blackmores Share Register, including any sub-register and (to the extent known to the Blackmores Registry) the identity of any beneficial owners, and where requested by Bidder, Blackmores must procure whatever information to be provided in the electronic form as is reasonably requested by Bidder and this clause is deemed to be Blackmores' written consent for the purposes of the Confidentiality Deed to the use of such information provided to Bidder for the promotion of the Transaction (provided that, for the avoidance of doubt, nothing in this clause 5.2(w) limits Bidder's obligations under the Confidentiality Deed in respect of personal information and privacy);
- (x) **proxy solicitation:** if requested by Bidder following the satisfaction of the Condition Precedent in clause 3.1(b) (Competition approvals), retain a proxy solicitation services firm (of Blackmores' choice) to assist with solicitation of votes at the Scheme Meeting, and provide Bidder with copies of or access to information regarding the Scheme Meeting generated by that firm, including promptly advising Bidder, at the reasonable request of Bidder and at least on a daily basis on each of the last 5 Business Days prior to the date of the Scheme Meeting, as to the aggregate tally of votes received by Blackmores in respect of the Scheme Meeting; and
- (y) **suspension of trading:** apply to ASX to suspend trading in Blackmores Shares with effect from the close of trading on the Effective Date.

5.3 Bidder's obligations

Bidder must take all necessary steps to implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must (i) use all reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with Blackmores on a regular basis about its progress in that regard), and (ii) do each of the following:

- (a) **Bidder Information:** prepare and promptly provide to Blackmores the Bidder Information for inclusion in the Scheme Booklet, including all information regarding the Bidder Group and the Scheme Consideration required by all applicable laws (including the Corporations Act and the Corporations Regulations), RG 60, applicable Takeovers Panel guidance notes and the



- Listing Rules, and consent to the inclusion of that information in the Scheme Booklet;
- (b) **Scheme Booklet and Court documents:** promptly provide any assistance or information reasonably requested by Blackmores in connection with preparation of the Scheme Booklet (including any updated or supplementary Scheme Booklet) and any documents required to be filed with the Court in respect of the Scheme, promptly review the drafts of the Scheme Booklet (including any updated or supplementary Scheme Booklet) prepared by Blackmores and promptly provide comments on those drafts in good faith;
- (c) **Independent Expert's Report:** provide any assistance or information reasonably requested by Blackmores or by the Independent Expert in connection with the preparation of the Independent Expert's Report to be sent together with the Scheme Booklet;
- (d) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (e) **Deed Poll:** by no later than the Business Day prior to the First Court Date, execute and deliver to Blackmores the Deed Poll and procure that Bidder Sub executes and delivers to Blackmores the Deed Poll;
- (f) **accuracy of Bidder Information:** undertake appropriate due diligence and verification processes in relation to the Bidder Information, including to ensure that the Bidder Information in the Scheme Booklet does not contain any statement that is false or misleading in a material respect including because of any omission from that statement;
- (g) **share transfer:** if the Scheme becomes Effective, procure that Bidder Sub:
- (1) accepts a transfer of the Scheme Shares as contemplated by clause 4.2(b)(1); and
 - (2) executes instruments of transfer in respect of the Scheme Shares;
- (h) **Scheme Consideration:** if the Scheme becomes Effective, procure the provision of, by or on behalf of, Bidder Sub, the Scheme Consideration in the manner and amount contemplated by clause 4 and the terms of the Scheme and the Deed Poll;
- (i) **certificate:** before the commencement of the hearing on the Second Court Date provide to Blackmores for provision to the Court at that hearing a certificate (signed for and on behalf of Bidder and Bidder Sub) in the form of a deed (substantially in the form set out in Attachment 3) confirming whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(e)) have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided by Bidder to Blackmores by 4.00 pm on the date that is two Business Days prior to the Second Court Date;
- (j) **update Bidder Information:** until the date of the Scheme Meeting, promptly provide to Blackmores any information that arises after the Scheme Booklet has been despatched that is necessary to ensure that the Bidder Information contained in the Scheme Booklet does not become false or misleading in a material respect including because of any material omission;
- (k) **assistance:** up to (and including) the Implementation Date and subject to obligations of confidentiality owed to third parties and undertakings to Government Agencies, provide Blackmores and its Related Persons with reasonable access during normal business hours to information and personnel



of the Bidder Group that Blackmores reasonably requests for the purpose of preparation of the Scheme Booklet and implementation of the Transaction; and

- (l) **compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws and regulations.

5.4 Conduct of business

- (a) Subject to clause 5.4(b), from the date of this deed up to and including the Implementation Date, and without limiting any other obligations of Blackmores under this deed, Blackmores must:
- (1) conduct the businesses and operations of the Blackmores Group in the ordinary and usual course generally consistent with the manner in which such businesses and operations have been conducted in the 12 month period prior to the date of this deed;
 - (2) keep Bidder reasonably informed of material developments concerning the conduct of the Blackmores Group's business;
 - (3) not enter into, dispose of or acquire, any line of business in which the Blackmores Group is not engaged as of the date of this deed;
 - (4) use reasonable endeavours, and (to the extent within its power to do so) procure that each other Blackmores Group Member uses reasonable endeavours, to:
 - (A) maintain the value of the Blackmores Group's businesses and assets (including trademarks and registrations of current products of the Blackmores Group in jurisdictions in which those products are currently sold or distributed by the Blackmores Group and applications for any pending trademarks and registrations in the ordinary course of business);
 - (B) keep available the services of its officers and employees;
 - (C) maintain their relationships with Government Agencies, customers, suppliers, landlords and others having business dealings with any Blackmores Group Member; and
 - (D) comply with applicable laws and the Listing Rules and Material Contracts and joint ventures of the Blackmores Group;
 - (5) maintain (and where necessary, use reasonable efforts to renew) each of its authorisations, accreditations, registrations, approvals, licences and permits of the Blackmores Group that are material to the operations of the Blackmores Group, promptly notify Bidder if any such renewal is refused by a relevant Government Agency or if a member of the Blackmores Group receives any notice of termination, revocation or material adverse variation of any such material authorisations, accreditations, registrations, approvals, licences and permits;
 - (6) maintain (and where necessary, use reasonable efforts to renew) insurance materially consistent with the insurance held by the Blackmores Group in force at the date of this deed and promptly notify Bidder if any insurance which is material to the operations of the Blackmores Group is not accepted for renewal by the relevant insurer;



- (7) make all reasonable efforts to manage the working capital of the Blackmores Group in the ordinary course of business and in substantially the same manner as it was prior to the date of this deed;
- (8) use reasonable endeavours to obtain the written consent or other applicable form of confirmation of counterparties to any Material Contract:
- (A) agreed between Bidder and Blackmores in writing prior to the date of this deed; and
 - (B) which contains change of control or similar provision that are likely to be triggered by the Transaction,
- provided that:
- (C) Bidder must cooperate with, and provide reasonable assistance to Blackmores, to obtain such written consents or other confirmations, including by promptly providing any information reasonably required by counterparties; and
 - (D) Bidder must procure that no Bidder Group Member contacts any counterparty to a Material Contract to discuss the Transaction without prior written consent of Blackmores; and
- (9) promptly notify Bidder of any notice or other communication from any Government Agency or counterparty to any Material Contract alleging that the consent (or waiver, permit, exemption, order, approval, agreement or confirmation) of that person (or another person) is or may be required in connection with this deed or the Transaction.
- (b) Nothing in clause 5.4(a) restricts Blackmores Group Members from taking any action:
- (1) which is required or permitted by this deed or the Scheme;
 - (2) which has been agreed to in writing by Bidder (which response must not be unreasonably delayed more than 5 Business Days from the date of the request from Blackmores);
 - (3) which is required by any applicable law, regulation or contract (provided the contract was entered into prior to the date of this deed) or by a Government Agency;
 - (4) which is Fairly Disclosed in the Disclosure Materials as being an action that the Blackmores Group may carry out between (and including) the date of this deed and the Implementation Date, including for the avoidance of doubt any strategic initiatives identified in the Disclosure Materials (whether or not such strategic initiatives have been approved by the Blackmores Board as at the date of this deed);
 - (5) that Blackmores Fairly Disclosed in an announcement made by Blackmores to ASX, or a publicly available document lodged by it with ASIC, prior to the date of this deed, or which would be disclosed in a search of ASIC records or ASX announcements in relation to Blackmores or a Subsidiary of Blackmores (as relevant), in the 24 months prior to the date of this deed;
 - (6) subject to compliance with clause 4.5(g), in connection with the utilisation of the Blackmores Group's existing debt facilities, or the entry by Blackmores or any other Blackmores Group Member into or



- the utilisation of any new debt financing arrangements, for the purpose of funding part or all of the Special Dividend or any part of it;
- (7) to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property, or a disease epidemic or pandemic, including the outbreak, escalation or any impact of, or recovery from, the Coronavirus) affecting the business of Blackmores or a Blackmores Group Member;
 - (8) to reasonably and prudently respond to changes in market conditions affecting the business of Blackmores or a Blackmores Group Member, provided that the response does not have a material adverse impact on the expected future prospects or the operations of the Blackmores Group;
 - (9) to reasonably and prudently respond to regulatory or legislative changes (including without limitation changes to subordinate legislation) affecting the business of Blackmores or a Blackmores Group Member to a material extent, provided that the response does not have a material adverse impact on the expected future prospects or operations of the Blackmores Group; or
 - (10) which is undertaken as permitted by clause 10.

5.5 Appointment of directors

Blackmores must, as soon as practicable on the Implementation Date and with effect from the time that all Scheme Shares are transferred to Bidder Sub in accordance with the terms of the Scheme, and to the extent it is within Blackmores' power to do so, take all actions necessary to:

- (a) cause the appointment of the nominees of Bidder to the Blackmores Board;
- (b) ensure that all directors on the Blackmores Board, other than any existing Blackmores Director that Bidder has notified it wishes to remain on the Blackmores Board:
 - (1) resign from their position as director; and
 - (2) acknowledge in their respective notices of resignation that they have no outstanding claims against Blackmores in relation to unpaid director's fees; and
- (c) ensure that all directors on the boards of Blackmores' Subsidiaries, other than any existing Blackmores Subsidiary director that Bidder has notified it wishes to remain on the relevant Blackmores Subsidiary boards, resign from their position as director,

and to cause the appointment of nominees of Bidder to those boards, in each case in accordance with the constitution of Blackmores and each of Blackmores' Subsidiaries (as applicable).

5.6 Blackmores Board recommendation

- (a) Blackmores represents and warrants to Bidder that as at the date of this deed each Blackmores Director has provided confirmation to Blackmores that:
 - (1) they recommend that Blackmores Shareholders vote in favour of the Scheme at the Scheme Meeting; and



- (2) they intend to vote, or cause to be voted, all Blackmores Shares they hold or control in favour of the Scheme at the Scheme Meeting,

and that they do not intend to adversely change, withdraw, modify or qualify their recommendation or voting intention statements in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Blackmores Shareholders.

- (b) Blackmores must use its best endeavours to procure that from the date of this deed, subject to clause 5.6(c), the Blackmores Board Members:

- (1) unanimously recommend that Blackmores 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 in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Blackmores Shareholders; and
- (2) intend to vote, or cause to be voted, all Blackmores Shares they hold or control in favour of the Scheme at the Scheme Meeting in the absence of a Superior Proposal and subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Blackmores Shareholders,

and that the Scheme Booklet and any material public statement relating to the Transaction includes statements by the Blackmores Board and the Blackmores Board Members (as applicable) to that effect.

- (c) Blackmores must use its best endeavours to procure that the Blackmores Board collectively, and the Blackmores Board Members individually, do not adversely change, withdraw, modify or qualify (including by making any public statement supporting, endorsing or recommending a Competing Proposal and/or to the effect that a Blackmores Director no longer supports the Scheme) its or their recommendation to Blackmores Shareholders to vote in favour of the Scheme unless:

- (1) the Independent Expert provides a report to Blackmores (including either the Independent Expert's Report or any update of, or any revision, amendment or supplement to, that report) that concludes that the Scheme is not in the best interests of Blackmores Shareholders, and if this conclusion in the Independent Expert's Report has been determined by the Independent Expert based on a Competing Proposal, after Blackmores has complied with its obligations under clause 10 (including completing of the matching right process set out in clause 10.5);
- (2) Blackmores has received a Competing Proposal and the Blackmores Board has determined, after compliance with its obligations under clause 10 (including completing of the matching right process set out in clause 10.5), that the Competing Proposal constitutes a Superior Proposal; or
- (3) the Court or a Government Agency has made or imposed an Abstain Requirement.

For the purposes of this clause 5.6(c), a qualification contained in the Scheme Booklet or any public announcements relating to the Transaction to the recommendation by the Blackmores Board to Blackmores Shareholders to vote in favour of the Scheme by words to the effect of:



- (4) 'in the absence of a Superior Proposal';
- (5) in respect of a 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) that the Scheme is in the best interests of Blackmores Shareholders; or
- (6) in respect of the Scheme Booklet or a public announcement issued at or after the issue of the Scheme Booklet, 'subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Blackmores Shareholders,

will not be regarded as a failure to make, or a change, withdrawal, modification or qualification of, a recommendation in favour of the Scheme.

- (d) Despite anything to the contrary in this clause 5.6, a statement made by Blackmores or the Blackmores Board to the effect that no action should be taken by Blackmores Shareholders pending the assessment of a Competing Proposal by the Blackmores Board or the completion of the matching right process set out in clause 10.5 shall not contravene this clause 5.6.

5.7 Conduct of Court proceedings

- (a) Blackmores and Bidder are entitled to separate representation at all Court proceedings relating to the approval of the Scheme.
- (b) This deed does not give Blackmores or Bidder any right or power to give undertakings to the Court for or on behalf of the other party without that party's written consent.
- (c) Blackmores and Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Transaction as contemplated by this deed.

5.8 Scheme Booklet content and responsibility statements

- (a) The Scheme Booklet will contain a responsibility statement to the effect that:
 - (1) Bidder is responsible for the Bidder Information contained in the Scheme Booklet;
 - (2) Blackmores is responsible for the Blackmores Information contained in the Scheme Booklet; and
 - (3) the Independent Expert is responsible for the Independent Expert's Report, and none of Blackmores, Bidder or their respective directors or officers assumes any responsibility for the accuracy or completeness of the Independent Expert's Report.
- (b) If after a reasonable period of consultation, Blackmores and Bidder are unable to agree on the form or content of the Scheme Booklet:
 - (1) where the determination relates solely to Bidder Information, Bidder will make the final determination as to the form and content of the Bidder Information; and
 - (2) in any other case, Blackmores will make the final determination as to the form and content of the Scheme Booklet.



5.9 Access to information

- (a) Between (and including) the date of this deed and the Implementation Date, Blackmores must afford to the Bidder Specified Persons reasonable access to information (subject to any existing confidentiality obligations owed to third parties), premises and senior executives of Blackmores and as reasonably requested by the Bidder Specified Persons at mutually convenient times, and afford Bidder reasonable co-operation, for the sole purpose of:
- (1) the implementation of the Scheme;
 - (2) meeting Bidder and Bidder Sub's obligations under this deed;
 - (3) Bidder developing and implementing plans for the transition of the Blackmores Group business into the operations of Bidder following implementation of the Scheme, including information in relation to any strategic initiatives of Blackmores; and
 - (4) any other purpose agreed between the parties (each party acting in good faith and reasonably),
- provided that:
- (5) nothing in this clause 5.9 will require Blackmores to provide, or procure the provision of, information which has been provided to the Integration Committee;
 - (6) nothing in this clause 5.9 will require Blackmores to provide, or procure the provision of, information concerning:
 - (A) Blackmores' directors' and management's consideration of the Scheme; or
 - (B) any actual, proposed or potential Competing Proposal (including directors' and management's consideration of any actual, proposed or potential Competing Proposal).
 - (7) nothing in this clause 5.9 will require Blackmores to provide or procure the provision of information or access to Bidder if doing so would, in the opinion of Blackmores (acting reasonably), result in unreasonable disruptions to, or interference with, Blackmores' business;
 - (8) Bidder must:
 - (A) keep all information obtained by it as a result of this clause 5.9 confidential in accordance with the terms of the Confidentiality Deed;
 - (B) provide Blackmores with reasonable notice of any request for information or access; and
 - (C) comply with the reasonable requirements of Blackmores in relation to any access granted;
 - (9) nothing in this clause 5.9:
 - (A) gives Bidder any rights to undertake further due diligence investigations, or any rights as to the decision making of any Blackmores Group Member or its business;
 - (B) will require Blackmores to provide, or procure the provision of, information concerning the Blackmores Group's business that is, in the reasonable opinion of Blackmores, highly commercially or highly competitively sensitive (which may for



- example include any specific pricing and margin information or customer details); or
- (C) will require Blackmores to provide, or procure the provision of:
- (i) information requested by; or
 - (ii) access to premises or the Blackmores Group's senior executives,
- to any person other than the Bidder Specified Persons;
- (10) will require Blackmores to provide, or procure the provision of, information if to do so would or would be reasonably likely to:
- (A) breach any confidentiality or other contractual obligation owed to a third party or any applicable law; or
 - (B) result in a waiver of legal professional privilege;
- (11) will require Blackmores to provide, or procure the provision of, third party data; or
- (12) limits any term of the Confidentiality Deed.
- (b) The parties agree to cooperate and provide each other with reasonable assistance in order to complete the Agreed Works as soon as practicable, and in any case within six weeks, after the date of this deed.
- (c) The Consultant that will undertake the Agreed Works will be engaged by Blackmores, and the engagement of the Consultant will be at the cost and expense of Bidder, and Bidder must within fifteen Business Days after receipt of a request from Blackmores pay to Blackmores the costs incurred by Blackmores in relation to the Consultant's engagement and work.
- (d) For the avoidance of doubt, the parties agree that Blackmores taking any action or incurring any cost for the purposes of or in connection with the matters contemplated by this letter will not be a Blackmores Prescribed Occurrence, Blackmores Regulated Event or Blackmores Material Adverse Change or a breach of any provision of this deed, or give rise to any right of Bidder to terminate this deed, and will be disregarded when assessing the operation of any other part of this deed.

5.10 Integration Committee

- (a) If requested by Bidder, the parties agree to establish a committee comprising:
- (1) Blackmores' Chief Executive Officer and Managing Director;
 - (2) Blackmores' Chief Financial Officer;
 - (3) Blackmores' Group General Counsel;
 - (4) [REDACTED], Director of the Board, Senior Executive Officer, President of Health Science Business Division of Bidder;
 - (5) [REDACTED], Deputy General Manager, Corporate Strategy Department of Bidder; and
 - (6) [REDACTED], Senior Manager, Legal Department of Bidder, (Integration Committee).



- (b) Without limiting clause 5.9 and subject to clause 5.10(c), between the date of this deed and the Implementation Date, the role of the Integration Committee will be to oversee implementation of the Scheme and to act as a forum for discussion, planning and sharing of information (subject to competition laws) in respect of the following:
- (1) matters related to integration planning (for example, employee retention and incentivisation, employee performance and costs, stakeholder engagement and communications, business operations, functions and processes) and seeking to determine how to best integrate the Blackmores Group's business into the operations of Bidder following implementation of the Scheme;
 - (2) assisting Bidder understand the financial position of Blackmores (including its cash flow and working capital position), trading performance and management control systems; and
 - (3) any other purpose agreed between the parties,
- but, for the avoidance of doubt, the Integration Committee is only a consultative body that will make recommendations to the parties.
- (c) No information will be provided to or shared with the Integration Committee which relates to matters the subject of the matters being considered by the relevant Government Agency for the purposes of satisfying the Competition Approvals until the date on which the relevant Condition Precedent in clauses 3.1(b)(1) or 3.1(b)(2) (as applicable) is satisfied and no information for that relevant jurisdiction will be provided to the Integration Committee until all Competition Approvals are satisfied.
- (d) The members of the Integration Committee may by unanimous agreement invite other persons (including Blackmores senior executives) to attend meetings of the Integration Committee from time to time.
- (e) All information obtained by a party or its Related Persons through the Integration Committee must be kept confidential in accordance with the terms of the Confidentiality Deed.
- (f) Each party must use all reasonable endeavours to procure that:
- (1) its representatives on the Integration Committee act in good faith in their capacity as members of the Integration Committee with a view to fulfilling the role and objectives of such committee (to the extent within their power); and
 - (2) the Integration Committee meets no less than once a month, commencing within 5 Business Days after the date on which the Condition Precedent in clause 3.1(b) (Competition approvals) is satisfied.
- (g) Subject to this deed, nothing in this clause requires either party to act at the direction of the other, gives Bidder any rights as to the decision making of any Blackmores Group Member or its business, or gives Bidder any rights to undertake further due diligence investigations. The business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this deed constitutes the relationship of a partnership or joint venture between the parties.



6 Representations and warranties

6.1 Bidder's representations and warranties

Bidder represents and warrants to Blackmores that each of the Bidder Representations and Warranties is true and correct.

6.2 Bidder's indemnity

Bidder agrees with Blackmores to indemnify Blackmores and each of the Blackmores Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Blackmores or any of the other Blackmores Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Bidder Representations and Warranties.

6.3 Blackmores' representations and warranties

Subject to clause 6.5, Blackmores represents and warrants to Bidder that each of the Blackmores Representations and Warranties is true and correct.

6.4 Blackmores' indemnity

Subject to clause 6.5, Blackmores agrees with Bidder to indemnify Bidder and each of the Bidder Indemnified Parties from any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Bidder or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Blackmores Representations and Warranties.

6.5 Qualifications on Blackmores' representations, warranties and indemnities

- (a) The Blackmores Representations and Warranties made or given in clause 6.3 and the indemnity in clause 6.4, are each subject to and qualified by matters that:
- (1) have been Fairly Disclosed in the Disclosure Materials;
 - (2) have been Fairly Disclosed in an announcement by Blackmores to ASX, or a publicly available document lodged by it with ASIC, in the 24 month period prior to the date of this deed;
 - (3) have been Fairly Disclosed in a publicly available document which would be disclosed in a search of:
 - (A) the PPS Register;
 - (B) the registry of either the New South Wales Land Registry Services or the Victorian Land Titles Office;
 - (C) the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory of Australia; or
 - (D) IP Australia,had each such search been conducted on the Business Day before the date of this Deed;



- (4) are contemplated, required or permitted by this deed or the Scheme;
 - (5) are required by any applicable law or regulation; or
 - (6) are within the actual knowledge of Bidder on or before the date of this deed.
- (b) Where a Blackmores Representation and Warranty is given 'so far as Blackmores is aware' or with a similar qualification as to Blackmores' awareness or knowledge, Blackmores' awareness or knowledge is limited to and deemed only to include those facts, matters or circumstances of which any Executive is actually aware as at the date such Blackmores Representation and Warranty is given.

6.6 Survival of representations and warranties

Each representation and warranty in clauses 6.1 and 6.3:

- (a) is severable;
- (b) survives the termination of this deed; and
- (c) is given with the intention that liability under it is not confined to breaches that are discovered before the date of termination of this deed.

6.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 6.2 and 6.4):

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survives the termination of this deed.

6.8 Timing of representations and warranties

- (a) Each representation and warranty made or given under clauses 6.1 or 6.3 is given at the date of this deed, on the date of despatch of the Scheme Booklet, at 5.00pm on the Business Day prior to the Second Court Date and at 8.00am on the Second Court Date unless that representation or warranty is expressed to be given at a particular time, in which case it is given at that time.

6.9 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed.



6.10 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes a material breach of any of the representations or warranties given by it under clauses 6.1 and 6.3.

7 Releases

7.1 Blackmores and Blackmores directors and officers

- (a) Bidder:
- (1) releases its rights; and
 - (2) agrees with Blackmores (in its own right and separately as trustee or nominee for each other Blackmores Indemnified Party) that it will not make, and that after the Implementation Date it will procure that each Blackmores Group Member does not make, any claim, against any Blackmores Indemnified Party (other than Blackmores and its Related Bodies Corporate) as at the date of this deed and from time to time in connection with:
 - (3) Blackmores' execution or delivery of this deed;
 - (4) any breach of any representations and warranties of Blackmores or any other member of the Blackmores Group in this deed or any breach of any covenant given by Blackmores in this deed;
 - (5) the implementation of the Scheme;
 - (6) any disclosures containing any statement which is false or misleading whether in content or by omission; or
 - (7) any failure to provide information, whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Blackmores Indemnified Party has engaged in wilful misconduct, wilful concealment or fraud. For the avoidance of doubt, nothing in this clause 7.1(a) limits Bidder's rights to terminate this deed under clause 12.
- (b) Clause 7.1(a) is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Blackmores receives and holds the benefit of this clause 7.1 to the extent it relates to each Blackmores Indemnified Party as trustee for each of them.

7.2 Bidder and Bidder directors and officers

- (a) Blackmores releases its rights, and agrees with Bidder (in its own right and separately as trustee or nominee for each other Blackmores Indemnified Party) that it will not make a claim, against any Bidder Indemnified Party (other than Bidder and its Related Bodies Corporate) as at the date of this deed and from time to time in connection with:
- (1) Bidder's execution or delivery of this deed;

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- (2) any breach of any representations and warranties of Bidder or any other member of the Bidder Group in this deed or any breach of any covenant given by Bidder in this deed;
- (3) the implementation of the Scheme;
- (4) any disclosure containing any statement which is false or misleading whether in content or by omission; or
- (5) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has engaged in wilful misconduct, wilful concealment or fraud. For the avoidance of doubt, nothing in this clause 7.2(a) limits Blackmores' rights to terminate this deed under clause 12.

- (b) Clause 7.2(a) is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Bidder receives and holds the benefit of this clause 7.2 to the extent it relates to each Bidder Indemnified Party as trustee for each of them.

7.3 Deeds of indemnity and insurance

- (a) Subject to the Scheme becoming Effective and implementation of the Scheme, Bidder undertakes in favour of Blackmores and each other Blackmores Indemnified Party that it will:
 - (1) for a period of seven years from the Implementation Date, ensure that the constitutions of Blackmores and each other Blackmores Group Member continue 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 directors and officers against any liability incurred by that person in their capacity as a director or officer of the company to any person other than a Blackmores Group Member; and
 - (2) procure that Blackmores and each other Blackmores Group Member 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 (including any such cover obtained or placed pursuant to clause 7.3(b)) is maintained for a period of seven years from the retirement date of each director and officer.
- (b) Bidder acknowledges that notwithstanding any other provision of this deed, Blackmores will, prior to the Implementation Date, enter into arrangements to secure directors and officers run-off insurance for such seven year period, and that any actions to facilitate that insurance or in connection with such insurance will not be a Blackmores Material Adverse Change, a Blackmores Prescribed Occurrence or Blackmores Regulated Event or a breach of any provision of this deed or give rise to any right to terminate this deed.
- (c) The undertakings contained in this clause 7.3 are subject to any Corporations Act restriction and will be read down accordingly.
- (d) Blackmores receives and holds the benefit of this clause 7.3, to the extent it relates to the other Blackmores Indemnified Parties, as trustee for each of them.

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8 Public announcement

8.1 Announcement of the Transaction

Immediately after the execution of this deed, Blackmores and Bidder must issue public announcements in a form previously agreed to in writing between them.

8.2 Public announcements

Subject to clause 8.3, no public announcement or public disclosure in connection with the Transaction or any other transaction the subject of this deed or the Scheme may be made other than in a form approved by each party in writing (such approval not to be unreasonably withheld, delayed or conditioned). For the avoidance of doubt, this clause 8.2 does not apply to any announcement or disclosure relating to an actual, proposed or potential Competing Proposal.

8.3 Required disclosure

- (a) Where a party is required by applicable law or the Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this deed or the Scheme, it may do so despite clause 8.2.
- (b) Prior to making any disclosure in reliance on clause 8.3(a), the party required to make the disclosure must, except where:
 - (1) providing prior notice is prohibited by the applicable law or Listing Rules or not practicable in the circumstances; or
 - (2) such disclosure relates to, or is in connection with, an actual, potential or proposed Competing Proposal,

notify the other party of the requirement to make the disclosure and the basis of that requirement, and consult with the other party, to the extent practicable, as to the form of any such disclosure.

9 Confidentiality

- (a) Blackmores and Bidder acknowledge and agree that they continue to be bound by the Confidentiality Deed after the date of this deed.
- (b) The rights and obligations of the parties under the Confidentiality Deed survive termination of this deed.
- (c) Nothing in this deed reduces or derogates from the rights and obligations of a party under the Confidentiality Deed, provided that this deed prevails to the extent of any inconsistency between this deed and the Confidentiality Deed.



10 Exclusivity

10.1 No continuing discussions

- (a) Blackmores represents and warrants to Bidder that as at the date of this deed:
- (1) it has ceased all negotiations or discussions with any person in respect of any Competing Proposal, or which could reasonably be expected to encourage or lead to the making of an actual, proposed or potential Competing Proposal; and
 - (2) it is not progressing or obliged to progress any agreement or arrangement with a Third Party for the purpose of facilitating an Competing Proposal.
- (b) On the date of this deed, Blackmores must, and must procure that each of its Related Persons and Related Bodies Corporate:
- (1) cease any discussions with any Third Party in relation to, a potential Competing Proposal or a transaction which would affect, prejudice or jeopardise the completion of the Transaction;
 - (2) cease the provision of any due diligence access and the making available of any non-public information in relation to the Blackmores Group to any Third Party and request the return or destruction of such non-public information by the Third Party; and
 - (3) not terminate, waive, amend or modify any provision of any existing confidentiality agreement relating to any possible Competing Proposal or any standstill agreement to which any member of the Blackmores Group is a party.

10.2 No shop, no talk and no due diligence

During the Exclusivity Period, Blackmores must not, and must ensure that each of its Related Persons and Related Bodies Corporate do not, directly or indirectly:

- (a) **(no shop)** solicit, invite, encourage or initiate (including by the provision of non-public information to any Third Party) any inquiry, expression of interest, offer, proposal, discussion or other communication by any person in relation to, or which may reasonably be expected to encourage or lead to, an actual, proposed or potential Competing Proposal or communicate to any person an intention to do anything referred to in this clause 10.2(a);
- (b) **(no talk)** subject to clause 10.3:
- (1) facilitate, respond to, participate in or continue any negotiations, discussions or other communications with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make an actual, proposed or potential Competing Proposal;
 - (2) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Proposal; or
 - (3) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 10.2(b); or
- (c) **(no due diligence)** subject to clause 10.3, disclose or make available to, or facilitate any other person receiving, other than Bidder or its Related Persons



(in the course of due diligence investigations or otherwise), any non-public information relating to any member of the Blackmores Group or their businesses or operations for the purpose of or to otherwise to assist the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal,

provided that nothing in this clause 10.2 prevents or restricts Blackmores or any of its Related Persons and Related Bodies Corporate from responding to a Third Party in respect of an inquiry, expression of interest, offer, proposal or discussion by that Third Party to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Proposal to merely (A) acknowledge receipt or (B) advise that Third Party that Blackmores is bound by the provisions of this clause 10.2 and is only able to engage in negotiations, discussions or other communications if the fiduciary out in clause 10.3 applies.

10.3 Fiduciary exception

Clauses 10.2(b) and 10.2(c) do not prohibit any action or inaction by Blackmores, any of its Related Bodies Corporate or any of their respective Related Persons, in relation to an actual, proposed or potential Competing Proposal if the Blackmores Board, acting in good faith, has determined:

- (a) after consultation with its external financial and legal advisers, that the actual, proposed or potential Competing Proposal is, or could reasonably be expected to become or lead to, a Superior Proposal; and
- (b) after receiving written advice from its external legal advisers, that failing to respond to the Competing Proposal or otherwise comply with those clauses in respect of the Competing Proposal would, or would be reasonably likely to, constitute a breach of any of the fiduciary or statutory duties of the Blackmores Directors,

provided that:

- (c) the actual, proposed or potential Competing Proposal was not directly or indirectly brought about by, or facilitated by, a breach of clause 10.2(a); and
- (d) any non-public information relating to any member of the Blackmores Group or their businesses or operations provided to any person in reliance of this clause 10.3 that has not already been provided or made available to Bidder (including in the Disclosure Materials or pursuant to clause 5.9) is also provided to Bidder at the same time.

10.4 Notification of approaches

- (a) During the Exclusivity Period, Blackmores must as soon as possible (and in any event within 2 Business Days) notify Bidder in writing if it, any of its Related Bodies Corporate or any of their respective Related Persons, becomes aware of any:
 - (1) negotiations, discussions or other communications in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to an actual, proposed or potential Competing Proposal;
 - (2) approaches or proposals made to or received by Blackmores, any of its Related Bodies Corporate or any of their respective Related Persons in connection with, or in respect of any exploration or completion of, an actual, proposed or potential Competing Proposal;



- (3) requests made to Blackmores or any of its Related Persons for the provision of non-public information relating to any member of the Blackmores Group or any of their businesses or operations in respect of any exploration or completion of, an actual, proposed or potential Competing Proposal; or
- (4) provision by Blackmores, any of its Related Bodies Corporate or any of their respective Related Persons of any material non-public information concerning the business or operations of Blackmores or the Blackmores Group to any Third Party (other than a Government Agency) in connection with an actual, proposed or potential Competing Proposal,

whether direct or indirect, solicited or unsolicited, and in writing or otherwise.

- (b) A notification given under clause 10.4(a) must include the identity of the proponent of the Competing Proposal and material terms and conditions of the actual, proposed or potential Competing Proposal (including price and form of consideration, conditions precedent, deal protection requirements, break fees and timetable), in each case to the extent known by the Blackmores Group or its Related Persons.

10.5 Matching right

- (a) During the Exclusivity Period, Blackmores:
 - (1) must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) committing to implement an actual, proposed or potential Competing Proposal; and
 - (2) must use its best endeavours to procure that none of the Blackmores Directors adversely changes, withdraws, modifies or qualifies their recommendation in favour of the Scheme, publicly recommend an actual, proposed or potential Competing Proposal (or recommend against the Transaction) or make any public statement to the effect that they intend do so (provided that a statement that no action should be taken by Blackmores Shareholders pending the assessment of a Competing Proposal by the Blackmores Board or the completion of the matching right process set out in this clause 10.5 will not be taken to contravene this clause 10.5), subject to any change of recommendation by the Blackmores Board that is permitted by clause 5.6(c),

unless:

- (3) the Blackmores Board has made the determination contemplated by clause 10.3;
- (4) Blackmores has provided Bidder with the information referred to in clause 10.4 in respect of the actual, proposed or potential Competing Proposal;
- (5) Blackmores has given Bidder at least five Business Days after the date of the provision of the information referred to in clause 10.5(a)(4) (**Relevant Period**) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Proposal (excluding consideration of any reimbursement or break fee payable to or by Blackmores Group associated with the Competing Proposal); and



- (6) the Blackmores Board determines that Bidder has not provided a proposal that matches or is superior to the terms of the actual, proposed or potential Competing Proposal by the expiry of the Relevant Period.
- (b) If Bidder proposes to Blackmores, or announces, amendments to the Scheme or a new proposal that is superior to or no less favourable overall to the terms of the actual, proposed or potential Competing Proposal (**Bidder Counterproposal**) before the expiry of the Relevant Period, Blackmores must procure that the Blackmores Board promptly considers the Bidder Counterproposal and, acting in good faith, determines whether the Bidder Counterproposal would provide an equivalent or superior outcome for Blackmores Shareholders compared with the Competing Proposal (**Matching or Superior Proposal**).
- (c) If the Blackmores Board determines that a Bidder Counterproposal is a Matching or Superior Proposal:
- (1) Blackmores and Bidder must each use their best endeavours to seek to agree the amendments to this deed and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable; and
 - (2) provided such agreement is reached, Blackmores must use its best endeavours to procure that each of the Blackmores Directors continues to recommend the Transaction (as modified by the Bidder Counterproposal and pursuant to clause 10.5(c)(1)) to Blackmores Shareholders.
- (d) Each successive material modification to the terms of any Competing Proposal will constitute a new Competing Proposal for the purposes of clause 10.5 and this clause 10.5 will apply in respect of any new Competing Proposal.
- (e) Despite any other provision in this deed, a statement by Blackmores or the Blackmores Board to the effect that:
- (1) the Blackmores Board has determined that a Competing Proposal is a Superior Proposal and has commenced the matching right process set out in this clause 10.5; or
 - (2) Blackmores Shareholders should take no action pending the completion of the matching right process set out in this clause 10.5,
- does not of itself:
- (3) constitute a change, withdrawal, modification or qualification of the recommendation by the Blackmores Directors or an endorsement of a Competing Proposal;
 - (4) contravene this deed;
 - (5) give rise to an obligation to pay the Reimbursement Amount under clause 11; or
 - (6) give rise to a termination right under clause 12.1.

10.6 Compliance with law

- (a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 10 or any part of it:



- (1) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Blackmores Board;
 - (2) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
 - (3) was, or is, or would be, unlawful for any other reason,
- then, only to the extent determined by the court or Takeovers Panel Blackmores will not be obliged to comply with that part of the provision of clause 10.
- (b) Blackmores must not make any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 10.6.

10.7 Usual provision of information

Nothing in this clause 10 prevents Blackmores from:

- (a) providing any information to its Related Persons;
- (b) providing any information to any Government Agency;
- (c) providing any information required to be provided by any applicable law, including to satisfy its obligations under the Listing Rules or to any Government Agency;
- (d) providing any information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business; and
- (e) making presentations to, or responding to enquiries from, brokers, portfolio investors, analysts and other third parties, and engaging with financiers and potential financiers in the ordinary course of business or promoting the merits of the Transaction.

11 Reimbursement Amount

11.1 Background

Bidder represents and warrants to Blackmores that it would not have entered into this deed or otherwise agreed to implement the Scheme without the benefit of this clause 11 and it would not have entered into and continued the negotiations unless Bidder had a reasonable expectation that Blackmores would agree to enter into a clause of this kind.

11.2 Blackmores acknowledgements

- (a) The fee payable under clause 11.4 has been calculated to reimburse Bidder for the following:
 - (1) external advisory costs;
 - (2) out of pocket expenses; and
 - (3) reasonable opportunity costs incurred by Bidder in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives,

in relation to the Transaction and Bidder will incur further costs if the Transaction is not successful (**Bidder Costs**).



- (b) Blackmores represents and warrants to Bidder that having received legal advice from its external legal advisers, the Blackmores Board considers that it is appropriate to agree to the terms in this clause 11 in order to secure the benefits to and Blackmores Shareholders resulting from the Transaction.

11.3 Agreement on Bidder Costs

The parties acknowledge that the amount of the Bidder Costs is inherently unascertainable and that, even after termination of this deed, the Bidder Costs will not be able to be accurately ascertained. As a genuine and reasonable pre-estimate of the costs that Bidder will suffer if the Transaction does not proceed, the parties agree that, for the purposes of this clause 11, the Bidder Costs will be equal to the amount of the Reimbursement Amount.

11.4 Reimbursement Amount triggers

Subject to this clause 11, Blackmores agrees to pay to Bidder the Reimbursement Amount if :

- (a) during the Exclusivity Period one or more Blackmores Directors (**Defaulting Director**):
- (1) fails to recommend that Blackmores Shareholders vote in favour of the Scheme, or to maintain that recommendation, in the manner described in clauses 5.6;
 - (2) publicly withdraws, adversely changes, modifies or qualifies, their recommendation that Blackmores Shareholders vote in favour of the Scheme; or
 - (3) publicly recommends that Blackmores Shareholders accept or vote in favour of, or otherwise publicly supports or endorses, a Competing Proposal of any kind that is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions),
- provided that in each case that Bidder has terminated this deed in accordance with clause 12, and unless:
- (4) the Independent Expert concludes in the Independent Expert's Report (or any update of, or revision, amendment or supplement to, that report) that the Scheme is not in the best interests of Blackmores Shareholders, prior to 8.00am on the Second Court Date, in either case, other than where the conclusion is due wholly or primarily to the existence of a Competing Proposal; or
 - (5) the Defaulting Director abstains from making a recommendation to Blackmores Shareholders in accordance with a Abstain Requirement that relates to that Defaulting Director;
- provided that, for the avoidance of doubt, a statement made by Blackmores or the Blackmores Board to the effect that no action should be taken by Blackmores Shareholders pending the assessment of a Competing Proposal by the Blackmores Board or the completion of the matching rights process set out in clause 10.4 will not (of itself) require Blackmores to pay the Reimbursement Amount to Bidder;
- (b) a Competing Proposal is announced during the Exclusivity Period (whether or not such Competing Proposal is stated to be subject to any pre-conditions) and



within 12 months of the announcement the third party proponent of the Competing Proposal or any of their Associates completes the Competing Proposal; or

- (c) Bidder has validly terminated this deed pursuant to clauses 12.1(a)(1), or 12.2(a) following a material and wilful breach of this deed by Blackmores.

11.5 Payment of Reimbursement Amount

- (a) A demand by Bidder for payment of the Reimbursement Amount under clause 11.4 must:
- (1) be in writing;
 - (2) be signed by a Bidder board member or senior executive;
 - (3) be made after the occurrence of the even in that clause giving rise to the right to payment;
 - (4) state the circumstances which give rise to the demand; and
 - (5) nominate an account in the name of Bidder into which Blackmores is to pay the Reimbursement Amount.
- (b) The payment of the Reimbursement Amount must be made within 10 Business Days of receipt of a written demand for payment by Bidder in accordance with clause 11.5(a) and where Bidder is entitled under clause 11.4 to the Reimbursement Amount.

11.6 No amounts payable

- (a) Notwithstanding the occurrence of any event in clause 11.4 and anything else in this deed, no Reimbursement Amount is payable if:
- (1) the Scheme becomes Effective;
 - (2) a transaction is completed pursuant to which Bidder acquires 100% of the issued Blackmores Shares; or
 - (3) prior to or at the time that the Reimbursement Amount becomes (otherwise) payable under clause 11.4, Blackmores was entitled to terminate this deed under clauses 12.1(a) or 12.2(b).
- (b) No Reimbursement Amount is payable by Blackmores, merely by reason of the Blackmores Shareholders not approving the Scheme at the Scheme Meeting.
- (c) The Reimbursement Amount is only payable to Bidder once, and if a Reimbursement Amount has become payable to Bidder under clause 11.4 and has actually been paid, Bidder cannot make any claim against Blackmores for payment of any subsequent or additional Reimbursement Amount.

11.7 Other Claims

Despite anything to the contrary in this deed, the maximum aggregate amount which Blackmores is required to pay in relation to this deed (including as a result of any breach of this deed by Blackmores or any other Claim) is the amount of the Reimbursement Amount and in no event will the aggregate liability of Blackmores under or in connection with this deed or any Claim exceed the amount of the Reimbursement Amount, except in the case of:

- (a) conduct designed or intended to frustrate the Transaction; or



- (b) fraud, wilful misconduct, wilful breach or wilful concealment, by or on behalf of Blackmores.

11.8 Compliance with law

- (a) If any part of the Reimbursement Amount payable to Bidder:
- (1) is declared by the Takeovers Panel to constitute unacceptable circumstances within the meaning of the Corporations Act; or
 - (2) is determined to be unenforceable or unlawful by a court,
- then, provided all proper avenues of appeal and review (judicial and otherwise) have been exhausted, Blackmores will not be obliged to pay such part of the Reimbursement Amount and, if such fee has already been paid, then Bidder must within five Business Days after receiving written demand from Blackmores refund that part of the Reimbursement Amount. To avoid doubt, any part of the Reimbursement Amount that would not constitute unacceptable circumstances or that is not unenforceable or unlawful (as applicable) must be paid by Blackmores to Bidder.

The parties must not make or cause or permit to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 11.8(a).

12 Termination

12.1 Termination

- (a) Either party may terminate this deed by written notice to the other party:
- (1) other than in respect of a breach of either a Bidder Representation and Warranty or a Blackmores Representation and Warranty (which are dealt with in clause 12.2), at any time before 8.00am on the Second Court Date, if the other party has materially breached this deed, the party entitled to terminate has given written notice to the party in breach of this deed setting out the relevant circumstances and stating an intention to terminate this deed, and the other party has failed to remedy the breach within five Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given;
 - (2) at any time before 8.00am on the Second Court Date if the Court or another Government Agency (including any other court) has taken any action permanently restraining or otherwise prohibiting or preventing the Transaction, or has refused to do anything necessary to permit the Transaction to be implemented by the End Date, and the action or refusal has become final and cannot be appealed or reviewed;
 - (3) in the circumstances set out in, and in accordance with, clause 3.4; or
 - (4) if the Effective Date for the Scheme has not occurred, or will not occur, on or before the End Date.;
- (b) Bidder may terminate this deed by written notice to Blackmores at any time before 8.00am on the Second Court Date if any Blackmores Board Member withdraws, adversely changes or adversely modifies their recommendation that



Blackmores Shareholders vote in favour of the Scheme (excluding a statement that no action should be taken by Blackmores Shareholders pending assessment of a Competing Proposal by the Blackmores Board or the completion of the matching right process set out in clause 10.5), other than where the relevant Blackmores Board Member is subject to an Abstain Requirement and merely complies with the Abstain Requirement.

- (c) Blackmores may terminate this deed by written notice to Bidder at any time before 8.00am on the Second Court Date if:
- (1) the Blackmores Board or a majority of the Blackmores Board has changed, withdrawn, modified or qualified its recommendation as permitted under clause 5.6(c) and, if applicable, Blackmores has paid Bidder the Reimbursement Amount; or
 - (2) the Independent Expert provides a report to Blackmores (including either the Independent Expert's Report or any update of, or any revision, amendment or supplement to, that report) that concludes that the Scheme is not in the best interests of Blackmores Shareholders and if this conclusion in the Independent Expert's Report has been determined by the Independent Expert based on a Competing Proposal, after Blackmores has complied with its obligations under clause 10 (including the matching right process set out in clause 10.5).

12.2 Termination for breach of representations and warranties

- (a) Bidder may, at or at any time prior to 10.00am on the Second Court Date, terminate this deed for breach of a Blackmores Representation and Warranty only if:
- (1) Bidder has given written notice to Blackmores setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
 - (2) the relevant breach continues to exist 20 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given under clause 12.2(a)(1); and
 - (3) the relevant breach is material in the context of the Scheme taken as a whole.
- (b) Blackmores may, at or at any time before 10.00am on the Second Court Date, terminate this deed for breach of a Bidder Representation and Warranty only if:
- (1) Blackmores has given written notice to Bidder setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
 - (2) the relevant breach continues to exist 20 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given under clause 12.2(b)(1); and
 - (3) the relevant breach is material in the context of the Scheme taken as a whole.
- (c) This deed is terminable if agreed to in writing by Bidder and Blackmores.



12.3 Effect of termination

If this deed is terminated by either party under clauses 3.4, 12.1 or 12.2:

- (a) each party will be released from its obligations under this deed, except that this clause 12.3, and clauses 1, 6.5 to 6.9, 7.1, 7.2, 9, 11, 13, 14, 15 and 16 (except clause 16.10), will survive termination and remain in force;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this deed; and
- (c) in all other respects, all future obligations of the parties under this deed will immediately terminate and be of no further force and effect including any further obligations in respect of the Scheme.

12.4 Termination

Where a party has a right to terminate this deed, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this deed and the provision under which it is terminating this deed.

12.5 No other termination

Neither party may terminate or rescind this deed except as permitted under clauses 3.4, 12.1 or 12.2.

13 Duty, costs and expenses

13.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme; and
- (b) indemnifies Blackmores against any liability arising from its failure to comply with clause 13.1(a).

13.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution, delivery and performance of this deed and the proposed, attempted or actual implementation of this deed and the Transaction.

14 GST

- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 14(e) if required) (**Consideration**) is exclusive of GST.



- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 14(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 14(b):
- (1) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as applicable;
 - (2) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
 - (3) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within seven days after receiving such notification, as applicable. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this deed if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term starting with a capital letter in this clause 14 that is not defined in this clause 14 has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

15 Notices

15.1 Form of Notice

A notice or other communication to a party under this deed (**Notice**) must be:

- (a) in writing and in English; and
- (b) addressed to that party in accordance with the details below (or any alternative details nominated to the sending party by Notice).



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| | |
|-------------------|--|
| Blackmores | Blackmores Limited |
| Address | 20 Jubilee Avenue, Warriewood, New South Wales, Australia, 2102 |
| Attention | [REDACTED] |
| Email | [REDACTED] |
| With a copy to | Rebecca.Maslen-Stannage@hsf.com and James.Shirbin@hsf.com |
| Bidder | Kirin Holdings Company, Limited |
| Address | Nakano Central Park South, 4-10-2 Nakano, Tokyo, 164-0001, Japan |
| Attention | [REDACTED] |
| Email | [REDACTED] |
| With a copy to | sgibson@tglaw.com.au and mng@tglaw.com.au |

15.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee’s time) on a day that is not a Saturday, Sunday or a public holiday or bank holiday in the place of receipt (**business hours period**), then, other than in respect of any Notice given on, and prior to 8.00am on, the Second Court Date, the Notice will instead be regarded as given and received at the start of the following business hours period.

| Method of giving Notice | When Notice is regarded as given and received |
|---|--|
| By hand to the nominated address | When delivered to the nominated address |
| By email to the nominated email address | The first to occur of: <ol style="list-style-type: none"> 1 the sender receiving an automated message confirming delivery; or 2 two hours after the time that the email was sent (as recorded on the device from which the email was sent) provided that the sender does not, within the period, receive an automated message that the email has not been delivered. |



15.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 15.2).

16 General

16.1 Governing law and jurisdiction

- (a) This deed is governed by the law in force in New South Wales.
- (b) Each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed, provided that Blackmores may bring proceedings in connection with this deed in Japan to seek to enforce the obligations of Bidder under this deed or the Deed Poll. Each party 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.

16.2 Service of process

- (a) Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of Notices under clause 15.
- (b) Bidder irrevocably appoints Thomson Geer as its agent for the service of process in Australia in relation to any matter arising out of this deed. If Thomson Geer ceases to be able to act as such or have an address in Australia, Bidder agrees to appoint a new process agent in Australia and deliver to the other party within five Business Days a copy of a written acceptance of appointment by the process agent, upon receipt of which the new appointment becomes effective for the purpose of this deed. Bidder must inform the other party in writing of any change in the address of its process agent within five Business Days of the change.

16.3 No merger

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

16.4 Invalidity and enforceability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 16.4(a) does not apply where enforcement of the provision of this deed in accordance with clause 16.4(a) would materially affect the nature or effect of the parties' obligations under this deed.

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16.5 Waiver

No party to this deed may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 16.5 are set out below.

| Term | Meaning |
|---------|---|
| conduct | includes delay in the exercise of a right. |
| right | any right arising under or in connection with this deed and includes the right to rely on this clause. |
| waiver | includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel. |

16.6 Variation

A variation of any term of this deed must be in writing and signed by the parties.

16.7 Assignment of rights

- (a) A party may not assign, novate, declare a trust over or otherwise transfer or deal with any of its rights or obligations under this deed without the prior written consent of the other party or as expressly provided in this deed.
- (b) A breach of clause 16.7(a) by a party shall be deemed to be a material breach for the purposes of clause 12.1(a)(1).
- (c) Clause 16.7(b) does not affect the construction of any other part of this deed.

16.8 Acknowledgement

Each party acknowledges that the remedy of damages may be inadequate to protect the interests of the parties for a breach of this deed and that either party is entitled to seek and obtain, without limitation, injunctive relief or specific performance if either party breaches, or threatens to breach this deed.

16.9 No third party beneficiary

This deed shall be binding on and inure solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed is intended to or shall confer on any other person, other than the Bidder Indemnified Parties and the Blackmores Indemnified Parties, in each case to the extent set forth in clause 6 and clause 7, any third party beneficiary rights.

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16.10 Further action to be taken at each party's own expense

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this deed and the transactions contemplated by it.

16.11 Entire agreement

This deed (including the documents in the Attachments to it) and the Confidentiality Deed state all the express terms agreed by the parties in respect of their subject matter. They supersede all prior discussions, negotiations, understandings and agreements in respect of their subject matter.

16.12 Counterparts

This deed may be executed in any number of counterparts.

16.13 Relationship of the parties

- (a) Nothing in this deed gives a party authority to bind any other party in any way.
- (b) Nothing in this deed imposes any fiduciary duties on a party in relation to any other party.

16.14 Remedies cumulative

Except as provided in this deed and permitted by law, the rights, powers and remedies provided in this deed are cumulative with, and not exclusive of, the rights, powers and remedies provided by law independently of this deed.

16.15 Exercise of rights

- (a) Unless expressly required by the terms of this deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

16.16 No withholding

- (a) Subject to clauses 16.16(b) to 16.16(f), Bidder must make all payments that become due under or in respect of the Scheme free and clear and without deduction of all present and future withholdings (including Taxes or Duties).
- (b) If Bidder is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) (**Subdivision 14-D**) to pay amounts to the Commissioner of Taxation (which is anticipated to be confirmed as part of Blackmores' class ruling application to the Australian Tax Office in respect of the draft class ruling referred to in clause 4.5(a)(3)) in respect of the acquisition of Blackmores Shares from certain Blackmores Shareholders, Bidder is permitted to deduct the relevant amounts from the Scheme Consideration paid



to those Blackmores Shareholders, and remit such amounts to the Commissioner of Taxation. The aggregate sum payable to Blackmores Shareholders by Bidder as Scheme Consideration will not be increased to reflect such deduction and the net aggregate sum payable to those Blackmores Shareholders shall be taken to be in full and final satisfaction of Bidder's obligation to pay the Scheme Consideration to those Blackmores Shareholders.

- (c) Bidder acknowledges and agrees that it must not deduct from the Scheme Consideration or pay to the Commissioner of Taxation any amounts under clause 16.16(b) with respect to a Blackmores Shareholder where it has received an entity declaration from the Blackmores Shareholder prior to the Implementation Date (**Entity Declaration**) and:
- (1) the entity declaration is made in accordance with the requirements in section 14-225 of Subdivision 14-D and applies to a period that includes the Implementation Date; and
 - (2) Bidder does not know that the Entity Declaration is false.
- (d) If Bidder forms the view that it knows that an Entity Declaration it has received from a Blackmores Shareholder is false, and Bidder received the Entity Declaration more than 30 days before the Implementation Date, Bidder agrees that it will not under clause 16.16(b) deduct from the Scheme Consideration or pay to the Commissioner of Taxation any amounts in respect of that Blackmores Shareholder unless:
- (1) Bidder has, no fewer than 20 days before the Implementation Date, provided written notice to the Blackmores Shareholder who has provided that Entity Declaration detailing the information upon which it relied to form that view;
 - (2) having provided the written notice referred to in clause 16.16(d)(1) to the Blackmores Shareholder, Bidder has provided that Blackmores Shareholder the opportunity to review the information in that notice and respond with its views on the matters set out in that notice by or before the date that is 10 days before the Implementation Date; and
 - (3) the Blackmores Shareholder has either not responded to that notice by the time specified in clause, or has responded to that notice and Bidder, after having considered in good faith that response, continues to hold the view that it has knowledge that the Entity Declaration it has received from that Blackmores Shareholder is false.
- (e) Blackmores agrees that Bidder may approach the Australian Tax Office to obtain clarification as to the application of Subdivision 14-D to the Transaction and will provide all information and assistance that Bidder reasonably requires for the purpose of making any such approach. Bidder agrees:
- (1) to provide Blackmores a reasonable opportunity to review the form and content of all materials to be provided to the Australian Taxation Office, and must incorporate Blackmores' reasonable comments on those materials, and more to take into account Blackmores' comments in relation to Bidder's engagement with the Australian Taxation Office, and provide Blackmores a reasonable opportunity to participate in any discussions and correspondence between Bidder and the Australian Taxation Office in connection with the application of Subdivision 14-D to the Transaction; and
 - (2) not to contact any Blackmores Shareholders in connection with the application of Subdivision 14-D to the Transaction without Blackmores' prior written consent.



- (f) The parties agree to consult with each other in good faith as to the application of Subdivision 14-D, including taking into account any clarification provided by the Australian Taxation Office following the process described in clause 16.16(d) in respect of any Blackmores Shareholder.

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Schedules

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Schedule 1

Definitions and interpretation

1.1 Definitions

| Term | Meaning |
|-------------------------------|--|
| Abstain Requirement | means an order, requirement or request made or imposed by the Court or a Government Agency that one or more Blackmores Directors abstain or withdraw from making a recommendation to Blackmores Shareholders to vote in favour of the Scheme. |
| ACCC | the Australian Competition and Consumer Commission. |
| Adviser Agreements | has the meaning given in clause (r) of Schedule 3. |
| Agreed Works | means, in relation to each of the Sites, an environmental site assessment investigation and Report in accordance with the National Environment Protection (Assessment of Site Contamination) Measures 1999 (as amended 2013) and applicable EPC guidelines, the purpose of which is to determine whether or not there is any contamination which presents a significant risk of harm to human health or the environment such that it would prevent the use of the relevant Site for commercial/industrial purposes as currently used and in its current form and layout. |
| ASIC | the Australian Securities and Investments Commission. |
| Associate | has the meaning set out in section 12 of the Corporations Act, as if subsection 12(1) of the Corporations Act included a reference to this deed and Blackmores was the designated body. |
| ASX | ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates. |
| Bidder Counterproposal | has the meaning given in clause 10.5(b). |



| Term | Meaning |
|--|--|
| Bidder Group | Bidder and each of its Subsidiaries, and a reference to a Bidder Group Member or a member of the Bidder Group is to Bidder or any of its Subsidiaries. |
| Bidder Indemnified Parties | Bidder, its Subsidiaries (including Bidder Sub) and their respective directors, officers and employees. |
| Bidder Information | <p>information regarding the Bidder Group provided by Bidder to Blackmores in writing for inclusion in the Scheme Booklet, including:</p> <ol style="list-style-type: none">1 information about Bidder, other Bidder Group Members, the businesses of the Bidder Group, Bidder's interests and dealings in Blackmores Shares, Bidder's intentions for Blackmores and Blackmores' employees, and funding for the Scheme; and2 any other information required under the Corporations Act, Corporations Regulations or RG 60 to enable the Scheme Booklet to be prepared that the parties agree is 'Bidder Information' and that is identified in the Scheme Booklet as such. <p>For the avoidance of doubt, the Bidder Information excludes the Blackmores Information, the Independent Expert's Report and any description of the taxation effect of the Transaction on Scheme Shareholders prepared by an external adviser to Blackmores.</p> |
| Bidder Representations and Warranties | the representations and warranties of Bidder set out in Schedule 2. |
| Bidder Specified Persons | [REDACTED] |
| Bidder Sub | means the wholly owned Subsidiary of Bidder nominated by Bidder by written notice to Blackmores on or before the date that is 10 Business Days before submission of the Regulator's Draft. |
| Blackmores Board | the board of directors of Blackmores and a Blackmores Board Member means any director of Blackmores comprising part of the Blackmores Board. |
| Blackmores Equity Incentives | <ol style="list-style-type: none">1 performance rights awarded or granted under Blackmores' Short-Term Incentive Plan (as operated under the terms of Blackmores' Executive Share Plan Trust Deed, as amended from time to time); |

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| Term | Meaning |
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| | <ol style="list-style-type: none">conditional rights to acquire Blackmores Shares awarded or granted under Blackmores' Long-Term Incentive Plan (as operated under the terms of Blackmores' Executive Share Plan Trust Deed, as amended from time to time); andother rights to acquire or be issued Blackmores Shares, including rights granted under Blackmores' Employee and Director Rights Plan. |
| Blackmores Group | Blackmores and each of its Subsidiaries (including PT Kalbe Blackmores Nutrition), and a reference to a Blackmores Group Member or a member of the Blackmores Group is to Blackmores or any of its Subsidiaries. |
| Blackmores Indemnified Parties | Blackmores, its Subsidiaries and their respective directors, officers and employees. |
| Blackmores Information | all information in the Scheme Booklet other than 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 Blackmores. |
| Blackmores Material Adverse Change | <p>an event, change, condition, matter, circumstance or thing occurring (Specified Event) on or after the date of this deed which, whether individually or aggregated with all such other Specified Events of a like kind, has resulted in or is reasonably likely to result in:</p> <ol style="list-style-type: none">the Blackmores Group ceasing to operate, or being unable to continue to operate, its business in Australia, The People's Republic of China or Indonesia;the consolidated net assets of the Blackmores Group (calculated in accordance with the accounting policies and practices applied by Blackmores as at the date of this deed) being diminished by at least \$65 million against the 31 December 2022 Blackmores Group reported balance sheet; orthe consolidated annual EBITDA of the Blackmores Group (for the purposes of this definition being EBITDA excluding nonrecurring or non-trading items in accordance with Blackmores' accounting policies and the applicable accounting standards including those prescribed by the Australian Accounting Standards Board) being reduced by at least \$20 million as compared to what the consolidated annual EBITDA of the Blackmores Group would reasonably have been expected to be at the end of a financial year but for such Specified Event,<p>other than those events, changes, conditions, matters, circumstances or things:</p><ol style="list-style-type: none">that are Fairly Disclosed in: |

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| Term | Meaning |
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| | <ul style="list-style-type: none">• the Disclosure Materials;• an announcement made by Blackmores to ASX, or a publicly available document lodged by it with ASIC, in the 24 month period prior to the date of this deed; or• publicly available document which would be disclosed in a search of:<ul style="list-style-type: none">- the PPS Register;- the registry of the New South Wales Land Registry Services or the Victorian Land Titles Office;- the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory of Australia; or- IP Australia,had each such search been conducted on the Business Day before the date of this deed; |
| 5 | that were within the actual knowledge of Bidder as at the date of this deed; |
| 6 | agreed to in writing by Bidder or requested in writing by Bidder; |
| 7 | directly relating to costs and expenses incurred by Blackmores associated with the Scheme process or Transaction; or |
| 8 | any of the following: <ul style="list-style-type: none">• arising as a result of any generally applicable change in law (including subordinate legislation) or regulation;• arising from changes in economic or business conditions that impact on Blackmores and its competitors in a similar manner (including/ interest rates, general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets);• arising from any act of terrorism, outbreak or escalation of war (whether or not declared), major hostilities, civil unrest or outbreak or escalation of any disease epidemic or pandemic (including the outbreak, escalation or any impact of, or recovery from, the Coronavirus or COVID-19 pandemic); or• arising from any act of God, natural disaster, lightning, storm flood, bushfire, earthquake, explosion, cyclone, tidal wave, landslide, on or after the date of this deed, but excluding any event, change, condition, matter, circumstance or thing which have a materially disproportionate, and adverse, impact on Blackmores Group relative to its competitors. |

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| Term | Meaning |
|---|---|
| Blackmores Prescribed Occurrence | <p>other than as:</p> <ol style="list-style-type: none"> 1 required or permitted by this deed, the Scheme or the transactions contemplated by either; 2 Fairly Disclosed in: <ul style="list-style-type: none"> • the Disclosure Materials; • an announcement made by Blackmores to ASX, or a publicly available document lodged by it with ASIC, in the 24 month period prior to the date of this deed; or • publicly available document which would be disclosed in a search of: <ul style="list-style-type: none"> - the PPS Register; - the registry of the New South Wales Land Registry Services or the Victorian Land Titles Office; - the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory of Australia; or - IP Australia, <p>had each such search been conducted on the Business Day before the date of this Deed;</p> 3 agreed to in writing by Bidder or requested in writing by Bidder; or 4 required by any applicable law or regulation, <p>with the exceptions in items 2 and 4 above not applying to the prescribed occurrence in item 8 below, the occurrence of any of the following:</p> <ol style="list-style-type: none"> 5 Blackmores converting all or any of its shares into a larger or smaller number of shares; 6 a member of the Blackmores Group resolving to reduce its share capital in any way; 7 a member of the Blackmores Group: <ul style="list-style-type: none"> • entering into a buy-back agreement; or • resolving to approve the terms of a buy-back agreement under the Corporations Act; 8 a member of the Blackmores Group issuing shares, options, convertible securities or Blackmores Equity Incentives, or agreeing to make such an issue of shares, options, convertible securities or Blackmores Equity Incentives, other than: <ul style="list-style-type: none"> • to a directly or indirectly wholly-owned Subsidiary of Blackmores; or • the issue of shares upon the conversion or vesting of Blackmores Equity Incentives, 9 a member of the Blackmores Group issuing, or agreeing to issue, convertible notes; |

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| Term | Meaning |
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| | <p>10 a member of the Blackmores Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;</p> <p>11 a member of the Blackmores Group granting a Security Interest, or agreeing to grant a Security Interest, in the whole, or substantially all, of the business or property of the Blackmores Group, other than for the purposes of securing obligations under financing arrangements entered into for the purposes of:</p> <ul style="list-style-type: none">• replacing maturing or expiring debt financing arrangements;• refinancing existing debt finance arrangements on market terms;• new bank guarantees;• currency hedging; or• funding part or all of the Special Dividend, and prior written notification has been provided to Bidder; or <p>12 an Insolvency Event occurs in relation to a member of the Blackmores Group (other than a dormant entity).</p> |
| Blackmores Registry | Computershare Investor Services Pty Limited ACN 078 279 277. |
| Blackmores Regulated Event | <p>other than as:</p> <p>1 required or permitted by this deed, the Scheme or the transactions contemplated by either;</p> <p>2 Fairly Disclosed in:</p> <ul style="list-style-type: none">• the Disclosure Materials, including as being an action that the Blackmores Group may carry out between (and including) the date of this deed and the Implementation Date, including for the avoidance of doubt any strategic initiatives identified in the Disclosure Materials (whether or not such strategic initiatives have been approved by the Blackmores Board as at the date of this deed);• an announcement made by Blackmores to ASX, or a publicly available document lodged by it with ASIC, in the 24 month period prior to the date of this deed; or• publicly available document which would be disclosed in a search of:<ul style="list-style-type: none">• the PPS Register;• the registry of the New South Wales Land Registry Services or the Victorian Land Titles Office;• the registry of the High Court, the Federal Court, the Federal Circuit Court, and the Supreme Courts in each state and territory of Australia; or |

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| Term | Meaning |
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| | <ul style="list-style-type: none">• IP Australia, had each such search been conducted on the Business Day before the date of this Deed; |
| | 3 agreed to in writing by Bidder or requested in writing by Bidder (which response must not be unreasonably delayed more than 5 Business Days from the date of the request from Blackmores); or |
| | 4 required by any applicable law, regulation or contract entered into and a copy of which was Fairly Disclosed to Bidder before the date of this deed, |
| | the occurrence of any of the following: |
| | 5 a Blackmores Group Member reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares (other than to meet or settle obligations in respect of Blackmores Equity Incentives); |
| | 6 other than the Special Dividend, Blackmores announcing, making, declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members (whether in cash or in specie); |
| | 7 a member of the Blackmores Group making any change to its constitution, other than a change that does not materially affect the Transaction or the Blackmores Group; |
| | 8 a member of the Blackmores Group entering into a new line of business not already carried out by the Blackmores Group as at the date of this deed, whether by way of acquisition or otherwise; |
| | 9 a member of the Blackmores Group: <ul style="list-style-type: none">• acquiring, leasing or disposing of;• agreeing to acquire, lease or dispose of; or• announcing or proposing a bid, or tendering, for, any business, assets, entity or undertaking, the value of which exceeds \$10 million (individually or in aggregate); |
| | 10 a member of the Blackmores Group entering into new debt financing arrangements (other than replacement of maturing or expiring arrangements, refinancing arrangements on market terms, new bank guarantees, financing arrangements associated with currency hedging, or the Dividend Facility): <ul style="list-style-type: none">• the value of which exceeds \$25 million (individually or in aggregate);• the term exceeds 12 months or is subject to automatic renewal; or• where the total costs (including upfront fees, interests costs and early repayment fees following the Implementation Date) associated with these new financing arrangements exceeds \$2 million; |

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| Term | Meaning |
|------|---|
| | <p>11 a member of the Blackmores Group incurring capital expenditure where the financial impact on the Blackmores Group will be in excess of \$7.5 million;</p> <p>12 any event of default, review event, right of acceleration or any other event occurring which results in, or gives rise to a right, for any external financial debt of the Blackmores Group becoming due and payable before its stated maturity or causes the credit available under the relevant Financial Indebtedness facility to cease to be available (unless such event or right arises because of the actual or potential change of control of Blackmores and other Blackmores Group Members resulting from the entry of the parties into this deed or the Scheme becoming effective or being implemented);</p> <p>13 a member of the Blackmores Group waiving any material third party default where the financial impact on the Blackmores Group will be in excess of \$5 million;</p> <p>14 a member of the Blackmores Group accepting as a compromise of a matter less than the full compensation due to a member of the Blackmores Group where the financial impact of the compromise on the Blackmores Group is more than \$5 million;</p> <p>15 a member of the Blackmores Group entering into any material transaction or material agreement that continues beyond the Implementation Date on terms that are not negotiated on an arm's length, commercial basis;</p> <p>16 a member of the Blackmores Group:</p> <ul style="list-style-type: none">entering into any new contract for supply of goods or services to Blackmores which does not contain a right for the relevant Blackmores Group Member to terminate the contract at its convenience with a notice period of 6 months or less (other than any agreement relating to energy supply); orterminating, varying, amending or modifying any existing contract which is material to the businesses operated by the Blackmores Group, <p>in each case where the annual value of the relevant contract is excess of \$10 million or the total value of the relevant contract is excess of \$20 million;</p> <p>17 a member of the Blackmores Group settling any legal proceedings, disputed claim, investigation, arbitration or other like proceeding where the settlement amount payable by any member of the Blackmores Group exceeds \$5 million;</p> <p>18 a member of the Blackmores Group entering into, or resolving to enter into, a transaction with any related party of Blackmores (other than a related party which is a member of the Blackmores Group), as defined in section 228 of the Corporations Act, other than on arm's length terms;</p> <p>19 a member of the Blackmores Group:</p> <ul style="list-style-type: none">entering into any new employment, consulting or service agreement or arrangement, or varying any employment, |

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| Term | Meaning |
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| | <p>consulting or service agreement or arrangement in existence at the date of this deed, accelerating or otherwise increasing the compensation or benefits, with any of its officers, directors or other senior executives or any individual in respect of which the total annual remuneration in respect of that individual is greater than \$500,000;</p> <ul style="list-style-type: none">• pays any bonus or issues any securities to, or otherwise varies the employment, consulting or service agreements or arrangements with, any of its officers, directors or other senior executives or any individual in respect of which the total annual remuneration in respect of that individual is greater than \$500,000 (other than bonuses payable to any individual in accordance with the employment terms of that officer or employee in existence as at the date of this deed and in the ordinary and usual course of business and consistent with the practice adopted for the financial year ending June 2022); or• pays any termination payment or a retention payment to any of its officers, directors or other senior executives or any individual, in respect of which total annual remuneration in respect of that individual is greater than \$500,000, <p>in each case other than pursuant to replacement of personnel in the ordinary course, usual remuneration review processes conducted in the ordinary course or in accordance with policies, guidelines or contractual arrangements in effect on the date of this deed and which are contained in the Disclosure Materials;</p> <p>20 a member of the Blackmores Group entering into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this deed and which are contained in the Disclosure Materials;</p> <p>21 a member of the Blackmores Group materially changing any accounting policy applied by it to report its financial position other than any change in policy required by a change in accounting standards or principles or by the Blackmores Group's external auditor;</p> <p>22 the occurrence of a Stop Event; or</p> <p>23 any amendment to any Adviser Agreement which results in:</p> <ul style="list-style-type: none">• an increase in a success or discretionary fees payable pursuant to any Adviser Agreement in connection with the Transaction; or• the aggregate value of fees payable exceeding \$20 million. |
| Blackmores Representations and Warranties | the representations and warranties of Blackmores set out in Schedule 3, as each is qualified by clause 6.5. |
| Blackmores Share | a fully paid ordinary share in the capital of Blackmores. |

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| Term | Meaning |
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| Blackmores Share Register | the register of members of Blackmores maintained in accordance with the Corporations Act. |
| Blackmores Shareholder | each person who is registered as the holder of a Blackmores Share in the Blackmores Share Register. |
| Business Day | a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney or Tokyo. |
| Claim | <p>any claim, demand, legal proceedings or cause of action (including any claim, demand, legal proceedings or cause of action:</p> <ol style="list-style-type: none">1 based in contract, including breach of warranty;2 based in tort, including misrepresentation or negligence;3 under common law or equity; or4 under statute, including the Australian Consumer Law (being Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth) (CCA)) or Part VI of the CCA, or like provision in any state or territory legislation), <p>in any way relating to this deed or the Transaction, and includes a claim, demand, legal proceedings or cause of action arising under an indemnity in this deed.</p> |
| Competing Proposal | <p>any proposal, agreement, arrangement or transaction, which, if entered into or completed, would result in a Third Party (either alone or together with any Associate):</p> <ol style="list-style-type: none">1 directly or indirectly acquire a Relevant Interest in, or become the holder of, 20% or more of the Blackmores Shares;2 acquire Control of Blackmores;3 directly or indirectly acquire or obtain a right to acquire 15% or more of the consolidated assets of the Blackmores Group; or4 require Blackmores to abandon, or otherwise fail to proceed with, the Transaction, <p>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.</p> |
| Competition Approvals | has the meaning given in clause 3.1(b). |

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| Term | Meaning |
|---------------------------------|--|
| Condition Precedent | each of the conditions set out in clause 3.1. |
| Confidentiality Deed | the mutual confidentiality deed between Bidder and Blackmores dated on or about 8 February 2023. |
| Consultant | ██████████ of JBS&G Australia, being a Certified Environmental Practitioner (Site Contamination Specialist) recognised by the relevant regulatory authorities. |
| Consultation Notice | has the meaning given in clause 3.4(a). |
| Control | has the meaning given in section 50AA of the Corporations Act. |
| Corporations Act | the <i>Corporations Act 2001</i> (Cth), as modified or varied by ASIC. |
| Corporations Regulations | the <i>Corporations Regulations 2001</i> (Cth). |
| Court | the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and Blackmores. |
| Deed Poll | a deed poll in the form of Attachment 2 under which Bidder and Bidder Sub each covenants in favour of the Scheme Shareholders to perform the obligations attributed to Bidder and Bidder Sub under the Scheme. |

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| Term | Meaning |
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| Defaulting Director | has the meaning given in clause 11.4(a). |
| Disclosure Letter | means the disclosure letter dated the same date as this deed provided by Blackmores to Bidder and countersigned by Bidder. |
| Disclosure Materials | <ol style="list-style-type: none">1 the documents and information, including written responses to requests for further information, which are all contained in the data room made available by Blackmores to Bidder and its Related Persons as at 5.00pm (AEST) on 19 April 2023, the index of which has been sent by Herbert Smith Freehills to Thomson Geer by email at 9.51pm (AEST) on 25 April 2023; and2 the Disclosure Letter. |
| Dividend Facility | <p>means a new debt facility for the purposes of funding part or all of the Special Dividend with the following terms:</p> <ol style="list-style-type: none">1 the term of the facility does not exceed 12 months and is not subject to automatic renewal;2 the value of the facility does not exceed \$75 million, <p>and Blackmores has sought to minimise any fees for voluntary or early repayment of the facility and any fees (including upfront fees and interests costs) charged in connection with the facility and has consulted with Bidder in relation to such terms of any such proposed debt facility.</p> |
| Effective | when used in relation to the Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to the Scheme. |
| Effective Date | the date on which the Scheme becomes Effective. |
| End Date | 29 September 2023, or such other date as agreed in writing by the parties. |
| EPA | the Environmental Protection Authority of New South Wales or Victoria (as applicable). |
| Excluded Shareholder | any member of the Bidder Group. |



| Term | Meaning |
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| Exclusivity Period | the period from and including the date of this deed to the earlier of: <ol style="list-style-type: none">1 the date of termination of this deed;2 the End Date; and the Effective Date. |
| Executive | the Chief Executive Officer, Chief Financial Officer, Chief People Officer, Chief Governance Officer and Group General Counsel and Company Secretary of Blackmores. |
| Fairly Disclosed | disclosed to Bidder or any of its Related Persons, to a sufficient extent, and in sufficient detail, so as to enable a reasonable bidder (or one of its Related Persons) experienced in transactions similar to the Transaction and entering into the Transaction, to identify the nature and scope of the relevant matter, event or circumstance (and, for the avoidance of doubt, if a plan or proposal is disclosed, the implementation of that plan or proposal is also considered disclosed). |
| FIRB Approval | has the meaning given in clause 3.2(d)(1). |
| First Court Date | the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard. |
| Government Agency | any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian. |
| Implementation Date | the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as the parties agree in writing. |
| Independent Expert | the independent expert in respect of the Scheme appointed by Blackmores. |

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| Term | Meaning |
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| Independent Expert's Report | means the report to be issued by the Independent Expert in connection with the Scheme, setting out the Independent Expert's opinion whether or not the Transaction is in the best interests of Blackmores Shareholders and the reasons for holding that opinion. |
| Insolvency Event | means, in relation to an entity: <ol style="list-style-type: none">1 the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity (other than where the order is set aside within 14 days);2 a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;3 the entity executing a deed of company arrangement;4 the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this deed;5 the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation), unless that entity has or has access to financial support from a Related Body Corporate such that it is able to pay its debts; or6 the entity being deregistered as a company or otherwise dissolved. |
| Integration Committee | has the meaning given in clause 5.10. |
| Listing Rules | the official listing rules of ASX. |
| Matching or Superior Proposal | has the meaning given in clause 10.5(b). |
| Material Contract | has the meaning given in clause (q) of Schedule 3. |
| Registered Address | in relation to a Blackmores Shareholder, the address shown in the Blackmores Share Register as at the Scheme Record Date. |
| Regulator's Draft | the draft of the Scheme Booklet in a form which is provided to ASIC for approval pursuant to subsection 411(2) of the Corporations Act. |

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| Term | Meaning |
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| Regulatory Approval | has the meaning given in clause 3.2(d)(1). |
| Reimbursement Amount | means \$18,478,103. |
| Related Bodies Corporate | has the meaning set out in section 50 of the Corporations Act. |
| Related Person | in respect of a party or its Related Bodies Corporate, each director, officer, employee, adviser, agent or representative of that party or Related Body Corporate. |
| Relevant Interest | has the meaning given in sections 608 and 609 of the Corporations Act. |
| Relevant Period | has the meaning given in clause 10.5(a)(5). |
| Report | a report prepared by the Consultant, for the benefit of both Blackmores and Bidder, relating to the Agreed Works. |
| RG 60 | Regulatory Guide 60 issued by ASIC in September 2011. |
| Scheme | the scheme of arrangement under Part 5.1 of the Corporations Act between Blackmores and the Scheme Shareholders, the form of which is attached as Attachment 1, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Bidder and Blackmores. |
| Scheme Booklet | <p>the scheme booklet to be prepared by Blackmores in respect of the Transaction in accordance with the terms of this deed (including clause 5.2(a)) to be despatched to the Blackmores Shareholders and which must include or be accompanied by:</p> <ul style="list-style-type: none">• a copy of the Scheme;• an explanatory statement complying with the requirements of the Corporations Act, the Corporations Regulations and RG 60;• the Independent Expert's Report;• a copy or summary of this deed;• a copy of the executed Deed Poll; |



| Term | Meaning |
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| | <ul style="list-style-type: none">• a notice of meeting; and• a proxy form. |
| Scheme Consideration | the consideration to be provided by Bidder to each Scheme Shareholder for the transfer to Bidder Sub of each Scheme Share, being for each Blackmores Share held by a Scheme Shareholder as at the Scheme Record Date, an amount of \$95.00 as adjusted in accordance with clause 4.5(b) (if applicable). |
| Scheme Meeting | the meeting of Blackmores Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting. |
| Scheme Record Date | 7.00pm on the fifth Business Day after the Effective Date. |
| Scheme Shareholder | a holder of Blackmores Shares recorded in the Blackmores Share Register as at the Scheme Record Date (other than an Excluded Shareholder). |
| Scheme Shares | all Blackmores Shares held by the Scheme Shareholders as at the Scheme Record Date. |
| Second Court Date | the first day on which an application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving the Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application or appeal is heard. |
| Security Interest | has the meaning given in section 51A of the Corporations Act. |
| Sites | each of: <ul style="list-style-type: none">• 20 Jubilee Avenue, Warriewood NSW 2102 Australia, being Lot 50 in Deposited Plan 1237461, Folio 50/1237461; and• 217-221 Governor Road, Braeside VIC 3195 Australia, being Lot 1 on Plan of Subdivision 330219D Certificate of Title Volume 12156 Folio 133. |
| Special Dividend | has the meaning given in clause 4.5(a). |



| Term | Meaning |
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| Standard Tax Conditions | means any tax-related conditions which are in the form, or substantially in the form, of those set out in under the 'Standard tax conditions' heading in section D of FIRB Guidance Note 12 on 'Tax Conditions' (in the form released on 9 July 2021). |
| Stop Event | <p>a finding in the Report that the presence of any contamination:</p> <ul style="list-style-type: none">• in, on or under a Site;• emanating into, onto or under a Site; or• emanating from a Site, <p>which presents a significant risk of harm to human health or the environment such that:</p> <ul style="list-style-type: none">• the present use of a Site for commercial/industrial purposes cannot continue to be undertaken in its current form and layout without remediation; and• that remediation cannot be undertaken:<ul style="list-style-type: none">○ without causing a complete cessation or complete relocation of Blackmores' business operations at or from (as applicable) a Site, other than as agreed between Bidder and Blackmores; or○ due to any legally binding order or requirement of any regulatory authority (including the EPA or a council) which prevents such use or remediation. |
| Subsidiary | has the meaning given in Division 6 of Part 1.2 of the Corporations Act. |
| Superior Proposal | a bona fide Competing Proposal not resulting from a breach of clause 10 that the Blackmores Board, acting in good faith, and after consultation with its external legal and financial advisers, determines is reasonably capable of being completed substantially in accordance with its terms and would, if completed substantially in accordance with its terms be reasonably likely to be more favourable to Blackmores Shareholders (as a whole) than the Transaction (and, if applicable, than the Transaction as amended or varied following application of the matching right set out in clause 10.5), taking into account all terms and conditions and other aspects of the Competing Proposal (including any timing considerations, any conditions precedent, the value and type of consideration, the level of transaction execution risk, the identity, reputation, expertise and financial capacity and condition of the proponent or other matters affecting the probability of the Competing Proposal being completed) and of the Transaction. |
| Takeovers Panel | the Australian Takeovers Panel. |

For personal use only



| Term | Meaning |
|--------------------|--|
| Tax Act | the <i>Income Tax Assessment Act 1997</i> (Cth). |
| Third Party | a person other than Bidder, its Related Bodies Corporate and its other Associates. |
| Timetable | the indicative timetable for the implementation of the Transaction agreed between Blackmores and Bidder. |
| Transaction | the acquisition of the Scheme Shares by Bidder Sub through implementation of the Scheme in accordance with the terms of this deed. |

2 Interpretation

2.1 Interpretation

In this deed:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency, as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to this deed;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to the lawful currency of Australia;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney, Australia;



- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1.1 of this Schedule 1, has the same meaning when used in this deed;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this deed will be construed adversely to a party because that party was responsible for the preparation of this deed or that provision;
- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (o) a reference to a body (including an institute, association or authority), other than a party to this deed, whether statutory or not:
- (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) a reference to an agreement other than this deed includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing;
- (q) a reference to liquidation or insolvency includes appointment of an administrator, a reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, bankruptcy, or a scheme, compromise or arrangement with creditors (other than solely with holders of securities or derivatives), or any similar procedure or, where applicable, changes in the constitution of any partnership or Third Party, or death;
- (r) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (s) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (t) if an act prescribed under this deed to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day; and
- (u) a reference to the Listing Rules and the Operating Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

2.2 Interpretation of inclusive expressions

Specifying anything in this deed after the words 'include' or 'for example' or similar expressions does not limit what else is included.

2.3 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.



Schedule 2

Bidder Representations and Warranties

Bidder represents and warrants to Blackmores that:

- (a) **Bidder Information:** the Bidder Information provided for inclusion in the Scheme Booklet, as at the date the Scheme Booklet is despatched to Blackmores Shareholders, will be accurate in all material respects and will not contain any statement which is materially misleading or deceptive (with any statement of belief or opinion being honestly held and formed on a reasonable basis), including by way of omission from that statement;
- (b) **basis of Bidder Information:** the Bidder Information:
- (1) will be provided to Blackmores in good faith and on the understanding that Blackmores and each other Blackmores Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and determining to proceed with the Transaction; and
 - (2) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60, applicable Takeovers Panel guidance notes and the Listing Rules,
- and all information provided by or on behalf of Bidder to the Independent Expert will be prepared and provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (c) **new information:** it will, as a continuing obligation, provide to Blackmores all further or new information which arises after the Scheme Booklet has been despatched to Blackmores Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading, deceptive or non-compliant (including by way of omission) in any material respect;
- (d) **validly existing:** it is a validly existing corporation registered under the laws of its place of incorporation;
- (e) **authority:** the execution and delivery of this deed by Bidder has been properly authorised by all necessary corporate action of Bidder, and Bidder has taken or will take all necessary corporate action to authorise the performance of this deed and the transactions contemplated by this deed;
- (f) **power:** it has full capacity, corporate power and lawful authority to execute, deliver and perform this deed and to carry out the transactions contemplated by this deed;
- (g) **no default:** neither this deed nor the carrying out by Bidder of the transactions contemplated by this deed does or will conflict with or result in the breach of or a default under:
- (1) any provision of Bidder's constitution; or
 - (2) any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other Bidder Group Member is bound,



and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;

- (h) **deed binding:** this deed is a valid and binding obligation of Bidder, enforceable in accordance with its terms;
- (i) **Bidder Sub:** Bidder Sub is a wholly-owned Subsidiary of Bidder;
- (j) **Insolvency Event or regulatory action:** no Insolvency Event has occurred in relation to it, Bidder Sub or any other Bidder Group Member that controls Bidder Sub, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed, under the Deed Poll or under the Scheme;
- (k) **Reasonable basis:** as at the date of this deed, Bidder has a reasonable basis to expect that it will have sufficient financing to satisfy its obligations to provide the Scheme Consideration in accordance with the terms of this deed, the Scheme and the Deed Poll; and
- (l) **Financing:** at 8.00am on the Second Court Date and on the Implementation Date, Bidder will have sufficient financing available to it on an unconditional basis (other than, in respect of the Second Court Date only, any conditions relating to the approval of the Scheme by the Court, or procedural or documentary matters which can only be satisfied or performed after the Second Court Date) to enable Bidder to satisfy its obligations to provide the Scheme Consideration in accordance with the terms of this deed, the Scheme and the Deed Poll.



Schedule 3

Blackmores Representations and Warranties

Blackmores represents and warrants to Bidder that:

- (a) **Blackmores Information:** the Blackmores Information contained in the Scheme Booklet, as at the date the Scheme Booklet is despatched to Blackmores Shareholders, will be accurate in all material respects and will not contain any statement which is materially misleading or deceptive (with any statement of belief or opinion being honestly held and formed on a reasonable basis), including by way of omission from that statement;
- (b) **basis of Blackmores Information:** the Blackmores Information:
- (1) will be prepared and included in the Scheme Booklet in good faith and on the understanding that Bidder and each other Bidder Indemnified Party will rely on that information for the purposes of determining to proceed with the Transaction and considering and approving the Bidder Information; and
 - (2) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60, applicable Takeovers Panel guidance notes and the Listing Rules,
- and all information provided by or on behalf of Blackmores to the Independent Expert will be prepared and provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;
- (c) **new information:** it will, as a continuing obligation (but in respect of the Bidder Information, only to the extent that Bidder provides Blackmores 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 Blackmores Shareholders (other than Excluded Shareholders) until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading, deceptive or non-compliant (including by way of omission) in any material respect;
- (d) **validly existing:** Blackmores is a validly existing corporation registered under the laws of its place of incorporation;
- (e) **authority:** the execution and delivery of this deed by Blackmores has been properly authorised by all necessary corporate action of Blackmores, and Blackmores has taken or will take all necessary corporate action to authorise the performance of this deed and the transactions contemplated by this deed;
- (f) **power:** it has full capacity, corporate power and lawful authority to execute, deliver and perform this deed and to carry out the transactions contemplated by this deed;
- (g) **no default:** neither this deed nor the carrying out by Blackmores of the transactions contemplated by this deed does or will conflict with or result in the breach of or a default under:
- (1) any provision of Blackmores' constitution; or



- (2) any writ, order or injunction, judgment, law, rule or regulation to which it is party or subject or by which it or any other Blackmores Group Member is bound,

and it is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;

- (h) **deed binding:** this deed is a valid and binding obligation of Blackmores, enforceable in accordance with its terms;
- (i) **continuous disclosure:** as at the date of this deed, Blackmores is in compliance with its continuous disclosure obligations;
- (j) **capital structure:** its capital structure, including all issued securities as at the date of this deed, is as set out in Schedule 4 and it has not issued or granted (or agreed to issue or grant) any other securities, options, warrants, performance rights or other instruments which are still outstanding and may convert into Blackmores Shares other than as set out in Schedule 4 and other than pursuant to the terms of and apply to the Blackmores Equity Incentives, no Blackmores Group Member is under any obligation to issue or grant, and no person (other than another Blackmores Group Member) has any right to call for the issue or grant of, any shares, options, warrants, share rights, performance rights or other securities or instruments in any Blackmores Group Member;
- (k) **interest:** the Disclosure Materials set out full details (as at the date of this deed) of any company, partnership, trust, joint venture (whether incorporated or unincorporated) or other enterprise in which Blackmores or another Blackmores Group Member owns or otherwise holds any material interest and which is material in the context of the Blackmores Group taken as a whole;
- (l) **Insolvency Event or regulatory action:** no Insolvency Event has occurred in relation to it or another Blackmores Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Scheme;
- (m) **material licences:** the Blackmores Group has all material authorisations, accreditations, registrations, approvals, licences and permits necessary for it to conduct the business of the Blackmores Group as it is being conducted as at the date of this deed;
- (n) **Disclosure Materials:**
- (1) Blackmores has collated and prepared all of the Disclosure Materials in good faith for the purposes of a due diligence process and in this context, as at the date of this deed and so far as Blackmores is aware the Disclosure Materials are accurate in all material respects and not misleading in any material respect, whether by way of omission or otherwise; and
- (2) Blackmores has not intentionally withheld from the Disclosure Materials any information which would reasonably be expected to be material to a reasonable bidder's decision whether to proceed with the Scheme;
- (o) **compliance:** so far as Blackmores is aware, the Blackmores Group has complied in all material respects with all laws and regulations applicable to it;
- (p) **litigation:** other than as Fairly Disclosed in the Disclosure Materials, so far as Blackmores is aware, no litigation, prosecution, regulatory investigation, arbitration, mediation, or other proceedings relating to the Blackmores Group



and which is material to the business of the Blackmores Group is current or pending or threatened;

- (q) **material contracts:**
- (1) as at the date of this deed, Blackmores has Fairly Disclosed a true and complete copy of each contract to which a Blackmores Group Member is party which:
 - (A) Blackmores considers is material to the business of the Blackmores Group as a whole and necessary for the Blackmores Group to conduct its business as presently being conducted as at the date of this deed; and
 - (B) is not readily replaceable by contracts with alternate suppliers or customers (as applicable).
 - (Material Contracts);**
 - (2) each Material Contract is in full force and effect and is valid and binding on the applicable member of the Blackmores Group;
 - (3) as at the date of this deed, no member of the Blackmores Group is in material default under or breach of a Material Contract; and
 - (4) as at the date of this deed, no member of the Blackmores Group has received notice of, and Blackmores is not aware of, a material breach of any Material Contract by any of the other parties thereto; and
- (r) **adviser fees:** as at the date of this deed Blackmores has Fairly Disclosed in the Disclosure Materials the aggregate amount of any amounts expected to be payable by a Blackmores Group Member to any financial, legal, accounting and other adviser in connection with the Transaction (**Adviser Agreements**).



Schedule 4

Blackmores details

| Security | Total number on issue |
|------------------------------|---|
| Blackmores Shares | 19,450,635 |
| Blackmores Equity Incentives | <p>15,156 performance rights awarded or granted under Blackmores' Short-Term Incentive Plan (as operated under the terms of Blackmores' Executive Share Plan Trust Deed, as amended from time to time);</p> <p>318,592 conditional rights to acquire Blackmores Shares awarded or granted under Blackmores' Long-Term Incentive Plan (as operated under the terms of Blackmores' Executive Share Plan Trust Deed, as amended from time to time); and</p> <p>5,629 rights to acquire Blackmores Shares granted under Blackmores' Employee and Director Rights Plan or in other circumstances, which collectively are capable of being converted or vesting into 339,377 Blackmores Shares.</p> |



Signing page

Executed as a deed

Blackmores

Signed sealed and delivered by
Blackmores Limited
by

sign here ► _____
Company Secretary/Director

sign here ► _____
Director

print name _____

print name _____

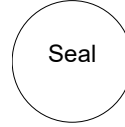
For personal use only



HERBERT
SMITH
FREEHILLS

Bidder

Signed sealed and delivered by
**Kirin Holdings Company,
Limited** in the presence of



sign here ▶ _____
Authorised signatory

sign here ▶ _____
Witness

print name _____

print name _____

For personal use only



Attachment 1

Scheme of arrangement

For personal use only



HERBERT
SMITH
FREEHILLS

Scheme of Arrangement - Share Scheme

Blackmores Limited

Scheme Shareholders

For personal use only



Scheme of arrangement – share scheme

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth)

Between the parties

Blackmores Limited (**Blackmores**) ACN 009 713 437 of 20 Jubilee Avenue, Warriewood, New South Wales, Australia, 2102

The Scheme Shareholders

1 Definitions, interpretation and scheme components

1.1 Definitions

Schedule 1 contains definitions used in this Scheme.

1.2 Interpretation

Schedule 1 contains interpretation rules for this Scheme.

1.3 Scheme components

This Scheme includes any schedule to it.

2 Preliminary matters

- (a) Blackmores is a public company limited by shares, registered in Queensland, Australia, and has been admitted to the official list of the ASX. Blackmores Shares are quoted for trading on the ASX. Its registered office is at 20 Jubilee Avenue, Warriewood NSW 2102.
- (b) As at the date of the Implementation Deed:
 - (1) 19,450,635 Blackmores Shares; and
 - (2) 339,377 Blackmores Equity Incentives,were on issue.
- (c) Bidder is a public company limited by shares registered in Japan.
- (d) Bidder Sub, a wholly-owned Subsidiary of Bidder, is a company limited by shares registered in [insert state, country], Australia.



- (e) If this Scheme becomes Effective:
 - (1) Bidder and Bidder Sub must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of this Scheme and the Deed Poll; and
 - (2) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder Sub and Blackmores will enter the name of Bidder Sub in the Share Register in respect of the Scheme Shares.
- (f) Blackmores and Bidder have agreed, by executing the Implementation Deed, to implement this Scheme.
- (g) This Scheme attributes actions to Bidder and Bidder Sub but does not itself impose an obligation on them to perform those actions. Bidder and Bidder Sub have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

3 Conditions

3.1 Conditions precedent

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

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in clause 3.1(e) of the Implementation Deed) having been satisfied or waived in accordance with the terms of the Implementation Deed by 8.00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Bidder and Blackmores;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Bidder and Blackmores having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act.

3.2 Certificate

- (a) Blackmores, Bidder and Bidder Sub will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.



- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived.

3.3 Termination

Without limiting any rights of the parties to the Implementation Deed under the Implementation Deed, this Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date has not occurred on or before the End Date; or
(b) the Implementation Deed or the Deed Poll is terminated in accordance with their respective terms,

unless Blackmores and Bidder otherwise agree in writing (and, if required, as approved by the Court).

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

Blackmores must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible after the Court approves this Scheme and in any event by 5.00pm on the first Business Day after the day on which the Court approves this Scheme (or such later date as agreed in writing with Bidder).

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 5.1(b) and 5.1(c), the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Bidder Sub, without the need for any further act by any Scheme Shareholder (other than acts performed by Blackmores as attorney and agent for Scheme Shareholders under clause 8.5), by:
- (1) Blackmores delivering to Bidder Sub a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Blackmores, for registration; and
 - (2) Bidder Sub duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Blackmores for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(2), but subject to the stamping of the Scheme Transfer (if required), Blackmores must enter, or procure the entry of, the name of Bidder Sub in the Share Register in respect of all the Scheme Shares transferred to Bidder Sub in accordance with this Scheme.



5 Scheme Consideration

5.1 Provision of Scheme Consideration

- (a) Bidder or Bidder Sub must, and Blackmores must use its best endeavours to procure that Bidder or Bidder Sub does, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit, in cleared funds an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders, into an Australian dollar denominated trust account with an ADI operated by Blackmores or the Blackmores Registry as trustee for the Scheme Shareholders, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account.
- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.1(a), Blackmores must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the trust account referred to in clause 5.1(a).
- (c) Consistent with clauses 16.16(b) to 16.16(f) of the Implementation Deed, if Bidder or Bidder Sub is required to make any withholding, deduction or payment under Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) in respect of the acquisition of Scheme Shares from any one or more of the Scheme Shareholders, Bidder or Bidder Sub:
- (1) is entitled to deduct the relevant amounts from the payment of the Scheme Consideration to those Scheme Shareholders and remit those amounts to the Commissioner of Taxation;
 - (2) must pay or procure the payment of the full amount of the withholding or deduction, or make or procure the making of the payment, to the Commissioner of Taxation; and
 - (3) will not be required to pay any additional amount and will be deemed for all purposes to have paid the full amount of the Scheme Consideration (or other payment) required under this Scheme to the relevant Scheme Shareholder or Scheme Shareholders.
- (d) The obligations of Blackmores under clause 5.1(b) will be satisfied by Blackmores (in its absolute discretion, and despite any election referred to in clause 5.1(d)(1) or authority referred to in clause 5.1(d)(2) made or given by the Scheme Shareholder):
- (1) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Blackmores Registry to receive dividend payments from Blackmores 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;
 - (2) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Blackmores; or
 - (3) 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 5.2).

- (e) To the extent that, following satisfaction of Blackmores' obligations under clause 5.1(b), there is a surplus in the amount held by Blackmores as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus may be paid by Blackmores to Bidder.

5.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.1(c), the Scheme Consideration is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Blackmores, the holder whose name appears first in the Share Register as at the Scheme Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Blackmores, the holder whose name appears first in the Share Register as at the Scheme Record Date or to the joint holders.

5.3 Fractional entitlements

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

5.4 Unclaimed monies

- (a) Blackmores may cancel a cheque issued under this clause 5 if the cheque:
 - (1) is returned to Blackmores; or
 - (2) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Blackmores (or the Blackmores Registry) (which request may not be made until the date which is 10 Business Days after the Implementation Date), Blackmores must reissue a cheque that was previously cancelled under this clause 5.4.
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in sections 7, 8 and 10 of the *Unclaimed Money Act 1995* (NSW)).

5.5 Orders of a court or Government Agency

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

- (a) 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 Blackmores in accordance with this



clause 5, then Blackmores shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or

- (b) prevents Blackmores from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Blackmores shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as provision of the Scheme Consideration in accordance with this clause 5 is permitted by that (or another) order or direction or otherwise by law.

The provision or the retention of the relevant Scheme Consideration by Blackmores (or the Blackmores Registry on Blackmores' behalf) in accordance with clause 5.5(a) or clause 5.5(b) (as applicable) will constitute the full discharge of the Blackmores obligations under this clause 5.5.

6 Dealings in Blackmores Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Blackmores Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant Blackmores Shares before the Scheme Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received before the Scheme Record Date at the place where the Share Register is kept,

and Blackmores must not accept for registration, nor recognise for any purpose (except a transfer to Bidder Sub pursuant to this Scheme and any subsequent transfer by Bidder Sub or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) Blackmores must register registrable transmission applications or transfers of the Scheme Shares that are received in accordance with clause 6.1(b) before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires Blackmores to register a transfer that would result in a Blackmores Shareholder holding a parcel of Blackmores Shares that is less than a 'marketable parcel' (for the purposes of this clause 6.2(a) 'marketable parcel' has the meaning given in the Operating Rules).
- (b) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Blackmores shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Blackmores must maintain the Share Register in accordance with the provisions



of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

- (d) All statements of holding for Blackmores Shares (other than statements of holding in favour of Bidder Sub or any Excluded Shareholders) will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries on the Share Register in respect of Bidder Sub or any Excluded Shareholder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Blackmores Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme Record Date, Blackmores will ensure that details of the names, Registered Addresses and holdings of Blackmores Shares for each Scheme Shareholder as shown in the Share Register are available to Bidder in the form Bidder reasonably requires.

7 Quotation of Blackmores Shares

- (a) Blackmores must apply to ASX to suspend trading on the ASX in Blackmores Shares with effect from the close of trading on the Effective Date.
- (b) Blackmores must, on the Business Day immediately following the Implementation Date, apply:
 - (1) for termination of the official quotation of Blackmores Shares on the ASX; and
 - (2) to have itself removed from the official list of the ASX, with effect on and from close of trading on that date.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

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

- (a) Blackmores may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which Blackmores has consented to.

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
 - (1) agrees to the transfer of their Blackmores Shares together with all rights and entitlements attaching to those Blackmores Shares in accordance with this Scheme;



- (2) agrees to the variation, cancellation or modification of the rights attached to their Blackmores Shares constituted by or resulting from this Scheme;
- (3) agrees to, on the direction of Bidder, destroy any holding statements or share certificates relating to their Blackmores Shares;
- (4) who holds their Blackmores Shares in a CHES Holding agrees to the conversion of those Blackmores Shares to an Issuer Sponsored Holding and irrevocably authorises Blackmores to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion; and
- (5) acknowledges and agrees that this Scheme binds Blackmores and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Blackmores and Bidder Sub on the Implementation Date, and appointed and authorised Blackmores as its attorney and agent to warrant to Bidder Sub on the Implementation Date, that all their Blackmores Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, that they have full power and capacity to transfer their Blackmores Shares to Bidder Sub together with any rights and entitlements attaching to those shares, and that, as at the Scheme Record Date, they have no existing right to be issued any other Scheme Shares or any other form of securities in Blackmores. Blackmores undertakes that it will provide such warranty to Bidder Sub as agent and attorney of each Scheme Shareholder.

8.3 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 Sub will, at the time of transfer of them to Bidder Sub vest in Bidder Sub free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any 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 5.1(b) and 5.1(c), Bidder Sub will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Blackmores of Bidder Sub in the Share Register as the holder of the Scheme Shares.

8.4 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.1(b) and 5.1(c), and until



Blackmores registers Bidder Sub as the holder of all Scheme Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have appointed Bidder Sub as attorney and agent (and directed Bidder Sub in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder Sub as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a)); and
- (c) acknowledges and agrees that in exercising the powers referred to in clause 8.4(a), Bidder Sub and any director, officer, secretary or agent nominated by Bidder Sub under clause 8.4(a) may act in the best interests of Bidder Sub as the intended registered holder of the Scheme Shares.

8.5 Authority given to Blackmores

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints Blackmores and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Bidder and Bidder Sub, and Blackmores undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder and Bidder Sub on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints Blackmores and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer,

and Blackmores accepts each such appointment. Blackmores as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

8.6 Binding effect of Scheme

This Scheme binds Blackmores and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on this Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Blackmores.

9 General

9.1 Stamp duty

Bidder must:



- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with this Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

9.2 Consent

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

9.3 Notices

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

9.4 Governing law

- (a) This Scheme is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme, provided that that Blackmores may bring proceedings in connection with this Scheme in Japan to seek to enforce the obligations of Bidder under the Deed Poll and the Implementation Deed. 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.

9.5 Further action

Blackmores must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

9.6 No liability when acting in good faith

Each Scheme Shareholder agrees that neither Blackmores, Bidder nor Bidder Sub nor any director, officer, secretary or employee of any of those companies shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.



Schedule 1

Definitions and interpretation

1 Definitions

The meanings of the terms used in this Scheme are set out below.

| Term | Meaning |
|-------------------------------------|--|
| ADI | authorised deposit-taking institution (as defined in the <i>Banking Act 1959</i> (Cth)). |
| ASIC | the Australian Securities and Investments Commission. |
| ASX | ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates. |
| Bidder | Kirin Holdings Company, Limited of Nakano Central Park South, 4-10-2 Nakano, Tokyo, 164-0001, Japan. |
| Bidder Group | Bidder and each of its Subsidiaries and a reference to a Bidder Group Member or a member of the Bidder Group is to Bidder or any of its Subsidiaries. |
| Bidder Sub | [insert] ACN [insert ACN or ABN] of [insert address] , being a wholly owned Subsidiary of Bidder. |
| Blackmores | Blackmores Limited ACN 009 713 437 of 20 Jubilee Avenue, Warriewood, New South Wales, Australia, 2102. |
| Blackmores Equity Incentives | <ol style="list-style-type: none">1 performance rights awarded or granted under Blackmores' Short-Term Incentive Plan (as operated under the terms of Blackmores' Executive Share Plan Trust Deed, as amended from time to time);2 conditional rights to acquire Blackmores Shares awarded or granted under Blackmores' Long-Term Incentive Plan (as operated |



| Term | Meaning |
|-------------------------------|--|
| | <p>under the terms of Blackmores' Executive Share Plan Trust Deed, as amended from time to time); and</p> <p>3 other rights to acquire or be issued Blackmores Shares, including rights granted under Blackmores' Employee and Director Rights Plan.</p> |
| Blackmores Registry | Computershare Investor Services Pty Limited ACN 078 279 277. |
| Blackmores Share | a fully paid ordinary share in the capital of Blackmores. |
| Blackmores Shareholder | each person who is registered as the holder of a Blackmores Share in the Share Register. |
| Business Day | a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney and Tokyo. |
| CHESS | the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited. |
| CHESS Holding | has the meaning given in the Settlement Rules. |
| Corporations Act | the <i>Corporations Act 2001</i> (Cth), as modified or varied by ASIC. |
| Court | the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and Blackmores. |
| Deed Poll | the deed poll substantially in the form of Attachment 1 under which Bidder and Bidder Sub each covenants in favour of the Scheme Shareholders to perform the obligations attributed to Bidder and Bidder Sub under this Scheme. |
| Effective | when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the Court order made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme. |
| Effective Date | the date on which this Scheme becomes Effective. |



| Term | Meaning |
|---------------------------------|---|
| End Date | 29 September 2023, or such other date as agreed in writing by the parties to the Implementation Deed. |
| Excluded Shareholder | any member of the Bidder Group. |
| Government Agency | any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. |
| Implementation Date | the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as the parties to the Implementation Deed agree in writing. |
| Implementation Deed | the scheme implementation deed dated [insert date] between Blackmores and Bidder relating to the implementation of this Scheme. |
| Issuer Sponsored Holding | has the meaning given in the Settlement Rules. |
| Operating Rules | the official operating rules of ASX. |
| Registered Address | in relation to a Blackmores Shareholder, the address shown in the Share Register as at the Scheme Record Date. |
| Scheme | this scheme of arrangement under Part 5.1 of the Corporations Act between Blackmores and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Blackmores and Bidder. |
| Scheme Consideration | the consideration to be provided by Bidder to each Scheme Shareholder for the transfer to Bidder Sub of each Scheme Share, being for each Blackmores Share held by a Scheme Shareholder as at the Scheme Record Date, an amount of \$95.00 cash as adjusted in accordance with clause 4.5(b) of the Implementation Deed (if applicable). |

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| Term | Meaning |
|---------------------------|--|
| Scheme Meeting | the meeting of the Blackmores Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting. |
| Scheme Record Date | 7.00pm on the fifth Business Day after the Effective Date. |
| Scheme Shares | all Blackmores Shares held by the Scheme Shareholders as at the Scheme Record Date. |
| Scheme Shareholder | a holder of Blackmores Shares recorded in the Share Register as at the Scheme Record Date (other than an Excluded Shareholder). |
| Scheme Transfer | a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder Sub as transferee, which may be a master transfer of all or part of the Scheme Shares. |
| Second Court Date | the first day on which an application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving this Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application or appeal is heard. |
| Settlement Rules | the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd. |
| Share Register | the register of members of Blackmores maintained in accordance with the Corporations Act. |
| Subsidiary | has the meaning given in Division 6 of Part 1.2 of the Corporations Act. |

2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;



- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney, Australia;
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1 of this Schedule 1, has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
- (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day; and
- (s) a reference to the Operating Rules or the Settlement Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.



3 Interpretation of inclusive expressions

Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

4 Business Day

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

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Attachment 1

Deed Poll

[Attached]

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Attachment 2

Deed poll

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HERBERT
SMITH
FREEHILLS

Deed

Share Scheme Deed Poll

Kirin Holdings Company, Limited

[Bidder Sub]

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Share Scheme Deed Poll

Date ►

This deed poll is made

By Kirin Holdings Company, Limited
of Nakano Central Park South, 4-10-2 Nakano, Tokyo, 164-0001,
Japan
(Bidder)
and
[insert Acquirer name]
[insert ACN/ABN/ARBN] of [insert address]
(Bidder Sub)

in favour of each person registered as a holder of fully paid ordinary shares in
Blackmores in the Share Register as at the Scheme Record Date
(other than the Excluded Shareholders).

Recitals

- 1 Blackmores and Bidder entered into the Implementation Deed.
- 2 In the Implementation Deed, Bidder agreed to make this deed poll
and to procure that Bidder Sub make this deed poll.
- 3 Bidder and Bidder Sub are making this deed poll for the purpose
of covenanting in favour of the Scheme Shareholders to perform
their obligations under the Implementation Deed and the Scheme.

This deed poll provides as follows:



1 Definitions and interpretation

1.1 Definitions

- (a) The meanings of the terms used in this deed poll are set out below.

| Term | Meaning |
|----------------------------|---|
| Blackmores | Blackmores Limited ACN 009 713 437 of 20 Jubilee Avenue, Warriewood, New South Wales, Australia, 2102. |
| First Court Date | the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard. |
| Implementation Deed | the scheme implementation deed entered into between Blackmores and Bidder dated [insert date] relating to the implementation of the Scheme. |
| Scheme | the scheme of arrangement under Part 5.1 of the Corporations Act between Blackmores and the Scheme Shareholders, substantially in the form set out in Attachment 1, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Bidder and Blackmores. |

- (b) Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

1.2 Interpretation

Sections 2, 3 and 4 of Schedule 1 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

1.3 Nature of deed poll

Bidder and Bidder Sub acknowledge 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 Blackmores and each of its directors, officers and secretaries (jointly and each of them

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severally) as its agent and attorney to enforce this deed poll against Bidder and Bidder Sub.

2 Conditions to obligations

2.1 Conditions

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

2.2 Termination

The obligations of Bidder and Bidder Sub under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
 - (b) the Scheme does not become Effective on or before the End Date,
- unless Bidder, Bidder Sub and Blackmores otherwise agree in writing (and, if required, as approved by the Court).

2.3 Consequences of termination

If this deed poll terminates under clause 2.2, then in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Bidder and Bidder Sub are released from their obligations to further perform this deed poll except those obligations under clause 7.1; and
- (b) each Scheme Shareholder retains the rights they have against Bidder and Bidder Sub in respect of any breach of this deed poll which occurred before it was terminated.

3 Scheme obligations

3.1 Undertaking to pay Scheme Consideration

Subject to clause 2, each of Bidder and Bidder Sub undertakes in favour of each Scheme Shareholder to:

- (a) deposit, or procure the deposit of, in cleared funds, by no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account with an ADI operated by Blackmores or the Blackmores Registry as trustee for the Scheme Shareholders, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account; and

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- (b) provide Blackmores with written confirmation of that deposit; and
- (c) undertake all other actions, and give each acknowledgement, representation and warranty (if any), attributed to it under the Scheme,

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

3.2 Bidder undertaking

Bidder covenants that it will comply with each of its obligations under the Implementation Deed.

4 Warranties

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

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding on it and enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, articles of association or other constituent document, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder and Bidder Sub have fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.

6 Notices

6.1 Form of Notice

A notice or other communication in respect of this deed poll (**Notice**) must be:

- (a) in writing and in English; and



- (b) addressed to Bidder and Bidder Sub in accordance with the details set out below (or any alternative details nominated by Bidder or Bidder Sub by Notice).

Bidder **Kirin Holdings Company, Limited**

Address Nakano Central Park South, 4-10-2 Nakano, Tokyo, 164-0001, Japan

Attention [REDACTED]

Email [REDACTED]

With a copy to sgibson@tglaw.com.au and mng@tglaw.com.au

Bidder Sub **[Bidder Sub]**

Address [insert]

Attention [insert]

Email [insert]

6.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee’s time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

| Method of giving Notice | When Notice is regarded as given and received |
|---|--|
| By hand to the nominated address | When delivered to the nominated address |
| By email to the nominated email address | The first to occur of: <ol style="list-style-type: none"> 1 the sender receiving an automated message confirming delivery; or 2 two hours after the time that the email was sent (as recorded on the device from which the email was sent) provided that the sender does not, within the period, receive an automated message that the email has not been delivered. |

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6.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 6.2).

7 General

7.1 Stamp duty

Bidder must:

- (a) pay all stamp duty and any related fines and penalties in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under or in connection with the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in New South Wales.
- (b) Each of Bidder and Bidder Sub irrevocably submit to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll, provided that Blackmores may bring proceedings in connection with this deed poll in Japan to seek to enforce the obligations of Bidder and Bidder Sub under this deed poll. Each of Bidder and Bidder Sub 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.

7.3 Execution opinion

On the date of this deed, Bidder must obtain from its foreign counsel in the jurisdiction in which it is incorporated, and provide to Blackmores, a written legal opinion, in a form agreed between Bidder and Blackmores, acting reasonably, prior to entry into this deed, confirming that Bidder has duly executed this deed in accordance with the laws of the place of incorporation and articles and by-laws and Bidder's good standing under its governing jurisdiction laws.

7.4 Waiver

- (a) Bidder and Bidder Sub may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of Bidder or Bidder Sub as a waiver of any right unless the waiver is in writing and signed by Bidder or Bidder Sub, as appropriate.
- (c) The meanings of the terms used in this clause 7.3 are set out below.



| Term | Meaning |
|----------------|---|
| conduct | includes delay in the exercise of a right. |
| right | any right arising under or in connection with this deed poll and includes the right to rely on this clause. |
| waiver | includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel. |

7.5 Variation

A provision of this deed poll may not be varied unless:

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

in which event Bidder and Bidder Sub will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

7.6 Cumulative rights

The rights, powers and remedies of Bidder, Bidder Sub and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

7.7 Assignment

- (a) The rights created by this deed poll are personal to Bidder, Bidder Sub and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder or Bidder Sub.
- (b) Any purported dealing in contravention of clause 7.7(a) is invalid.

7.8 Joint and several obligations

Bidder and Bidder Sub are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

7.9 Further action

Bidder and Bidder Sub must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

For personal use only



Attachment 1

Scheme

[Attached]

For personal use only

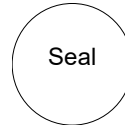


Signing page

Executed as a deed poll

Bidder

Signed sealed and delivered by
**Kirin Holdings Company,
Limited** in the presence of



sign here ▶ _____
Authorised signatory

sign here ▶ _____
Witness

print name _____

print name _____

For personal use only



Attachment 3

Conditions Precedent certificate

For personal use only

Conditions Precedent certificate

Blackmores Limited (**Blackmores**) and Kirin Holdings Company, Limited (**Bidder**) certify, confirm and agree that each of the conditions precedent:

- 1 in clause 3.1 (other than the condition in clause 3.1(e) relating to Court approval) of the scheme implementation deed dated [*insert date*] between Blackmores and Bidder (**SID**) has been satisfied or waived or is hereby waived by the relevant party (or parties) to the SID in accordance with the terms of the SID; and
- 2 in clauses 3.1(a) and 3.1(b) of the scheme of arrangement between Blackmores and the relevant Blackmores shareholders which appears in Annexure [*insert*] of Blackmores' scheme booklet dated [*insert*] has been satisfied.

This deed is governed by the laws of New South Wales.

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

Dated:

For personal use only

Executed as a deed

Signed sealed and delivered by
Blackmores Limited
by

sign here



Company Secretary/Director

sign here



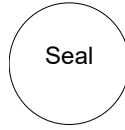
Director

*print
name*

print name

For personal use only

Signed sealed and delivered by
Kirin Holdings Company, Limited in
the presence of



sign here



Authorised signatory

sign here



Witness

*print
name*

*print
name*
