

ASX RELEASE

4 March 2014

The Manager
ASX Market Announcements
Australian Securities Exchange
4th Floor, 20 Bridge Street
Sydney NSW 2000



Electronic Lodgement

Dear Sir or Madam

Company Announcement

Attached is the following announcement for release to the market:

- Scheme Implementation Agreement.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Des Petherick", with a long horizontal flourish extending to the right.

Des Petherick
Company Secretary and
Manager Corporate Services

Telephone: (08) 8418 1126

SCHEME IMPLEMENTATION AGREEMENT

ENVESTRA LIMITED

AUSTRALIAN PIPELINE LIMITED

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SCHEME IMPLEMENTATION AGREEMENT

DATE **4 MARCH 2014**

PARTIES

- 1** **ENVESTRA LIMITED** ACN 078 551 685 of Level 10, 81 Flinders Street, ADELAIDE SA 5000 (**Envestra**); and
- 2** **AUSTRALIAN PIPELINE LIMITED** ACN 091 344 704 of Level 19, HSBC Building, 580 George Street, SYDNEY NSW 2000 in its capacity as responsible entity and trustee of the **AUSTRALIAN PIPELINE TRUST** ARSN 091 678 778 (**APL as RE of APT**) and in its capacity as responsible entity and trustee of the **APT INVESTMENT TRUST** ARSN 115 585 441, both of Level 19, HSBC Building, 580 George Street, SYDNEY NSW 2000 (the stapled entity comprising the Australian Pipeline Trust and the APT Investment Trust, and acting through the APA Responsible Entity, being **APA**).

RECITALS

- A** Envestra and APA have agreed that Envestra will propose a scheme of arrangement under Part 5.1 of the Corporations Act between Envestra and its shareholders (other than members of the APA Group), pursuant to which APL as RE of APT will acquire all of the ordinary shares in Envestra which it does not already own.
- B** Envestra and APA have agreed to implement the Scheme upon and subject to the terms and conditions of this Agreement.
- C** Envestra and APA have agreed certain other matters in connection with the Scheme as set out in this Agreement.

OPERATIVE PART

1 Definitions and Interpretation

1.1 Definitions

In this Agreement, unless a contrary intention appears:

Acquisition Event means:

- (a) a takeover bid for, or scheme of arrangement proposed by, Envestra;
- (b) the acquisition of substantially all the assets and operations of Envestra; or
- (c) any transaction having a similar economic effect.

Agreed Announcement means the public announcement to be issued by Envestra in the form set out in Annexure 4.

Agreement means this document including any schedule or annexure.

APA Affiliated Director means each of:

- (a) Mr Mick McCormack and Mr Ross Gersbach; and
- (b) any other person who becomes a director of Envestra after the date of this Agreement who is an Officer of a member of the APA Group.

APA Due Diligence Information has the meaning given in clause 10.1(b)(ii).

APA Group means APT, APTIT, APL and each of the entities controlled by the APA Responsible Entity (including any control exercised by the APA Responsible Entity as responsible entity or trustee of APT or APTIT).

APA Indemnified Parties means each member of the APA Group and their respective Officers.

APA Material Adverse Change means any event, change or circumstance or announcement or disclosure of any event, change or circumstance (or, in the case of any pre-existing event, change or circumstances, any worsening thereof) which has occurred or becomes known to Envestra on or after the date of this Agreement that, individually or in the aggregate with other such events, changes or circumstances, has or would, with the lapse of time, be reasonably likely to have, a material adverse effect on the business, assets, liabilities, financial position, financial performance, prospects or profitability of the APA Group taken as a whole, except any such event, change or circumstance:

- (a) resulting from or arising in connection with:
 - (i) any adoption, implementation or change in applicable law or any interpretation of applicable law by any Governmental Agency;
 - (ii) any change in global, national or regional political conditions (including the outbreak of war or acts of terrorism);
- (b) caused or to the extent contributed to by any climatic or other natural event or condition (including any weather conditions and any natural disaster);
- (c) resulting from or arising in connection with the execution, announcement or performance of this Agreement or the implementation of the Scheme or the consummation of any transaction contemplated by this Agreement or the Scheme;
- (d) fairly disclosed before the date of this Agreement in any Public Register or fairly disclosed in writing in the APA Due Diligence Information given before the date of this Agreement or in a letter addressed to Envestra for this purpose which specifically refers to this clause and which is given before the date of this Agreement; or
- (e) in relation to which Envestra has expressly consented in writing.

APA Prescribed Event means any of the following:

- (a) APA converts all or any the APA Securities into a larger or smaller number of APA Securities;
- (b) any member of the APA Group resolves to reduce its capital in any way or reclassifies, splits, combines, redeems or repurchases directly or indirectly any of its securities;
- (c) any member of the APA Group:
 - (i) enters into a withdrawal offer or buy-back agreement; or
 - (ii) resolves to approve the terms of a withdrawal offer under the Corporations Act or the terms of a buy-back agreement under the Corporations Act;
- (d) any member of the APA Group issues APA Securities or other securities, or grants an option over APA Securities or other securities, or agrees to make such an issue or grant such an option, other than in accordance with the terms attaching to any performance rights granted as at the date of this Agreement or distribution reinvestment plan existing as at the date of this Agreement;
- (e) any member of the APA Group issues, or agrees to issue, convertible notes or convertible units;
- (f) any member (or members) of the APA Group disposes, or agrees to dispose, of the whole or a substantial part of the APA Group's business or property;

- (g) any member of the APA Group resolves to be wound up;
- (h) an Insolvency Event occurs in relation to any member of the APA Group;
- (i) any member of the APA Group proposes or takes any steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them;
- (j) APA declares or pays, makes or incurs any liability to pay any distribution whether by way of distribution, capital distribution, bonus or other share of its profits or assets to members of APT or APTIT, other than an interim distribution for the six months ended 31 December 2013 and, if the Scheme is not Implemented by 30 June 2014, a final distribution for the year ending 30 June 2014;
- (k) the APT Constitution or APTIT Constitution or the constitution of any other member of the APA Group is amended or replaced or any member of the APA Group states its intention to or makes any change to its constitution, other than an amendment made to record the issue price of APA Securities that are to be issued as Scheme Consideration;
- (l) either the APT or the APTIT is terminated;
- (m) any member of the APA Group undertakes any action or transaction similar to any action or transaction referred to in any of the preceding paragraphs under the law of its place of incorporation; or
- (n) any member of the APA Group authorises, commits or agrees to do any of the matters set out above,

provided that an APA Prescribed Event shall not include:

- (o) any wholly intra group transaction between members of the APA Group or in the case of subparagraph (b), any wholly owned member of the APA Group;
- (p) any action or transaction:
 - (i) resulting from or arising in connection with the performance of or contemplated by this Agreement or under the Scheme;
 - (ii) which any member of the APA Group is permitted to undertake, or not to undertake, under this Agreement;
 - (iii) fairly disclosed before the date of this Agreement in any Public Register or fairly disclosed in writing in the APA Due Diligence Information given before the date of this Agreement or in a letter addressed to Envestra for this purpose which specifically refers to this clause and which is given before the date of this Agreement; or
 - (iv) in relation to which Envestra has expressly consented in writing, such consent not to be unreasonably withheld.

APA Released Person has the meaning given to that term in clause 15.4.

APA Responsible Entity means APL in its capacity as responsible entity of APT and APTIT.

APA Security means one APT Unit and one APTIT Unit, stapled together such that they must only be transferred together.

APA Scheme Booklet Information means all information in the Scheme Booklet (or in any update to the Scheme Booklet released by Envestra) regarding APA or the APA Group or APA Securities.

APA Warranty means each representation, warranty or undertaking set out in clause 8.2.

APL means Australian Pipeline Limited (ABN 99 091 678 778, AFSL 239 927).

APT means Australian Pipeline Trust (ARSN 091 678 778) a registered managed investment scheme regulated by the Corporations Act.

APT Constitution means the constitution of APT dated 18 February 2000 (as amended).

APT Unit means an ordinary unit in APT.

APTIT means APT Investment Trust (ARSN 115 585 441) a registered managed investment scheme regulated by the Corporations Act.

APTIT Constitution means the constitution of APTIT dated 30 June 2005 (as amended).

APTIT Unit means an ordinary unit in APTIT.

ASIC means the Australian Securities and Investments Commission.

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

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

ASX Listing Rules means the official listing rules of ASX.

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

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

Cash Out Facility has the meaning given to that term in the Scheme.

Combined Group means the combined Envestra Group / APA Group after Implementation.

Combined Group Scheme Booklet Information means:

- (a) all information in the Scheme Booklet regarding the Combined Group; and
- (b) the risk factors disclosed in the Scheme Booklet regarding the Combined Group.

Competing Proposal means any proposed or possible transaction or arrangement:

- (a) pursuant to which, if ultimately completed, any person or persons (other than a member of the APA Group) would:
 - (i) acquire (directly or indirectly):
 - (A) an interest in all or a substantial part of the assets or business of Envestra or the Envestra Group; or
 - (B) a Relevant Interest in more than 20 percent of the voting shares of Envestra;
 - (ii) acquire (directly or indirectly) control (as determined in accordance with section 50AA of the Corporations Act) of Envestra; or
 - (iii) otherwise acquire (directly or indirectly) or merge (directly or indirectly) with Envestra (including by a reverse takeover bid, reverse scheme of arrangement or dual listed company or similar structure); or
- (b) which is conditional upon Envestra failing to proceed with the Scheme or terminating this Agreement.

Condition Precedent means a condition precedent set out in clause 2.1.

Consultation Period has the meaning given in clause 2.4(c).

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

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as agreed by the parties.

Deed Poll means a deed poll substantially in the form of Annexure 3 (or in such other form as is agreed between Envestra and APA) under which APA covenants in favour of the Scheme Shareholders to perform its obligations under the Scheme.

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

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

End Date means 30 September 2014, or such later date as Envestra and APA may agree in writing.

Envestra Disclosure and Permitted Financing Activities Letter means the letter of that name given by Envestra to APA on or prior to the date of this Agreement and signed by the parties' authorised officers.

Envestra Due Diligence Information has the meaning given in clause 10.1(a)(ii).

Envestra Group means Envestra and its Related Bodies Corporate.

Envestra Indemnified Parties means each member of the Envestra Group and their respective Officers.

Envestra Indemnified Person has the meaning given to that term in clause 15.1.

Envestra Material Adverse Change means any event, change or circumstance or announcement or disclosure of any event, change or circumstance (or, in the case of any pre-existing event, change or circumstances, any worsening thereof) which has occurred or becomes known to APA on or after the date of this Agreement that, individually or in the aggregate with other such events, changes or circumstances, has or would, with the lapse of time, be reasonably likely to have, a material adverse effect on the business, assets, liabilities, financial position, financial performance, prospects or profitability of the Envestra Group taken as a whole, except any such event, change or circumstance:

- (a) resulting from or arising in connection with:
 - (i) any adoption, implementation or change in applicable law or any interpretation of applicable law by any Governmental Agency;
 - (ii) any change in global, national or regional political conditions (including the outbreak of war or acts of terrorism);
- (b) caused or to the extent contributed to by any climatic or other natural event or condition (including any weather conditions and any natural disaster);
- (c) resulting from or arising in connection with the execution, announcement or performance of this Agreement or the implementation of the Scheme or the consummation of any transaction contemplated by this Agreement or the Scheme;
- (d) fairly disclosed before the date of this Agreement in any Public Register or fairly disclosed in writing in the Envestra Due Diligence Information given before the date of this Agreement or in the Envestra Disclosure and Permitted Financing Activities Letter; or
- (e) in relation to which APA has expressly consented in writing.

Envestra Permitted Financing Activities means any of the activities set out in Schedule 2 of the Envestra Disclosure and Permitted Financing Activities Letter.

Envestra Prescribed Event means any of the following:

- (a) Envestra converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Envestra Group resolves to reduce its share capital in any way or reclassifies, splits, combines, redeems or repurchases directly or indirectly any of its shares;
- (c) any member of the Envestra Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any member of the Envestra Group issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (e) any member of the Envestra Group issues, or agrees to issue, convertible notes or other debt securities or enters into any new debt facility, or amends or extends the terms of any existing debt facility;
- (f) any member of the Envestra Group disposes, or agrees to dispose, of the whole or a substantial part of its business or property;
- (g) any member of the Envestra Group grants a Security Interest, or agrees to grant a Security Interest, creates, or agrees to create any mortgage, lien or other encumbrance over, or declares itself trustee of, the whole or a substantial part of its business or property;
- (h) any member of the Envestra Group resolves to be wound up;
- (i) an Insolvency Event occurs in relation to Envestra or any member of the Envestra Group;
- (j) any member of the Envestra Group proposes or takes any steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them;
- (k) Envestra declares any dividend or pays, makes or incurs any liability to pay any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets to its members, other than the dividend of up to \$0.032 per Envestra Share expected to be paid in April 2014 and, if the Scheme is not Implemented by 30 June 2014, a final dividend for the year ending 30 June 2014 (where the record date for that dividend is after 30 June 2014);
- (l) the constitution of Envestra or any other member of the Envestra Group is amended or replaced or any member of the Envestra Group states its intention to or makes any change to its constitution;
- (m) any member of the Envestra Group undertakes any action or transaction similar to any action or transaction referred to in any of the preceding paragraphs under the law of its place of incorporation;
- (n) any member of the Envestra Group agrees to an amendment of the Financier Confirmation; or
- (o) any member of the Envestra Group authorises, commits or agrees to do any of the matters set out above,

provided that a Envestra Prescribed Event shall not include:

- (p) any Envestra Permitted Financing Activities;
- (q) any wholly intra group transaction between members of the Envestra Group;
- (r) any action or transaction:

- (i) resulting from or arising in connection with the performance of or contemplated by this Agreement or under the Scheme;
- (ii) which any member of the Envestra Group is permitted to undertake, or not to undertake, under this Agreement;
- (iii) fairly disclosed before the date of this Agreement in any Public Register or fairly disclosed in writing in the Envestra Due Diligence Information given before the date of this Agreement or in the Envestra Disclosure and Permitted Financing Activities Letter; or
- (iv) in relation to which APA has expressly consented in writing, such consent not to be unreasonably withheld.

Envestra Released Person has the meaning given to that term in clause 15.3.

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

- (a) the APA Scheme Booklet Information;
- (b) the Combined Group Scheme Booklet Information;
- (c) the Independent Expert's Report;
- (d) the Investigating Accountant's Report; and
- (e) the Tax Section.

Envestra Share means a fully paid ordinary share in the capital of Envestra.

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

Envestra Warranty means each representation, warranty or undertaking set out in clause 8.1.

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

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

Financier Confirmation means the binding confirmation provided prior to the date of this Agreement by the number of Envestra's financiers as is required under the Intercreditor Deed Poll that they will not declare any Envestra change of control resulting from the Scheme to be "unacceptable" for the purposes of the Intercreditor Deed Poll.

First Court Hearing means the hearing by the Court of an application for an order under section 411(1) of the Corporations Act convening the Scheme Meeting.

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity in any jurisdiction. It includes ASIC, ASX (and any other stock exchange) and the Australian Takeovers Panel and any self-regulatory organisation established under statute.

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

Implementation Date means the fifth Business Day following the Record Date or such other date agreed by the parties in writing, ordered by the Court or as may be required by ASX.

Indemnified Envestra Officers means each director of Envestra as at the date of this Agreement and Mr Des Petherick, Mr Paul May, Mr Greg Meredith and Mr Andrew Staniford.

Independent Board Committee means the committee of the Board of Envestra established on 18 July 2013 to consider the proposal by the APA Group to acquire all the issued capital of Envestra not already held by the APA Group by way of a scheme of arrangement.

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

Independent Expert's Report means a report that accompanies the Scheme Booklet (as required by clause 8303 of Schedule 8 of the Corporations Regulations) by an expert who is independent of Envestra and APA stating whether or not in its opinion the Scheme is fair and reasonable and in the best interests of Participating Envestra Shareholders, and setting out reasons for that opinion, and includes any update to that report.

Ineligible Foreign Envestra Shareholder means a Participating Envestra Shareholder whose address as shown in the Register is a place outside:

- (a) Australia and its external territories; and
- (b) New Zealand,

unless Envestra and APA are satisfied, acting reasonably, that the laws of all relevant jurisdictions permit the issue of New APA Securities to that Participating Envestra Shareholder either unconditionally or after compliance with requirements that are not unduly onerous.

Insolvency Event means, for a person:

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

Intercreditor Deed Poll means the deed poll so entitled originally made on 26 June 1997 between Envestra and the persons described in it as the "Facility Agent", the "Bond Agent", the "Hedge Counterparty" and the "Security Agent" as amended and restated by a deed dated 29 January 2009, as amended from time to time.

Investigating Accountant means such person as jointly appointed by APA and Envestra to prepare the Investigating Accountant's Report.

Investigating Accountant's Report means a report on the financial information contained in the Scheme Booklet.

Material Contract means, in respect of the Envestra business, a contract entered into by a member of the Envestra Group involving revenue or expenditure over the term of the contract in excess of \$10 million.

Mutual Confidentiality Deed means the mutual confidentiality deed dated 5 September 2013 (as amended by side letter dated 6 February 2014 and by side letter dated 28 February 2014) between APA and Envestra.

New APA Securities means the APA Securities to be issued under the Scheme as Scheme Consideration.

Non APA Affiliated Director means each director of Envestra from time to time, other than the APA Affiliated Directors.

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

Participating Envestra Shareholder means an Envestra Shareholder who is not APT, APTIT, APL or any other member of the APA Group.

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

Public Registers means the following publicly searchable (whether or not on payment of a fee) files and registers:

- (a) ASX as at 28 February 2014;
- (b) ASIC as at 28 February 2014;
- (c) the High Court, Federal Court and the Supreme Courts in each State and Territory of Australia as at 31 January 2014;
- (d) the Personal Property Securities Register of Australia as at 12 February 2014; and
- (e) IP Australia and Intellectual Property Office of New Zealand as at 7 February 2014.

Record Date means 7.00pm (Sydney time) on the fifth Business Day following the date on which the Scheme becomes Effective or such date as agreed between the parties or required by ASX.

Register means the register of members of Envestra.

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

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

Related Entity of a party (**first entity**) means another entity which is:

- (a) related to the first entity within the meaning of section 50 of the Corporations Act;
- (b) in any consolidated entity (as defined in section 9 of the Corporations Act) which contains the first entity; or
- (c) any trust of which the first entity or an entity described in paragraph (a) or (b) above is a trustee.

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

Relevant Interest has the same meaning as given by sections 608 and 609 of the Corporations Act.

Representative means, in relation to a party:

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

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act to be made between Envestra and the Scheme Shareholders substantially in the form of Annexure 2, subject to any alterations or conditions (whether proposed by a party or required by the Court) which are agreed in writing by each party.

Scheme Booklet means an explanatory memorandum to be approved by the Court and despatched to Participating Envestra Shareholders which includes the Scheme, an explanatory statement under section 412 of the Corporations Act, the Independent Expert's Report, the Investigating Accountant's Report and relevant notices of meeting, proxy forms and election form.

Scheme Consideration means the consideration to be provided by APA in consideration for the transfer of Envestra Shares held by Scheme Shareholders to APL as RE of APT, as described in clause 5 of the Scheme (the Scrip Amount, as defined in the Scheme, having been calculated based on a ratio of 0.1919 APA Securities for each Envestra Share using (a) the 30 day volume weighted average price of APA Securities on the ASX as at close of business on 11 December 2013, being \$6.0974; and (b) a value of \$1.17 for each Envestra Share, and the Cash Amount, as defined in the Scheme, being calculated as \$1.17 for each Envestra Share, in each case subject to adjustment under the Scheme).

Scheme Meeting means the meeting of Participating Envestra Shareholders to be ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act in respect of the Scheme.

Scheme Resolution means the resolution to be put to Participating Envestra Shareholders to approve the Scheme.

Scheme Shareholder means a person who is a Participating Envestra Shareholder on the Record Date.

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

Security Interest means a "security interest" as defined in section 51A of the Corporations Act.

Shareholder Information means information in relation to Envestra Shareholders of the type described in Schedule 3 of the Envestra Disclosure and Permitted Financing Activities Letter.

Superior Proposal means a bona fide Competing Proposal in respect of Envestra received by Envestra (and which was not obtained in breach of clause 11.1), which the Board of Envestra (excluding the APA Affiliated Directors) (or the Independent Board Committee) resolves (or a majority of the Non APA Affiliated Directors determines), acting in good faith and in order to satisfy what the relevant directors consider to be their fiduciary or statutory duties (and after consulting with Envestra's financial advisers and having taken written advice from Envestra's legal advisers and having taken into account any factors considered relevant):

- (a) is capable of being valued and consummated; and
- (b) would, if consummated, result in a transaction more favourable to Participating Envestra Shareholders than the Scheme,

taking into account all terms and conditions of the Competing Proposal.

Tax Section means any statement of the tax consequences of the Scheme and associated matters for Participating Envestra Shareholders (whether or not on the letterhead of Envestra's tax advisers) as may be included in the Scheme Booklet.

Timetable means the indicative timetable set out in Annexure 1, subject to any modifications as the parties may agree in writing.

Transaction Documents means:

- (a) this Agreement;
- (b) the Scheme;
- (c) the Deed Poll; and
- (d) any other document in final agreed form which APA and Envestra agree is necessary or desirable to be entered into for the purposes of the Scheme.

Unmarketable Parcel Participant has the meaning given to that term in the Scheme.

Unsolicited Competing Proposal means any bona fide approach by a third party in respect of a Competing Proposal not solicited in breach of clause 11.1.

Warranty Claim means any claim by a party arising out of a breach of a Envestra Warranty or APA Warranty (as applicable).

Working Hours means, for the purpose of clause 18.4(b), 9.00am to 5.00pm on a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

1.2 Interpretation

In this Agreement, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions importing a gender include any gender;
- (c) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;
- (d) a reference to a party to a document includes that party's successors and permitted assigns;
- (e) where a word or expression is defined or given meaning, another grammatical form of that word or expression has a corresponding meaning;
- (f) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this Agreement;
- (g) a provision of this Agreement shall not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or that provision;
- (h) a reference to this Agreement includes this Agreement as amended, varied, novated, supplemented or replaced from time to time;
- (i) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Agreement;
- (j) any recitals, schedule or annexure form part of this Agreement and have effect as if set out in full in the body of this Agreement;
- (k) a reference to legislation or a provision of legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;

- (l) references to “include”, “including” or any variation thereof are to be construed without limitation;
- (m) a reference to “\$” or “dollar” is to Australian currency;
- (n) where the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day; and
- (o) a reference to any time is a reference to that time in Adelaide, Australia.

2 Conditions Precedent

2.1 Conditions Precedent

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

- (a) **Independent Expert:** the Independent Expert’s Report concludes that the Scheme is fair and reasonable and in the best interests of Participating Envestra Shareholders and the Independent Expert does not withdraw or adversely modify that conclusion before 8.00am on the Second Court Date;
- (b) **Shareholder Approval of Scheme:** before 8.00am on the Second Court Date, the Scheme Resolution is duly approved by Participating Envestra Shareholders at the Scheme Meeting by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act;
- (c) **Court Approval:** the Court makes orders under section 411(4)(b) of the Corporations Act approving the Scheme on the Second Court Date;
- (d) **ASIC and ASX:** by no later than 8.00am on the Second Court Date, ASIC and ASX have issued or provided such consents, confirmations or approvals or have done such other acts which the parties agree are reasonably necessary or desirable to implement the Scheme;
- (e) **Restraints:** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing any aspect of the Scheme is in effect as at 8.00am on the Second Court Date;
- (f) **No Envestra Prescribed Events:** no Envestra Prescribed Event occurs between the date of this Agreement and 8.00am on the Second Court Date;
- (g) **No Envestra Material Adverse Change:** no Envestra Material Adverse Change occurs, or is discovered, announced, disclosed or otherwise becomes known to APA between the date of this Agreement and 8.00am on the Second Court Date;
- (h) **Envestra Representations, Warranties and Undertakings:** the representations and warranties of Envestra set out in clause 8.1 of this Agreement are true and correct in all material respects as at the date of this Agreement and as at 8.00am on the Second Court Date and the undertakings in that clause have been complied with in all material respects as at 8.00am on the Second Court Date;
- (i) **No APA Prescribed Events:** no APA Prescribed Event occurs between the date of this Agreement and 8.00am on the Second Court Date;
- (j) **No APA Material Adverse Change:** no APA Material Adverse Change occurs, or is discovered, announced, disclosed or otherwise becomes known to Envestra between the date of this Agreement and 8.00am on the Second Court Date;
- (k) **APA Representations, Warranties and Undertakings:** the representations and warranties of APA set out in clause 8.2 of this Agreement are true and correct in all material respects as at the date of this Agreement and as at 8.00am on the Second Court Date and the undertakings in clause 8.2 and clause 7.4 have been complied with in all material respects as at 8.00am on the Second Court Date; and

- (l) **Financier Confirmation:** as at 8.00am on the Second Court Date, the Financier Confirmation remaining in full force and effect and not having been withdrawn or materially adversely modified, and no event having occurred prior to 8.00am on the Second Court Date that would enable the parties who have given the Financier Confirmation to withdraw or materially adversely modify the Financier Confirmation.

2.2 Benefit and waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 2.1(a) (Independent Expert), 2.1(d) (ASIC and ASX), 2.1(e) (Restraints) and 2.1(l) (Financier Confirmation) are for the benefit of each party, and any breach or non-fulfilment of any of those Conditions Precedent may only be waived with the written consent of each of the parties.
- (b) The Conditions Precedent in clauses 2.1(f) (No Envestra Prescribed Events), 2.1(g) (No Envestra Material Adverse Change) and 2.1(h) (Envestra Representations, Warranties and Undertakings) are for the sole benefit of APA, and any breach or non-fulfilment of any of those Conditions Precedent may only be waived by APA giving its written consent.
- (c) The Conditions Precedent in clauses 2.1(i) (No APA Prescribed Events), clause 2.1(j) (No APA Material Adverse Change) and 2.1(k) (APA Representations, Warranties and Undertakings) are for the sole benefit of Envestra, and any breach or non-fulfilment of any of those Conditions Precedent may only be waived by Envestra giving its written consent.
- (d) The Conditions Precedent in clauses 2.1(b) (Shareholder Approval of Scheme) and 2.1(c) (Court Approval) are for the benefit of both parties but cannot be waived.
- (e) A party entitled to waive the breach or non-fulfilment of a Condition Precedent pursuant to this clause 2.2 may do so in its absolute discretion and, subject to the other party agreeing to abide by the conditions, may do so subject to conditions.
- (f) If a party waives the breach or non-fulfilment of a Condition Precedent in accordance with clause 2.2, that waiver will preclude it from suing the other party for any breach of this Agreement constituted by the same event which gave rise to the breach or non-fulfilment of the Condition Precedent.
- (g) A waiver of a breach or non-fulfilment in respect of one Condition Precedent does not constitute:
- (i) a waiver of breach or non-fulfilment of any other Condition Precedent resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other events or circumstances.

2.3 Reasonable endeavours and notification

- (a) Without prejudice to any other obligations of the parties under this Agreement, but subject to the other provisions of this Agreement:
- (i) each of the parties must use their reasonable endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 2.1(a) (Independent Expert), 2.1(b) (Shareholder Approval of Scheme), 2.1(c) (Court Approval), 2.1(d) (ASIC and ASX) and 2.1(e) (Restraints) as soon as practicable after the date of this Agreement and in any event with a view to the Effective Date occurring on or before the End Date to the extent that it is within their respective control;
 - (ii) Envestra must use its reasonable endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 2.1(f) (No Envestra Prescribed Event), 2.1(g) (No Envestra Material Adverse Change) and 2.1(h) (Envestra Representations, Warranties and Undertakings); and
 - (iii) APA must use its reasonable endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 2.1(i) (No APA Prescribed Event), clause 2.1(j) (No

APA Material Adverse Change) and 2.1(k) (APA Representations, Warranties and Undertakings),

provided that nothing in this clause 2.3 will prevent the Board of Envestra (excluding the APA Affiliated Directors) or the Independent Board Committee or any Non APA Affiliated Director from changing or withdrawing its recommendation of the Scheme or any other statement set out in the Agreed Announcement.

- (b) Each party must:
- (i) promptly inform the other of a failure to satisfy a Condition Precedent or of any circumstance which may result in any of the Conditions Precedent not being satisfied or capable of being satisfied;
 - (ii) promptly advise the other party in writing of the satisfaction of a Condition Precedent; and
 - (iii) give the Court on the Second Court Date a certificate confirming (in respect of matters within its own knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 2.1(c)) have been satisfied or waived.

2.4 Condition Precedent not satisfied or waived

- (a) If:
- (i) any Condition Precedent has not been fulfilled or waived in accordance with clause 2.2 by the time or date specified in clause 2.1 for satisfaction of the Condition Precedent; or
 - (ii) there is an act, omission, event, occurrence or circumstance which will prevent a Condition Precedent from being satisfied by the time or date specified in clause 2.1 for its satisfaction or, if no time or date is specified, by the End Date (and the non-fulfilment of the Condition Precedent which would otherwise occur has not already been waived),
- either APA or Envestra may serve notice on the other of them and then Envestra and APA will consult in good faith with a view to determining whether:
- (iii) the Scheme may proceed by way of alternative means or methods;
 - (iv) to extend the relevant time or date for satisfaction of the Condition Precedent;
 - (v) to change the date of the application to be made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties and, if required, approved by the Court (being a date no later than 5 Business Days before the End Date); and/or
 - (vi) to extend the End Date.
- (b) If Envestra and APA are unable to reach agreement under clause 2.4(a) within the Consultation Period (as defined below) either of them may, provided that it has complied with its obligations (if any) under clause 2.3 in respect of that Condition Precedent and the relevant Condition Precedent is for its benefit (whether solely or jointly with the other party) or cannot be waived under clause 2.2(d), terminate this Agreement by notice in writing to the other party.
- (c) For the purposes of clause 2.4(b), the **Consultation Period** is the shorter of:
- (i) five Business Days following the date of a notice given in accordance with clause 2.4(a); and

- (ii) the period commencing on the date of a notice given in accordance with clause 2.4(a) and ending at 8.00am on the Second Court Date.

2.5 Communications regarding regulatory approvals

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

- (a) as soon as practicable after the date of this Agreement, the parties must cooperate in good faith to develop a plan for communications with Governmental Agencies that are required to be approached for the purpose of procuring the satisfaction of any Condition Precedent (each a **Relevant Governmental Agency**);
- (b) each party must provide any Relevant Governmental Agency with all information reasonably required by the Relevant Governmental Agency in connection with the Scheme;
- (c) each party:
 - (i) subject to the requirements of the Relevant Governmental Agency, shall have the right to be present and make submissions at or in relation to any proposed meeting by the other party or its advisers with a Relevant Governmental Agency in relation to the Scheme (except to the extent that such meeting involves the discussion of commercially sensitive information); and
 - (ii) must promptly provide copies to the other party of any written communication sent to or received from a Relevant Governmental Agency in connection with the Scheme (except to the extent that such written communication contains commercially sensitive information of the party in correspondence with the Relevant Governmental Agency); and
- (d) notwithstanding any other provision of this Agreement, for the purposes of obtaining any approval of a Relevant Governmental Agency, neither APA nor Envestra is required to agree to any conditions or to provide or to agree to provide any written undertakings to a Relevant Governmental Agency which are not reasonably acceptable to APA or Envestra (as the case requires).

3 Scheme

3.1 Outline of Scheme

Subject to the terms and conditions of this Agreement, Envestra must propose and implement the Scheme, under which on the Implementation Date all of the Envestra Shares held by Scheme Shareholders will be transferred to APL as RE of APT and the Scheme Shareholders will be entitled to receive for each Envestra Share the Scheme Consideration.

3.2 No amendment to the Scheme without consent

Envestra must not consent to any material modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of APA, such consent not to be unreasonably withheld.

3.3 Scheme Consideration

Subject to the Scheme becoming Effective, APA undertakes to Envestra that in consideration of the transfer of each of the Envestra Shares held by Scheme Shareholders to APL as RE of APT under the Scheme it will provide or procure the provision of the Scheme Consideration in accordance with the Scheme.

3.4 Ineligible Foreign Envestra Shareholders

- (a) APA has no obligation to allot or issue New APA Securities to any Ineligible Foreign Envestra Shareholder under the Scheme and, instead, must procure that the New APA

Securities that would have otherwise been issued to the Ineligible Foreign Envestra Shareholder are dealt with under the Cash Out Facility.

- (b) Envestra and APA:
 - (i) are satisfied that the laws of all relevant jurisdictions permit the issue of New APA Securities to Cheung Kong Infrastructure Holdings (Malaysian) Ltd (**CKI**) either unconditionally or after compliance with requirements that are not unduly onerous; and
 - (ii) agree that CKI is not an Ineligible Foreign Envestra Shareholder.

3.5 Entitlement to dividends and distributions

- (a) Envestra Shareholders will be entitled to receive the dividend of \$0.032 per Envestra Share expected to be paid by Envestra in April 2014.
- (b) APA's final distribution for the year ending 30 June 2014 will be payable with respect to all New APA Securities issued to Scheme Shareholders under the Scheme, subject to Implementation of the Scheme by 30 June 2014.
- (c) To the extent the Scheme is not Implemented by 30 June 2014:
 - (i) Envestra Shareholders will be entitled to receive any final dividend on their Envestra Shares for the year ending 30 June 2014 declared or determined to be payable by the Envestra Board, provided that the record date for that dividend is after 30 June 2014; and
 - (ii) if the dividend referred to in clause 3.5(c)(i) is greater or lesser than the Permitted Envestra Dividend Amount (as defined in the Scheme), the Scheme Consideration will, if required by the terms of the Scheme, be adjusted pursuant to the terms of the Scheme.

4 Envestra's obligations in respect of the Scheme

4.1 Steps to be taken

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

- (a) **Agreed Announcement:** make its Agreed Announcement in accordance with clause 13.1;
- (b) **Independent Expert:** procure the finalisation of the Independent Expert's Report and provide all assistance and information reasonably requested by the Independent Expert to enable it to finalise the Independent Expert's Report on a timely basis;
- (c) **Investigating Accountant:** procure the finalisation of the Investigating Accountant's Report and provide all assistance and information reasonably requested by the Investigating Accountant to enable it to finalise the Investigating Accountant's Report;
- (d) **Preparation of Scheme Booklet:** prepare the Scheme Booklet in accordance with clause 6;
- (e) **Lodgement of draft Scheme Booklet with ASIC:** provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to APA, and liaise with ASIC during the ASIC Review Period;
- (f) **ASIC Review Period:** during the ASIC Review Period, keep APA promptly informed of any matters raised by ASIC in relation to the Scheme Booklet (and any resolution of those matters), and use reasonable endeavours, with the co-operation of APA, to resolve any such matters;

- (g) **Court documents:** promptly prepare all documents necessary for the Court proceedings (including any appeals) relating to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) in accordance with all applicable laws, and provide APA with drafts of those documents for review and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments from APA and its Representatives on those drafts;
- (h) **Approval of Scheme Booklet:** unless Envestra disagrees with the final form and content of the APA Scheme Booklet Information or the Combined Group Scheme Booklet Information as determined by APA under clause 6(h), as soon as practicable after the end of the ASIC Review Period, procure that a meeting of the Board of Envestra is convened to approve the Scheme Booklet and also to approve an application to the Court for an order that the Scheme Meeting be convened by the despatch of the Scheme Booklet to Participating Envestra Shareholders;
- (i) **Court direction:** apply to the Court for an order under section 411(1) of the Corporations Act directing Envestra to convene the Scheme Meeting;
- (j) **Despatch Scheme Booklet:** promptly after, and provided that, the approvals and orders in clauses 4.1(h) and 4.1(i) have been received, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act and then despatch a copy of the Scheme Booklet to each Participating Envestra Shareholder and to all other persons entitled to receive notice of the Scheme Meeting;
- (k) **Update the Scheme Booklet:** if applicable, update the Scheme Booklet in accordance with clause 8.1(j);
- (l) **Shareholder Information:** subject to clause 5(i), the terms of the Scheme and applicable law:
 - (i) provide, and give all necessary directions to Envestra's registry to provide, the Shareholder Information to APA and, where requested, Envestra must procure such information to be provided to APA in such electronic form as is reasonably requested by APA; and
 - (ii) conditional on the Scheme becoming Effective, provide to APA all necessary information in its possession about Participating Envestra Shareholders which APA reasonably requires to facilitate the issue by the APA Responsible Entity of New APA Securities as consideration for the Scheme;
- (m) **Scheme Meeting:** convene the Scheme Meeting in accordance with the Court order, and put the Scheme Resolution to Participating Envestra Shareholders at the Scheme Meeting;
- (n) **Proxy results:** provide an update to a nominated Representative of APA on the status of proxy forms received by the Envestra registry for the Scheme Meeting:
 - (i) on the day that is 15 Business Days before the Scheme Meeting;
 - (ii) on each Business Day following the day that is 15 Business Days before the Scheme Meeting up to and including the deadline for receipt of proxy forms; and
 - (iii) immediately following the deadline for receipt of proxy forms.
- (o) **Section 411(17)(b) statement:** apply to ASIC for the production of:
 - (i) an indication of intent letter stating that it does not intend to appear before the Court at the First Court Hearing; and
 - (ii) a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (p) **Court approval:** apply to the Court for an order approving the Scheme in accordance with sections 411(4)(b) and, if applicable, 411(6) of the Corporations Act;

- (q) **Lodge copy of Court order, etc:** if the Court approves the Scheme in accordance with sections 411(4)(b) and, if applicable, 411(6) of the Corporations Act:
- (i) as soon as practicable after such time and in any event by no later than 4pm on the first Business Day after the date on which the Court makes the order, lodge with ASIC an office copy of the order approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) use reasonable endeavours to ensure that ASX suspends trading in Envestra Shares with effect from the close of trading on the Effective Date;
 - (iii) close the Register as at the Record Date to determine who are Scheme Shareholders and their entitlements to the Scheme Consideration as at the Record Date;
 - (iv) promptly execute proper instruments of transfer of, and register all transfers of, Envestra Shares to APL as RE of APT on the Implementation Date; and
 - (v) promptly do all other things contemplated by or necessary to lawfully give effect to the Scheme and the orders of the Court approving the Scheme;
- (r) **ASX listing:**
- (i) use its reasonable endeavours to ensure that the Envestra Shares continue to be quoted on ASX until the close of business on the Implementation Date; and
 - (ii) not request ASX to remove Envestra from the official list of ASX until after the Implementation Date in accordance with the directions of APA;
- (s) **Consultation and co-operation:** subject to the proper performance by the directors of Envestra of their fiduciary and statutory duties and provided that nothing in this paragraph requires the provision by any member of the Envestra Group or its Representatives of any information in breach of any obligation of confidentiality or any law, during the period from the date of this Agreement to the Implementation Date, Envestra will:
- (i) co-operate in good faith with APA in its efforts to promote the merits of the Scheme, including, where agreed to be appropriate, the parties acting reasonably;
 - (A) through communications with Participating Envestra Shareholders; or
 - (B) holding meetings between Representatives of Envestra and key Participating Envestra Shareholders at the reasonable request of APA; and
 - (ii) not, and will use reasonable endeavours to procure that the directors of Envestra do not, act in a manner adverse to the Scheme; and
- (t) **Director changes:** upon Implementation of the Scheme, appoint the nominees of APA as directors of Envestra and each subsidiary of Envestra (subject to appropriate consents having been given), and cause the resignation or removal as directors of Envestra and each subsidiary of Envestra of such persons as are nominated by APA, subject to ensuring that the minimum number of directors required by law is maintained at all times.

4.2 Agreed Announcement

Envestra must authorise and issue the Agreed Announcement immediately following execution of this Agreement, which will include:

- (a) details of the position of each Non APA Affiliated Director in respect of the Scheme including:
 - (i) the name of the director;

- (ii) his position in respect of whether he considers the Scheme to be in the best interests of Participating Envestra Shareholders or whether he has abstained from stating his position;
 - (iii) his recommendation in respect of whether Participating Envestra Shareholders should vote in favour of the Scheme or whether he has abstained from giving a recommendation;
 - (iv) the voting intent in respect of any Envestra Shares that he holds or that he is able to control voting rights in respect of or whether he has abstained from stating his voting intention;
- (b) a statement to the effect that:
- (i) a majority of the Non APA Affiliated Directors consider the Scheme to be in the best interests of Participating Envestra Shareholders and recommend that Participating Envestra Shareholders vote in favour of the Scheme; and
 - (ii) each Non APA Affiliated Director forming part of the majority referred to in clause 4.2(b)(i) who holds Envestra Shares or is able to control voting rights in respect of Envestra Shares intends to vote his Envestra Shares, or procure that those Envestra Shares are voted, in favour of the Scheme,

subject to there being no superior proposal in respect of Envestra and the Independent Expert continuing to conclude that the Scheme is fair and reasonable and in the best interests of Participating Envestra Shareholders.

5 APA's obligations in respect of the Scheme

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

- (a) **Preparation of Scheme Booklet:** provide assistance with the preparation of the Scheme Booklet in accordance with clause 6;
- (b) **Independent Expert information:** provide all assistance and information reasonably requested by Envestra or by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **Investigating Accountant:** procure the finalisation of the Investigating Accountant's Report and provide all assistance and information reasonably requested by the Investigating Accountant to enable it to finalise the Investigating Accountant's Report;
- (d) **Regulator's Draft:** as soon as reasonably practicable after receipt from Envestra of the proposed Regulator's Draft, either:
 - (i) confirm in writing to Envestra that the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information in the form and context in which it appears in the proposed Regulator's Draft is not misleading or deceptive and does not contain any material omission; or
 - (ii) provide Envestra with the textual changes required to ensure that the proposed Regulator's Draft is not misleading or deceptive and does not contain any material omission;
- (e) **ASIC Review Period:** provide reasonable assistance to Envestra in connection with resolving any matter raised by ASIC regarding the Scheme Booklet or the Scheme during the ASIC Review Period;
- (f) **Approval of Scheme Booklet:** as soon as practicable after the end of the ASIC Review Period, procure that a meeting of its Board is convened to approve those sections of the

Scheme Booklet that comprise the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information as being in a form appropriate for despatch to Participating Envestra Shareholders;

- (g) **Deed Poll:** before the First Court Hearing, execute the Deed Poll;
- (h) **Court representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of sections 411(1), 411(4)(b) and 411(6) of the Corporations Act, at which, through its counsel, it will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this Agreement and the Scheme;
- (i) **Proxy solicitation:**
 - (i) provide reasonable notice to Envestra in advance of any activities to be undertaken by or on behalf of APA to solicit proxies or votes at the Scheme Meeting and consult in good faith with Envestra regarding all material details concerning such activities (including any material communications with Envestra Shareholders); and
 - (ii) ensure that any information disclosed to APA under clause 4.1(n) is kept confidential, is not used for any purpose other than the solicitation of proxies or votes at the Scheme Meeting, is treated in accordance with privacy law and (to the extent relevant) Envestra's privacy policy and is not disclosed to any person other than APA's directors, senior managers and advisers who reasonably require that information for the purpose of soliciting proxies or votes at the Scheme Meeting;
- (j) **Shareholder Information:** ensure that any information disclosed to APA under clause 4.1(l)(i) is kept confidential and is treated in accordance with privacy law and (to the extent relevant) Envestra's privacy policy;
- (k) **Scheme Consideration:** if the Scheme becomes Effective, provide the Scheme Consideration in accordance with the Deed Poll and the Transaction Documents on the Implementation Date; and
- (l) **Other:** do all things lawfully within its power that are reasonably necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

6 Preparation of Scheme Booklet

- (a) Subject to APA complying with its obligations under clause 6(d), Envestra must prepare the Scheme Booklet as soon as is reasonably practicable after the date of this Agreement and use all reasonable endeavours to do so in accordance with the Timetable.
- (b) Envestra must use reasonable endeavours to ensure that the Scheme Booklet complies with the requirements of the Corporations Act, the ASX Listing Rules and all ASIC Regulatory Guides applicable to members' schemes of arrangement under Part 5.1 of the Corporations Act, except in respect of the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information.
- (c) Envestra must make available to APA drafts of the Scheme Booklet (including any draft of a report by the Independent Expert but excluding those sections containing the Independent Expert's opinions or conclusions) and consult with APA in relation to the content of those drafts, and consider in good faith, for the purpose of amending those drafts, comments from APA and its advisers on those drafts received on a timely basis.
- (d) Subject to paragraph (e), APA must:
 - (i) provide to Envestra such information regarding APA, the APA Group, the APA Securities and the Combined Group as is required to ensure that the Scheme Booklet complies with the requirements of the Corporations Act, the ASX Listing Rules and all ASIC Regulatory Guides applicable to members' schemes of arrangement under Part 5.1 of the Corporations Act, including all the information that would be required under sections 636(1)(c), (f), (ga), (h), (i), (k)(ii), (l) and (m) of the Corporations Act

to be included in a bidder's statement if APA were offering the Scheme Consideration as consideration under a takeover bid (APA acknowledging that Envestra will rely on such information to prepare the Scheme Booklet and agreeing that the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information will be provided in good faith); and

- (ii) provide to Envestra such assistance as Envestra may reasonably require in order to adapt such information for inclusion in the Scheme Booklet,

as soon as reasonably practicable after the date of this Agreement (and must use all reasonable endeavours to do so in accordance with the Timetable).

- (e) APA's obligation under paragraph (d) to provide information regarding the Combined Group is subject to Envestra providing (and Envestra must provide) APA in a timely manner with such information regarding the Envestra Group as is reasonably necessary for APA to prepare the information regarding the Combined Group required by the disclosure requirements referred to in sub-paragraph (d)(i).
- (f) Envestra must:
 - (i) only use the APA Scheme Booklet Information (to the extent that it is confidential) and the Combined Group Scheme Booklet Information (to the extent that it is confidential) with the prior written consent of APA (not to be unreasonably withheld or delayed); and
 - (ii) from the date of the First Court Hearing until the Implementation Date, promptly inform APA if it becomes aware that the Scheme Booklet contains a statement that is or has become misleading or deceptive in a material respect or that contains a material omission.
- (g) The parties acknowledge that the Scheme Booklet will contain statements to the effect that:
 - (i) Envestra is responsible for the contents of the Scheme Booklet other than, to the maximum extent permitted by law, the APA Scheme Booklet Information, the Combined Group Scheme Booklet Information, the Independent Expert's Report, the Investigating Accountant's Report and the Tax Section (except to the extent that the Tax Section has been prepared based on information provided by Envestra). APA and its directors, officers and advisers do not assume any responsibility for the accuracy or completeness of any such Envestra information; and
 - (ii) APA is responsible for the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information. APA is also responsible for the Tax Section, to the extent it has been prepared based on information provided by APA. Envestra and its directors, officers and advisers do not assume any responsibility for the accuracy or completeness of the APA Scheme Booklet Information or the Combined Group Scheme Booklet Information.
- (h) If the parties disagree on the form or content of the Scheme Booklet (including any update to the Scheme Booklet to be made in accordance with clause 4.1(k)):
 - (i) they must consult in good faith to try to settle an agreed form of the Scheme Booklet (or an agreed form of the update to the Scheme Booklet, as applicable); and
 - (ii) failing agreement within five Business Days, the dispute must be referred to the chairmen of Envestra and APA.

If within five Business Days of the referral to the chairmen there is still no agreement between the parties, the final form and content of the Scheme Booklet (or the form and content of the update to the Scheme Booklet, as applicable):

 - (iii) the Envestra Scheme Booklet Information shall be determined by Envestra, acting reasonably; and

- (iv) the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information shall be determined by APA, acting reasonably,

provided that if Envestra, acting reasonably, disagrees with the final form or content (or both) of the APA Scheme Booklet Information or the Combined Group Scheme Booklet Information (or both) as determined by APA under paragraph (iv) above, Envestra may terminate this Agreement by notice in writing to APA at any time up until the relevant information has been despatched by Envestra in accordance with clause 4.1(j) or clause 4.1(k) (as applicable).

- (i) Envestra must undertake appropriate verification procedures in relation to the Envestra Scheme Booklet Information and APA must undertake appropriate verification procedures in relation to the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information.

7 Pre-implementation Obligations

7.1 Conduct of business

From the date of this Agreement up to and including the Implementation Date, each party must conduct its business, and procure that of its Related Entities conducts its business, in the ordinary course, in substantially the same manner, and at the same locations, as previously conducted and use reasonable endeavours to:

- (a) preserve intact its current business organisation including keeping available the services of its officers and employees;
- (b) preserve its relationships with customers, suppliers, licensors, licensees and others having business dealings with it; and
- (c) maintain the condition of its business and assets, including maintaining at least its current level of insurance (provided such level of insurance continues to be generally available).

7.2 Certain Envestra Group actions requiring the consent of APA

Without limiting clause 7.1, from the date of this Agreement up to and including the Implementation Date, Envestra must not and must ensure that each other member of the Envestra Group does not:

- (a) dispose or agree or offer to dispose of or lease or agree or offer to lease any one or more assets, businesses or entities or any one or more items of real property, plant or equipment (or any interest in any of the foregoing), the value or aggregate value of which exceeds \$10 million, to any person other than a member of the Envestra Group;
- (b) acquire or agree or offer to acquire any one or more assets, businesses or entities or any one or more items of real property, plant or equipment (or any interest in any of the foregoing), the value or aggregate value of which exceeds \$10 million, from any person other than a member of the Envestra Group;
- (c) either:
 - (i) enter into an employment contract with a potential employee (other than to replace on substantially similar terms (including as to remuneration and benefits) an employee who has ceased to be an employee of the Envestra Group); or
 - (ii) enter into a new employment contract with, or amend an employment contract of, an existing employee of a member of the Envestra Group (other than any increase in remuneration or benefits consistent with past practice),

in respect of which the total annual employment costs of that existing or potential employee are in excess of \$150,000;

- (d) settle any legal proceedings, claim, investigation, arbitration or other like proceeding where the amount claimed by or against a member of the Envestra Group exceeds \$5 million;

- (e) enter, or propose to enter, into or amend, or propose to amend, in any material respect any joint venture, partnership or other agreement with any person other than a member of the Envestra Group involving or reasonably likely to involve expenditure or other commitment on the part of a member of the Envestra Group in excess of \$10 million;
- (f) incur any financial indebtedness or issue any debt securities, other than:
 - (i) any financial indebtedness incurred within existing limits of any existing debt facility or debt securities;
 - (ii) trade credit or other liabilities incurred in the ordinary course of business;
 - (iii) indebtedness to a member of the Envestra Group; or
 - (iv) any Envestra Permitted Financing Activities;
- (g) authorise, commit or agree to do any of the matters set out above.

7.3 Exceptions

Nothing in clause 7.1 or clause 7.2 restricts:

- (a) anything which a party is required to do, permitted to do or is permitted not to do under any provision of this Agreement or the Scheme, or which is otherwise contemplated by this Agreement or the Scheme;
- (b) anything which, in the case of the Envestra Group, is consented to by APA and, in the case of the APA Group, is consented to by Envestra (in each case, such consent not to be unreasonably withheld);
- (c) any transaction, expenditure or other action (not involving any proposed or contemplated M&A activity) fairly disclosed before the date of this Agreement:
 - (i) in any public filing with the ASX or ASIC; or
 - (ii) in writing in any of the due diligence information referred to in clause 10.1; or
- (d) any agreement or other arrangement which is conditional on the Scheme not being Implemented other to the extent to which entry into such agreement or arrangement would be in breach of clause 11.

7.4 Envestra employees

APA undertakes that:

- (a) promptly following the date of this Agreement, it will engage in discussions with Envestra's Managing Director, and will consult with Envestra's employees with a view to identifying staffing requirements to support the ongoing network business in the event the Scheme is Implemented; and
- (b) within 14 days of the date of this Agreement, APA will formally outline to Envestra APA's intentions in respect of all individual Envestra employees; and
- (c) if the Scheme is Implemented:
 - (i) APA will continue the employment of all Envestra Group employees (other than Mr Ian Little) until at least 30 September 2014; and
 - (ii) the employment of Mr Ian Little will be treated in accordance with the terms of the services agreement between Envestra and Mr Ian Little dated 28 March 2006 (as amended), including clause 14.3 of that agreement (Effect of Fundamental Change), unless otherwise agreed between APA and Mr Ian Little.

8 Representations, Warranties and Undertakings

8.1 Representations, warranties and undertakings by Envestra

Subject to clause 8.3, Envestra represents and warrants (and, where applicable, undertakes) to APA (on its own behalf and separately as trustee for each of the APA Indemnified Parties) that:

- (a) Envestra and each of its Related Bodies Corporate is a corporation duly incorporated, validly existing and limited by shares under the Corporations Act or other applicable legislation;
- (b) it has full legal capacity and power to own its own property and to carry on its business;
- (c) the execution, delivery and performance of this Agreement by Envestra has been properly authorised by all necessary corporate action and Envestra has full corporate power to execute, deliver and perform this Agreement;
- (d) this Agreement constitutes legal, valid and binding obligations on Envestra (subject to laws generally affecting creditors' rights and the principles of equity);
- (e) neither it nor any other member of the Envestra Group is affected by an Insolvency Event;
- (f) all information provided by or on behalf of Envestra to the Independent Expert and the Investigating Accountant to enable their respective reports to be prepared has been, and will be, provided in good faith and on the understanding that the Independent Expert and the Investigating Accountant will rely on that information for the purpose of preparing their respective reports for inclusion in the Scheme Booklet;
- (g) all information provided by or on behalf of Envestra to Envestra's tax advisers to enable the preparation of the Tax Section has been, and will be, provided in good faith and on the understanding that Envestra's tax advisers will rely on that information for the purpose of preparing the Tax Section;
- (h) the Envestra Scheme Booklet Information:
 - (i) will be prepared and included in the Scheme Booklet in good faith and on the understanding that APA and its directors will rely on that information for the purpose of considering and approving the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and relevant ASIC regulatory guides and the terms of this Agreement as they apply to such information;
- (i) as at the date the Scheme Booklet is despatched to Participating Envestra Shareholders, the Scheme Booklet (excluding the APA Scheme Booklet Information, the Combined Group Scheme Booklet Information, the Independent Expert's Report, the Investigating Accountant's Report and the Tax Section) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (j) Envestra will (but in respect of the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information, subject to APA complying with its obligations under clause 8.2(j)) update the Scheme Booklet as soon as reasonably practicable with all such further or new information which may arise after the Scheme Booklet has been despatched until the Scheme Meeting which is either necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (whether by omission or otherwise) or which is otherwise material for disclosure to Participating Envestra Shareholders or that is required to be disclosed to Participating Envestra Shareholders under any applicable law;

- (k) Envestra is not in breach of its continuous disclosure obligations under the ASX Listing Rules and, other than in respect of the Scheme, it is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure;
- (l) Envestra's financial statements for the financial year ended 30 June 2013 give a true and fair view of the financial position of Envestra as at 30 June 2013 and of its financial performance for the financial year ended on that date;
- (m) Envestra's financial statements for the 6 months ended 31 December 2013 give a true and fair view of the financial position of Envestra as at 31 December 2013 and of its financial performance for the 6 months ended on that date;
- (n) as at the date of this Agreement:
 - (i) the total issued capital of Envestra is 1,796,808,474 Envestra Shares;
 - (ii) there are no other shares, options, performance rights or convertible instruments or other securities or financial products granted or on issue by Envestra (or offers or agreements to issue any of the foregoing);
- (o) all of the shares of the subsidiaries of Envestra and other members of the Envestra Group are legally and beneficially owned by Envestra (whether directly or indirectly) and those shares have been validly issued and fully paid up;
- (p) there is no encumbrance, option, right of pre-emption, right of first or last refusal or other third party right over any of the shares in any member of the Envestra Group (other than Envestra) and to the knowledge of Envestra there is no encumbrance, option, right of pre-emption, right of first or last refusal or other third party right over any of the shares in Envestra other than those disclosed to APA in writing;
- (q) no member of the Envestra Group (aside from Envestra) has in place any plans or schemes relating to the provision of shares, options or other equity entitlements to officers or employees of that member;
- (r) other than disclosed in the Envestra Due Diligence Information, no member of the Envestra Group has given a commitment to any Officer of that member in relation to the change of ownership of Envestra;
- (s) other than as disclosed to APA in writing prior to the date of this Agreement, no member of the Envestra Group has any arrangement with any corporate, financial or other adviser or any third party under which Envestra has agreed to pay or is obliged to pay a fee or expense to that adviser or third party if the Scheme does, or if the Scheme does not, become Effective or otherwise in connection with the Scheme;
- (t) the Envestra Due Diligence Information has been provided to APA in good faith and Envestra has not knowingly and intentionally:
 - (i) omitted anything from the Envestra Due Diligence Information that Envestra knows would be material to the financial position or performance of Envestra's business;
 - (ii) omitted anything from the Envestra Due Diligence Information that Envestra knows would be such as to make any part of that information materially false or misleading;
 - (iii) included anything that Envestra knows is materially false or misleading in the Envestra Due Diligence Information; or
 - (iv) omitted from the Envestra Due Diligence Information any Material Contract containing a provision pursuant to which the signing of this Agreement, the Scheme, the acquisition of Envestra Shares by APA following the Implementation of the Scheme or the delisting of Envestra if the Scheme is successful will result in the Material Contract being terminated or adversely modified or any adverse action being taken or arising thereunder;

- (u) it will use reasonable endeavours to procure that no Envestra Prescribed Event or Envestra Material Adverse Change occurs;
- (v) as at the date of this Agreement, it is not involved in or aware of any negotiations or discussions, approach or attempt to initiate any negotiations or discussions, or intention to make such an approach or attempt to initiate any negotiations or discussions in respect of any expression of interest, offer, proposal or discussion in relation to a Competing Proposal, whether direct or indirect, solicited or unsolicited and in writing or otherwise; and
- (w) this Agreement does not conflict with or result in the breach of or default under:
 - (i) any provision of Envestra's constitution; or
 - (ii) any:
 - (A) material term or provision of any agreement to which it or a another member of the Envestra Group is a party; or
 - (B) writ, order or injunction, judgment, law, rule or regulation to which it or another member of the Envestra Group is subject or by which it or they are bound,

and which is material in the context of the Envestra Group taken as a whole, save as fairly disclosed in the Envestra Due Diligence Information given before the date of this Agreement.

8.2 Representations, warranties and undertakings by APA

Subject to clause 8.4, APA represents and warrants (and, where applicable, undertakes) to Envestra (on its own behalf and separately as trustee for each of the Envestra Indemnified Parties) that:

- (a) APL is a company duly incorporated, validly existing and limited by shares under the Corporations Act;
- (b) APT and APTIT are managed investment schemes registered under Chapter 5C of the Corporations Act;
- (c) the execution, delivery and performance of this Agreement by APA has been properly authorised by all necessary corporate action and APA has full corporate power to execute, deliver and perform this Agreement;
- (d) this Agreement constitutes legal, valid and binding obligations on APA (subject to laws generally affecting creditors' rights and the principles of equity);
- (e) neither it nor any other member of the APA Group is affected by an Insolvency Event;
- (f) all information provided by or on behalf of APA to the Independent Expert and the Investigating Accountant to enable their respective reports to be prepared has been, and will be, provided in good faith and on the understanding that the Independent Expert and Investigating Accountant will rely upon that information for the purpose of preparing their respective reports for inclusion in the Scheme Booklet;
- (g) all information provided by or on behalf of APA to Envestra's tax advisers to enable the preparation of the Tax Section has been, and will be, provided in good faith and on the understanding that Envestra's tax advisers will rely on that information for the purpose of preparing the Tax Section;
- (h) the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information (to the extent that APA has consented to inclusion of that information in accordance with clause 6(g)(ii)):

- (i) will be prepared in good faith and on the understanding that Envestra and each of its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme;
 - (ii) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and relevant ASIC regulatory guides and the terms of this Agreement as they relate to such information; and
 - (iii) would not cause the Scheme Booklet to be “defective”, within the meaning of sections 1021B and 1022A of the Corporations Act (whether by omission or otherwise) if those sections applied to the Scheme Booklet;
- (i) as at the date the Scheme Booklet is despatched to Participating Envestra Shareholders, the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (j) APA will provide to Envestra all such further or new material information that arises after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the APA Scheme Booklet Information and the Combined Group Scheme Booklet Information, in the form and context in which that information appears in the version of the Scheme Booklet sent to Participating Envestra Shareholders is not misleading or deceptive in any material respect (whether by omission or otherwise) and would not cause the Scheme Booklet to be defective (within the meaning of sections 1021B and 1022A of the Corporations Act), whether by omission or otherwise, if those sections applied to the Scheme Booklet, and if it becomes aware that the APA Scheme Booklet Information or the Combined Group Scheme Booklet Information contains a misleading or deceptive statement or is subject to a material omission, or has become misleading or deceptive or subject to a material omission, or would cause the Scheme Booklet to be defective (within the meaning of sections 1021B and 1022A of the Corporations Act), whether by omission or otherwise, if those sections applied to the Scheme Booklet, provide such further or new information as is required to correct the defect;
- (k) APA is not in breach of its continuous disclosure obligations under the ASX Listing Rules and, other than in respect of the Scheme, it is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure;
- (l) APA’s financial statements for the financial year ended 30 June 2013 give a true and fair view of the financial position of APA as at 30 June 2013 and of its financial performance for the financial year ended on that date;
- (m) APA’s financial statements for the 6 months ended 31 December 2013 give a true and fair view of the financial position of APA as at 31 December 2013 and of its financial performance for the 6 months ended on that date;
- (n) as at the date of this Agreement:
 - (i) there are 835,750,807 APA Securities on issue;
 - (ii) there are no other units, shares, options, performance rights or convertible instruments or other securities or financial products granted or on issue by APA (or offers or agreements to issue any of the foregoing);
- (o) this Agreement does not conflict with or result in the breach of or default under:
 - (i) any provision of the APT Constitution or the APTIT Constitution or APL’s constitution; or
 - (ii) any:
 - (A) material term or provision of any agreement to which it or a another member of the APA Group is a party; or

- (B) writ, order or injunction, judgment, law, rule or regulation to which it or another member of the APA Group is subject or by which it or they are bound,

and which is material in the context of the APA Group taken as a whole, save as fairly disclosed in the APA Due Diligence Information given before the date of this Agreement.

- (p) the APA Due Diligence Information has been provided to Envestra in good faith and APA has not knowingly and intentionally:
 - (i) omitted anything from the APA Due Diligence Information that APA knows would be material to the financial position or performance of APA's business;
 - (ii) omitted anything from the APA Due Diligence Information that APA knows would be such as to make any part of that information materially false or misleading; or
 - (iii) included anything that APA knows is materially false or misleading in the APA Due Diligence Information;
- (q) it will use reasonable endeavours to procure that no APA Prescribed Event or APA Material Adverse Change occurs; and
- (r) other than as disclosed to the ASX prior to the date of this Agreement, neither it nor any of its associates (as defined in section 12 of the Corporations Act):
 - (i) has a Relevant Interest in any Envestra Shares; or
 - (ii) is a party to any agreement, arrangement or understanding involving the conferring of rights on it the economic effect of which is equivalent, substantially equivalent, or similar to it acquiring, holding or disposing of Envestra Shares (whether combined with a financing arrangement or not).

8.3 Envestra limitation of liability

- (a) Envestra is not liable in respect of a Warranty Claim in relation to a Envestra Warranty if the fact, matter, circumstance or act giving rise to the Warranty Claim:
 - (i) was required to be done by Envestra under the Transaction Documents; or
 - (ii) was approved by APA in writing (prior to the fact, matter, circumstance or act occurring); or
 - (iii) has been fairly disclosed in writing by Envestra to APA prior to the date the parties entered into this Agreement, including in the Envestra Due Diligence Information or the Envestra Disclosure and Permitted Financing Activities Letter, except in relation to the Envestra Warranty in clause 8.1(n) which is not subject to this paragraph (iii).
- (b) The Envestra Warranties are qualified by, and are given subject to, the facts, matters, circumstances and acts referred to in clause 8.3(a).

8.4 APA limitation of liability

- (a) APA is not liable in respect of a Warranty Claim in relation to an APA Warranty if the fact, matter, circumstance or act giving rise to the Warranty Claim:
 - (i) was required to be done by APA under the Transaction Documents; or
 - (ii) was approved by Envestra in writing (prior to the fact, matter, circumstance or act occurring); or
 - (iii) has been fairly disclosed in writing by APA to Envestra prior to the date the parties entered into this Agreement, including in the APA Due Diligence Information,

except in relation to the APA Warranty in 8.2(n) which is not subject to this paragraph (iii).

- (b) The APA Warranties are qualified by, and are given subject to, the facts, matters, circumstances and acts referred to in clause 8.4(a).

8.5 Reliance

- (a) Each party acknowledges that the other has entered into this Agreement in reliance on the representations, warranties and undertakings that are given by the party in this clause 8.
- (b) The parties have not relied on any representation or warranty in deciding whether to enter into this Agreement, other than as expressly set out in this clause 8.

8.6 Nature of provisions

- (a) Each of the representations and warranties in this clause 8 shall be deemed to be given as at the date of this Agreement and at 8.00am on the Second Court Date by reference to the circumstances then existing.
- (b) Each of the representations, warranties and undertakings given by a party in this clause 8 must be construed as a separate and independent provision and will not be limited or restricted by reference to the terms of any other representation, warranty or undertaking in this clause 8 or any other term of this Agreement.
- (c) Each of the representations and warranties in this clause 8:
 - (i) will survive the completion of the transactions contemplated by this Agreement or the termination of this Agreement; and
 - (ii) is given with the intent that liability under it will not be confined to breaches which are discovered prior to the completion of the transactions contemplated by this Agreement or the date of termination of this Agreement.

8.7 Notification

A party must promptly advise the other in writing of any representation or warranty provided in this clause 8 by the party being false or misleading in any material respect when given or a breach of any undertaking in this clause 8 by the party.

9 Indemnities

9.1 Indemnity from Envestra

Envestra indemnifies APA and the other APA Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the APA Indemnified Parties may suffer or incur by reason of any breach of any of the representations, warranties and undertakings in clause 8.1.

9.2 Indemnity from APA

APA indemnifies Envestra and the other Envestra Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Envestra Indemnified Parties may suffer or incur by reason of any breach of any of the representations, warranties and undertakings given by it in clause 8.2 or by reason of any breach of any undertaking given by it in clause 7.4.

9.3 Nature of indemnities

Each indemnity in clauses 9.1 and 9.2 is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination or completion of this Agreement. It is not necessary for a person to incur expense or make any payment before enforcing a right of indemnity in

this clause 9. The making of a claim by a person under an indemnity in this clause 9 in respect of a particular event does not preclude that person from subsequently making further claims under that indemnity in respect of any further loss arising out of the same event for which it has not previously been indemnified.

10 No reliance on Due Diligence Information

10.1 Due diligence investigations

- (a) APA acknowledges and agrees, both on its own behalf and on behalf of each of the other APA Indemnified Persons that:
 - (i) prior to entry into this Agreement, it and its Representatives have undertaken their own due diligence investigations in relation to the Envestra Group, including access to data rooms, management presentations, interviews and discussions;
 - (ii) in the course of those investigations, and the negotiations and discussions in relation thereto, Envestra and its Representatives have provided to APA and its Representatives information in various forms in connection with the Scheme or relating to the Envestra Group (the **Envestra Due Diligence Information**);
 - (iii) as at the date of this Agreement it is not aware, as a consequence of obtaining the Envestra Due Diligence Information, of any information or matter that would give it a right to terminate this Agreement or would constitute a breach of any Envestra Warranty; and
 - (iv) the Envestra Warranties are provided subject to, and are qualified by, any facts, matters or circumstances which have been fairly disclosed in writing to APA or its Representatives prior to the date of this Agreement in the Envestra Due Diligence Information or the Envestra Disclosure and Permitted Financing Activities Letter or otherwise on the terms and conditions of this Agreement (except in relation to the Envestra Warranty in clause 8.1(n) which is not subject to this paragraph (iv)).
- (b) Envestra acknowledges and agrees, both on its own behalf and on behalf of each of the other Envestra Indemnified Persons that:
 - (i) prior to entry into this Agreement, it and its Representatives have undertaken their own due diligence investigations in relation to the APA Group, including management presentations, interviews and discussions;
 - (ii) in the course of those investigations, and the negotiations and discussions in relation thereto, APA and its Representatives have provided to Envestra and its Representatives information in various forms in connection with the Scheme or relating to the APA Group (the **APA Due Diligence Information**);
 - (iii) as at the date of this Agreement it is not aware, as a consequence of obtaining the APA Due Diligence Information, of any information or matter that would give it a right to terminate this Agreement or would constitute a breach of any APA Warranty; and
 - (iv) the APA Warranties are provided subject to, and are qualified by, any facts, matters or circumstances which have been fairly disclosed in writing to Envestra or its Representatives prior to the date of this Agreement in the APA Due Diligence Information or otherwise on the terms and conditions of this Agreement (except in relation to the APA Warranty in 8.2(n) which is not subject to this paragraph (iv)).

10.2 Limited assurance regarding Due Diligence Information

- (a) Except as set out in clauses 8.1(f), 8.1(g), 8.1(h), 8.1(i), 8.1(j), 8.1(t) and 8.1(w)(ii), APA acknowledges and agrees, both on its own behalf and on behalf of each of the other APA Indemnified Persons, that none of Envestra and its Representatives, to the maximum extent permitted by law:

- (i) makes any representation or warranty:
 - (A) as to the accuracy, reasonableness, completeness or relevance of any of the Envestra Due Diligence Information;
 - (B) as to the reasonableness of any forecast or other forward looking statement contained or referred to in the Envestra Due Diligence Information, or any assumption upon which any such forecast or other forward looking statement is based;
 - (C) that any of the Envestra Due Diligence Information has been audited, verified or prepared with reasonable care; or
 - (D) that the Envestra Due Diligence Information is the totality of the information that a person would require or expect to find in order to consider or evaluate the Scheme;
 - (ii) accepts any responsibility to APA, any of the other APA Indemnified Persons or any other person for any false, inaccurate or misleading Envestra Due Diligence Information or for any opinion formed or conclusion drawn by APA or its Representatives as a result of examining the Envestra Due Diligence Information;
 - (iii) accepts any responsibility to inform APA or any of its Representatives of any matter arising or coming to the notice of Envestra which may affect or qualify any Envestra Due Diligence Information; and
 - (iv) is liable for any loss of any kind (including, without limitation, any consequential or economic loss) arising from any inaccuracy, incompleteness or similar defect in the Envestra Due Diligence Information or any default, negligence or lack of care in relation to the preparation or provision of the Envestra Due Diligence Information.
- (b) Except as set out in clauses 8.2(f), 8.2(g), 8.2(h), 8.2(i), 8.2(j), 8.2(o)(ii) and 8.2(p) Envestra acknowledges and agrees, both on its own behalf and on behalf of each of the other Envestra Indemnified Persons that none of APA and its Representatives, to the maximum extent permitted by law:
- (i) makes any representation or warranty:
 - (A) as to the accuracy, reasonableness, completeness or relevance of any of the APA Due Diligence Information;
 - (B) as to the reasonableness of any forecast or other forward looking statement contained or referred to in the APA Due Diligence Information, or any assumption upon which any such forecast or other forward looking statement is based;
 - (C) that any of the APA Due Diligence Information has been audited, verified or prepared with reasonable care; or
 - (D) that the APA Due Diligence Information is the totality of the information that a person would require or expect to find in order to consider or evaluate the Scheme;
 - (ii) accepts any responsibility to Envestra, any of the other Envestra Indemnified Persons or any other person for any false, inaccurate or misleading APA Due Diligence Information or for any opinion formed or conclusion drawn by Envestra or its Representatives as a result of examining the APA Due Diligence Information;
 - (iii) accepts any responsibility to inform Envestra or any of its Representatives of any matter arising or coming to the notice of APA which may affect or qualify any APA Due Diligence Information; and

- (iv) is liable for any loss of any kind (including, without limitation, any consequential or economic loss) arising from any inaccuracy, incompleteness or similar defect in the APA Due Diligence Information or any default, negligence or lack of care in relation to the preparation or provision of the APA Due Diligence Information.

10.3 Own enquiries

- (a) Subject to clauses 8.1(f), 8.1(g), 8.1(h), 8.1(i), 8.1(j), 8.1(t) and 8.1(w)(ii), without limiting clauses 10.1 and 10.2:
 - (i) APA acknowledges and agrees both on its own behalf and on behalf of each of the other APA Indemnified Persons that each of them has made its own independent assessment of all Envestra Due Diligence Information and has carried out, and relied solely on, its own investigation and analysis of the Envestra Due Diligence Information and the Scheme; and
 - (ii) APA acknowledges and agrees that it has entered into this Agreement utilising the Envestra Due Diligence Information solely at its own risk.
- (b) Subject to clauses 8.2(f), 8.2(g), 8.2(h), 8.2(i), 8.2(j), 8.2(o)(ii) and 8.2(p), without limiting clauses 10.1 and 10.2:
 - (i) Envestra acknowledges and agrees both on its own behalf and on behalf of each of the other Envestra Indemnified Persons that each of them has made its own independent assessment of all APA Due Diligence Information and has carried out, and relied solely on, its own investigation and analysis of the APA Due Diligence Information and the Scheme; and
 - (ii) Envestra acknowledges and agrees that it has entered into this Agreement utilising the APA Due Diligence Information solely at its own risk.

10.4 Benefit

- (a) The acknowledgements, confirmations and agreements in clauses 10.1(a), 10.2(a) and 10.3(a) are given to Envestra on its own behalf and separately as trustee for each of the Envestra Indemnified Parties.
- (b) The acknowledgements, confirmations and agreements in clauses 10.1(b), 10.2(b) and 10.3(b) are given to APA on its own behalf and separately as trustee for each of the APA Indemnified Parties.

11 Exclusivity

11.1 Solicited proposals

Subject to clauses 11.4(b) and 11.6, during the Exclusivity Period, Envestra must not and must ensure that each of its Representatives does not:

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

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

11.2 Unsolicited proposals

- (a) Envestra and its Representatives may respond to any Unsolicited Competing Proposal, including:
 - (i) entering into, continuing or participating in negotiations or discussions with any person regarding or in connection with an Unsolicited Competing Proposal;

- (ii) allowing any such party and its Representatives to undertake due diligence on Envestra or its Related Bodies Corporate in connection with an Unsolicited Competing Proposal; and
 - (iii) making available to any person and its Representatives or permit such person and its Representatives to receive any non-public information relating to Envestra or its Related Bodies Corporate in connection with an Unsolicited Competing Proposal.
- (b) Nothing in clauses 2, 4, 7 or 11.3 prevents any action by or on behalf of Envestra that is permitted by clause 11.2.

11.3 Notice of unsolicited approach

- (a) During the Exclusivity Period, Envestra must within 3 Business Days notify APA in writing if it becomes aware of:
- (i) the existence of any bona fide Competing Proposal which Envestra (acting reasonably) considers to be, or to be capable of becoming, a Superior Proposal; or
 - (ii) the provision by Envestra of any material confidential information concerning the business or operations of Envestra or the Envestra Group to a third party making or proposing a Competing Proposal (or its Representatives) in connection with a Competing Proposal.

For the avoidance of doubt, Envestra may only provide confidential information to a third party making or proposing a Competing Proposal (or its Representatives) in connection with a Competing Proposal as described in paragraph (ii) above if the Competing Proposal is an Unsolicited Competing Proposal.

- (b) A notification given under clause 11.3(a) must include the identity of the relevant person making or proposing the relevant Competing Proposal, together with all material terms and conditions of the Competing Proposal as well as any update or variation to the terms and conditions.

11.4 Fiduciary carve out

- (a) Without limiting clause 11.2, nothing in clauses 2, 4, 7 or 11.3 prevents or requires any action by or on behalf of Envestra in relation to any Unsolicited Competing Proposal if, after consultation with Envestra's financial advisers and receiving written legal advice from external legal advisers, the Board of Envestra (excluding the APA Affiliated Directors) (or the Independent Board Committee) has resolved (or a majority of the Non APA Affiliated Directors has determined) in good faith that:
- (i) the Unsolicited Competing Proposal is or, if it was proposed, is reasonably capable of becoming a Superior Proposal; and
 - (ii) taking such action (where such action would otherwise be required by this Agreement) or failure to take such action (where such action would otherwise be prevented by this Agreement) would involve, or would be likely to involve, a breach of the fiduciary or statutory duties of the directors of Envestra.
- (b) Any action permitted by clause 11.4(a) will not be regarded as a breach of clause 11.1.

11.5 Restriction on break fee arrangements with third parties

- (a) During the Exclusivity Period, Envestra will not enter, and agrees to prohibit any entity within the Envestra Group from entering, into any agreements with any persons (other than a member of the APA Group) under which a member of the Envestra Group is required to make any payment by way of break fee, inducement fee, cost reimbursement or otherwise, to any person in connection with a proposal for an Acquisition Event:
- (i) where the value or aggregate value of the fees agreed to exceeds \$10 million; or

- (ii) (regardless of the value of the fees agreed) that is payable as a consequence of the Acquisition Event not completing as a result of the Acquisition Event being rejected by Envestra Shareholders.
- (b) Clause 11.5(a) does not apply to a payment by way of remuneration for professional services or to directors of Envestra for the discharge of their duties in connection with the Scheme.
- (c) Provided that there is compliance with clause 11.5(a)(i), clause 11.5(a)(ii) does not restrict Envestra or any member of the Envestra Group from entering into an arrangement under which a member of the Envestra Group is required to make a payment in specified circumstances other than as a consequence of the relevant Acquisition Event being rejected by Envestra Shareholders (including, for the avoidance of doubt, where the payment becomes payable due to Envestra's default or as a consequence of another Acquisition Event being successful).
- (d) If, during the Exclusivity Period, Envestra or any member of the Envestra Group enters into any agreements with one or more third parties (other than a member of the APA Group) which contain a break fee, inducement fee, cost reimbursement or other similar fee, in connection with a proposal for an Acquisition Event, Envestra agrees to enter into an equivalent arrangement with APA in relation to the Scheme on terms no less favourable to APA than the terms agreed with any such third party in relation to such Acquisition Event of an amount equal to the highest individual amount of any such fee specified in any such agreement.

11.6 Normal provision of information

Nothing in this clause 11 prevents Envestra from:

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

12 Termination

12.1 Envestra Termination Events

Envestra may terminate this Agreement by notice in writing to APA:

- (a) in accordance with clause 2.4(b) or clause 6(h);
- (b) before 8.00am on the Second Court Date, if APA is in breach of any provision of this Agreement (including a breach of a representation or warranty under clause 8) and:
 - (i) that breach is material;
 - (ii) Envestra has given prompt written notice to APA setting out the breach; and
 - (iii) if the breach is capable of remedy, the breach is not remedied by APA within 5 Business Days (or such shorter period ending at 11.59pm on the Business Day before the Second Court Date) of it receiving notice under sub-paragraph (ii);
- (c) before 8.00am on the Second Court Date, if the Independent Expert concludes (whether in its original or any subsequent opinion) that the Scheme is not fair and reasonable and in the best interests of Participating Envestra Shareholders;
- (d) before 8.00am on the Second Court Date, if:
 - (i) one or more of the Non APA Affiliated Directors withdraws or adversely varies his:

- (A) statement that he considers the Scheme to be in the best interests of Participating Envestra Shareholders; and
 - (B) recommendation that Participating Envestra Shareholders vote in favour of the Scheme; and
- (ii) due to that withdrawal or variation, fewer than a majority of the Non APA Affiliated Directors continue to:
 - (A) consider the Scheme to be in the best interests of Participating Envestra Shareholders; and
 - (B) recommend that Participating Envestra Shareholders vote in favour of the Scheme;
- (e) before 5.00pm on the Business Day before the Second Court Date, if at the Scheme Meeting or any adjournment or postponement of it at which the Scheme is voted on, the Scheme is not approved by the requisite majority of Participating Envestra Shareholders required under the Corporations Act; or
- (f) if the Scheme has not been Implemented by the End Date, or becomes incapable, for any reason, of being Implemented by the End Date.

12.2 APA Termination Events

APA may terminate this Agreement by notice in writing to Envestra:

- (a) in accordance with clause 2.4(b);
- (b) before 8.00am on the Second Court Date, if Envestra is in breach of any provision of this Agreement (including a breach of a representation or warranty under clause 8) and:
 - (i) that breach is material;
 - (ii) APA has given prompt written notice to Envestra setting out the breach; and
 - (iii) if the breach is capable of remedy, the breach is not remedied by Envestra within 5 Business Days (or such shorter period ending at 11.59pm on the Business Day before the Second Court Date) of it receiving notice under sub-paragraph (ii);
- (c) before 8.00am on the Second Court Date, if the Independent Expert concludes (whether in its original or any subsequent opinion) that the Scheme is not fair and reasonable and in the best interests of Participating Envestra Shareholders;
- (d) before 8.00am on the Second Court Date, if:
 - (i) one or more of the Non APA Affiliated Directors withdraws or adversely varies his:
 - (A) statement that he considers the Scheme to be in the best interests of Participating Envestra Shareholders; and
 - (B) recommendation that Participating Envestra Shareholders vote in favour of the Scheme; and
 - (ii) due to that withdrawal or variation, fewer than a majority of the Non APA Affiliated Directors continue to:
 - (A) consider the Scheme to be in the best interests of Participating Envestra Shareholders; and
 - (B) recommend that Participating Envestra Shareholders vote in favour of the Scheme;

- (e) before 8.00am on the Second Court Date, if the Board of Envestra (excluding the APA Affiliated Directors) (or the Independent Board Committee) (or a majority of the Non APA Affiliated Directors) (as the case requires) recommends, promotes or otherwise endorses a Competing Proposal;
- (f) before 5.00pm on the Business Day before the Second Court Date, if at the Scheme Meeting or any adjournment or postponement of it at which the Scheme is voted on, the Scheme is not approved by the requisite majority of Participating Envestra Shareholders required under the Corporations Act; or
- (g) if the Scheme has not been Implemented by the End Date, or becomes incapable, for any reason, of being Implemented by the End Date.

12.3 Effect of termination

If a party terminates this Agreement in accordance with this clause 12, this Agreement will have no further force or effect and the rights and obligations of the parties under this Agreement will cease, save that:

- (a) clauses 1, 8, 9, 10, 12, 14, 15.3, 15.4, 17 and 18 will survive termination; and
- (b) termination will be without prejudice to rights and liabilities of a party which have accrued before termination.

13 Public Announcements

13.1 Agreed Announcement

Immediately following the execution of this Agreement, Envestra must release the Agreed Announcement, which has attached to it a summary of the key terms of this Agreement, or a copy of this Agreement (minus the annexure containing the Agreed Announcement itself).

13.2 Restriction on other announcements

- (a) Neither party may make any press release or announcement or make any other public disclosure relating to the subject matter of this Agreement or make public or otherwise publicly disclose this Agreement or any of its terms unless the release, announcement, publication or other public disclosure:
 - (i) is required by this Agreement, or is required to give effect to this Agreement or the Scheme;
 - (ii) is required to be made under any applicable law or the rules of any recognised stock exchange;
 - (iii) is required by a Governmental Agency to be made by the party;
 - (iv) repeats information or statements already in the public domain; or
 - (v) has the prior approval of the other party.
- (b) Nothing in clause 13.2(a) prohibits:
 - (i) Envestra from making any announcement or public disclosure if, in the reasonable opinion of the Envestra Board, failure to disclose at that time the information proposed to be contained in the announcement or public disclosure would reasonably be expected to be inconsistent with the proper exercise of the duties of the directors of that party; and
 - (ii) APA from making any announcement or public disclosure if, in the reasonable opinion of the APA Board, failure to disclose at that time the information proposed to be contained in the announcement or public disclosure would reasonably be

expected to be inconsistent with the proper exercise of the duties of the directors of that party.

13.3 Notification

If a party is required by law, the rules of any stock exchange or any Governmental Agency to do any of the things referred to in clause 13.2, or if clause 13.2(b) otherwise applies, it must give the other party, to the extent lawful, as much notice (if any) as is reasonably practicable of the announcement or public disclosure.

14 Confidentiality and Standstill

14.1 Confidentiality

- (a) Each of Envestra and APA acknowledges and agrees that it remains bound by the Mutual Confidentiality Deed, provided that it agrees that the terms of this Agreement will prevail over the Mutual Confidentiality Deed to the extent of any inconsistency.
- (b) APA undertakes in favour of Envestra that any information concerning the Envestra Group which it acquires pursuant to this Agreement or the Scheme will be held and used by it on the same terms as contained in the Mutual Confidentiality Deed, to the extent those terms are not inconsistent with any provision of this Agreement.
- (c) Envestra undertakes in favour of APA that any information concerning the APA Group which it acquires pursuant to this Agreement or the Scheme will be held and used by it on the same terms as contained in the Mutual Confidentiality Deed, to the extent those terms are not inconsistent with any provision of this Agreement.
- (d) For the purposes of the Mutual Confidentiality Deed and the terms referred to in paragraph (b) and (c), each party consents to the use of, and the disclosure on a confidential basis to a Relevant Government Agency of, its confidential information for the purposes of satisfying any Condition Precedent and the implementation of the transactions contemplated by this Agreement.

14.2 Standstill

- (a) Subject to clause 14.2(b), with retrospective effect from 31 January 2014, clause 9 (Dealing in Restricted Securities) of the Mutual Confidentiality Deed will apply to the parties as if each reference to "3 March 2014" in that clause will be deemed to be a reference to the Second Court Date.
- (b) If this Agreement is terminated by Envestra in accordance with clause 12.1(b), each reference to "3 March 2014" in clause 9 (Dealing in Restricted Securities) of the Mutual Confidentiality Deed will be deemed to be a reference to the date that is 3 months after the date of termination of this Agreement. If this Agreement is terminated in any other manner, each reference to "3 March 2014" in clause 9 (Dealing in Restricted Securities) of the Mutual Confidentiality Deed will be deemed to be a reference to the date of termination of this Agreement.

14.3 Survival of obligations

The:

- (a) rights and obligations of Envestra and APA under the Mutual Confidentiality Deed;
- (b) the obligations of APA under clause 14.1(b) and 14.2; and
- (c) the obligations of Envestra under clause 14.1(c),

survive termination of this Agreement.

15 Indemnity, insurance and release

15.1 D&O Insurance

- (a) APA agrees that, prior to the Implementation Date, Envestra will take out run-off insurance cover with a reputable insurer, on terms that are no less advantageous to each of the Indemnified Envestra Officers and each other person who is a director of Envestra or any of its Related Bodies Corporate at the Implementation Date (together, the **Envestra Indemnified Persons**) than the coverage provided under the existing D&O policies of the Envestra Group, insuring each Envestra Indemnified Person for a period of seven years after the Implementation Date, to the maximum extent permitted by law, against all liabilities incurred by the Envestra Indemnified Person in the course of his or her service as a director or Officer of any member of the Envestra Group prior to Implementation.
- (b) Envestra agrees to consult in good faith with APA regarding to cost of the insurance cover referred to in clause 15.1(a) in advance of taking out such insurance cover.
- (c) If, for any reason, the insurance cover referred to in clause 15.1(a) is not taken out by Envestra by the Implementation Date, or ceases to be in place or available for any reason during the period of seven years after the Implementation Date, then subject to Implementation occurring, APA must procure that Envestra takes out and maintains for a period of seven years after the Implementation Date, to the maximum extent permitted by law, insurance cover with a reputable insurer, and on terms that are no less advantageous to each of the Envestra Indemnified Persons than the coverage provided under the D&O policies of the APA Group from time to time, insuring each Envestra Indemnified Person against all liabilities incurred by the Envestra Indemnified Person in the course of his or her service as a director or Officer of any member of the Envestra Group prior to Implementation.
- (d) APA must use its reasonable endeavours to not do anything, and must use its reasonable endeavours to procure that no other member of the APA Group or Envestra Group following the Implementation Date does anything, which prejudices any insurance cover taken out under clause 15.1(a) or 15.1(c), as applicable.

15.2 No limitation

- (a) The rights of the Envestra Indemnified Persons under this clause 15 are in addition to and without prejudice to any rights to indemnification or insurance coverage which an Envestra Indemnified Person may have under the constitution of, or in any deed or other agreement with, any member of the Envestra Group.
- (b) Without limiting clauses 15.1 or 15.2(a), APA acknowledges that Envestra has granted rights of indemnification and insurance coverage to each of the Indemnified Envestra Officers pursuant to deeds entered into prior to the date of this Agreement.

15.3 Release by APA

To the maximum extent permitted by law, APA releases its rights against each Officer and Representative of Envestra (including each Envestra Indemnified Person) (**Envestra Released Person**) and undertakes that it will not make any claim or demand of any nature (howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise) against any Envestra Released Person in connection with any breach of any representations, covenants or warranties in this Agreement or any disclosures in connection with this Agreement except where the Envestra Released Person has not acted in good faith or has engaged in wilful misconduct.

15.4 Release by Envestra

To the maximum extent permitted by law, Envestra releases its rights against each Officer and Representative of APA (**APA Released Person**) and undertakes that it will not make any claim or demand of any nature (howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise) against any Released Person in connection with any breach of any representations, covenants or warranties in this Agreement or any disclosures in connection with this Agreement except where the APA Released Person has not acted in good faith or has engaged in wilful misconduct.

15.5 Benefit

- (a) The undertakings of APA in this clause 15 are given to and held by Envestra as trustee for each of the Envestra Released Persons.
- (b) The undertakings of Envestra in this clause 15 are given to and held by APA as trustee for each of the APA Released Persons.

16 Limitation of liability

16.1 Limitation

- (a) Liabilities arising under, or in connection with, this Agreement can be enforced against APL only to the extent to which they can be satisfied out of the assets of either or both APT and APTIT out of which APL is entitled to be, and actually is, indemnified for the liability.
- (b) In respect of such liabilities, the parties to this Agreement must not seek recourse to any assets that APL holds in any capacity other than as responsible entity of APT or APTIT. In particular, they must not:
 - (i) seek appointment of a receiver or receiver and manager (except in relation to the assets of APT or APTIT), liquidator, provisional liquidator, administrator or any similar person to APL; or
 - (ii) prove in any liquidation, administration or arrangement of, or affecting, APL (except in relation to assets of APT and APTIT).
- (c) APL does not have to incur any obligation under this Agreement unless its liability in respect of that obligation is limited in the same manner as in this clause 16.1.
- (d) No attorney, agent, receiver or receiver and manager appointed under this Agreement is authorised to act on behalf of APL in a way that exposes it to any personal liability.
- (e) Subject to clause 16.2, the limitations in this clause 16.1 apply despite any other term of this Agreement, and extend to all APL's liabilities in connection with any act, error, omission, agreement, transaction, representation or obligation relating to this Agreement.

16.2 Exceptions

Clause 16.1 does not apply to any liability of APL to the extent that it is not satisfied because:

- (a) the extent of APL's indemnification out of the assets of APT or APTIT (as relevant) is reduced under the APT Constitution or APTIT Constitution (as relevant), or by operation of law, as a result of APL's fraud, negligence, wilful misconduct or breach of trust;
- (b) APL failed to exercise any right of indemnity it has under the APT Constitution or APTIT Constitution (as relevant) in respect of that obligation or liability; or
- (c) APL released or waived any rights of indemnity it has under the APT Constitution or APTIT Constitution (as relevant), or engaged in acts or omissions which deprived APL of such rights to be indemnified.

17 Miscellaneous

17.1 No waiver

- (a) A party waives a right under this Agreement only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

- (b) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Agreement.

17.2 Severance

If a provision of this Agreement would, but for this clause, be unenforceable or illegal:

- (a) the provision must be read down to the extent necessary to avoid that result; and
- (b) if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this Agreement.

17.3 About this document

- (a) This Agreement and the Mutual Confidentiality Deed record the entire agreement between the parties as to their subject matter. Together they supersede all prior contracts, obligations, representations, conduct and understandings. This Agreement is immediately enforceable, subject to its own express terms.
- (b) This Agreement may be amended only by written agreement of both parties.
- (c) This Agreement may be executed in any number of counterparts, and by the parties in separate counterparts, but is not effective until each party has executed at least one counterpart. Each counterpart of this Agreement constitutes an original of this Agreement but the counterparts together constitute one and the same instrument.

17.4 Governing law and jurisdiction

- (a) The laws of South Australia govern this Agreement.
- (b) Each party submits to the jurisdiction of the courts exercising jurisdiction in South Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Agreement.
- (c) Each party irrevocably waives any right it may have to claim that the courts referred to in paragraph (b) are an inconvenient forum.

17.5 Costs

- (a) Except where expressly provided otherwise, each party must bear its own costs in relation to the negotiation, preparation, execution and performance of this Agreement and any further document required.
- (b) APA must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this Agreement, the Scheme, the Deed Poll or the steps to be taken under this Agreement, the Scheme or the Deed Poll.

17.6 Further Acts

Each party must promptly do and perform all further acts and execute and deliver all further documents required by law or reasonably requested by any other party to give effect to this Agreement or the Scheme.

17.7 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this Agreement except with the prior written consent of the other party.

17.8 No merger

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

17.9 GST

- (a) Unless otherwise expressly stated, all amounts payable under this Agreement are expressed to be exclusive of GST. If GST is payable on a taxable supply made under or in connection with this Agreement, the recipient of the supply must pay the supplier an additional amount equal to the GST payable on that supply provided that the supplier first issues a tax invoice for that supply.
- (b) Without limiting clause 17.9(a), if an amount payable under this Agreement is calculated by reference to a liability incurred by a party, then the amount of the liability must be reduced by the amount of any input tax credit to which that party or the representative member of the GST group of which that party is a member, is entitled in respect of the acquisition of the supply to which that liability relates. A party will be assumed to be entitled to a full Input Tax Credit unless it demonstrates that its entitlement is otherwise prior to the date on which payment must be made.
- (c) Words and expressions used in this clause 17.9 have the same meaning as in *A New Tax System (Goods and Services) Tax Act 1999* (Cth).

17.10 Clauses benefiting third parties

If a provision of this Agreement is expressed to be for the benefit of a person that is not a party to this Agreement, the party to this Agreement that receives that promise (the **promisee**):

- (a) does so not only in its own capacity but also as trustee for the third party;
- (b) must permit the third party to enforce the provision in the promisee's name on giving full indemnity and any reasonable security the promisee requires; and
- (c) assumes no other duty or liability whatever to the third party such as to inform the third party of anything, to supervise, to monitor or to claim anything.

18 Notices

18.1 How to give notices

A notice in connection with this Agreement must be:

- (a) in writing;
- (b) signed by the party or its agent; and
- (c) given to the recipient either by hand delivery, pre-paid airmail, facsimile transmission or email, in each case addressed in the manner relevantly described in Schedule 1.

18.2 Communications sent by email

A notice sent by email must:

- (a) state the first and last name of the sender; and
- (b) be in plain text format or, if attached to an email, must be an Adobe Portable Document Format (pdf) file.

Communications sent by email are taken to be signed by the named sender.

18.3 Change of Details

- (a) A party may at any time change any of the details set out in Schedule 1 by not less than 5 Business Days notice to the other party.
- (b) If details are so changed, this clause applies as if those changed details were set out in Schedule 1.

18.4 Proof of Notices

- (a) Any notice given in accordance with clause 18.1, in the absence of earlier receipt, shall be deemed to have been duly given as follows:
 - (i) if delivered personally, on delivery;
 - (ii) if sent by pre-paid mail, on the Business Day after posting;
 - (iii) if sent by facsimile, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety; and
 - (iv) if sent by email, the first to occur of:
 - (A) when the sender receives an automated message confirming delivery; or
 - (B) one hour after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.
- (b) Any notice given outside Working Hours shall be deemed not to have been given until the start of the next period of Working Hours.

EXECUTED as an agreement

EXECUTED by **ENVESTRA LIMITED**)
 in accordance with section 127 of the)
Corporations Act 2001 by:)

.....
 Director

IAN BRUCE LITTLE

.....
 Name
 (BLOCK LETTERS)

.....
 Director/Secretary

DESMOND CHARLES PETHERICK

.....
 Name
 (BLOCK LETTERS)

EXECUTED by **AUSTRALIAN**)
PIPELINE LIMITED in its capacity as)
 responsible entity and trustee of the)
AUSTRALIAN PIPELINE TRUST and)
 in its capacity as responsible entity and trustee)
 of the **APT INVESTMENT TRUST** in)
 accordance with section 127 of the)
Corporations Act 2001 by:)

.....
 Director

.....
 Name
 (BLOCK LETTERS)

.....
 Director/Secretary

.....
 Name
 (BLOCK LETTERS)

EXECUTED as an agreement

EXECUTED by **ENVESTRA LIMITED**)
 in accordance with section 127 of the)
Corporations Act 2001 by:)

.....
 Director

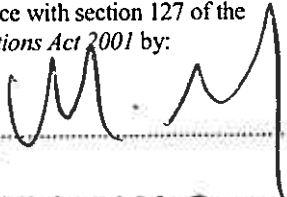
.....
 Name
 (BLOCK LETTERS)

.....
 Director/Secretary

.....
 Name
 (BLOCK LETTERS)

EXECUTED by **AUSTRALIAN**)
PIPELINE LIMITED in its capacity as)
 responsible entity and trustee of the)
AUSTRALIAN PIPELINE TRUST and)
 in its capacity as responsible entity and trustee)
 of the **APT INVESTMENT TRUST** in)
 accordance with section 127 of the)
Corporations Act 2001 by:)

.....
 Director


Michael McCormack

.....
 Name
 (BLOCK LETTERS)

.....
 Director/Secretary


M. T. Knapman

.....
 Name
Company Secretary
 (BLOCK LETTERS)

Schedule 1 – Notices

Name: Envestra Limited
Address: Level 10, 81 Flinders Street, ADELAIDE SA 5000
Facsimile: (08) 8227 1511
Email: des.petherick@envestra.com.au
Attention: Mr Des Petherick, Company Secretary

Name: APA Group
Address: Level 19, HSBC Building, 580 George Street, SYDNEY NSW 2000
Facsimile: (02) 9693 0093
Email: mark.knapman@apa.com.au
Attention: Mr Mark Knapman, Company Secretary

Annexure 1 – Indicative Timetable

Date	Party Responsible	Event
18 March 2014	Envestra	Provide draft Scheme Booklet to ASIC
2 April 2014	Envestra and APA	Receive sign-off on Scheme Booklet from ASIC, Envestra Board and APA Board
Before 7 April 2014	APA	Deed Poll – execute before despatch of the Scheme Booklet to Participating Envestra Shareholders
7 April 2014	Envestra	First Court Hearing – obtain orders to convene Scheme Meeting
7 April 2014	Envestra	Lodge with ASIC copies of Court orders to convene Scheme Meeting
7 April 2014	Envestra	Scheme Booklet registered by ASIC and lodged with ASX
By 11 April 2014	Envestra	Printing and despatch to Participating Envestra Shareholders of Scheme Booklet and proxy forms
13 May 2014	Envestra	Date of Scheme Meeting
16 May 2014	Envestra	Second Court Date – obtain orders approving the Scheme
16 May 2014	Envestra	Effective Date: lodge office copies of Court orders approving the Scheme with ASIC
From 20 May 2014	Envestra	Envestra Shares suspended from trading on the ASX
23 May 2014	Envestra	Record Date - determine entitlements to Scheme Consideration by reference to the Register at that time
30 May 2014	Envestra and APA	Implementation Date - transfer Envestra Shares to APL as RE of APT; APA to provide the Scheme Consideration

Note:

This indicative timetable has been prepared on the basis of the parties' best estimate, as at the date of this Agreement, of the likely timing of key events in relation to the Scheme. It is possible that certain of these events may be delayed for reasons outside of the parties' control, including:

- the time required to prepare and finalise the Scheme Booklet and the Independent Expert's Report may extend beyond 18 March 2014;
- the ASIC Review Period may extend beyond 2 April 2014;
- the court hearing dates on 7 April 2014 (for First Court Hearing) and 16 May 2014 (for Second Court Hearing) may not ultimately be available; or
- the First and Second Court Hearings may continue for more than one day.

In that case, the parties will consult with each other in good faith with the objective of agreeing a modified timetable (with, to the extent possible, the same timing relativities between events), having principal regard to the parties' mutual desire to complete the Scheme as soon as is practicable.

Annexure 2 – Scheme

SCHEME OF ARRANGEMENT

Pursuant to section 411 of the *Corporations Act 2001* (Cth)

BETWEEN

- 1 **ENVESTRA LIMITED** ACN 078 551 685 of Level 10, 81 Flinders Street, Adelaide SA 5000 (**Envestra**); and
- 2 Each person registered in the Envestra Register as the holder of an Envestra Share (other than any member of the APA Group) as at the Record Date.

1 Definitions and Interpretation

1.1 Definitions

In this Scheme:

All Scrip Consideration means the consideration determined in accordance with clause 5.3.

APA means the stapled entity comprising APT and APTIT, acting through the APA Responsible Entity.

APL as RE of APT means APL in its capacity as responsible entity and trustee of APT.

APA Constitutions means the APTIT Constitution and the APT Constitution.

APA FY14 Final Distribution means the cash amount of a final distribution declared, determined or paid by APA for the year ending 30 June 2014, where the record date for this distribution is before the Implementation Date for this Scheme.

APA Group means APT, APTIT, APL and each of the entities controlled by the APA Responsible Entity (including any control exercised by the APA Responsible Entity as responsible entity and trustee of APT or APTIT).

APA FY14 Interim Distribution means the interim distribution of \$0.175 cents per APA Security declared by APA for the six months ending 31 December 2013.

APA Register means the register of holders of APA Securities.

APA Responsible Entity means APL in its capacity as responsible entity of APT and APTIT.

APA Security means one APT Unit and one APTIT Unit, stapled together such that they must only be transferred together.

APL means Australian Pipeline Limited (ABN 99 091 344 704, AFSL 239 927).

APT means Australian Pipeline Trust (ARSN 091 678 778), a registered managed investment scheme regulated by the Corporations Act.

APT Constitution means the constitution of APT dated 18 February 2000 (as amended).

APT Unit means an ordinary unit in APT.

APTIT means APT Investment Trust (ARSN 115 585 441), a registered managed investment scheme regulated by the Corporations Act.

APTIT Constitution means the constitution of APTIT dated 30 June 2005 (as amended).

APTIT Unit means an ordinary unit in APTIT.

ASIC means the Australian Securities and Investments Commission.

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

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

Available Cash Consideration means \$241,000,000.

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

Cash Amount means \$1.17 cash subject to a reduction adjustment to this amount for any Excluded Envestra Dividend and an increase adjustment to this amount for any Envestra Dividend Shortfall. If there is an Excluded Envestra Dividend or an Envestra Dividend Shortfall, the cash amount is to be calculated as follows:

$$\text{Cash Amount} = \$1.17 - \text{Excluded Envestra Dividend} + \text{Envestra Dividend Shortfall}$$

Cash Out Facility means the Nominee sale facility provided for in clause 5.7.

Cash Out Scheme Shareholder means a Scheme Shareholder in respect of whom APA Securities are issued to the Nominee in the circumstances referred to in sub-paragraphs (ii) and (iii) of clause 5.7(a).

Cash Out Securities has the meaning given in clause 5.7(a).

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

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as agreed by the parties.

Deed Poll means the deed poll dated _____ under which APA covenants in favour of the Scheme Shareholders to perform its obligations under this Scheme.

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

Effective Date means the date upon which Scheme becomes Effective.

Election Date means 5.00 pm (Sydney time) on the same date as the Record Date.

Election Form means the form accompanying the Scheme Booklet (or which is otherwise made available by Envestra, including electronically) pursuant to which Scheme Shareholders may elect:

- (a) the form of Scheme Consideration they wish to receive in consideration for the transfer of their Scheme Shares to APL as RE of APT under this Scheme; and
- (b) if clause 5.6 applies to the Scheme Shareholder, whether to have the APA Securities to which the Scheme Shareholder would otherwise be entitled issued to the Nominee to be dealt with in accordance with clause 5.7.

Electronic Payment Election means, in respect of a Scheme Shareholder, an election made before the Record Date by the Scheme Shareholder (in accordance with the requirements of Envestra's share registry) to receive dividend payments from Envestra by electronic funds transfer to a bank account nominated by the Scheme Shareholder.

End Date has the meaning given to that term in the Scheme Implementation Agreement.

Envestra Dividend Shortfall means the Permitted Envestra Dividend less the higher of the Envestra FY14 Final Dividend and \$0.0355 (provided it remains a positive number).

Envestra FY14 Final Dividend means the cash amount of any final dividend declared, determined or paid by Envestra for the year ending 30 June 2014 (where the record date for that dividend is after 30 June 2014).

Envestra FY14 Interim Dividend means the interim dividend of \$0.032 cents per Envestra Share declared by Envestra for the six months ending 31 December 2013.

Envestra Register means the register of members of Envestra.

Envestra Share means a fully paid ordinary share in the capital of Envestra.

Excluded Envestra Dividend means any amount by which the Envestra FY14 Final Dividend is in excess of the Permitted Envestra Dividend Amount.

Governmental Agency has the meaning given to that term in the Scheme Implementation Agreement.

Hutt St Centre means the Hutt St Centre, ABN 75 055 179 354.

Implementation Date means the fifth Business Day following the Record Date or such other date agreed by the parties in writing, or ordered by the Court or as may be required by ASX.

Ineligible Foreign Envestra Shareholder means a Scheme Shareholder whose Registered Address is a place outside:

- (a) Australia and its external territories; and
- (b) New Zealand.

unless Envestra and APA are satisfied, acting reasonably, that the laws of all relevant jurisdictions permit the issue of APA Securities to that Scheme Shareholder either unconditionally or after compliance with requirements that are not unduly onerous.

Maximum Cash Consideration means the consideration determined in accordance with clause 5.2.

Net Proceeds of Sales has the meaning given in clause 5.7(c)(ii)(A).

Nominee means a person appointed by APA, in consultation with Envestra, to sell the Cash Out Securities pursuant to clause 5.7.

Permitted Envestra Dividend Amount means the amount calculated by multiplying 0.1919 by the amount of any APA FY14 Final Distribution.

Record Date means 7.00pm (Sydney time) on the fifth Business Day following the Effective Date.

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

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

Scheme Booklet means the explanatory statement to be approved by the Court and despatched by Envestra to holders of Envestra Shares, and which includes, amongst other things, this Scheme and an explanatory statement under section 412 of the *Corporations Act*.

Scheme Consideration means the consideration to be provided by APA to Scheme Shareholders in consideration for the transfer of the Scheme Shares held by Scheme Shareholders to APL as RE of APT, as provided for under clause 5.

Scheme Implementation Agreement means the scheme implementation agreement dated 4 March 2014 between Envestra and APA, as amended, substituted or replaced from time to time.

Scheme Share means an Envestra Share on issue as at the Record Date, other than an Envestra Share held by a member of the APA Group.

Scheme Shareholder means a person who is registered in the Envestra Register as the holder of Envestra Shares at the Record Date (other than any member of the APA Group).

Scheme Transfer means, in relation to each Scheme Shareholder, a proper instrument of transfer of their Scheme Shares for the purpose of section 1071B of the *Corporations Act*, which may be a master transfer of all or part of all of the Scheme Shares.

Scrip Amount means 0.1919 APA Security subject to a deduction adjustment for any Excluded Envestra Dividend and an increase adjustment for any Envestra Dividend Shortfall. If there is an Excluded Envestra Dividend or an Envestra Dividend Shortfall the Scrip Amount is to be calculated as follows:

$$\text{Scrip Amount} = (0.1919) - (\text{Excluded Envestra Dividend}/\$6.0974) + (\text{Envestra Dividend Shortfall}/\$6.0974)$$

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

Unmarketable Parcel means [insert] APA Securities or less.

Unmarketable Parcel Participant means a Scheme Shareholder (other than an Ineligible Foreign Envestra Shareholder) who:

- (a) makes an election in accordance with clause 5.6 to have the APA Securities to which it would otherwise be entitled issued to the Nominee to be dealt with in accordance with clause 5.7; and
- (b) but for the making of that election, would receive in aggregate an Unmarketable Parcel under the Scheme.

1.2 Interpretation

In this Scheme, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions importing a gender include any gender;
- (c) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;

- (d) a reference to a party to a document includes that party's successors and permitted assigns;
- (e) where a word or expression is defined or given meaning, another grammatical form of that word or expression has a corresponding meaning;
- (f) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this Scheme;
- (g) a provision of this Scheme shall not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Scheme or that provision;
- (h) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Scheme;
- (i) any recital, schedule or annexure forms part of this document and has effect as if set out in full in the body of this document;
- (j) a reference to legislation or a provision of legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (k) references to "include", "including" or any variation thereof are to be construed without limitation;
- (l) a reference to "\$" or "dollar" is a reference to Australian currency;
- (m) where the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day; and
- (n) a reference to time is to that time in Adelaide, Australia.

2 Preliminary

- (a) Envestra is a public company limited by shares, incorporated in Australia and registered in Victoria. Envestra is admitted to the official list of the ASX and Envestra Shares are officially quoted on the ASX.
- (b) As at the date of the Scheme Booklet, Envestra had [1,796,808,474] Envestra Shares on issue.
- (c) APL is a public company limited by shares, incorporated in Australia and registered in New South Wales. APL is the responsible entity of APT and APTIT, registered managed investment schemes regulated by the Corporations Act. APA is a stapled entity comprising APT and APTIT. APA is admitted to the official list of the ASX and APA Securities are officially quoted on the ASX.
- (d) Envestra and APA have agreed by entering into the Scheme Implementation Agreement to implement this Scheme. In particular, Envestra and APA have agreed that each of them will perform their respective obligations under the Scheme and have agreed to take certain steps to give effect to the Scheme.
- (e) If this Scheme becomes Effective, each of the following will occur:

- (i) all of the Scheme Shares will be transferred to APL as RE of APT and Envestra will become a wholly-owned subsidiary of APL as RE of APT;
 - (ii) in consideration of the transfer of the Scheme Shares to APL as RE of APT, APA will provide the Scheme Consideration to the Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
 - (iii) Envestra will enter the name of APL as RE of APT in the Envestra Register as the holder of all Scheme Shares.
- (f) APA has agreed by executing the Deed Poll to provide the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and take the other actions attributed to it under this Scheme.

3 Conditions Precedent

3.1 Conditions Precedent

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

- (a) all of the conditions precedent set out in clause 2.1 of the Scheme Implementation Agreement having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement;
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated as at 8:00am on the Second Court Date;
- (c) such other conditions as may be imposed by the Court under section 411(6) of the Corporations Act in relation to this Scheme and agreed to by Envestra and APA (acting reasonably), having been satisfied; and
- (d) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

3.2 Certificate

At the Court hearing on the Second Court Date, Envestra and APA will each provide the Court with a certificate, or such other evidence as the Court requests, confirming (in respect of matters within its own knowledge) whether or not all of the conditions precedent set out in clause 2.1 of the Scheme Implementation Agreement (other than the condition precedent in clause 2.1(c) of the Scheme Implementation Agreement) have been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement. Where the certificates disclose that any of those conditions precedent has been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement, they will constitute conclusive evidence of the satisfaction or waiver of the condition (as the case may be).

3.3 End Date

This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date.

3.4 Termination

Without limiting any rights under the Scheme Implementation Agreement, if the Scheme Implementation Agreement is terminated in accordance with its terms before this Scheme becomes Effective, each of Envestra and APA are released from:

- (a) any further obligation to take steps to implement this Scheme; and
- (b) any liability with respect to this Scheme.

4 Implementation of the Scheme

4.1 Lodgement of Court Orders

- (a) By no later than 4:00pm on the first Business Day following the date on which the Court makes orders approving the Scheme under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act), Envestra must lodge with ASIC an office copy of the Court order approving this Scheme in accordance with section 411(10) of the Corporations Act.
- (b) Subject to clause 3.3, this Scheme will become Effective on and from the Effective Date.

4.2 Transfer of Scheme Shares

- (a) Subject to this Scheme becoming Effective in accordance with clause 4.1, the following actions will occur (in the order set out below) on the Implementation Date:
 - (i) on or before 3.00pm on the Implementation Date, and in consideration for the transfer of the Scheme Shares to APL as RE of APT under this Scheme, APA must (subject to clause 4.2(b) and clause 5.8(a)) provide the Scheme Consideration to each Scheme Shareholder for each Scheme Share that is held by the Scheme Shareholders as at the Record Date in accordance with clause 5.8,
 - (ii) subject to APA fulfilling its obligations under clauses 4.2(a)(i) and 5.8 (subject to clause 4.2(b)), all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, must be transferred to APL as RE of APT without the need for any further act by any Scheme Shareholder (other than acts performed by Envestra or any of its directors or officers as attorney and agent for Scheme Shareholders under clause 7.6), by Envestra effecting a valid transfer or transfers of the Scheme Shares to APL as RE of APT under section 1074D of the Corporations Act or, if that procedure is not available for any reason by:
 - (A) Envestra delivering to APL as RE of APT a duly completed and executed Scheme Transfer; and
 - (B) APL as RE of APT duly executing and delivering the Scheme Transfer to Envestra for registration; and
 - (iii) immediately after receipt of the duly executed Scheme Transfer from APL as RE of APT under clause 4.2(a)(ii)(B), Envestra must enter, or must procure the entry of, the name and address of APL as RE of APT in the Envestra Register as the holder of the Scheme Shares.
- (b) Notwithstanding any other provision of this Scheme (including clause 5.8), while:
 - (i) APA Securities forming part of the Scheme Consideration must be issued (and relevant registers updated to record their issuance) on the Implementation Date; and
 - (ii) the aggregate cash forming part of the Scheme Consideration must be paid into the trust account referred to in clause 5.8(a) in accordance with that clause,

any requirements under clause 5 for the sending of cheques, or holding statements or making cash payments by electronic means may be satisfied within five Business Days

after the Implementation Date (and the requirements relating to the Cash Out Facility must be satisfied within the time periods set out in clause 5.7).

5 Scheme Consideration

5.1 Election procedure

- (a) Subject to this clause 5.1, each Scheme Shareholder is entitled to elect to receive as consideration for the transfer of its Scheme Shares to APL as RE of APT under this Scheme one of the following forms of consideration:
 - (i) All Scrip Consideration; or
 - (ii) Maximum Cash Consideration,
 by making an election in accordance with clause 5.1(d).
- (b) Where an Ineligible Foreign Envestra Shareholder makes an election pursuant to this clause 5 (including any deemed election), the scrip consideration component of their Scheme Consideration (if any) will be dealt with in accordance with clauses 5.4, 5.5 and 5.7.
- (c) Where an Unmarketable Parcel Participant makes an election pursuant to this clause 5 (including any deemed election), the scrip consideration component of their Scheme Consideration will be dealt with in accordance with clauses 5.4, 5.6 and 5.7.
- (d) An election (other than a deemed election) under this clause 5.1 (including an election made by an Unmarketable Parcel Participant in accordance with clause 5.6) must be made by completing an Election Form in accordance with the terms and conditions on the Election Form and returning the completed Election Form to Envestra at the address (or via such other method of submission specified in the Election Form) specified in the Election Form so that it is received at that address (or via that method) by no later than the Election Date.
- (e) A Scheme Shareholder who does not make an election in accordance with clause 5.1(d) will be deemed to have elected to receive All Scrip Consideration.
- (f) Subject to clause 5.1(g), an election made or deemed to be made by a Scheme Shareholder under this clause 5.1 will be deemed to apply in respect of the Scheme Shareholder's entire holding of Scheme Shares at the Record Date, regardless of whether the Scheme Shareholder's holding of Scheme Shares at the Record Date is greater or less than the Scheme Shareholder's holding at the time the Scheme Shareholder made (or was deemed to have made) its election.
- (g) In the manner considered appropriate by Envestra, acting reasonably, a Scheme Shareholder who holds one or more parcels of Envestra Shares as trustee or nominee for, or otherwise on account of, another person, may make separate elections under this clause 5.1 in relation to each of those parcels of Envestra Shares (subject to it providing to Envestra and APA any substantiating information they reasonably require), and for the purposes of calculating the Scheme Consideration to which that Scheme Shareholder is entitled under the Scheme (including the application of clause 5.6), each such parcel of Envestra Shares will (subject to clause 6.6) be treated as though it were held by a separate Scheme Shareholder.
- (h) A Scheme Shareholder may vary any election made by it under clause 5.1(d) by completing a replacement Election Form in accordance with the terms and conditions on the Election Form and returning that completed replacement Election Form to Envestra at the address specified in the Election Form (or via such other method of submission

specified in the Election Form) so that it is received at that address (or via that method) by no later than the Election Date.

- (i) Subject to clause 5.1(j), an election which is not made or deemed to have been made in accordance with this clause 5.1 will not be a valid election for the purpose of this Scheme and will not be recognised by Envestra or APA for any purpose.
- (j) Envestra may, with the agreement of APA, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any election, and any such decision will be conclusive and binding on Envestra, APA and the relevant Scheme Shareholder.

5.2 Maximum Cash Consideration

- (a) If a Scheme Shareholder elects to receive Maximum Cash Consideration:
 - (i) if the Available Cash Consideration is not required by clause 5.2(b) to be pro rated amongst Scheme Shareholders who elect Maximum Cash Consideration, the Scheme Shareholder will be entitled to receive the Cash Amount per Scheme Share held by that Scheme Shareholder at the Record Date; and
 - (ii) if the Available Cash Consideration is required by clause 5.2(b) to be pro rated amongst Scheme Shareholders who elect Maximum Cash Consideration, the Scheme Shareholder will be entitled to receive (in aggregate) for the Scheme Shares held by that Scheme Shareholder at the Record Date, consideration comprising the cash component and the scrip component calculated below:

- (A) **(cash component):** the Cash Amount per Scheme Share in respect of a number of its Scheme Shares calculated as follows (which may include any fraction of a Scheme Share arising from the calculation):

$$\frac{(A \times B)}{(C \times \text{Cash Amount})}$$

Where:

A = the number of Scheme Shares held by the Scheme Shareholder at the Record Date;

B = 241,000,000; and

C = the total number of Scheme Shares held at the Record Date by all Scheme Shareholders who elect Maximum Cash Consideration; and

- (B) **(scrip component):** the Scrip Amount of APA Securities per Scheme Share, in respect of the balance of its holding of Scheme Shares (which balance may include any fraction of a Scheme Share arising from the creation of a fraction under sub-paragraph (A)).

- (b) For the purpose of this clause 5.2, the Available Cash Consideration is required to be pro rated amongst Scheme Shareholders who elect Maximum Cash Consideration if the amount determined by multiplying the Cash Amount by the total number of Scheme Shares held at the Record Date by all Scheme Shareholders who elect Maximum Cash Consideration exceeds the Available Cash Consideration.

5.3 All Scrip Consideration

If a Scheme Shareholder elects to receive All Scrip Consideration then, subject to clauses 5.4, 5.5, 5.6 and 5.7, the Scheme Shareholder will be entitled to receive the Scrip Amount of APA Securities per Scheme Share held by that Scheme Shareholder at the Record Date.

5.4 Fractions

- (a) Any entitlement of a Scheme Shareholder under this Scheme (including under clause 5.2(a)(ii)(B)) to be issued a fraction of an APA Security will be rounded down to the nearest whole number of APA Securities.
- (b) Fractions of APA Securities which a Scheme Shareholder would have been entitled to be issued but for clause 5.5 or clause 5.6 will be rounded down to the nearest whole number of APA Securities, including for the purposes of calculating the Scheme Shareholder's cash entitlement under clause 5.7(c)(ii)(A).
- (c) The total amount of APA Securities represented by all fractions of APA Securities which, but for clauses 5.4(a) or 5.4(b), Scheme Shareholders would have been entitled to under this Scheme must be dealt with in accordance with clause 5.7.
- (d) Any cash amount payable to a Scheme Shareholder under this Scheme must be rounded to the nearest whole cent.

5.5 Ineligible Foreign Envestra Shareholders

- (a) APA will be under no obligation to issue, and must not issue, any APA Securities under this Scheme to any Ineligible Foreign Envestra Shareholder and, instead, must procure that those APA Securities which, but for this clause 5.5, would be required to be so issued are dealt with on behalf of the Ineligible Foreign Envestra Shareholders in accordance with clause 5.7.
- (b) Envestra and APA are satisfied that the laws of all relevant jurisdictions permit the issue of APA Securities to Cheung Kong Infrastructure Holdings (Malaysian) Ltd (**CKI**) either unconditionally or after compliance with requirements that are not unduly onerous, and Envestra acknowledges that CKI is not an Ineligible Foreign Envestra Shareholder.

5.6 Unmarketable Parcel Participants

If the scrip consideration component of the Scheme Consideration to be issued to any particular Scheme Shareholder (other than an Ineligible Foreign Envestra Shareholder) would result in the Scheme Shareholder receiving an Unmarketable Parcel, then, in respect of the APA Securities to which the Scheme Shareholder would otherwise be entitled as Scheme Consideration, that Scheme Shareholder may elect to have the APA Securities issued to the Nominee to be dealt with in accordance with clause 5.7.

5.7 Cash Out Facility

- (a) APA Securities that:
 - (i) are required to be dealt with under this clause by clause 5.4(c);
 - (ii) are required to be dealt with under this clause by clause 5.5 (rounded down to the nearest whole number in accordance with clause 5.4(b)); or
 - (iii) are required to be dealt with under this clause by clause 5.6 (rounded down to the nearest whole number in accordance with clause 5.4(b)),

must be issued by APA to the Nominee on the Implementation Date (rounded down, if necessary, to the nearest whole number) (together, the **Cash Out Securities**) and subsequently sold in accordance with the remaining provisions of this clause 5.7.

- (b) The Cash Out Facility will only be available in respect of APA Securities issued to the Nominee in the circumstances referred to in clause 5.7(a). Any purported election by a Scheme Shareholder to participate in the Cash Out Facility in any other circumstance will be invalid and not recognised for any purpose.
- (c) APA must procure that:
 - (i) as soon as practicable and, in any event, not more than 15 Business Days after the Implementation Date, the Nominee sells the Cash Out Securities on the ASX, at such price or prices and on such other terms as the Nominee determines in good faith; and
 - (ii) promptly after the last sale of APA Securities in accordance with clause 5.7(c)(i), the Nominee:
 - (A) pays to each Cash Out Scheme Shareholder (in accordance with this clause 5.7, including clause 5.7(d)) an amount calculated as follows:

A x B/C

Where:

A = the gross proceeds of the sale of the Cash Out Securities (less any applicable taxes and charges, but excluding brokerage incurred by the Nominee in connection with the sales) (**Net Proceeds of Sales**);

B = the number of APA Securities issued to the Nominee under clause 5.7(a)(ii) or clause 5.7(a)(iii) (as applicable) in respect of that Cash Out Scheme Shareholder; and

C = the total number of APA Securities issued to the Nominee under clause 5.7(a); and
 - (B) pays to the Hutt St Centre the balance of the Net Proceeds of Sales.
- (d) APA must procure that the Nominee makes payments to Cash Out Scheme Shareholders under clause 5.7(c) by:
 - (i) where the Cash Out Scheme Shareholder has made an Electronic Payment Election, making a payment by electronic means in accordance with that election; or
 - (ii) otherwise, whether or not the Cash Out Scheme Shareholder has made an Electronic Payment Election, despatching or procuring the despatch to the Cash Out Scheme Shareholder of a cheque in the name of the Cash Out Scheme Shareholder for the relevant amount, by pre-paid ordinary post (or, if the Registered Address of the Cash Out Scheme Shareholder is outside Australia, by pre-paid airmail post) in an envelope addressed to the Registered Address as at the Record Date.
- (e) Payment of an amount to a Cash Out Scheme Shareholder in accordance with this clause 5.7 will be in full satisfaction of the obligations of APA to the Cash Out Scheme Shareholder under the Scheme in respect of the scrip component of that Cash Out Scheme Shareholder's Scheme Consideration.

- (f) If APA receives professional advice that any withholding or other tax is required by law to be withheld from any such payment, APA must procure that the Nominee withholds the relevant amount before making the payment to the Cash Out Scheme Shareholder (and payment of the reduced amount shall be taken to be full payment of the relevant amount for the purposes of this Scheme including clause 5.7(c)(ii)(A)). APA must procure that any amount so withheld is paid to the relevant taxation authorities within the time permitted by law, and that a receipt or other appropriate evidence of such payment is promptly provided to the relevant Cash Out Scheme Shareholder.
- (g) None of Envestra, APA or the Nominee gives any assurance as to the price that will be achieved for the sale of APA Securities by the Nominee. The sale of APA Securities under this clause 5.7 will be at the risk of the Cash Out Scheme Shareholder.
- (h) Each Cash Out Scheme Shareholder appoints Envestra as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) that the Nominee is required to provide to Cash Out Scheme Shareholders under the Corporations Act.
- (i) To the extent that a cheque properly despatched by or on behalf of APA or the Nominee pursuant to clause 5.7(d)(ii) is returned to APA (or its agents) or the Nominee (or its agents) as undelivered or the cheque is not presented by a Cash Out Scheme Shareholder earlier than six months after the Implementation Date (**Unclaimed Cash Out Amount**):
 - (i) APA and the Nominee must deal with the Unclaimed Cash Out Amount in accordance with any applicable unclaimed moneys legislation; and
 - (ii) subject to APA and the Nominee complying with their obligations under clause 5.7(i)(i), APA and the Nominee are discharged from liability to any Cash Out Scheme Shareholder in respect of the Unclaimed Cash Out Amount.

5.8 Provision of Scheme Consideration

The obligations of APA under this Scheme to provide the Scheme Consideration to Scheme Shareholders will be satisfied:

- (a) in the case of the cash component of the Scheme Consideration – by APA, on the Business Day before the Implementation Date:
 - (i) depositing the aggregate amount of the cash component of the Scheme Consideration in cleared funds into an account established by, or on behalf of, Envestra and in the name of Envestra (**Trust Account**) (details of which must be notified by Envestra to APA at least five Business Days before the Implementation Date), such amount to be held on trust by Envestra for the Scheme Shareholders (except that any interest on the amount will be for the benefit of APA), for the purpose of Envestra paying the cash component of the Scheme Consideration in accordance with clause 5.9; and
 - (ii) providing Envestra with written confirmation of that payment;
- (b) in the case of APA Securities which are required to be issued to Scheme Shareholders under this clause 5 – by APA procuring that:
 - (i) the name and address of each such Scheme Shareholder is entered into the APA Register on the Implementation Date in respect of the APA Securities to which it is entitled under this clause 5; and
 - (ii) a holding statement is sent to the Registered Address of each such Scheme Shareholder within five Business Days after the Implementation Date representing the number of APA Securities issued to the Scheme Shareholder pursuant to this Scheme;

- (c) in the case of APA Securities to be issued in respect of Scheme Consideration due to Cash Out Scheme Shareholders – by APA procuring that:
 - (i) the name and address of the Nominee is entered into the APA Register on the Implementation Date in respect of the APA Securities required to be issued to it under this clause 5;
 - (ii) a share certificate or holding statement in the name of the Nominee is sent to the Nominee within five Business Days after the Implementation Date representing the number of APA Securities so issued to it; and
 - (iii) the Nominee sells those APA Securities on behalf of the Cash Out Scheme Shareholders, and pays the proceeds in accordance with clause 5.7.

5.9 Despatch of cash component of Scheme Consideration

- (a) Subject to APA complying with its obligations under clauses 4.2(a)(i) and 5.8 (subject to clause 4.2(b)), Envestra must within five Business Days after the Implementation Date, pay from the Trust Account to each Scheme Shareholder who is entitled to the cash component of the Scheme Consideration the amount due to that Scheme Shareholder in accordance with this Scheme by:
 - (i) where the Scheme Shareholder has made an Electronic Payment Election, making a payment by electronic means in accordance with that election; or
 - (ii) otherwise, whether or not the Scheme Shareholder has made an Electronic Payment Election, despatching or procuring the despatch to the Scheme Shareholder of a cheque in the name of the Scheme Shareholder for the relevant amount, by pre-paid ordinary post (or, if the Registered Address of the Scheme Shareholder is outside Australia, by pre-paid airmail post) in an envelope addressed to the Registered Address as at the Record Date.
- (b) If Envestra receives professional advice that any withholding or other tax is required by law to be withheld from any such payment, Envestra must withhold the relevant amount before making the payment to the Scheme Shareholder (and payment of the reduced amount shall be taken to be full payment of the relevant amount for the purposes of this Scheme). Envestra must procure that any amount so withheld is paid to the relevant taxation authorities within the time permitted by law, and that a receipt or other appropriate evidence of such payment is promptly provided to the relevant Scheme Shareholder
- (c) To the extent that a cheque properly despatched by or on behalf of Envestra pursuant to clause 5.9(a)(ii) is returned to Envestra (or its agents) as undelivered or the cheque is not presented by a Scheme Shareholder earlier than six months after the Implementation Date (**Unclaimed Consideration**):
 - (i) Envestra must deal with the Unclaimed Consideration in accordance with any applicable unclaimed moneys legislation; and
 - (ii) subject to Envestra complying with its obligations under clause 5.9(c)(i), Envestra is discharged from liability to any Scheme Shareholder in respect of the Unclaimed Consideration.

5.10 Status of APA Securities

Subject to this Scheme becoming Effective, APA must:

- (a) issue the APA Securities required to be issued by it under this Scheme on terms such that each such APA Security will rank equally in all respects with each existing APA Security;

- (b) ensure that each such APA Security is duly issued and is fully paid, non assessable and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the APT Constitution or the APTIT Constitution); and
- (c) use all reasonable endeavours to ensure that, as from the Business Day following the Effective Date (or such later date as the ASX requires) the APA Securities issued under this Scheme are listed for quotation on the official list of the ASX initially on a deferred settlement basis and thereafter on an ordinary settlement basis.

5.11 Joint Holders

In the case of joint holders of Scheme Shares:

- (a) the APA Securities to be issued under this Scheme must be issued to and registered in the names of the joint holders;
- (b) any cheque required to be sent under this clause 5 must be made payable to the joint holders and sent to the holder whose name appears first in the Envestra Register on the Record Date; and
- (c) any other document required to be sent under this clause 5 must be forwarded to the holder whose name appears first in the Envestra Register on the Record Date.

5.12 Binding Instructions

Any binding instructions relating to Envestra Shares between Envestra and a Scheme Shareholder who receives APA Securities (including, without limitation, any instructions relating to communications from Envestra) will from the Implementation Date be deemed, by reason of this Scheme, to be a similarly binding instruction to and accepted by APA in respect of APA Securities until that instruction is revoked or amended in writing addressed to APA at its share registry (unless such an instruction would not be recognised under Australian law, the APT Constitution or the APTIT Constitution).

5.13 Orders of a court or Governmental Agency

If written notice is given to Envestra (or Envestra's registry) of an order or direction made by a court of competent jurisdiction or by another Governmental Agency:

- (a) that requires provision to a third party of all or part of the Scheme Consideration, which would otherwise be provided to a particular Scheme Shareholder in accordance with this clause 5, then Envestra shall be entitled to procure that all or part of that Scheme Consideration (as the case may be) is provided in accordance with that order or direction; or
- (b) that prevents all or part of the Scheme Consideration being provided to any particular Scheme Shareholder in accordance with this clause 5, or the provision of such Scheme Consideration is otherwise prohibited by applicable law:
 - (i) in the case of a Scheme Shareholder who is not an Ineligible Foreign Envestra Shareholder, Envestra shall be entitled (in its sole discretion) to:
 - (A) direct APA to issue to the Nominee such number of APA Securities as that Scheme Shareholder would otherwise be entitled to, to be dealt with in accordance with clause 5.7, as if a reference to Cash Out Scheme Shareholders also included that Scheme Shareholder and references to that person's APA Securities in that clause were limited to APA Securities issued to the Nominee under this clause, and retain an amount equal to the amount calculated in accordance with clause 5.7(c)(ii)(A); or

- (B) direct APA to issue such number of APA Securities, or pay such amount of the cash consideration, as that Scheme Shareholder would otherwise be entitled to under clause 5 to a trustee or nominee for that trustee or nominee to retain; or
- (ii) in the case of an Ineligible Foreign Envestra Shareholder, Envestra shall be entitled to instruct the Nominee to retain an amount equal to the amount the Ineligible Foreign Envestra Shareholder would otherwise be entitled to be paid under clause 5.7, until such time as full payment in accordance with clause 5.7 is permitted by that order or direction or otherwise by law.

For the avoidance of doubt, if the relevant order or direction prevents the provision of only part of the Scheme Consideration which would otherwise be provided to a Scheme Shareholder, APA will provide the maximum possible portion of the Scheme Consideration to the Scheme Shareholder without giving rise to a breach of that order or direction and this clause 5.13(b) shall only apply only in respect of the remaining portion.

6 Dealings in Envestra Shares

6.1 Dealings in Envestra Shares by Scheme Shareholders

- (a) For the purpose of establishing who is a Scheme Shareholder, dealings in Envestra Shares will only be recognised if:
 - (i) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Envestra Register as the holder of the relevant Envestra Shares by the Record Date; and
 - (ii) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the place where the Envestra Register is kept by the 5.00pm (Sydney time) on the same date as the Record Date,

and Envestra will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Envestra Shares received after such times, or received prior to such times but not in registrable form (except pursuant to clause 4.2 or any subsequent transfer by APL as RE of APT).

- (b) Envestra must register transfers or transmission applications of the type referred to in clause 6.1(a)(ii) by the Record Date.

6.2 Envestra Register

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

6.3 Certificates and Holding Statements

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

6.4 Provision of Information

As soon as practicable after the Record Date and in any event at least three Business Days before the Implementation Date, Envestra must, or must procure, details of the names, Registered Addresses and holdings of Scheme Shares of each Scheme Shareholder as at the Record Date are given to APA (or as it directs) in such form as APA may reasonably require. Scheme Shareholders agree that this information may be disclosed to APA, APA's advisers or its other service providers to the extent necessary to effect the Scheme.

6.5 No disposals after Record Date

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

6.6 Shareholding splitting or division

If Envestra and APA are of the opinion (acting reasonably) that two or more Scheme Shareholders have, before the Record Date, been party to shareholding splitting or division in an attempt to manipulate the result of the vote by Envestra shareholders (other than members of the APA Group) on whether to approve the Scheme, Envestra may give notice to those Scheme Shareholders:

- (a) setting out their names and registered addresses as shown in the Envestra Register;
- (b) stating that opinion;
- (c) attributing to one of them specifically identified in the notice the Envestra Shares held by all of them; and
- (d) attributing to one of them specifically identified in the notice which election (pursuant to clause 5.1) made by or on behalf of one of them applies to all of them,

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

6.7 Quotation of Envestra Shares

- (a) Envestra must apply for suspension of trading in Envestra Shares on the ASX with effect from the close of trading on ASX on the Effective Date.
- (b) At a date after the Implementation Date to be determined by APA, Envestra will apply to ASX:
 - (i) for termination of the official quotation of Envestra Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

7 General provisions

7.1 Binding effect of Scheme

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

7.2 Agreement by Scheme Shareholders

- (a) Each Scheme Shareholder irrevocably agrees to:
 - (i) transfer its Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares (other than where there has been a deduction adjustment to the Scheme Consideration in accordance with definition of “Cash Amount” and “Scrip Amount” as a result of the Scheme Participant being entitled to retain such a right or entitlement) to APL as RE of APT in accordance with this Scheme; and
 - (ii) any variation, cancellation or modification (if any) of the rights attached to its Scheme Shares constituted by or resulting from this Scheme.
- (b) Each Scheme Shareholder who is issued APA Securities under this Scheme:
 - (i) agrees to become a holder of APA Securities and to have its name entered in the APA Register and accepts the APA Securities issued to it under the Scheme on the terms and conditions of the APT Constitution and the APTIT Constitution, without the need for any further act by the Scheme Shareholder; and
 - (ii) states, for the purposes of clause 4.3(b) of the APA Constitutions, that the current market value of one Envestra Share is equivalent to 0.1919 APA Securities and authorises Envestra to provide that statement of current market value to the APA Responsible Entity.
- (c) Each Scheme Shareholder who is a Cash Out Scheme Shareholder agrees and acknowledges that the payment to it of an amount in accordance with clause 5.7 constitutes the satisfaction in full of its entitlement in and to the scrip component of its Scheme Consideration.

7.3 Warranties by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to APA, and to have appointed and authorised Envestra as its attorney and agent to warrant to APA, that all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of transfer of them to APL as RE of APT pursuant to the Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, security interests and other interests of third parties of any kind whether legal or otherwise, including any restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to APL as RE of APT under the Scheme. Envestra undertakes in favour of each Scheme Shareholder that it will provide such warranty to APA as agent and attorney on behalf of each Scheme Shareholder.

7.4 Pending registration of transfers

Upon provision of the Scheme Consideration and until the registration of APL as RE of APT in the Envestra Register as the holder of the Scheme Shares:

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

7.5 Stamp Duty

APL as RE of APT must pay all stamp duty (if any) and any related fines and penalties payable in connection with the transfer of the Scheme Shares under this Scheme.

7.6 Authority to Envestra

- (a) Without limiting Envestra's other powers under this Scheme, each Scheme Shareholder consents to Envestra doing all acts and things as may be necessary or desirable to give full effect to the Scheme and the transactions contemplated by it.
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints Envestra and each of its directors and officers (jointly and severally) as its agent and attorney for the purpose of:
 - (i) executing any document or doing any other act necessary, expedient or desirable to give effect to the terms of this Scheme and the transactions contemplated by it including (without limitation) the execution and provision of the Scheme Transfer; and
 - (ii) enforcing the Deed Poll against APA,
 and Envestra accepts such appointment.
- (c) Envestra undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against APA on behalf of and as agent and attorney for each Scheme Shareholder.

7.7 Further assurance

- (a) Each Scheme Shareholder and Envestra will execute all documents and do all acts and things as may be necessary or desirable to give full effect to the Scheme and the transactions contemplated by it.
- (b) Without limiting Envestra's other powers under the Scheme, Envestra has power to do all things that it considers necessary or desirable to give effect to this Scheme and the transactions contemplated by it.

7.8 Amendments to the Scheme

If the Court proposes to approve the Scheme subject to any alterations or conditions, Envestra may consent on behalf of all persons concerned, by its counsel or solicitors, to those alterations or conditions to which APA has provided its prior written consent.

7.9 Notices

If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Envestra, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at the registered office of Envestra.

7.10 Governing Law

- (a) This Scheme is governed by the laws of South Australia.
- (b) Each party irrevocably and unconditionally submits, in connection with this Scheme, to the non-exclusive jurisdiction of the of courts of South Australia and any courts which have jurisdiction to hear appeals from the Court and waives any right to object to any proceedings being brought in these courts.

Annexure 3 – Deed Poll

DEED POLL

AUSTRALIAN PIPELINE LIMITED

SCHEME SHAREHOLDERS

JOHNSON WINTER & SLATTERY
L A W Y E R S

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DEED POLL

DATE

PARTIES

BY: **AUSTRALIAN PIPELINE LIMITED** ACN 091 344 704 of Level 19, HSBC Building, 580 George Street, SYDNEY NSW 2000 in its capacity as responsible entity and trustee of the **AUSTRALIAN PIPELINE TRUST** ARSN 091 678 778 (**APL as RE of APT**) and in its capacity as responsible entity and trustee of the **APT INVESTMENT TRUST** ARSN 115 585 441, both of Level 19, HSBC Building, 580 George Street, SYDNEY NSW 2000 (the stapled entity comprising the Australian Pipeline Trust and the APT Investment Trust, and acting through Australian Pipeline Limited in its capacity as responsible entity and trustee of Australian Pipeline Trust and the APT Investment Trust, being **APA**).

IN FAVOUR OF: Each person who is registered in the Envestra Register as the holder of Envestra Shares at the Record Date (other than a member of the APA Group) (**Scheme Shareholder**).

RECITALS

- A** Envestra Limited (ACN 078 551 685) (**Envestra**) and APA have entered into the Scheme Implementation Agreement with respect to the Scheme and associated matters.
- B** Envestra has agreed in the Scheme Implementation Agreement to propose the Scheme, pursuant to which (amongst other things), subject to the satisfaction or waiver of certain conditions precedent, APL as RE of APT will acquire all of the Scheme Shares from Scheme Shareholders for the Scheme Consideration.
- C** In accordance with the Scheme Implementation Agreement, APA enters into this Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders to perform the obligations attributed to it under the Scheme.

OPERATIVE PART

1 Definitions and Interpretation

1.1 Definitions

In this Deed Poll:

- (a) **Scheme** means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Envestra and Scheme Shareholders as contemplated by the Scheme Implementation Agreement;
- (b) **Scheme Implementation Agreement** means the scheme implementation agreement entered into between Envestra and APA on 4 March 2014, as amended, substituted or replaced from time to time; and
- (c) terms defined in the Scheme have the same meaning when used in this Deed Poll unless the context requires otherwise.

1.2 Interpretation

In this document, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions importing a gender include the other gender;
- (c) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;
- (d) a reference to a party includes that party's successors and permitted assigns;
- (e) where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning;
- (f) any heading, index, table of contents or marginal note is for convenience only and does not affect the interpretation of this Deed Poll;
- (g) a provision of this Deed Poll shall not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Deed Poll or that provision;
- (h) a reference to this Deed Poll includes this Deed Poll as amended, varied, novated, supplemented or replaced from time to time;
- (i) a reference to a clause is a reference to a clause of this Deed Poll;
- (j) the recitals form part of this Deed Poll and have effect as if set out in full in the body of this Deed Poll;
- (k) a reference to legislation or a provision of legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (l) references to "include", "including" or any variation thereof are to be construed without limitation; and
- (m) a reference to any time is a reference to that time in Adelaide, Australia.

2 Nature of Deed Poll

APA acknowledges and agrees 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 Envestra and each of Envestra's directors and officers (jointly and severally) as its agent and attorney to enforce this Deed Poll against APA on behalf of that Scheme Shareholder.

3 Conditions

3.1 Conditions

The obligations of APA under clause 4 are subject to the Scheme becoming Effective.

3.2 Termination

The obligations of APA under this Deed Poll will automatically terminate and the terms of this Deed Poll will be of no further force or effect if:

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

3.3 Consequences of termination

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

- (a) APA is released from its obligations under this Deed Poll except those obligations contained in clause 8.1 and any other obligations which by their nature survive termination; and
- (b) each Scheme Shareholder retains the rights they have against APA in respect of any breach of this Deed Poll by APA which occurs before this Deed Poll is terminated.

4 Performance of Scheme obligations

4.1 General obligations

Subject to clause 3, APA covenants in favour of each Scheme Shareholder that:

- (a) APA will observe and perform all obligations contemplated of it under the Scheme, and will otherwise comply with the Scheme, as if it were a party to the Scheme; and
- (b) APA will comply with its obligations under the Scheme Implementation Agreement and do all things necessary on its part to implement the Scheme.

4.2 Obligation to provide Scheme Consideration

Subject to clause 3, in consideration for the transfer to APL as RE of APT of the Scheme Shares held by Scheme Shareholders in accordance with the Scheme, APA covenants in favour of each Scheme Shareholder that it will provide the Scheme Consideration to each Scheme Shareholder, in accordance with the terms of the Scheme.

4.3 Status of New APA Securities

APA covenants in favour of each Scheme Shareholder that the New APA Securities which are issued to Scheme Shareholders in accordance with the Scheme will:

- (a) rank equally in all respects with the existing APA Securities; and
- (b) be duly issued and fully paid, and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the APT Constitution and the APTIT Constitution (as applicable)).

5 Representations and Warranties

APA represents and warrants in favour of each Scheme Shareholder that:

- (a) Australian Pipeline Limited is a corporation validly existing under the laws of Australia;
- (b) APT and APTIT are managed investment schemes registered under Chapter 5C of the Corporations Act;
- (c) APA 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;

- (d) APA has taken all necessary corporate action to authorise the 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; and
- (e) this Deed Poll is valid and binding upon it and enforceable against it in accordance with its terms.

6 Continuing obligations

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

- (a) APA having fully performed its obligations under this Deed Poll; or
- (b) the termination of this Deed Poll under clause 3.2.

7 Further assurances

APA will do all things and execute all deeds, instruments, transfers or other documents and do all acts or things as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

8 General

8.1 Stamp duty

APA must:

- (a) pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this Deed Poll or the steps to be taken under this Deed Poll (including, without limitation, the acquisition or transfer of Scheme Shares pursuant to the Scheme); and
- (b) indemnify each Scheme Shareholder against any liability arising from any failure to comply with clause 8.1(a).

8.2 Notices

- (a) Any notice or other communication to APA in connection with this Deed Poll must be in legible writing in English, signed by the person making the communication or its agent and must be given to APA either by hand delivery, pre-paid airmail, facsimile transmission or email, in each case addressed in the manner relevantly described below:

Address: Level 19, HSBC Building, 580 George Street, SYDNEY NSW 2000

Facsimile: +61 2 9693 0093

Email: mark.knapman@apa.com.au

Attention: Mark Knapman, Company Secretary

- (b) A notice send by email must:
 - (i) state the first and last name of the sender; and
 - (ii) be in plain text format or, if attached to an email, must be an Adobe Portable Document Format (pdf) file.

Communications sent by email are taken to be signed by the named sender.

- (c) Any notice or other communication given in accordance with clause 8.2(a) shall, in the absence of proof of earlier receipt, be deemed to have been duly given as follows:
 - (i) if delivered personally, on delivery;
 - (ii) if sent by pre-paid mail, on the third Business Day after posting;
 - (iii) if sent by facsimile, at the local time (in the place of receipt of the fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety; and
 - (iv) if sent by email, the first to occur of:
 - (A) when the sender receives an automated message confirming delivery; or
 - (B) one hour after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.
- (d) Any notice given outside of Working Hours shall be deemed not to have been given until the start of the next period of Working Hours.

8.3 Cumulative rights

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

8.4 Waiver and variation

- (a) A party waives a right under this Deed Poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Deed Poll by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Deed Poll.
- (c) A provision of this Deed Poll may not be varied unless:
 - (i) before the Second Court Date, the variation is agreed to by Envestra in writing; or
 - (ii) on or after the Second Court Date, the variation is agreed to by Envestra in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event APA must enter into a further deed poll in favour of the Scheme Shareholders giving effect to such amendment.

8.5 Governing law and jurisdiction

- (a) The laws of South Australia govern this Deed Poll.
- (b) Each party submits to the jurisdiction of the courts exercising jurisdiction in South Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Deed Poll.

- (c) Each party irrevocably waives any right it may have to claim that the courts referred to in paragraph (b) are an inconvenient forum.

8.6 Assignment

The rights of a Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, charged or otherwise dealt with, and no person shall attempt or purport to do so, without the prior written consent of APA.

EXECUTED as a deed poll

EXECUTED by **AUSTRALIAN**)
PIPELINE LIMITED in its capacity as)
responsible entity and trustee of the)
AUSTRALIAN PIPELINE TRUST and)
in its capacity as responsible entity and trustee)
of the **APT INVESTMENT TRUST** in)
accordance with section 127 of the)
Corporations Act 2001 by:)

.....
Director

.....
Director/Secretary

.....
Name
(BLOCK LETTERS)

.....
Name
(BLOCK LETTERS)

Annexure 4 – Agreed Announcement