



Scheme Implementation Deed

Diversa Limited

ACN 079 201 835

OneVue Holdings Limited

ACN 108 221 870

2016

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION	1
1.1 Definitions	1
1.2 Rules for interpreting this document.....	12
1.3 Non-Business Days	13
2. TARGET SCHEME	13
2.1 Agreement to propose and implement Share Scheme.....	13
2.2 Outline of Share Scheme	13
2.3 No amendments to Share Scheme without consent.....	13
2.4 Share Scheme Consideration.....	13
3. CONDITIONS.....	14
3.1 Obligations not binding until Conditions satisfied.....	14
3.2 Conditions	14
3.3 Benefit of Conditions	16
3.4 Waiver of Conditions	16
3.5 Fulfilment of Conditions	17
3.6 Parties to provide certificate to Court	17
3.7 If a Condition is not fulfilled or waived	17
4. OBLIGATIONS OF THE PARTIES	18
5. TARGET OBLIGATIONS	18
6. BIDDER OBLIGATIONS	21
7. SHARE SCHEME CONSIDERATION.....	23
7.1 Election	23
8. PRE-IMPLEMENTATION OBLIGATIONS	24
8.1 Conduct of the business.....	24
8.2 Exception.....	25
8.3 Access to information	25
8.4 Information on representations and warranties.....	25
8.5 Information provided subject to confidentiality obligation.....	25
9. TARGET OPTIONS	26
10. ANNOUNCEMENT	26
10.1 No Announcement	26
10.2 Notice of Announcement.....	26
11. STANDSTILL.....	26
11.1 Restriction on Bidder	26
11.2 Exceptions	27
11.3 Restrictions on Target	27
11.4 Exceptions	27
12. NO SOLICITATION	27
12.1 No solicitation	27
12.2 Response to unsolicited approach	28
12.3 Notify of approaches	28
12.4 No ongoing discussions.....	28
12.5 Right to make counterproposal.....	28
13. PAYMENT OF LIQUIDATED AMOUNT BY TARGET.....	29

13.1	Background.....	29
13.2	Payment by Target to Bidder.....	29
13.3	Payment by Bidder to Target.....	30
13.4	Demand for payment	30
13.5	Trigger Disputes	31
13.6	Who is an Expert?.....	31
13.7	Expert's qualifications.....	31
13.8	Compliance with law	31
14.	TERMINATION	32
14.1	Termination for non-fulfilment of Condition	32
14.2	Bidder may terminate if change in Target directors' recommendations.....	32
14.3	Target may terminate if change in Bidder directors' support.....	32
14.4	Obligations on termination	32
15.	REPRESENTATIONS AND WARRANTIES.....	33
15.1	Mutual representations and warranties	33
15.2	Target representations and warranties	34
15.3	Bidder representations and warranties.....	35
15.4	No representations made on economic or future matters	36
15.5	Reliance on representations and warranties	37
15.6	When warranties are given	37
16.	INDEMNITIES.....	37
16.1	Indemnities by Target	37
16.2	Indemnities by Bidder	37
17.	RELEASE.....	37
18.	GST	38
18.1	GST pass on.....	38
18.2	Tax Invoice	38
18.3	Consideration exclusive of GST	38
18.4	Adjustments.....	38
18.5	Reimbursements.....	38
19.	NOTICES	39
19.1	How to give a notice	39
19.2	When a notice is given	39
19.3	Address for notices	39
20.	AMENDMENT AND ASSIGNMENT	40
20.1	Amendment	40
20.2	Assignment.....	40
21.	GENERAL	40
21.1	Governing law	40
21.2	Liability for expenses.....	40
21.3	Giving effect to this document.....	40
21.4	Variation of rights	40
21.5	No partnership or agency.....	40
21.6	Operation of this document.....	40
21.7	Operation of indemnities.....	41
21.8	Consents	41
21.9	No merger	41
21.10	Inconsistency with other documents.....	41
21.11	Counterparts.....	41

Schedule

1	Timetable	42
2	Capital.....	43
3	Scheme of Arrangement (Share Scheme)	44
4	Deed Poll	55

THIS DEED is made on

14 June 2016

BETWEEN:

- (1) **Diversa Limited** ACN 079 201 835 whose registered office is at Level 9, 1 Eagle St Brisbane, QLD 4000 (**Target**); and
- (2) **OneVue Holdings Limited** ACN 108 221 870 whose registered office is at Level 5, 10 Spring Street, Sydney, NSW 2000 (**Bidder**).

RECITALS:

Bidder and Target have agreed that a scheme of arrangement will be proposed under Part 5.1 of the *Corporations Act* between Target and the holders of its ordinary shares in accordance with this document.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

ACCC means the Australian Competition and Consumer Commission.

Announcement means a press release, announcement or other public statement (other than a draft explanatory statement, an explanatory statement or supplementary explanatory statement as required under Part 5.1 of the *Corporations Act*).

ASIC means the Australian Securities and Investments Commission.

ASIC Review Draft means the draft of the Scheme Booklet, which is provided to ASIC for approval under section 411(2) of the *Corporations Act*.

ASX means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

ASX Listing Rules means the listing rules of ASX.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it from or by a Government Agency; and
- (b) in relation to anything that could be prohibited or restricted by law, if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken.

Bidder Board means the board of directors of Bidder as at the Implementation Date.

Bidder Disclosure Material means:

- (a) the Bidder Due Diligence Information; and
- (b) information available on the Public Registers prior to the date of this document.

Bidder Due Diligence Information means all written information relating to the business, assets, liabilities, operations, profits and losses, financial position and performance and prospects of Bidder and its subsidiaries made available by or on behalf of any member of the Bidder Group to Target at any time on or before the DD Cut-Off Time, including the Continuing Bidder Due Diligence Information.

Bidder Excluded Transaction means a transaction or proposed transaction:

- (a) fairly disclosed in the Bidder Disclosure Material;
- (b) consistent with a policy relating to employment which was fairly disclosed in the Bidder Disclosure Material;
- (c) required to be done or procured by Bidder under this document or the Share Scheme; or
- (d) in relation to which Target has expressly consented in writing or has unreasonably withheld or delayed its consent.

Bidder Group means Bidder and its subsidiaries.

Bidder Material means the information provided by Bidder to Target in accordance with clause 6(e) for inclusion in the Scheme Booklet.

Bidder Option means an option to subscribe for a Bidder Share, listed in Schedule 2.

Bidder Prescribed Event means the occurrence of any of the following:

- (a) Bidder converting all or any of its shares into a larger or smaller number of shares;
- (b) Bidder resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) Bidder:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) Bidder declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members;
- (e) a member of the Bidder Group:
 - (i) issuing shares or securities convertible into shares, or granting an option over its shares, or agreeing to make such an issue or grant such an option other than:
 - (A) to a wholly-owned subsidiary of Bidder; or
 - (B) pursuant to the exercise of any convertible securities existing as at, and the issue of which has been notified to the ASX before, the date of this document; or
 - (ii) making any change to its constitution;

- (iii) being deregistered as a company or otherwise dissolved except in the case of a Bidder Group member with less than \$10,000 in net assets as at the date of this document; or
- (f) an Insolvency Event occurring in relation to a member of the Bidder Group (except in the case of a Bidder Group member with less than \$10,000 in net assets as at the date of this document).

Bidder Share means a fully paid ordinary share in Bidder.

Bidder Shareholder means each person entered in the register of members of Bidder as a holder of Bidder Shares.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney.

Claim, in relation to a person, means any claim, cause of action, proceeding, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Condition means a condition precedent set out in clause 3.2.

Confidentiality Deed means the Mutual Confidentiality Deed between Target and Bidder in respect of the proposed Scheme dated 18 February 2016.

Continuing Bidder Due Diligence Information means all written information relating to the business, assets, liabilities, operations, profits and losses, financial position and performance and prospects of Bidder and its subsidiaries made available by or on behalf of any member of the Bidder Group to Target at any time after the date of this document and before the DD Cut-Off Time.

Continuing Target Due Diligence Information means all written information relating to the business, assets, liabilities, operations, profits and losses, financial position and performance and prospects of Target and its subsidiaries made available by or on behalf of any member of the Target Group to Bidder at any time after the date of this document and before the DD Cut-Off Time.

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

Court means the Federal Court of Australia, NSW Registry.

DD Cut-Off Time means 5.00pm on 17 June 2016, or such later date as Target and Bidder agree.

Deed Poll means a document in the form or substantially in the form of Schedule 4, or in such other form as is agreed in writing between Target and Bidder.

EBITDA means earnings before interest, tax, depreciation and amortisation, and excluding abnormal items, non-recurring items, and transaction costs associated with the Share Scheme, prepared on a consistent basis with information disclosed in the Bidder Due Diligence Information (in the case of the Bidder Group) or Target Due Diligence Information (in the case of the Target Group).

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

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

Election means a valid election made by a Target Shareholder pursuant to clause 7.1(a) and in accordance with clause 7.1(b), or deemed to be made pursuant to and in accordance with clause 7.1(c).

Election Date means 5.00 pm on the same date as the Record Date.

End Date means the date 6 months after the date of this document, subject to any extension to that date made under clause 3.7.

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

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

Expert means a person selected by the parties under clause 13.6.

FATA means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

First Court Date means the first day of the hearing of the Court of an application for an order under section 411(1) of the Corporations Act convening of the Share Scheme Meeting.

Government Agency means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia or elsewhere, including the ACCC, ASIC, ASX, the Takeovers Panel, APRA and any self-regulatory organisation established under statute or by ASX.

Group means the Bidder Group or the Target Group as the case requires.

GST Law means the same as "GST Law" in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Implementation means the implementation of the Share Scheme, on it becoming Effective.

Implementation Date means the fifth Business Day following the Record Date.

Impugned Amount means all or any part of the payment required to be made under clause 11.2 or 11.3 that is found by the Takeovers Panel or court to:

- (a) be unlawful;
- (b) involve a breach of directors' duties; or
- (c) constitute Unacceptable Circumstances.

Incoming Director means Ronald Dewhurst, who will be appointed to the Bidder Board with effect from the Implementation Date.

Independent Expert means Grant Thornton Corporate Finance Pty Ltd ABN 59 003 265 987. **Independent Expert's Report** means a report prepared by the Independent Expert in accordance with ASIC Regulatory Guide 111.

Ineligible Overseas Shareholder means a Target Shareholder:

- (a) who is (or is acting on behalf of) a resident of a jurisdiction other than Australia or New Zealand and their respective external territories; or
- (b) whose address shown in the Register is a place outside Australia or New Zealand and their respective external territories.

Insolvency Event means, in respect of a person:

- (a) an administrator being appointed to the person;
- (b)
 - (i) a controller or analogous person being appointed to the person or any of the person's property;
 - (ii) an application being made to a court for an order 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
 - (iii) an appointment of the kind referred to in subparagraph (ii) being made (whether or not following a resolution or application);
- (c) 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 (including seizing the person's property within the meaning of section 123 of the PPSA) or otherwise enforcing or exercising any rights under the Security Interest or Chapter 4 of the PPSA;
- (d) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (e) an application being made to a court for an order for its winding up;
- (f) an order being made, or the person passing a resolution, for its winding up;
- (g) the person:
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (ii) being unable to pay its debts or otherwise insolvent;
- (h) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (i) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (j) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Loss includes any loss, damage, liability, obligation, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost and expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent but excluding any consequential or indirect loss, economic loss or loss of profits.

Material Adverse Effect, in relation to a party, means:

- (a) any investigation, prosecution, arbitration, litigation, Claim or dispute being commenced or made against the party's Group (or any member of the Group) after the date of this document and before the Implementation Date which, either individually or when aggregated with all such other investigations, prosecutions, arbitrations, litigation, Claims or disputes, could reasonably be expected to give rise to a liability for the party's Group in excess of the relevant amount (**Material Proceedings**), or circumstances arising which would reasonably be expected to give rise to any Material Proceedings. For the purpose of this paragraph (a), the relevant amount is:
 - (i) where the party is Target – \$750,000; or
 - (ii) where the party is Bidder – \$750,000;
- (b) an event or occurrence after the date of this agreement and before the Implementation Date, that individually or when aggregated with all such other events or occurrences:
 - (i) diminishes or a reasonable person acting in good faith would consider it likely to diminish:
 - (A) the consolidated net assets of the Target Group or the Bidder Group by an amount equal to or greater than \$1 million; or
 - (B) the earnings before interest, tax, depreciation and amortisation of the Target Group or the Bidder Group on a recurring basis by an amount equal to or greater than \$500,000 per year; or
 - (ii) results in the termination of a Material Agreement, except in relation to a Material Agreement which a party has disclosed in writing to the other party prior to the date of this document for the purposes of this clause as being at risk of termination; or
 - (iii) results in the Target or the Bidder being unable to carry on its business in substantially the same manner as at the date of this agreement; or
- (c) the reported EBITDA of the Target Group or the Bidder Group in respect of the financial year ending 30 June 2016 is less than the most recent forecast EBITDA as set out in the Target Disclosure Material (in the case of the Target Group) or the Bidder Disclosure Material (in the case of the Bidder Group) before the date of this document, by an amount equal to or greater than \$500,000.

Material Agreement means each agreement with a Material Client in relation to the provision of services by the Target or the Bidder (as applicable) as at the date of this agreement.

Material Client means a client of the Target or the Bidder contributing more than:

- (a) \$500,000 in consolidated annual revenue to the Target Group; or
 - (b) \$1 million in consolidated annual revenue to the Bidder Group
- (as applicable) in the past 12 months.

Maximum Cash Consideration means:

- (a) a cash amount of \$A0.10; and
- (b) 1.073 New Bidder Shares,

for each Target Share held by a Scheme Shareholder.

Maximum Share Consideration means 1.2375 New Bidder Shares for each Target Share held by a Scheme Shareholder.

Maximum Share Number means the aggregate number of New Bidder Shares that would be issued if all valid Elections for Maximum Share Consideration were satisfied in full by the issue of New Bidder Shares.

Meeting Date means the date on which Target Shareholders vote on a resolution to approve the Share Scheme under section 411(4)(a)(ii) of the Corporations Act.

New Bidder Share means Bidder Shares to be issued under the Share Scheme as Share Scheme Consideration.

Performance Right means rights to be issued Target Shares, subject to certain vesting criteria.

PPS Security Interest means a security interest that is subject to the PPSA.

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

Public Registers means the records made available for public inspection by ASIC or ASX.

Record Date means 7.00pm on the day which is five Business Days after the Effective Date, or any other date (after the Effective Date) agreed by the parties to be the record date to determine entitlements to receive Share Scheme Consideration under the Share Scheme.

Register means the register of members of Target.

Relevant Date means, in relation to a Condition, the date or time specified in this document for its fulfilment or, if no date or time is specified, 8.00 am on the Second Court Date, subject, in either case, to extension to that date made under clause 3.7.

Representatives means, in relation to an entity:

- (a) each of the entity's subsidiaries; and
- (b) each of the directors, officers, employees and legal, financial and other expert advisers of the entity or any of its subsidiaries.

Scheme Booklet means the information memorandum in respect of the Share Scheme to be approved by the Court and dispatched to Target Shareholders, and includes the Share Scheme, a copy of the Deed Poll executed by Bidder, an explanatory statement as that

term is defined in section 412 of the Corporations Act, the Independent Expert's Report and a notice of meeting and proxy form.

Scheme Shareholders means each Target Shareholder as at the Record Date (taking into account registration of all registrable transfers and transmission applications received at Target's share registry by the Record Date).

Scheme Resolution means a resolution to approve the Share Scheme.

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

Security Interest means any security interest, including:

- (a) a PPS Security Interest;
- (b) any other mortgage, charge, pledge or lien; or
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

Share Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Target Shareholders in the form or substantially in the form of Schedule 3 or in such other form as is agreed in writing between Target and Bidder, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved by each party.

Share Scheme Consideration means the consideration to be provided to Target Shareholders under the terms of this scheme for the transfer of their Target Shares to Bidder, as set out in clause 7.

Share Scheme Meeting means the meeting of Target Shareholders to be convened as ordered by the Court under section 411(1) of the Corporations Act, to consider the Share Scheme.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Target Board means the board of directors of Target as at the Implementation Date.

Target Competing Proposal means any proposal (including a scheme of arrangement) or offer that would, if completed substantially in accordance with its terms, result in any person or persons other than Bidder or a member of the Bidder Group acquiring (directly or indirectly):

- (a) an interest in all or a substantial part of the assets of Target or the Target Group;
- (b) a relevant interest in more than 20% of the voting shares of Target;
- (c) control of Target within the meaning of section 50AA of the Corporations Act; or
- (d) otherwise acquiring or merging with Target (including by way of reverse takeover, reverse scheme of arrangement or dual listed company structure) except for any acquisition by Target of:

- (i) any entity whose consolidated gross assets as shown in its most recently published financial statements are less than 20% of the consolidated gross assets of the Target Group as shown in its most recently published financial statements; or
- (ii) any business or assets, other than a business or assets whose aggregate fair value is less than 20% of the consolidated gross assets of the Target Group as shown in its most recently published financial statements.

Target Consolidated Tax Group means the consolidated group of which Target is the head company. In this definition, "consolidated group" and "head company" have the respective meanings given by the *Income Tax Assessment Act 1997* (Cth).

Target Disclosure Material means:

- (a) the Target Due Diligence Information; and
- (b) information available on the Public Registers prior to the date of this document.

Target Due Diligence Information means all written information relating to the business, assets, liabilities, operations, profits and losses, financial position and performance and prospects of Target and its subsidiaries provided or made available by or on behalf of any member of the Target Group to Bidder on or before the DD Cut-Off Time, including the Continuing Target Due Diligence Information.

Target Excluded Transaction means a transaction or proposed transaction:

- (a) fairly disclosed in the Target Disclosure Material; or
- (b) consistent with a policy relating to employment which was fairly disclosed in the Target Disclosure Material; or
- (c) required to be done or procured by Target under this document or the Share Scheme; or
- (d) in relation to which Bidder has expressly consented in writing or has unreasonably withheld or delayed its consent.

Target Group means Target and its subsidiaries (each of Target and each such subsidiary being a member of the Target Group).

Target Option means an option to subscribe for a Target Share, listed in Schedule 2.

Target Prescribed Event means the occurrence of any of the following:

- (a) Target converting all or any of its shares into a larger or smaller number of shares;
- (b) Target resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) Target:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;

- (d) Target declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members;
 - (e) a member of the Target Group:
 - (i) issuing shares or securities convertible into shares, or granting an option over its shares, or agreeing to make such an issue or grant such an option other than:
 - (A) to a wholly-owned subsidiary of Target; or
 - (B) pursuant to the exercise of any convertible securities existing as at, and the issue of which has been notified to the ASX before, the date of this document; or
 - (ii) making any change to its constitution;
 - (iii) being deregistered as a company or otherwise dissolved except in the case of a Target Group member with less than \$10,000 in net assets as at the date of this document;
 - (iv) carrying on its business other than in the ordinary and usual course;
 - (v) acquiring, offering to acquire or agreeing to acquire any one or more assets (including any one or more shares in any company) having a market value that in aggregate is, or the consideration for which in aggregate is, \$250,000 or more;
 - (vi) disposing, offering to dispose or agreeing to dispose of any one or more assets (including any one or more shares in any company), or an interest in any one or more assets, having a market value that in aggregate is, or the consideration for which in aggregate is, \$250,000 or more (and, for the avoidance of doubt, "dispose" includes sell, transfer, grant an option over, declare or create a trust over, surrender, allow to lapse or encumber);
 - (vii) granting, or agreeing to grant, any Security Interest having a value in excess of \$250,000;
 - (viii) entering into, or offering to enter into, any joint venture, asset or profit sharing arrangement, partnership or merger of businesses or of corporate entities (including through a multiple listed companies structure) in respect of any one or more assets (including any one or more shares in any company) or undertakings having a market value that in aggregate is, or involving a commitment or liability that in aggregate is, \$250,000 or more;
 - (ix) other than in the ordinary course of business or as fairly disclosed in Target Disclosure Material before the date of this document:
 - (A) incurring or committing to, or bringing forward the time for incurring or committing, or granting to another person a right the exercise of which would involve a member of the Target Group incurring or committing to, any capital expenditure or liability; or
 - (B) foregoing any revenue,
- for one of more related items or amounts of \$250,000 or more;

- (x) varying or terminating, or agreeing to vary or terminate, any Material Agreements;
 - (xi) entering into a contract or commitment restraining a member of the Target Group from competing with any person or conducting activities in any market;
 - (xii) entering into or resolving to enter into a transaction with any related party of Target (other than a related party which is a wholly-owned member of the Target Group) as defined in section 228 of the Corporations Act, other than a transaction that constitutes reasonable remuneration or is on arm's length terms;
 - (xiii) changing any accounting policy applied by it to report its financial position other than any change in policy required by a change in applicable accounting standards or law;
 - (xiv) doing anything that would result in a change in the membership of the Target Consolidated Tax Group;
 - (xv) varying or agreeing to vary the employment arrangements or remuneration of any director or employee of any member of the Target Group whose annual remuneration as at the date of this document is \$200,000 or more, other than as agreed between Bidder and Target;
 - (xvi) amending the terms of an employee share scheme or any other plan or scheme operated for the benefit of directors or employees of any one or more members of the Target Group;
 - (xvii) paying or agreeing to pay any bonus, termination or retention payment to any director or employee of any member of the Target Group except in accordance with the terms of the contract in place with such person as at the date of this document, other than as agreed between Bidder and Target;
 - (xviii) employing or agreeing to employ any person the value of whose total remuneration is or is to be \$200,000 or more;
 - (xix) entering into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this document and which have been disclosed in writing to Bidder prior to the date of this document; or
 - (xx) announces an intention to do anything described in subparagraphs (i) to (xix); or
- (f) an Insolvency Event occurring in relation to a member of the Target Group, excluding any Target Excluded Transaction.

Target Share means each fully paid ordinary share in Target.

Target Shareholder means each person entered in the Register as a holder of Target Shares.

Target Shareholder Approval means a resolution in favour of the Share Scheme passed by the required majority of Target Shareholders under section 411(4)(a)(ii) of the Corporations Act.

Third Party Consent means a consent that is required to ensure that the Change of Control does not cause or give rise to a termination right or a breach of a Material Agreement.

Timetable means the timetable for the Implementation of the Share Scheme as set out in Schedule 1, subject to any modifications as the parties may agree in writing.

Trigger Dispute means any dispute between the parties as to whether an event in clause 13.2 or 13.3 has occurred.

Unacceptable Circumstances has the meaning given to that term in section 657A of the Corporations Act.

1.2 Rules for interpreting this document

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The words **associate**, **controller**, **entity**, **officer**, **relevant interest**, **security interest** and **subsidiary** have the same meanings as given by the Corporations Act.
- (g) A reference to **\$** or **dollar** is to Australian currency.
- (h) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.

- (i) A matter is **to the knowledge** of a person at a relevant time if it would have been discovered by the enquiries that would have been made by a reasonable person in that person's position, even if, at that time, the matter is not actually known by that person.
- (j) Terms defined in the GST Law have the same meaning in this document unless the context otherwise requires.
- (k) A reference to time in this document is a reference to time in Sydney, Australia.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the previous Business Day.

2. **TARGET SCHEME**

2.1 **Agreement to propose and implement Share Scheme**

- (a) Target agrees to propose and implement the Share Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms of this document, and must use all reasonable endeavours to do so in accordance with the Timetable.
- (b) Bidder agrees to assist Target to propose and implement the Share Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms of this document, and must use all reasonable endeavours to do so in accordance with the Timetable.

2.2 **Outline of Share Scheme**

Subject to the terms of this document, on the Implementation Date, all of the Target Shares held by Scheme Shareholders will be transferred to Bidder and the Scheme Shareholders will be entitled to receive the Share Scheme Consideration.

2.3 **No amendments to Share Scheme without consent**

Target must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Share Scheme without the prior written consent of Bidder.

2.4 **Share Scheme Consideration**

- (a) Bidder agrees with Target that in consideration of the transfer to Bidder of each Target Share held by a Scheme Shareholder under the terms of the Share Scheme, Bidder will, subject to the terms of this document, the Deed Poll and the Share Scheme, pay and issue the Maximum Cash Consideration or the Maximum Share Consideration (at the election of each Scheme Shareholder) for each Target Share held by that Scheme Shareholder at the Record Date.
- (b) Any fractional entitlement of a Scheme Shareholder to part of a Bidder Share will be rounded up or down to the nearest whole number of Bidder Shares in accordance with the Share Scheme (and if the fraction entitlement would include one half of a Bidder Share, the entitlement will be rounded up to the nearest whole number of Bidder Shares in accordance with the Share Scheme).
- (c) Unless Bidder is satisfied that it may lawfully issue New Bidder Shares to an Ineligible Overseas Shareholder either unconditionally or after compliance with terms which Bidder reasonably regards as acceptable and practical, Bidder has

no obligation to issue New Bidder Shares to the Ineligible Overseas Shareholder.

- (d) If Bidder elects not to issue New Bidder Shares to an Ineligible Overseas Shareholder under clause 2.4(c), it must issue the New Bidder Shares to which the Ineligible Overseas Shareholder would otherwise become entitled to a nominee appointed by Bidder. The terms of issue to the nominee must be that the nominee must sell those New Bidder Shares at the time, in the manner and on the terms the nominee thinks fit (and at the risk of the Ineligible Overseas Shareholder) and the nominee must then pay to that Ineligible Overseas Shareholder the proceeds received after deducting any applicable fees, brokerage, taxes and charges.

3. **CONDITIONS**

3.1 **Obligations not binding until Conditions satisfied**

Subject to this clause 3, the obligations of the parties with respect to Implementation (including the obligations of Bidder under clauses 2.4 and 6(l)) do not become binding unless and until each Condition is satisfied or waived under clause 3.4.

3.2 **Conditions**

The Conditions are as follows:

Conditions for the benefit of both parties

- (a) **(Independent Expert's Report)** the Independent Expert's Report concludes that the Share Scheme is in the best interest of Target Shareholders;
- (b) **(orders convening Meeting)** the Court makes orders convening the Share Scheme Meeting under section 411(1) of the Corporations Act;
- (c) **(Target Shareholder Approval)** Target Shareholder Approval is obtained at the Share Scheme Meeting convened in accordance with the orders made under section 411(1) of the Corporations Act;
- (d) **(Court approval of Scheme)** the Court makes orders under section 411(4)(b) of the Corporations Act approving the Share Scheme;
- (e) **(order lodged with ASIC)** an office copy of the Court order approving the Share Scheme under section 411(4)(b) of the Corporations Act is lodged with ASIC;
- (f) **(ATO)** the issuing of a class ruling by the Australian Taxation Office confirming the availability of capital gains tax scrip-for-scrip rollover relief to the Scheme Shareholders in connection with the Implementation of the Share Scheme;
- (g) **(no restraint adversely affecting Implementation)** 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 the acquisition of all the Target Shares by Bidder or otherwise preventing Implementation is in effect at 8.00 am on the Second Court Date;
- (h) **(ASX quotation)** before 8.00 am on the Second Court Date, the New Bidder Shares to be issued to Scheme Shareholders in accordance with the Share Scheme are approved for official quotation on ASX, which approval may be conditional on the issue of those shares and other conditions customarily imposed by ASX;

Conditions for the benefit of Bidder

- (i) **(Third Party Consents)** before 8.00 am on the Second Court Date, all Third Party Consents are granted or obtained in respect of the Implementation and those Third Party Consents are not withdrawn, cancelled or revoked before that time;
- (j) **(no Material Adverse Effect on Target)** during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date, no one or more events, occurrences or matters individually or in aggregate that have or could reasonably be expected to have a Material Adverse Effect on Target, occurs or becomes known to Bidder, unless that event, occurrence or matter:
 - (i) was fairly disclosed in the Target Disclosure Material;
 - (ii) was fairly disclosed in an ASX filing by the Target prior to the date of this document;
 - (iii) was due to one or more acts or omissions which were required to be done or procured by Target under this document or the Share Scheme;
 - (iv) was due to one or more acts or omissions which Bidder expressly consented to in writing;
 - (v) was due to any change in taxation laws or regulations, interest rates or exchange rates;
 - (vi) was due to any change in accounting policy required by law; or
 - (vii) was a Target Excluded Transaction.
- (k) **(no Target Prescribed Event)** during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date, no Target Prescribed Event occurs;
- (l) **(Continuing Target Due Diligence Information)** Target grants Bidder and its Representatives reasonable access to all Continuing Target Due Diligence Information and Bidder does not inform Target in writing by the date which is two Business Days after the DD Cut-Off Time that it has discovered information in the Continuing Target Due Diligence Information that, in the reasonable opinion of the Bidder acting in good faith, would have a Material Adverse Effect on the Target;
- (m) **(Target representations and warranties)** each of the representations and warranties given or made by Target under clause 15 is true and correct as at the time it is given or made;
- (n) **(Target Option variation)** where the Target is unable to procure the execution of the agreements described in clause 9(a)(i), approval by the Target Shareholders by ordinary resolution to the variation of the expiry date for exercise of the Target Options so that the Target Options lapse before 8.00am on the Second Court Date;

Conditions for the benefit of Target

- (o) **(no Material Adverse Effect on Bidder)** during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date, no one or more events, occurrences or matters individually or in aggregate that

have or could reasonably be expected to have a Material Adverse Effect on Bidder, occurs or becomes known to Target unless that event, occurrence or matter:

- (i) was fairly disclosed in the Bidder Disclosure Material;
 - (ii) was fairly disclosed in an ASX filing by the Bidder prior to the date of this document;
 - (iii) was due to one or more acts or omissions which were required to be done or procured by Bidder under this document or the Share Scheme;
 - (iv) was due to one or more acts or omissions which Target expressly consented to in writing;
 - (v) was due to any change in taxation laws or regulations, interest rates or exchange rates;
 - (vi) was due to any change in accounting policy required by law; or
 - (vii) was a Bidder Excluded Transaction.
- (p) **(Continuing Bidder Due Diligence Information)** Bidder grants Target and its Representatives reasonable access to all Continuing Bidder Due Diligence Information and Target does not inform Bidder in writing by the date which is two Business Days after the DD Cut-Off Time that it has discovered information in the Continuing Bidder Due Diligence Information that, in the reasonable opinion of the Target acting in good faith, would have a Material Adverse Effect on the Bidder;
- (q) **(no Bidder Prescribed Event)** during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date, no Bidder Prescribed Event occurs;
- (r) **(Bidder representations and warranties)** each of the representations and warranties given or made by Bidder under clause 15 is true and correct as at the time it is given or made;
- (s) **(Performance Rights)** on the date that the Target Shareholder Approval is obtained, all of the Performance Rights have vested and by no later than the Record Date, the holders of the Performance Rights have been issued the requisite number of Target Shares.

3.3 **Benefit of Conditions**

The Conditions in:

- (a) clauses 3.2(a) to 3.2(h) are for the benefit of each party;
- (b) clauses 3.2(i) to 3.2(m) are for the benefit of Bidder; and
- (c) clauses 3.2(o) to 3.2(r) are for the benefit of Target.

3.4 **Waiver of Conditions**

- (a) If a Condition has been included for the benefit of:
 - (i) one party only, only that party may, in its sole and absolute discretion, waive the breach or non-fulfilment of the Condition;

- (ii) more than one party, the breach or non-fulfilment of the Condition may be waived only by the consent of all those parties.

However, a party for whom a Condition has been included must not waive the Condition if it would result in a breach of law.

- (b) The breach or non-fulfilment of a Condition may only be waived in writing.
- (c) If a party waives the breach or non-fulfilment of a Condition, that waiver precludes the party from suing another party for any breach of this document that resulted in the breach or non-fulfilment of the Condition.

3.5 **Fulfilment of Conditions**

Each party must:

- (a) use its reasonable endeavours (other than waiver) to ensure and procure that each Condition is satisfied as soon as practicable after the date of this document;
- (b) not take any action or refrain from taking any action (except as required by law) designed to prevent the Conditions being satisfied, without the prior consent of the other party;
- (c) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (d) promptly inform the other party of any circumstances of which it becomes aware which may result in any of the Conditions not being satisfied in accordance with its terms; and
- (e) promptly advise the other party of the satisfaction of a Condition.

3.6 **Parties to provide certificate to Court**

Each of Target and Bidder must provide to the other and to the Court before or at the Second Court Hearing, a certificate or such other evidence as the Court requests, confirming whether or not the conditions set out in clause 3.2 of the Scheme Implementation Deed included for its benefit, other than the conditions in clause 3.2(d) and 3.2(e), have been satisfied (or waived by it) in accordance with the terms of the Scheme Implementation Deed.

3.7 **If a Condition is not fulfilled or waived**

If:

- (a) a Condition set out in clause 3.2(a) to 3.2(c) inclusive and clause 3.2(f) to 3.2(r) inclusive has not been fulfilled by the Relevant Date and is not waived;
- (b) a Condition set out in clause 3.2(d) or 3.2(e) has not been fulfilled by the End Date;
- (c) the Effective Date does not occur on or prior to the End Date; or
- (d) there is an act, failure to act, event or occurrence which will prevent a Condition being fulfilled by:
 - (i) in the case of a Condition in clause 3.2(a) to 3.2(c) inclusive or clause 3.2(f) to 3.2(r) inclusive, the Relevant Date; or

- (ii) In the case of a Condition in clause 3.2(d) or 3.2(e), the End Date,
(and the breach or non-fulfilment of the Condition which would otherwise occur has not been waived),

the parties:

- (e) must consult in good faith to determine whether the Share Scheme may proceed by way of alternative means or method so as to achieve a commercial outcome which reflects the Share Scheme; and
- (f) may agree to extend the Relevant Date or the End Date, or both.

4. **OBLIGATIONS OF THE PARTIES**

Each party must use reasonable endeavours to give effect to the Share Scheme, subject to compliance with their respective obligations, powers and duties under this document, their constituent documents and all applicable laws and the proper performance by the directors of each of Target and Bidder respectively of their fiduciary duties.

5. **TARGET OBLIGATIONS**

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

- (a) **(Announcement)** on the date of this document, make an Announcement, in a form agreed between Target and Bidder which includes a statement (on the basis of written statements made to it by each of its directors) that each director of Target:
 - (i) considers the Share Scheme to be in the best interest of Target Shareholders and recommends to Target Shareholders that the Share Scheme be approved; and
 - (ii) who holds Target Shares intends to vote his or her Target Shares in favour of the Share Scheme,

subject to no superior proposal emerging and the Independent Expert's Report concluding that the Share Scheme is in the best interest of Target Shareholders;

- (b) **(directors' approval)** use reasonable endeavours to procure that, subject to the proper performance by its directors of their fiduciary duties, no superior proposal emerging and the Independent Expert's Report concluding that the Share Scheme is in the best interest of Target Shareholders, Target's directors maintain the recommendation referred to in clause 5(a) until the Implementation Date and that this recommendation is clearly stated on the cover of the Scheme Booklet;
- (c) **(directors' voting)** use its reasonable endeavours to procure that each member of the Target Board votes all Target Shares in which they have Relevant Interest in favour of the Share Scheme and in favour of any other resolution submitted to Scheme Shareholders for their approval in connection with the Scheme;
- (d) **(Target Due Diligence Information)** as expeditiously as practicable and no later than the DD Cut-Off Time, provide Bidder with reasonable access to all information required to be disclosed by Target in order for the representations

and warranties in clause 15.2(a) to be complete, true and accurate as at the DD Cut-Off Time;

- (e) **(communications with Government Agencies)** consult with Bidder on all aspects of communications with Government Agencies in relation to the Share Scheme;
- (f) **(Class Ruling)** prepare and lodge an application for a class ruling with the Australian Tax Office, seeking to confirm the availability of capital gains tax scrip-for-scrip rollover relief to the Scheme Shareholders in connection with the Implementation of the Share Scheme, together with any other matter considered relevant;
- (g) **(Independent Expert's Report)** commission the preparation of the Independent Expert's Report and provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (h) **(prepare Scheme Booklet)** prepare the Scheme Booklet and ensure that the Scheme Booklet includes all information required by applicable laws, ASIC Regulatory Guides, Takeovers Panel policy and Guidance Notes and the ASX Listing Rules, subject to Bidder complying with its obligations under clauses 6(e) and 6(f) in respect of the Bidder Material;
- (i) **(continuing obligation of disclosure)** subject to any order of the Court and applicable law, ensure that the Scheme Booklet (but in respect of the Bidder Material, subject to Bidder complying with its obligations under clauses 6(e) and 6(f)) is updated by all such further or new information which may arise after the Scheme Booklet has been dispatched until the Share Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission) and otherwise complies with all applicable laws;
- (j) **(Court documents)** prepare all documents necessary for the Court proceedings relating to the Share Scheme in accordance with all applicable laws;
- (k) **(consult with Bidder)** in a timely manner consult with Bidder as to the form and content of all documents required for the purposes of the Share Scheme, including:
 - (i) **(the Scheme Booklet):**
 - (A) as soon as reasonably practicable after the date of this document, provide to Bidder an initial draft of the Scheme Booklet for the purpose of enabling Bidder to review and comment on that draft document;
 - (B) provide to Bidder amended drafts of the Scheme Booklet as reasonably agreed for the purpose of enabling Bidder to review and comment on those draft documents;
 - (C) take into account Bidder's comments in good faith and incorporate the Bidder Material as provided by Bidder when producing revised drafts of the Scheme Booklet; and
 - (D) undertake appropriate verification processes for the Target information included in the Scheme Booklet and provide Bidder with full and free access to and, on request, copies of all materials and

documents used or created in connection with the verification processes and must maintain those materials and documents for at least 7 years from the date of this document for that purpose;

- (E) provide to Bidder a revised penultimate draft of the Scheme Booklet within a reasonable time before the ASIC Review Draft is finalised and to enable the Bidder to review the ASIC Review Draft at least three business days before its submission to ASIC;
 - (F) during the period of review of the ASIC Review Draft by ASIC, keep Bidder informed of any matters raised by ASIC in relation to the Scheme Booklet and use all reasonable endeavours in cooperation with Bidder to resolve any such matters;
- (ii) **(Court Documents)**: the Court proceedings relating to the Share Scheme, including taking into account Bidder's reasonable comments in relation to the documents required for the Court proceedings;
- (l) **(lodgement of ASIC Review Draft)** as soon as practicable, subject to Bidder complying with its obligations under clause 6, provide a draft of the Scheme Booklet to ASIC as contemplated by section 411(2) of the Corporations Act;
- (m) **(apply to Court for order to convene Meeting)** apply to the Court under section 411(1) of the Corporations Act for an order directing Target to convene the Share Scheme Meeting;
- (n) **(convene Meeting)** convene the Share Scheme Meeting in accordance with any order made by the Court under section 411(1) of the Corporations Act;
- (o) **(explanatory statement)** take all reasonable measures necessary to cause ASIC to register the Scheme Booklet under section 412 of the Corporations Act;
- (p) **(Scheme Booklet)** as expeditiously as practicable following an order made by the Court under section 411(1) of the Corporations Act, dispatch a copy of the Scheme Booklet to each Target Shareholder and to all other persons entitled to receive notice of the Share Scheme Meeting;
- (q) **(inform shareholders)** if it becomes aware of information after the date of dispatch of the Scheme Booklet which is material for disclosure to Target Shareholders in deciding whether to approve the Share Scheme, subject to applicable laws and any order of the Court, inform shareholders of such information in an appropriate and timely manner;
- (r) **(proxy information)** upon request of Bidder made before the commencement of the Share Scheme Meeting, inform Bidder of the total number of proxy votes in respect of which the appointment for the Share Scheme Meeting specified that:
- (i) the proxy is to vote in favour of the Share Scheme Resolution;
 - (ii) the proxy is to vote against the Share Scheme Resolution;
 - (iii) the proxy is to abstain on the Share Scheme Resolution; and
 - (iv) the proxy may vote at the proxy's discretion.
- (s) **(section 411(17)(b) statement)** if Target Shareholder Approval is obtained, apply to ASIC for the production of a statement under section 411(17)(b) of the Corporations Act in relation to the Share Scheme;

- (t) **(Court approval)** subject to satisfaction or waiver of all Conditions other than the Conditions in clause 3.2(d) and (e), apply to the Court for orders approving the Share Scheme under section 411(4) of the Corporations Act;
- (u) **(Court appeals)** if the Court refuses to make orders convening the Share Scheme Meeting or approving the Share Scheme (either altogether or on terms not acceptable to the Bidder or the Target), appeal the Court's decision to the fullest extent possible (unless the Target considers, acting reasonably, that an appeal would have no reasonable prospect of success);
- (v) **(no Target Prescribed Event)** ensure that no Target Prescribed Event occurs during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date and, if a Target Prescribed Event occurs, immediately inform Bidder;
- (w) **(certificate)** before commencement of the hearing by the Court of the application for the order under section 411(4)(b) of the Corporations Act, give:
 - (i) to Bidder a certificate signed by Target stating whether or not each representation or warranty given by Target is true and correct as at the time it is given or made under clause 15; and
 - (ii) to Bidder and the Court the certificate referred to in clause 3.6;
- (x) **(not act inconsistently)** subject to clause 12.2 not act in a manner inconsistent with obtaining Court approval for the Share Scheme (provided that nothing in this paragraph prevents any action by or on behalf of Target or its directors if failure to take the action would, in the reasonable opinion of the board of directors of Target, be likely to involve a breach of duties of the directors of Target);
- (y) **(lodge copy of order)** if the Court approves the Share Scheme under section 411(4) of the Corporations Act, lodge an office copy of the Court order with ASIC in accordance with section 411(10) of the Corporations Act no later than the first Business Day after the day on which the Court approves the Share Scheme;
- (z) **(Scheme Shareholders)** give to the share registry of Bidder details of the names, registered addresses and holdings of Target Shares of every Target Shareholder as shown in the Register on the Record Date, in such form as Bidder may reasonably require, and determine Target Shareholders' respective entitlements to the Share Scheme Consideration in accordance with the Share Scheme;
- (aa) **(register transfers)** register all transfers of Target Shares to Bidder on the Implementation Date (subject to provision of the Share Scheme Consideration in accordance with the Share Scheme and Deed Poll); and
- (bb) **(introductions to Material Clients)** after the Target Shareholder Approval has been obtained, provide all assistance reasonably requested by the Bidder to facilitate introductions to Material Clients and to use reasonable endeavours to ensure that the Material Agreements remain in place on the same terms as at the date of this document.

6. **BIDDER OBLIGATIONS**

Bidder must take all necessary steps to assist Target to propose and implement the Share Scheme as expeditiously as practicable and use all reasonable endeavours to do so in accordance with the Timetable, including taking each of the following steps:

- (a) **(Announcement)** on the date of this document make an Announcement, in a form agreed between Target and Bidder which includes a statement (on the basis of written statements made to it by each of its directors) that each director of Bidder considers the Share Scheme to be in the best interest of Bidder Shareholders and will support the Share Scheme, subject to no superior proposal emerging;
- (b) **(Bidder Due Diligence Information)** as expeditiously as practicable and no later than the DD Cut-Off Time, provide Target with reasonable access to all information required to be disclosed by Bidder in order for the representations and warranties in clause 15.3 to be complete, true and accurate as at the DD Cut-Off Time;
- (c) **(communications with Government Agencies)** consult with Target on all aspects of communications with Government Agencies in respect of the Share Scheme;
- (d) **(Independent Expert's Report)** provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (e) **(Scheme Booklet):**
 - (i) as expeditiously as practicable, give to Target for inclusion in the Scheme Booklet such information regarding Bidder as is required under all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules to be included in the Scheme Booklet (in reasonable time to allow Target to prepare the Scheme Booklet in accordance with this document); and
 - (ii) confirm in writing to Target before 8.00 am on the First Court Date that:
 - (A) the Bidder Material is not misleading or deceptive in any material respect (including because of any material omission) and otherwise complies with all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (B) the Scheme Booklet includes all information regarding Bidder as is required under all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules;
- (f) **(further information):**
 - (i) inform Target in writing if it becomes aware that the Bidder Material (or any part of it) is or has become misleading or deceptive in any material respect (including because of any material omission) or otherwise does not comply with all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (ii) as expeditiously as practicable, give to Target any further information reasonably required by Target before the Meeting Date to ensure that the Bidder Material is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and complies with all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules;

- (g) **(Deed Poll)** before the First Court Date, duly execute and enter into the Deed Poll;
- (h) **(no Bidder Prescribed Event)** ensure that no Bidder Prescribed Event occurs during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date and if a Bidder Prescribed Event occurs, immediately inform Target;
- (i) **(certificates)** before commencement of the hearing by the Court of the application for the order under section 411(4)(b) of the Corporations Act, give:
 - (i) to Target a certificate signed by Bidder stating whether or not each representation or warranty given by Bidder is true and correct as at the time it is given or made under clause 15; and
 - (ii) to Target and the Court the certificate referred to in clause 3.6;
- (j) **(not act inconsistently)** not act in a manner inconsistent with obtaining Court approval for the Share Scheme (provided that nothing in this paragraph prevents any action by or on behalf of Bidder or its directors if failure to take the action would, in the reasonable opinion of the board of directors of Bidder, be likely to involve a breach of duties of the directors of Bidder);
- (k) **(New Bidder Shares)** apply for the New Bidder Shares to be approved for official quotation on ASX subject to the Share Scheme becoming Effective and use reasonable endeavours to obtain ASX's approval for official quotation by 8.00 am on the Second Court Date;
- (l) **(Share Scheme Consideration)** if Implementation occurs, provide the Share Scheme Consideration as contemplated by the Share Scheme and in accordance with the Deed Poll on the Implementation Date;
- (m) **(Appointment of Incoming Director)** as soon as practicable after the Second Court Date and subject to the receipt of a consent to act from the Incoming Director, cause the appointment of the Incoming Director to the board of the Bidder; and
- (n) **(Scheme)** do all things within its power that are reasonably necessary to lawfully give effect to the Share Scheme and the orders of the Court approving the Share Scheme.

7. SHARE SCHEME CONSIDERATION

7.1 Election

- (a) A Scheme Shareholder may make an Election for the Maximum Cash Consideration or Maximum Share Consideration, but not for both of them, by completing, in accordance with the instructions on it, the election form for the purpose which accompanies the Scheme Booklet (or which is otherwise made available by Target, including electronically) (the **Election Form**) and returning or submitting the complete Election Form to the address or via the method set out in the Election Form so that it is received by no later than the Election Date.
- (b) Subject to any fractional entitlement of a Scheme Shareholder:
 - (i) any Election (other than an Election deemed to be made pursuant to and in accordance with subclause (c)) must be made in accordance with the terms and conditions on the Election Form;

- (ii) any Election will apply to all of the Scheme Shareholders as at the Record Date;
 - (iii) once made, a valid Election by a Scheme Shareholder may be varied before the Election Date by lodging or submitting a replacement Election Form in accordance with the instructions on the Election Form; and
 - (iv) in the manner considered appropriate by the Target (acting reasonably), a Scheme Shareholder that holds one or more parcels of Target Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections in relation to each of those parcels of Target Shares (and, for the purposes of calculating the Share Scheme Consideration to which that Scheme Shareholder is entitled to under the Scheme, each parcel of Target Shares will be treated as though it were held by a separate Scheme Shareholder).
- (c) Any Scheme Shareholder who has not made a valid Election is, for the purpose of the Scheme deemed to have made an Election for Maximum Cash Consideration.
 - (d) Target may, with Bidder's consent (which may not be unreasonably withheld or delayed), settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with any Election, whether arising generally or in relation to any particular Election of a Scheme Shareholder, and any decision is conclusive and binding on all relevant Scheme Shareholders and other persons to whom the decision relates.

8. PRE-IMPLEMENTATION OBLIGATIONS

8.1 Conduct of the business

During the period commencing on the date of this document and ending on the Implementation Date, Target must conduct (and must procure that each of its subsidiaries conducts) its business in the ordinary course, in substantially the same manner and at the same locations as conducted on the date of this document, and to the extent consistent, use reasonable efforts to:

- (a) preserve intact its business organisation;
- (b) keep available the services of its officers and employees;
- (c) preserve its relationship with customers, suppliers, licensors, licensees and others having business dealings with it;
- (d) ensure that the Material Agreements remain in place on the same terms as at the date of this document;
- (e) maintain its business and assets, including maintaining at least its current level of insurance;
- (f) obtain Bidder's prior consent for entry into, renewal or change of the terms of any contract of service with any director or senior executive;
- (g) obtain Bidder's prior consent for any payment of a bonus or increase in remuneration or compensation paid to any officer or personnel, other than in accordance with existing employment terms;
- (h) obtain Bidder's prior consent, not to be unreasonably withheld or delayed, for entry into a new agreement, arrangement or understanding or variation of an

existing agreement with a Material Client, or entry into a new agreement, arrangement or understanding that could reasonably be expected to be a Material Agreement.

8.2 Exception

Clause 8.1 does not apply to anything:

- (a) which the party is required to do, permitted to do or is permitted not to do, under or in accordance with this document or the Share Scheme; or
- (b) in respect of which the other party consents (such consent not to be unreasonably withheld or delayed).

8.3 Access to information

- (a) From the date of this document and up to and including the Implementation Date, subject to applicable laws Target must give (and must procure each of its subsidiaries gives) Bidder reasonable access to its records (subject to any existing confidentiality obligations owed to third parties), premises and personnel and reasonably co-operate for the purpose of:
 - (i) understanding the financial position of it and its subsidiaries including the cashflow and working capital position of each of them;
 - (ii) integrating the business of Target with the business of Bidder;
 - (iii) understanding the operations of the business of it and its subsidiaries;
 - (iv) Implementation; and
 - (v) any other purpose which is agreed in writing between the parties.
- (b) Subject to clause 12.3, nothing in clause 8.3(a) requires Target or any of its subsidiaries to provide information to the other party concerning consideration of the Share Scheme or a Target Competing Proposal by directors and management of it or any of its subsidiaries.

8.4 Information on representations and warranties

- (a) From the date of this document and up to and including the Implementation Date Target must promptly give, and must procure that each of its subsidiaries promptly gives, to Bidder details of any matter or occurrence which might reasonably make any representation or warranty given under this document by the first-mentioned party inaccurate in a material respect.
- (b) From the date of this document and up to and including the Implementation Date Bidder must promptly give, and must procure that each of its subsidiaries promptly gives, to Target details of any matter or occurrence which might reasonably make any warranty given under this document by the first-mentioned party inaccurate in a material respect.

8.5 Information provided subject to confidentiality obligation

All information provided under or in connection with this document is subject to the terms of the Confidentiality Deed which continues to have full force and effect subject to this document.

9. **TARGET OPTIONS**

- (a) The Target must procure either:
 - (i) that each holder of Target Options has entered into an agreement to transfer to the Bidder all of their Target Options in the form agreed between Bidder and Target and for consideration of \$0.01 per Target Option; or
 - (ii) subject to approval by Target Shareholders, the lapse of all of the Target Options,in each case, prior to 8.00 am on the Second Court Date.
- (b) The Bidder agrees to assist the Target to procure the entry into the agreements contemplated by clause 9(a)(a)(i).

10. **ANNOUNCEMENT**

10.1 **No Announcement**

Neither party may make an Announcement relating to the subject matter of this document or its termination or make public this document (or any of its terms) unless the Announcement or publication:

- (a) is required by this document;
- (b) has the prior approval of the other party; or
- (c) is required to be made by any applicable law or the ASX Listing Rules.

10.2 **Notice of Announcement**

If a party is required to make an Announcement under clause 10.1(c), it must, to the extent practicable without that party breaching any applicable law, give to the other party:

- (a) such notice as is reasonable in the circumstances of its intention to make the Announcement; and
- (b) a draft of the Announcement and an opportunity, to the extent practicable in the circumstances, to comment on the contents of the draft Announcement.

11. **STANDSTILL**

11.1 **Restriction on Bidder**

Subject to clause 11.2, during the Exclusivity Period, Bidder must not, and must make sure that members of the Bidder Group do not, and must use reasonable endeavours to ensure its associates do not:

- (a) acquire or offer to acquire, any securities or property or any right or option to acquire any Target Shares or other securities in Target unless it has received the prior written consent of Target;
- (b) enter into any arrangements involving the conferring of rights the economic effect of which is equivalent, or substantially equivalent, to acquiring, holding or disposing of securities in Target; or

- (c) solicit proxies from Target Shareholders or otherwise seek to influence or control the management or policies of Target.

11.2 Exceptions

- (a) Clause 11.1 does not apply to any action required to be taken by Bidder, members of the Bidder Group or any other person under the Share Scheme.
- (b) Clause 11.1 ceases to apply if a Target Competing Proposal is announced by a person other than Bidder or a member of the Bidder Group.
- (c) Clause 11.1 does not apply to any acquisitions of Target Shares by a member of the Bidder Group acting in accordance with the instructions of a client of the Bidder Group in the ordinary course of the Bidder Group business.

11.3 Restrictions on Target

Subject to clause 11.4, during the Exclusivity Period, Target must not, and must make sure that members of the Target Group do not, and must use reasonable endeavours to ensure its associates do not acquire or offer to acquire, any shares or other securities in Bidder or a member of the Bidder Group unless it has received the prior written consent of Bidder.

11.4 Exceptions

- (a) Clause 11.3 does not apply to any action required to be taken by Target, members of the Target Group or any other person under the Share Scheme.
- (b) Clause 11.3 ceases to apply if a Target Competing Proposal is announced by a person other than Bidder or a member of the Bidder Group.
- (c) Clause 11.3 does not apply to any acquisitions of Bidder Shares by a member of the Target Group acting in accordance with the instructions of a client of the Target Group in the ordinary course of the Target Group business.

12. NO SOLICITATION

12.1 No solicitation

Subject to clause 12.2 and except as otherwise agreed in writing by Bidder, during the Exclusivity Period, Target must not and must ensure that its directors, officers, employees and associates (to the extent that it is reasonably able to influence them) do not, and Target must not require any adviser or agent to:

- (a) directly or indirectly solicit, initiate or encourage any inquiries, proposals or discussions regarding any Target Competing Proposal (whether from a person with whom that party has previously been in discussions or not);
- (b) directly or indirectly participate in any discussions or negotiations regarding a Target Competing;
- (c) accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding regarding a Target Competing Proposal;
- (d) approve, recommend or implement a Target Competing Proposal; or
- (e) disclose any non-public information about the businesses or affairs of that party to a third party (other than a Representative, Government Agency or auditors) other than in the ordinary course of business or as required under that party's

existing contractual obligations to the extent those obligations have been disclosed to the other party and cannot be terminated.

12.2 Response to unsolicited approach

If clause 12.1(a) is complied with, nothing in clauses 12.1(b), (c), (d) or (e) or clause 5(w) or clause 8.1 prevents any action by or on behalf of Target or its directors to respond to any approach by a third party if failure to do so would, in the reasonable opinion of the board of directors of Target, be likely to involve a breach of the duties of the directors of Target. The reasonable opinion of Target's board of directors must be based on specific legal and any other appropriate advice.

12.3 Notify of approaches

- (a) If Target responds to any approach by a third party (as contemplated by clause 12.2), then:
 - (i) Target must immediately notify Bidder and, subject to clause 12.3(b), provide all information reasonably required by Bidder in relation to the approach and the Target's response; and
 - (ii) Target must promptly provide to Bidder any confidential information concerning Target that has not previously been provided to the Bidder that it provides to any person in connection with a Target Competing Proposal.
- (b) Nothing in this clause 12.3 requires the Target to provide information to the Bidder which in the reasonable opinion of the board of directors of Target, would be likely to involve a breach of the duties of the directors of Target. The reasonable opinion of Target's board of directors must be based on specific legal and any other appropriate advice.

12.4 No ongoing discussions

Target represents and warrants to Bidder that, as at the date of this document, it is not in discussions or negotiations with any third party regarding any Target Competing Proposal.

12.5 Right to make counterproposal

- (a) If before the End Date, Target receives any proposal capable of being accepted by Target as, and thereby becoming, a legally binding agreement which is superior to that agreed between Target and Bidder in relation to a Target Competing Proposal and Target wishes to enter into any agreement, commitment, arrangement or understanding on the basis of that Target Competing Proposal, Target must give Bidder notice of the Target Competing Proposal, which notice must include the material terms and conditions of the Target Competing Proposal, including price and the identity of the party making the Target Competing Proposal.
- (b) If Target notifies, or is required to notify Bidder under clause 12.5(a), Bidder will have the right, but not the obligation, at any time until the expiration of 5 Business Days following receipt of that notice by Bidder to offer to amend the terms of this agreement (a **Bidder Counterproposal**), and if Bidder does so, Target must review the Bidder Counterproposal in good faith to determine whether the Bidder Counterproposal is more favourable to Target than the Target Competing Proposal.
- (c) If Target determines in good faith, in respect of which determination the Target Board may take into account any matter that it reasonably considers relevant,

that the Bidder Counterproposal is more favourable to Target Shareholders than the Target Competing Proposal, then:

- (i) if the Bidder Counterproposal contemplates an amendment to this agreement, the parties must enter into an agreement amending this agreement and reflecting the Bidder Counterproposal, and the parties will without limitation agree to extend the End Date and the Implementation Date to accommodate the Bidder Counterproposal;
 - (ii) if the Bidder Counterproposal contemplates any other transaction, Bidder and Target must pursue implementation of the Bidder Counterproposal in good faith;
 - (iii) if the Bidder Counterproposal is agreed after the First Court Date and/ or despatch of the Scheme Booklet, the parties must work together to prepare updated disclosure to Target Shareholders in relation to the Bidder Counterproposal and promptly seek any necessary approvals of the Court and ASIC to the updated disclosure.
- (d) If Target gives notice to Bidder under clause 12.5(a) and on the expiration of 5 Business Days after receipt of that notice Bidder has not exercised its rights under clause 12.5(b) or Bidder has exercised its rights under clause 12.5(b) but Target does not determine that the Bidder Counterproposal is more favourable to Target Shareholders than the Target Competing Proposal, Target may enter into any legally binding agreement with respect to the Target Competing Proposal.
- (e) For the purposes of this clause 12.5, each successive material modification of any proposal in relation to a Target Competing Proposal will be deemed to constitute a new Target Competing Proposal and the provisions of this clause 12.5, will apply to each such new modified proposal, except where Bidder has not exercised its rights under clause 12.5(b) at any time or Bidder has exercised its rights under clause 12.5(b) but Target does not determine that the Bidder Counterproposal is more favourable to Target Shareholders than the Target Competing Proposal.

13. PAYMENT OF LIQUIDATED AMOUNT BY TARGET

13.1 Background

- (a) Each of Target and Bidder confirms its belief that the Share Scheme will provide significant benefits to it and its shareholders and acknowledges that each of them has and will incur significant costs in connection with performing its obligations under this document and the Share Scheme.
- (b) Bidder and Target have requested that provisions be made in this document for the payments set out in clauses 13.2 and 13.3 in the absence of which it would not have entered into this document. Target and Bidder each confirm its belief that it is appropriate to agree to the payment which it agrees to make under this clause 13 in order to secure the other party's participation in the Share Scheme. Target and Bidder each acknowledge that the amount it has agreed to pay to the other party under this clause 13 is an amount which is appropriate to compensate the other party for its reasonable external and internal costs and opportunity costs in connection with the Share Scheme.

13.2 Payment by Target to Bidder

Target undertakes to pay Bidder \$400,000 (exclusive of GST) if:

- (a) prior to the End Date, Target accepts or enters into or offers to accept or enter into, any agreement, arrangement or understanding regarding a Target Competing Proposal;
- (b) prior to the End Date, any Target director does not recommend the Share Scheme or withdraws or adversely modifies an earlier recommendation or approves or recommends or makes an announcement in support of a Target Competing Proposal or announces an intention to do any of these acts, other than:
 - (i) in circumstances where Target is entitled to terminate this document under clause 14:
 - (A) because any Condition set out in clauses 3.2(a) to 3.2(h) or 3.2(o) to 3.2(s) (inclusive) will not be fulfilled; or
 - (B) because Bidder is in breach of this document; or
 - (C) because of the Effective Date not occurring by the End Date; or
 - (ii) because the Independent Expert's Report concludes that the Share Scheme is not in the best interest of Target Shareholders;
- (c) a Target Competing Proposal is announced, made or becomes open for acceptance before the Second Court Date and, whether before or after termination of this document, and within 6 months after the End Date, under that Target Competing Proposal, the relevant bidder:
 - (i) acquires a relevant interest in more than 50% of all Target Shares and that Target Competing Proposal is (or becomes) free from any defeating conditions;
 - (ii) acquires all or a substantial part of the assets of Target or the Target Group;
 - (iii) acquires control of Target, within the meaning of section 50AA of the Corporations Act; or
 - (iv) otherwise acquires or merges with Target (including by way of reverse takeover bid, reverse scheme of arrangement of dual listed companies structure); or
- (d) Target is in material breach of any provision of this document and this document is terminated in accordance with clause 14.2(a).

13.3 Payment by Bidder to Target

- (a) Bidder undertakes to pay Target \$400,000 (exclusive of GST) if the Effective Date has not occurred on or before the End Date as a direct result of the failure by Bidder to perform or satisfy any of their material obligations under this agreement. For the purpose of this clause a material obligation is an obligation the performance or satisfaction of which is necessary for the implementation of the Share Scheme14.2(a).

13.4 Demand for payment

- (a) If an event referred to in clause 13.2 or 13.3 occurs, any demand by Bidder or Target for payment under clause 13.2 or 13.3 must be in writing and the receiving party must pay the amount referred to in clause 13.2 to the other party within 10 Business Days of receipt of the demand.

- (b) Bidder and Target acknowledge and agree that if an amount is paid to it under clause 13.2 or 13.3, that payment constitutes its sole and exclusive remedy under this document in respect of the matter giving rise to the payment

13.5 **Trigger Disputes**

- (a) If there is a Trigger Dispute between the parties which is not resolved within two Business Days of one party notifying the other, the Trigger Dispute must be referred to the Expert.
- (b) The parties must instruct the Expert to determine the Trigger Dispute within 10 Business Days of their appointment.
- (c) In determining the dispute, the Expert must act as an expert and not an arbitrator.
- (d) The determination of the Expert will, in the absence of manifest error, be final and binding on the parties.
- (e) The Expert's fees will be borne equally by the parties.

13.6 **Who is an Expert?**

An **Expert** is a person, having the qualifications set out in clause 13.7:

- (a) selected by the Parties within four Business Days after a Trigger Dispute is notified by a party under clause 13.5(a); or
- (b) if the Parties fail to select the Expert under clause 13.6(a), nominated by:
 - (i) for financial matters, the President for the time being of the Institute of Chartered Accountants (NSW Branch); or
 - (ii) for legal matters, the President for the time being of the Law Society of NSW.

13.7 **Expert's qualifications**

An Expert must:

- (a) have suitable and reasonable qualifications;
- (b) be independent of each party; and
- (c) have no interest or duty which conflicts or may conflict with the Expert's function as an expert.

13.8 **Compliance with law**

If the Takeovers Panel or a court of competent jurisdiction determines that an amount paid or payable under clause 13.2 or 13.3 is an Impugned Amount and:

- (a) the period for lodging an application for review or a notice of appeal of that decision has expired without such application or notice having been lodged; or
- (b) an application for review or a notice of appeal has been lodged with the Takeovers Panel or a court within the prescribed period and the relevant review Panel or court also determines that the amount is an Impugned Amount,

then:

- (c) the undertaking under clause 13.2 or 13.3 does not apply to the extent of the Impugned Amount; and
- (d) if a party has been paid an Impugned Amount under this document, it must refund that Impugned Amount to the other party.]

14. TERMINATION

14.1 Termination for non-fulfilment of Condition

- (a) If Bidder and Target are unable to reach agreement under clause 3.7 within five Business Days after both parties become aware that a Condition will not be fulfilled (or waived), any party for whose benefit the Condition is included (see clause 3.3) (whether solely or jointly with the other party) may terminate this document by notice in writing to the other party.
- (b) Without limiting clause 14.1(a), a party may terminate this document by giving notice in writing to the other party after the End Date, if the Effective Date does not occur on or before that date.

14.2 Bidder may terminate if change in Target directors' recommendations

Bidder may terminate this document by giving notice in writing to Target before 8.00 am on the Second Court Date if:

- (a) Target is in breach of this document (including a breach of a representation or warranty under clause 15) and that breach is material and is not remedied by Target within five Business Days (or such shorter period ending on the Second Court Date) of it receiving notice from Bidder of the details of the breach and its intention to terminate; or
- (b) any of Target's directors adversely changes (including by attaching any qualifications (other than no superior proposal emerging and the Independent Expert's Report concluding that the Share Scheme is in the best interest of Target Shareholders) to) or withdraws his or her recommendation that the Share Scheme is in the best interests of Target Shareholders.

14.3 Target may terminate if change in Bidder directors' support

Target may terminate this document by giving notice in writing to Bidder if, before 8.00 am on the Second Court Date:

- (a) Bidder is in breach of this document (including a breach of a warranty under clause 15) and that breach is material and is not remedied by Bidder within five Business Days (or such shorter period ending on the Second Court Date) of it receiving notice from Target of the details of the breach and its intention to terminate; or
- (b) any of Bidder's directors withdraws his or her support for the Share Scheme.

14.4 Obligations on termination

- (a) If a party terminates this document, all obligations of the parties under this document, other than this clause, clauses 10 (Announcements), 13 (Payment of Liquidated Amount), 15 (Representations and warranties), 16 (Indemnities), 17 (Release), 18 (GST), 19 (Notices), 20 (Amendment and Assignment) and 21 (General), immediately cease to be of further effect.

- (b) The termination of this document does not affect any Claim that a party may have against another party where that Claim arose before this document is terminated.

15. REPRESENTATIONS AND WARRANTIES

15.1 Mutual representations and warranties

Each party represents and warrants to the other party that:

- (a) **(status)** it is a company limited by shares under the Corporations Act;
- (b) **(power)** it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and carrying out the transactions that this document contemplates in accordance with its terms;
- (d) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,and it is complying with any conditions to which any such Authorisation is subject;
- (e) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no contravention)** neither its execution of this document nor the carrying out by it of the transactions that it contemplates in accordance with its terms, does or will contravene:
 - (i) any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) any Authorisation held by it;
 - (iii) any undertaking or instrument binding on it or any of its property; or
 - (iv) its constitution;
- (g) **(no Insolvency Event)** neither it nor any of its subsidiaries is affected by an Insolvency Event;
- (h) **(not representative capacity)** it is not entering into this document as trustee of any trust or settlement or otherwise in a representative capacity; and
- (i) **(information provided to the Independent Expert)** all information provided by it to the Independent Expert will be provided in good faith and on the

understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet.

15.2 Target representations and warranties

Target represents and warrants to Bidder that:

- (a) **(Target Due Diligence Information not false or misleading)** to Target's knowledge, Target has not knowingly or recklessly:
 - (i) omitted to disclose information to Bidder, the disclosure of which might reasonably be expected to have resulted in Bidder not entering into this document, or entering into it on materially different terms;
 - (ii) omitted anything from the Target Due Diligence Information that would make any part of that information materially false or misleading;
 - (iii) included anything materially false or misleading in the Target Due Diligence Information; or
 - (iv) denied access to requested information with the intention of misleading Bidder;
- (b) **(Scheme Booklet not false or misleading)** to Target's knowledge, as at the date of dispatch of the Scheme Booklet, the Scheme Booklet (other than the Bidder Material) will not contain any material statement which is false or misleading (including because of any material omission);
- (c) **(continuous disclosure)** Target is not in breach of its continuous disclosure obligation under ASX Listing Rule 3.1 and, except for information contained in the Announcement to be made in accordance with clause 5(a), there is no information to which ASX Listing Rule 3.1 does not apply because of ASX Listing Rule 3.1A;
- (d) **(complied with applicable laws)** other than as fairly disclosed in the Target Disclosure Material, Target and its wholly owned subsidiaries have complied with all applicable laws to the extent that any instance of non-compliance:
 - (i) individually and in aggregate, could not reasonably be expected to have a Material Adverse Effect on Target; or
 - (ii) does not involve a breach of Target's continuous disclosure obligations under the Listing Rules;
- (e) **(no default)** other than as fairly disclosed in the Target Disclosure Material:
 - (i) neither Target nor any of its wholly owned subsidiaries is in default under any document or agreement binding on it or its assets; and
 - (ii) nothing has occurred which is or would, with the giving of notice or lapse of time or both, constitute an event of default, prepayment event or similar event under any such document or agreement,
- (f) **(no litigation)** other than as fairly disclosed in the Target Disclosure Material no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to its knowledge, threatened which, if adversely decided, could reasonably be expected to have a Material Adverse Effect on Target;

- (g) **(schedule accurately details Target capital)** Part A of Schedule 2 accurately records the total number and details of Target Shares, securities convertible into Target Shares, Target Options, notes or other securities issued by Target at the date of this document and, other than as disclosed in writing to Bidder on or before the DD Cut-Off Time, Target is not under any actual or contingent obligation to issue, convert or cancel any securities other than as listed in Schedule 2;
- (h) **(no other approvals necessary)** to Target's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than the Regulatory Approvals;
- (i) **(Material Agreements)** the Material Agreements will continue to be enforceable and will not terminate as a result of Target's entry into this document or the Share Scheme;
- (j) **(Target Options)** as at the date of this document, Target has 477,782 Target Options on issue;
- (k) **(Performance Rights)** as at the date of this document, Target has on issue 840,068 Performance Rights of which 570,000 are not yet vested.

15.3 Bidder representations and warranties

Bidder represents and warrants to Target that:

- (a) **(Bidder Due Diligence Information not false or misleading)** to Bidder's knowledge, Bidder has not knowingly or recklessly:
 - (i) omitted to disclose information to Target, the disclosure of which might reasonably be expected to have resulted in Target not entering into this document, or entering into it on materially different terms;
 - (ii) omitted anything from the Bidder Due Diligence Information that would make any part of that information materially false or misleading;
 - (iii) included anything materially false or misleading in the Bidder Due Diligence Information; or
 - (iv) denied access to requested information with the intention of misleading Target;
- (b) **(no false or misleading statement)** to Bidder's knowledge, as at the date of dispatch of the Scheme Booklet, the Bidder Material will not contain any material statement which is false or misleading (including because of any material omission);
- (c) **(continuous disclosure)** Bidder is not in breach of its continuous disclosure obligation under ASX Listing Rule 3.1 and, except for information contained in the Announcement to be made in accordance with clause 5(a), there is no information to which ASX Listing Rule 3.1 does not apply because of ASX Listing Rule 3.1A;
- (d) **(complied with applicable laws)** other than as fairly disclosed in the Bidder Disclosure Material, Bidder and its wholly owned subsidiaries have complied with all applicable laws to the extent that any instance of non-compliance:
 - (i) individually and in aggregate, could not reasonably be expected to have a Material Adverse Effect on Bidder; or

- (ii) does not involve a breach of Bidder's continuous disclosure obligations under the Listing Rules;
- (e) **(material correspondence to be promptly disclosed)** all material correspondence between Bidder or any of its wholly owned subsidiaries and any Government Agency which is received following execution of this document until the Effective Date will be promptly disclosed in writing to Target;
- (f) **(no default)** other than as fairly disclosed in the Bidder Disclosure Material:
 - (i) neither Bidder nor any of its wholly owned subsidiaries is in default under any document or agreement binding on it or its assets; and
 - (ii) nothing has occurred which is or would, with the giving of notice or lapse of time or both, constitute an event of default, prepayment event or similar event under any such document or agreement,

which individually or in aggregate could reasonably be expected to have a Material Adverse Effect on Bidder;

- (g) **(no litigation)** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to its knowledge, threatened which, if adversely decided, could reasonably be expected to have a Material Adverse Effect on Bidder;
- (h) **(schedule accurately details Bidder capital)** Part B of Schedule 2 accurately records the total number and details of Bidder Shares, securities convertible into Bidder Shares, Bidder Options, notes or other securities issued by Bidder at the date of this document and, other than as disclosed in writing to Target on or before the DD Cut-Off Time, Bidder is not under any actual or contingent obligation to issue, convert or cancel any securities;
- (i) **(New Bidder Shares)** the New Bidder Shares will, upon issue:
 - (i) be duly issued and fully paid;
 - (ii) be free from any Security Interest or other encumbrance, other than as provided for in the constitution of Bidder; and
 - (iii) rank equally in all respects, including for future dividends, with all existing Bidder Shares; and
- (j) **(no other approvals necessary)** to Bidder's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than those identified in the definition of Regulatory Approvals in clause 1.1.

15.4 **No representations made on economic or future matters**

Each party acknowledges and agrees that the other party makes no representation or warranty other than as set out in this clause 15 and, in particular, at no time has the other party made or given any representation or warranty in relation to the achievability of:

- (a) any economic, fiscal or other interpretations or evaluations by it; or
- (b) future matters, including future or forecast costs, prices, revenues or profits.

15.5 Reliance on representations and warranties

Each party acknowledges that the other party has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made in clauses 15.1, 15.2 and 15.3.

15.6 When warranties are given

Each representation and warranty given or made under clauses 15.1, 15.2 and 15.3 is given:

- (a) as at the date of this document;
- (b) as at 8.00 am on the Second Court Date;
- (c) in the case of representations and warranties in clause 15.2(a), on the DD Cut-Off Time; and
- (d) at any other date at which the representation or warranty is expressed to be given under this document.

16. INDEMNITIES

16.1 Indemnities by Target

Target indemnifies Bidder and members of the Bidder Group and their respective directors, officers and employees against, and must pay on demand, any Loss, Claim or damages (including any right to common law damage) arising from or incurred in connection with a breach of the representation and warranty in clause 15.2(b) to the fullest extent permitted by law.

16.2 Indemnities by Bidder

Bidder indemnifies Target and members of the Target Group and their respective directors, officers and employees against, and must pay on demand, any Loss, Claim or damages (including any right to common law damage) arising from or incurred in connection with a breach of the warranty in clause 15.3(b) to the fullest extent permitted by law.

17. RELEASE

Each party agrees with each other, and declares and covenants in favour of each party's officers and employees, as follows:

- (a) Subject to applicable law (including section 199A of the Corporations Act) and clause 17(b), no officer or employee of a party, is liable for anything done or purported to be done in connection with Implementation.
- (b) Paragraph (a) does not exclude an officer or employee from any liability which may arise from wilful misconduct or a grossly negligent act or omission on the part of the person.
- (c) This clause operates as a deed poll in favour of and for the benefit of each officer and each employee of each party and may be relied on and enforced by each such officer and employee in accordance with its terms even though the officer or employee is not named as a party to this document.

18. GST

18.1 GST pass on

If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to include an amount for GST on the supply:

- (a) the consideration otherwise provided for that supply under this document is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a written demand from the supplier.

18.2 Tax Invoice

The right of the supplier to recover any amount in respect of GST under this document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient except where the recipient is required to issue the tax invoice or adjustment note.

18.3 Consideration exclusive of GST

Any consideration otherwise provided for a supply or payment obligation in connection with this document is exclusive of GST unless stated otherwise.

18.4 Adjustments

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation; and
- (c) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment event except where the recipient is required to issue an adjustment note or tax invoice in relation to the supply.

18.5 Reimbursements

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party, or used as the basis for calculation of consideration for a supply, under this document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

19. NOTICES

19.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

19.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) If it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day; and
- (b) (i) If it is sent by mail:
 - (ii) within Australia – three Business Days after posting; or
 - (iii) to or from a place outside Australia – seven Business Days after posting.

19.3 Address for notices

A person's address and fax number are those set out below, or as the person notifies the sender:

Target

Address: Level 9, Waterfront Place, 1 Eagle Street, Brisbane QLD 4000
Fax number: +61 7 3221 8307
Attention: Angus Craig

Bidder

Address: Level 5, 10 Spring Street, Sydney NSW 2000
Fax number: +61 2 8022 7448
Attention: Ashley Fenton

20. **AMENDMENT AND ASSIGNMENT**

20.1 **Amendment**

This document can only be amended or replaced by another document executed by the parties.

20.2 **Assignment**

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this document with the prior written consent of the other party.

21. **GENERAL**

21.1 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of New South Wales Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of that State, and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document. Each party irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

21.2 **Liability for expenses**

- (a) Bidder must pay for all stamp duty payable on this document or any instrument or transaction contemplated in or necessary to give effect to this document.
- (b) Subject to clause 21.2(a), each party must pay its own expenses incurred in negotiating, preparing, executing and registering this document.

21.3 **Giving effect to this document**

Each party must do anything within its power (including execute any document) that the other party may reasonably require to give full effect to this document.

21.4 **Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

21.5 **No partnership or agency**

Nothing in this document is to be treated as creating a partnership and, except as specifically provided in this document, no party may act as agent of or in any way bind another party to any obligation.

21.6 **Operation of this document**

- (a) Subject to clause 8.5:
 - (i) this document and the Confidentiality Deed contain the entire agreement between the parties about its subject matter;

- (ii) any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and the Confidentiality Deed and has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

21.7 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

21.8 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), unless this document expressly contemplates otherwise, the party may:

- (a) agree or consent, or not agree or consent, in its sole and absolute discretion; and
- (b) agree or consent subject to conditions.

21.9 No merger

No provisions of this document merge on Implementation.

21.10 Inconsistency with other documents

If this document is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

21.11 Counterparts

This document may be executed in counterparts.

SCHEDULE 1

Timetable

Step	Date	Action
1.	Tuesday, 14 June 2016	Sign Scheme Implementation Deed and announce transaction
2.	Tuesday, 12 July 2016	Provide ASIC and Court with draft Scheme Booklet
3.	Tuesday, 12 July 2016	Provide ASX with draft Scheme Booklet
4.	Thursday, 28 July 2016 <i>(at least 14 days after Step 2)</i>	First Court Date
5.	Friday, 29 July 2016	Scheme Booklet registered by ASIC and lodged with ASX
6.	Friday, 5 August 2016	Dispatch Scheme Booklet
7.	Wednesday, 7 September 2016	Hold Share Scheme Meeting and announce results to ASX
8.	Monday, 12 September 2016	Second Court Date and announce to ASX
9.	Tuesday, 13 September 2016	Effective Date File Court order with ASIC and announce to ASX Target securities cease trading at close of trading on ASX
10.	Tuesday, 20 September 2016	Record Date for entitlements to Share Scheme Consideration
11.	Tuesday, 27 September 2016	Implementation Date Bidder issues Share Scheme Consideration
12.	Wednesday, 28 September 2016	Dispatch holding statements for new Bidder Securities
13.	Friday, 30 September 2016	Normal settlement trading of Bidder Securities

Dates are indicative only and are subject to change as agreed between the parties and announced to ASX

SCHEDULE 2

Capital

Part A - Target's Capital

1. **TARGET SHARES**

Target has 59,323, 421 ordinary shares on issue.

2. **TARGET OPTIONS⁽¹⁾**

Target has on issue the following options to subscribe for fully paid shares:

Option Class	Date Granted	Expiry Date	Exercise Price (\$)	Balance
COP		31/10/2016	1.61	477,782
Total				477,782

Part B - Bidder's Capital

3. **BIDDER SHARES**

Bidder has 193,158,000 ordinary shares on issue.

SCHEDULE 3

Scheme of Arrangement (Share Scheme)



Scheme of Arrangement

Diversa Limited

ACN 079 201 835

The holders of ordinary fully paid shares issued in
Diversa Limited

SCHEME OF ARRANGEMENT

Under section 411 of the Corporations Act

BETWEEN:

- (1) Diversa Limited ACN 079 201 835 whose registered office is at Level 9, 1 Eagle St Brisbane, QLD 4000 (**Target**); and
- (2) The holders of fully paid ordinary shares in Target.

BACKGROUND

- (A) Target is a public company incorporated in Australia. It is registered in New South Wales and is a company limited by shares. It has its registered office at Level 9, 1 Eagle Street Brisbane, QLD 4000. As at 14 June 2016, 59,323, 421 of Target Shares were on issue.
- (B) OneVue Holdings Limited (**Bidder**) is a public company incorporated in Australia under the Corporations Act. It is registered in Victoria and is a company limited by shares. It has its registered office at Level 5, 10 Spring Street, Sydney, NSW 2000. As at 14 June 2016, 193,158,000 of Bidder Shares were on issue.
- (C) Target and Bidder entered into the Scheme Implementation Deed on or about 14 June 2016 to facilitate the implementation of the Share Scheme. The directors of Target have proposed the Share Scheme to the members of Target and consider that the Share Scheme is in the best interests of Target and its members as a whole.
- (D) Under the Scheme Implementation Deed, Target and Bidder have agreed that each of them will perform their respective obligations under the Share Scheme and do everything within their powers that is necessary to give full effect to the Share Scheme.
- (E) Bidder has executed the Deed Poll under which it covenants in favour of the Scheme Shareholders to carry out its obligations under the Share Scheme, including to provide the Share Scheme Consideration in accordance with the terms of the Share Scheme.
- (F) If the Share Scheme becomes Effective:
 - (1) Bidder will issue the Share Scheme Consideration in accordance with the terms of this Scheme in consideration of the transfer of the Scheme Shares to Bidder; and
 - (2) all the Scheme Shares will be transferred to Bidder and Target will become a wholly owned subsidiary of Bidder; and
 - (3) Target will enter the Bidder's name in the Register as the holder of all Scheme Shares.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document:

ASIC means the Australian Securities and Investments Commission.

ASX means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

ASX Listing Rules means the listing rules of ASX.

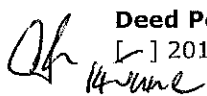
Bidder Share means a fully paid ordinary share in Bidder.

Business Day means a business day as defined in the ASX Listing Rules.

CHESS means the clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement Pty Limited, which provides for the electronic transfer, settlement and registration of securities.

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

Court means the Federal Court of Australia, NSW Registry.

 **Deed Poll** means the deed poll executed by Bidder in favour of Target Shareholders dated [] 2016.

Effective means the coming into effect, under section 411(1)) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Share Scheme.

Effective Date means the date on which an office copy of the order of the Court approving the Share Scheme under section 411(4)(b) of the Corporations Act is lodged with ASIC.

End Date means the date 6 months after the Scheme Implementation Deed subject to any extension under clause 3.7 of the Scheme Implementation Deed.

Implementation means the implementation of the Share Scheme, on it becoming effective under section 411(10).

Implementation Date means the fifth Business Day immediately following the Record Date.

Ineligible Overseas Shareholder means a Target Shareholder:

- (a) who is (or is acting on behalf of) a resident of a jurisdiction other than Australia or New Zealand and their respective external authorities; or
- (b) whose address shown in the Register is a place outside Australia or New Zealand and their respective external territories.

New Bidder Share means Bidder Shares to be issued under the Share Scheme as Share Scheme Consideration.

Record Date means 7.00 pm on the day which is five Business Days after the Effective Date or any other date agreed by the parties to be the record date to determine entitlements to receive Share Scheme Consideration under the Share Scheme.

Register means the register of Target.

Registered Address means, in relation to a Target Shareholder, the address of the shareholder shown in the Register.

Scheme Implementation Deed means the Scheme Implementation Deed between Target and Bidder dated 14 June 2016 relating to the implementation of the Share Scheme.

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

Scheme Shareholder means each Target Shareholder at the Record Date, taking into account registration of all registrable transfers and transmission applications in accordance with clause 4.1.

Scheme Transfer, in relation to Scheme Shares, means a proper instrument of transfer of the Scheme Shares.

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

Share Scheme means the scheme of arrangement under Part 5.1 between Target and the Scheme Shareholders, set out in this document, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Share Scheme Consideration means the consideration to be provided to Target Shareholders under the terms of this scheme for the transfer of their Target Shares to Bidder, as set out in clause 7 of the Scheme Implementation Deed.

Share Scheme Meeting means the Target Shareholders' meeting ordered by the Court to be convened under section 411(1) in relation to the Share Scheme.

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

Target Share Registry means Link Market Services of Level 15, 324 Queen St, Brisbane, Queensland 4000.

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

1.2 Rules for interpreting this document

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

- (f) The words **officer** and **security interest** have the same meaning as in section 9 of the Corporations Act.
- (g) The expression **related body corporate** has the same meaning given in section 50 of the Corporations Act.
- (h) All references to time in this document are references to time in Sydney, Australia.
- (i) A reference to **\$** or **dollar** is to Australian currency.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

2. **CONDITIONS PRECEDENT**

2.1 **Conditions precedent to the Share Scheme**

The Share Scheme is conditional on the following:

- (a) as at 8.00am on the Second Court Date, neither the Scheme Implementation Deed nor the Deed Poll having been terminated;
- (b) all the conditions set out in clause 3.2 of the Scheme Implementation Deed, other than the condition in clause 3.2(e), having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed; and
- (c) the Court having made an order under section 411(4)(b) of the Corporations Act approving the Share Scheme.

2.2 **Effective Date**

The Share Scheme takes effect on the Effective Date. Target must lodge with ASIC an office copy of the order of the Court approving the Share Scheme under section 411(4)(b) of the Corporations Act by no later than 10.00 am on the first Business Day after the date on which the Court makes that order.

2.3 **End Date**

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

3. **THE SCHEME**

3.1 **Implementation steps**

On the Implementation Date:

- (a) subject to the provision of the Share Scheme Consideration in accordance with the Share Scheme and Bidder having provided Target with written confirmation of that having occurred, all the Scheme Shares, together with all rights and entitlements attaching to those shares as at the Implementation Date, will be transferred to Bidder without the need for any further act by any Scheme Shareholder (other than

acts performed by Target or its directors and officers as attorney and agent for the Scheme Shareholders under the Share Scheme) by Target effecting a valid transfer or transfers of the Scheme Shares to Bidder under section 1074B of the Corporations Act or, if that procedure is not available for any reason in respect of any Scheme Shares, by:

- (i) Target delivering to Bidder for execution duly completed and, if necessary, stamped Scheme Transfers to transfer the Scheme Shares to Bidder, duly executed by Target or any of its directors and officers as the attorney and agent of each Scheme Shareholder as transferor under clauses 5.2 and 5.3;
 - (ii) Bidder executing the Scheme Transfers as transferee and delivering them to Target;
 - (iii) Target upon receipt of the Scheme Transfers under subparagraph (ii) entering or procuring entry of the name and address of Bidder in the Target Register as the holders of all the Scheme Shares; and
- (b) Bidder must issue and pay to each Scheme Shareholder the Share Scheme Consideration for each Target Share held by the Scheme Shareholder, in accordance with and subject to the terms of this Scheme.
- (c) Any New Bidder Shares to be issued by the Bidder under this Scheme will be duly and validly issued, fully paid and will, upon their issue, rank equally in all respects with all other Bidder Shares then on issue.

3.2 Fractional entitlements

If a fractional entitlement to a New Bidder Share arises from the calculation of the Share Scheme Consideration payable to a Scheme Shareholder in respect of its Scheme Shares, then the fractional entitlement to a New Bidder Share will be rounded to the nearest whole number and will be rounded up if the fractional entitlement is one half.

3.3 Ineligible Overseas Scheme Shareholders

Ineligible Overseas Scheme Shareholders are not entitled to be issued New Bidder Shares as part of the Share Scheme Consideration under clause 3.1(b). Instead, the New Bidder Shares that, but for this clause, would be issued to the Ineligible Overseas Scheme Shareholders will be issued to a person nominated by Target for this purpose (the **Nominee**). Where the Nominee is issued New Bidder Shares under this clause, Target will cause:

- (a) the Nominee, as soon as reasonably practicable (but, in any case within one month after the Implementation Date), to offer all the New Bidder Shares comprising such Share Scheme Consideration for sale on ASX in such manner, at such price or prices and on such other terms as the Nominee determines in good faith (and at the risk of the Ineligible Overseas Scheme Shareholders); and
- (b) as reasonably practicable but in any case within 10 Business Days after settlement of all the sales of the New Bidder Shares comprising the Share Scheme Consideration issued to the Nominee having occurred, to be remitted to each Ineligible Overseas Scheme Shareholder the same proportion of the net proceeds of sale of all such shares (after deduction of any fees and taxes and other charges and costs of sale) as the Share Scheme Consideration issued to the Nominee in respect of that Ineligible Overseas Scheme Shareholder bears to the total number of New Bidder Shares issued to and sold by the Nominee under paragraph (a).

Each Ineligible Overseas Scheme Shareholder appoints Target, and each director and officer of Target, as its agent to receive on its behalf any financial services guide or other

notice that may be given under the Corporations Act by the Nominee to each Ineligible Overseas Scheme Shareholder for or in connection with its appointment or the sales.

3.4 Registration and confirmations

- (a) Bidder will register, or cause to be registered, the Scheme Shareholders (other than the Ineligible Overseas Scheme Shareholders) and the Nominee (in respect of Ineligible Overseas Scheme Shareholders) as the holders of the New Bidder Shares to which they become entitled under the Share Scheme.
- (b) As required by the Corporations Act Bidder will send confirmations of issue for the New Bidder Shares issued to Scheme Shareholders (at the risk of the Scheme Shareholders) by pre-paid ordinary mail or, in the case of an address outside Australia by airmail, to the Registered Addresses of the respective Scheme Shareholders. In the case of Scheme Shareholders that are joint holders, such confirmations will be sent to the holder whose name appears first in the Register on the Record Date.

3.5 Agreement to become member of Bidder

Each Scheme Shareholder agrees for all purposes to become a member of Bidder (without the need for any further act on its part) and to be bound by the constitution of Bidder.

3.6 Target Shares transferred free from encumbrance

- (a) To the extent permitted by law, the Target Shares transferred to Bidder under the Share Scheme will be transferred (subject to Target's constitution) free from all security interests (including mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise).
- (b) Each Scheme Shareholder is deemed to have warranted to Bidder and, to the extent enforceable, appointed and authorised Target as its agent to warrant to Bidder that all its Scheme Shares (including any rights and entitlements attaching to those Shares) will, as at the time of the transfer of them to Bidder, be fully paid and (subject to Target's constitution) free from all security interests (including mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise), and from any restrictions on transfer of any kind, and that it has full power and capacity to sell and to transfer its Scheme Shares (including any rights and entitlements attaching to those shares) to Bidder under the Share Scheme. Target undertakes in favour of each Scheme Shareholder that it will be taken to have provided such warranty to Bidder on behalf of the Scheme Shareholder as at the time of transfer of the Scheme Shares.

3.7 Bidder beneficially entitled to Scheme Shares

Subject to provision of the Share Scheme Consideration in accordance with clause 3.1(b), on and from the Implementation Date, Bidder will be beneficially entitled to the Scheme Shares transferred to it under the Share Scheme pending registration by Target of the name and address of Bidder in the Register as the holder of the Scheme Shares.

4. DEALINGS IN TARGET SHARES

4.1 What Target Share dealings are recognised?

To establish the persons who are Scheme Shareholders, dealings in Target Shares will be recognised only if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the Target Shares as at the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Target Share Registry at or before the Record Date.

4.2 Target to register transfer and transmission applications

Target will register registrable transfers and transmission applications of the kind referred to in clause 4.1(b) by, or as soon as practicable after, the Record Date.

4.3 Transfers received after Record Date not recognised

Target will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of Scheme Shares received after the Record Date.

4.4 Target to maintain Register to determine entitlements

In order to determine entitlements to the Share Scheme Consideration, Target will maintain, or procure the maintenance of, the Register in accordance with this clause 4 until the Share Scheme Consideration has been paid to Scheme Shareholders and the Register in this form will solely determine entitlements to the Share Scheme Consideration.

4.5 Holding statements no effect from Record Date

From the Record Date, all holding statements for Scheme Shares will cease to have effect as documents of title (or evidence thereof), and each entry on the Register at the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Share Scheme Consideration.

4.6 Target to provide contact information for Scheme Shareholders

As soon as practicable after Record Date and in any event at least four Business Days before the Implementation Date, Target will give to Bidder or procure that Bidder be given details of the name, Registered Address and the number of Target Shares held by each Scheme Shareholder, as shown in the Register at the Record Date, in whatever form Bidder reasonably requires.

4.7 Suspension of trading

It is expected that the suspension of trading in Target Shares on the stock market conducted by ASX will occur from the close of trading on the Effective Date.

4.8 Target to apply for termination of quotation of Target Shares

On a date after the Implementation Date to be determined by Bidder, Target will apply for termination of the official quotation on the stock market conducted by ASX of Target Shares and must apply to have itself removed from the official list of ASX.

5. GENERAL PROVISIONS

5.1 Target giving effect to the Share Scheme

Target must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that is necessary, expedient or incidental to give full effect to the Share Scheme and the transactions

contemplated by it. Without limiting Target's power under the Share Scheme, Target has power to do all things that it considers necessary or desirable to give effect to the Share Scheme and the Scheme Implementation Deed.

5.2 Scheme Shareholders' agreements and consents

Subject to the provision by Bidder of the Share Scheme Consideration, each Scheme Shareholder:

- (a) agrees to the transfer of their Target Shares, together with all rights and entitlements attaching to those Shares, to Bidder, in accordance with the Share Scheme; and
- (b) consents to Target doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, expedient or incidental to Implementation and to give full effect to the Share Scheme and the transactions contemplated by it and Target, as agent of each Scheme Shareholder, may sub-delegate its functions under this document to any of its directors and officers, jointly and severally,

without the need for any further act by the Scheme Shareholder.

5.3 Appointment of Target as attorney of Scheme Shareholders

Each Scheme Shareholder without the need for any further act, irrevocably appoints Target and each of its directors and officers, jointly and severally, on and from the Effective Date, as the Scheme Shareholder's attorney and agent,

- (a) to execute any document or do any other act necessary, expedient or incidental to give full effect to the Share Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or execution and delivery of any Scheme Transfer) under clause 3; and
- (b) to enforce the Deed Poll against Bidder,

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

5.4 Appointment of Bidder as attorney in respect of Scheme Shares

- (a) From the Implementation Date until Bidder is registered as the holder of all Scheme Shares, each Scheme Shareholder:
 - (i) irrevocably appoints Bidder as its attorney and agent (and irrevocably appoints Bidder as its agent and attorney to appoint any of the directors and officers of Bidder as its attorney and agent) to:
 - (A) appoint the chairman of the board of directors of Bidder or failing him any director of the Bidder nominated by the Board of the Bidder as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of Target;
 - (B) exercise the votes attaching to the Target Shares registered in the name of the Scheme Shareholder;
 - (C) sign any Target Shareholders' resolution; and

(ii) must take all other action in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs.

(b) From the Implementation Date no Scheme Shareholder may attend or vote at any shareholders' meetings of Target or sign any Target Shareholders resolution (whether in person, by proxy or by corporate representative) other than under this clause.

5.5 Binding effect of Scheme

The Share Scheme binds Target and all Target Shareholders from time to time, including those who do not attend the Share Scheme Meeting, do not vote at that meeting or vote against the Share Scheme.

5.6 Alteration or condition to Share Scheme

If the Court proposes to approve the Share Scheme subject to any alteration or condition Target may, by its counsel or solicitors, but subject to the prior approval of Bidder (which may not be unreasonably withheld or delayed), consent on behalf of all persons concerned, including each Scheme Shareholder, to those alterations or conditions.

5.7 Deed Poll

Target undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against Bidder for and on behalf of each Scheme Shareholder.

5.8 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in the Share Scheme is sent by post to Target, it will be deemed to be received on the date (if any) on which it is actually received at Target's registered office or Share Registry and on no other date.

5.9 Costs and stamp duty

(a) Subject to paragraph (b), Target will pay all the costs of the Share Scheme, except that the Bidder must bear its own costs in relation to the Share Scheme, including costs arising out of the negotiation and preparation of this document and the Scheme Implementation Deed.

(b) Bidder will pay all stamp duty and any related fines, penalties and other costs in respect of the Share Scheme (including in connection with the transfer of the Scheme Shares to Bidder) in accordance with the terms of the Share Scheme.

5.10 Governing law

This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of New South Wales.

SCHEDULE 4

Deed Poll



Deed Poll

OneVue Holdings Limited

ACN 108 221 870

Deed Poll relating to proposed Scheme of
Arrangement between Diversa Limited and its
members

2016

DEED POLL

THIS DEED POLL is made on 14 June 2016

BY

OneVue Holdings Limited ACN 108 221 870 (**Bidder**)

FOR THE BENEFIT OF

Each holder of fully paid ordinary shares in Diversa Limited ACN 079 201 835 as at the Record Date (**Scheme Shareholder**).

RECITALS

- (A) Diversa Limited ACN 079 201 835 (**Target**) and Bidder have entered into a Scheme Implementation Deed dated 14 June 2016 (the **Scheme Implementation Deed**).
- (B) Under the Scheme Implementation Deed, Target has agreed to propose the Share Scheme, pursuant to which (among other things) the Scheme Shareholders will transfer to Bidder, and Bidder is to acquire, all the Target Shares, and Bidder is to provide the Share Scheme Consideration to each Scheme Shareholder.
- (C) Bidder is executing this document to covenant in favour of each Scheme Shareholder to perform the obligations contemplated of it under the Share Scheme.

THE BIDDER DECLARES AS FOLLOWS

6. INTERPRETATION

6.1 Definitions

Words and expressions that are defined in the Scheme Implementation Deed (other than words and expressions defined in this document) have the same meaning in this document as given to them in the Scheme Implementation Deed, unless the context makes it clear that a definition is not intended to apply.

6.2 Rules for interpreting this document

The rules in clause 1.2 of the Scheme Implementation Deed apply in interpreting this document, unless the context makes it clear that a rule is not intended to apply.

7. NATURE OF THIS DOCUMENT

Bidder acknowledges that:

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

8. **CONDITIONS PRECEDENT AND TERMINATION**

8.1 **Conditions precedent**

Bidder's obligations under this document are subject to the Share Scheme becoming Effective.

8.2 **Termination**

- (a) If the Scheme Implementation Deed is terminated or the Share Scheme does not become Effective on or before the End Date, Bidder's obligations under this document will automatically terminate and the terms of this document will be of no further force or effect, unless Bidder and Target otherwise agree in writing.
- (b) If this document is terminated pursuant to this clause then, in addition and without prejudice to any other rights, powers or remedies available to it:
 - (i) Bidder is released from its obligations under this document; and
 - (ii) each Scheme Shareholder retains any rights, powers or remedies it has against Bidder in respect of any breach of this document which occurred before this document was terminated.

9. **BIDDER COVENANT TO COMPLY WITH SHARE SCHEME OBLIGATIONS**

Subject to clause 8, in consideration of the transfer of each Scheme Share to Bidder in accordance with the Share Scheme, Bidder covenants in favour of each Scheme Shareholder that it will duly and punctually observe and perform all obligations contemplated of it under the Share Scheme, including all obligations contemplated of it relating to the provision of the Share Scheme Consideration in accordance with the Share Scheme.

10. **REPRESENTATIONS AND WARRANTIES**

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

- (a) **(status)** it is a validly existing corporation under the laws of its place of incorporation; and
- (b) **(power)** it has full legal capacity and power to execute this document and to carry out the transactions that this document contemplates; and
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its execution of this document and its carrying out of the transactions that this document contemplates; and
- (d) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms; and
- (e) **(no adverse regulatory action)** no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this document and, to the knowledge of Bidder, no such regulatory action has been threatened or is proposed to be taken against Bidder; and
- (f) **(solvent)** it is solvent and not affected by any Insolvency Event; and

- (g) **(New Bidder Shares)** each New Bidder Share will, upon issue:
 - (i) be fully paid up; and
 - (ii) be free from any Security Interest (other than as provided for under the constitution of Bidder); and
 - (iii) rank equally in all respects with all Bidder Shares then on issue.

11. **CONTINUING OBLIGATIONS**

This document is irrevocable and, subject to clause 8, remains in full force and effect until the earlier of Bidder having fully performed its obligations under this document or termination of this document pursuant to clause 8.

12. **NOTICES**

12.1 **How to give a notice**

A notice or other communication to a person in respect of this document is only effective if it is:

- (a) in writing, legible and in English, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

12.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received upon:

- (a) if sent by fax, at the local time (in the place of receipt of the fax) which then equates to the time at which the fax is sent as shown on the transmission report which is produced by the machine from which the fax is sent and which confirms transmission of the fax in its entirety (unless that local time is not a Business Day or is after 5.00 pm on a Business Day, in which case the notice or other communication will be regarded as received at 9.00 am on the next Business Day (in the place of receipt of the fax));
- (b) in any other case, on delivery to the address of Bidder as specified in clause 12.3 (unless delivery is not made on a Business Day or is made after 5.00 pm on a Business Day (in the place of receipt), in which case the notice or other communication will be regarded as delivered at 9.00 am on the next Business Day (in the place of receipt)).

12.3 **Address for notices**

Bidder's mail address and fax number are those set out below, or as Bidder otherwise notifies:

Bidder

Address: Level 5, 10 Spring Street
Fax number: +61 2 8022 7448
Attention: Ashley Fenton

13. **GENERAL**

13.1 **Costs and stamp duty**

Bidder must bear and be responsible for:

- (a) its own costs arising out of the negotiation, preparation and execution of this document; and
- (b) any and all stamp duty (including any related fines or penalties) payable on or in respect of this document, or any transaction contemplated by it (including any transfer of Scheme Shares pursuant to the Share Scheme), and Bidder indemnifies each Scheme Participant on demand against any liability for any and all such stamp duty.

13.2 **Amendment**

A provision of this document may not be amended or varied unless:

- (a) before the Second Court Date, the amendment or variation is agreed to in writing by Target (on behalf of each Scheme Shareholder but without the need for Target to refer the amendment or variation to any Scheme Shareholder) and, if required, is approved by the Court; or
- (b) on or after the Second Court Date, the amendment or variation is agreed to in writing by Target (on behalf of each Scheme Shareholder but without the need for Target to refer the amendment or variation to any Scheme Shareholder) and is approved by the Court,

and Bidder executes a further deed poll in favour of each Scheme Shareholder giving effect to that amendment or variation.

13.3 **Assignment**

The rights and obligations of Bidder and of each Scheme Shareholder under this document are personal and, except with the prior written consent of Target and Bidder cannot be assigned, encumbered, charged or otherwise dealt with.

13.4 **Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

13.5 **Operation of this document**

- (a) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.

- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

13.6 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of New South Wales within the Commonwealth of Australia.
- (b) Bidder submits to the non-exclusive jurisdiction of the courts of that New South Wales, and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document.

EXECUTED as a deed poll.

**EXECUTED by ONEVUE HOLDINGS
LIMITED:**



Signature of director



Name



Signature of director/secretary



Name

EXECUTED as a Deed.

EXECUTED by Diversa Limited:

Signature of director

Name

Signature of director/secretary

Name

EXECUTED by OneVue Holdings Limited:

Connie McKeage

Signature of director

Connie McKeage

Name

Q. Fenton

Signature of director/secretary

ASHLEY FENTON

Name

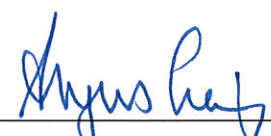
EXECUTED as a Deed.

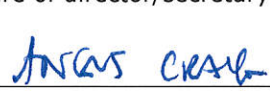
EXECUTED by Diversa Limited:



Signature of director


Name



Signature of director/secretary


Name

EXECUTED by OneVue Holdings Limited:

Signature of director

Name

Signature of director/secretary

Name