

ASX Announcement

1 November 2023

Symbio enters into Scheme Implementation Agreement with Aussie Broadband

- Symbio has entered into a Scheme Implementation Agreement with Aussie Broadband under which Aussie Broadband has agreed to acquire 100% of the shares in Symbio by way of a scheme of arrangement
- Symbio shareholders to receive \$2.26 in cash and 0.192 Aussie Broadband shares for each Symbio share (approximately 75% Cash and 25% Scrip structure) as default consideration (“**Default Consideration**”), implying Symbio shares are valued at \$3.01¹ per share based on ABB’s closing price on 31 October 2023² and \$3.03 per share based on ABB’s 1 month VWAP on 31 October 2023
- Symbio shareholders will also have the ability to receive the Scheme consideration in cash or scrip by way of a mix and match facility³
- Symbio is permitted to pay a dividend to Symbio shareholders (which may be fully or partially franked) prior to implementation of up to \$0.35 per Symbio share (“**Agreed Dividend**”), implying a release of franking credits of up to \$0.15 per Symbio share if a fully franked \$0.35 per Symbio share dividend is declared⁴
- Inclusive of the Agreed Dividend (which, if fully franked, will imply a release of franking credits of up to \$0.15 per Symbio share), combined with the offer price of \$3.01, the Aussie Broadband offer represents implied value of up to approximately \$3.16 per Symbio share
- The Symbio Board unanimously recommends shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Symbio shareholders
- The Scheme is subject to various conditions, including approval by Symbio shareholders at the Scheme meeting, with a Scheme booklet and the independent expert’s report to be provided to Symbio shareholders

Symbio Holdings Limited (ASX:SYM, or “**Symbio**”) refers to its announcement on 29 September 2023 announcing receipt of a non-binding indicative offer for Symbio from Aussie Broadband Limited (ASX:ABB or “**ABB**”) and the announcement on 30 October 2023 of the receipt of a binding offer from ABB to acquire all of Symbio’s shares via a scheme of arrangement.

Following a period of exclusive due diligence (“**Exclusivity Period**”), Symbio announces that it has entered into a Scheme Implementation Agreement (“**SIA**”) with ABB. Under the SIA, ABB has agreed to acquire 100% of the issued shares in Symbio by way of a scheme of arrangement (the “**Scheme**”).

Symbio Chair, Anne Ward said:

“The Scheme provides shareholders flexibility in how they elect to receive their consideration. Having undertaken diligence with two parties over the past several months, the Symbio Board has unanimously concluded that the ABB Scheme represents the strongest outcome for our shareholders in the absence of a superior proposal.”

¹ Rounded to 2 decimal places

² Based on the closing price of ABB shares of \$3.92 per share on 31 October 2023, being the last trading day before Symbio announced the receipt of the binding offer from ABB. The Scheme consideration would be reduced by the amount of the Agreed Dividend (whether a Symbio shareholder elects to receive the Default Consideration, Maximum Cash Consideration or Maximum Scrip Consideration).

³ Where each Symbio shareholder will be able to choose to maximise either cash or ABB scrip, subject to a scale back mechanism.

⁴ The extent to which the Agreed Dividend will be franked depends on, amongst other things, the level of franking credits available at the time the dividend is declared. The potential value of franking credits to Symbio shareholders will depend on their individual tax circumstances.

Overview of the Scheme

Under the terms of the Scheme, Symbio shareholders will have the option to receive the Scheme consideration representing \$3.01 per Symbio share based on ABB's closing price on 31 October 2023 (excluding release of franking credits) in the form of the Default Consideration. Symbio shareholders will also have the ability to receive the Scheme consideration in the form of 100% cash ("**Maximum Cash Consideration**") or 100% ABB scrip ("**Maximum Scrip Consideration**") by way of a mix and match facility, subject to the scale back mechanics as detailed in the Scheme of Arrangement attached to this announcement.

The value of ABB shares for the purposes of determining the number of ABB shares to be issued under the Default Consideration and Maximum Scrip Consideration has been agreed at the closing price of ABB shares of \$3.92 per share on 31 October 2023.

The Scheme consideration of A\$3.01 per Symbio share represents a premium to Symbio's trading price prior to the announcement of the Superloop proposal on 31 July 2023:

	Symbio Undisturbed Share Price (as at 31 July 2023)	Premium represented by Scheme consideration of \$3.01 per share	Premium represented by Scheme consideration (including franking credits of \$0.15) (\$3.16 per share)
Close Price	\$2.38	26.6%	32.9%
1 Month VWAP	\$2.02	49.5%	57.0%
3 Month VWAP	\$1.94	55.5%	63.2%

Board Recommendation

The Board of Symbio unanimously recommends that Symbio shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Symbio shareholders.

Subject to these same qualifications, all Symbio directors intend to vote all of their Symbio shares in favour of the Scheme.

The Board of Symbio makes no recommendation in relation to the mix and match election, which is a decision for each individual Symbio shareholder.

Details of the Scheme Implementation Agreement

The implementation of the Scheme is subject to conditions customary for a transaction of this nature, including:

- Symbio shareholder approval by the requisite majorities;
- Approval by the Federal Court of Australia;
- Symbio receiving confirmation of an ATO class ruling in relation to the Scheme;
- The independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of Symbio shareholders;
- No prescribed events (as defined in the SIA) occurring in relation to either Symbio or ABB;
- No material adverse effect (as defined in the SIA) occurring in relation to either Symbio or ABB; and
- Each party's representations and warranties remaining true and correct in all material respects.

The SIA contains customary exclusivity provisions, including “no-shop”, “no-talk”, and “no due diligence” restrictions, a “notification” obligation, as well as a “matching right”. The “no talk” and “no due diligence” restrictions and the “notification” obligation are subject to a customary fiduciary exception. A break fee of \$2,600,000 would be payable by Symbio to ABB in certain customary circumstances.

A copy of the SIA (which sets out all conditions precedent to the Scheme and other terms relating to the Scheme and its implementation) is attached to this announcement.

Indicative Timetable and Next Steps

A Scheme booklet that will contain important information is currently expected to be sent to Symbio shareholders in late December 2023. The Scheme booklet will contain information relating to the Scheme and the independent expert’s report on whether the Scheme is in the best interests of Symbio shareholders.

Symbio shareholders will then have the opportunity to vote on the Scheme at a shareholder meeting, which is currently expected to be held in early February 2024.

If the Scheme is approved by Symbio shareholders and the other conditions precedent are satisfied or waived, the Scheme is currently expected to be implemented by mid-February 2024.

Symbio is being advised by Jarden, Moelis Australia and King & Wood Mallesons.

At the current time, shareholders **do not** need to take any action and the Board will update shareholders as appropriate.

This announcement has been authorised for release by the Board.

ENDS

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Scheme Implementation Agreement

Dated 1 November 2023

Aussie Broadband Limited (ACN 132 090 192) (“**Bidder**” or “**Aussie Broadband**”)

Symbio Holdings Limited (ACN 118 699 853) (“**Target**” or “**Symbio**”)

King & Wood Mallesons

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Scheme Implementation Agreement

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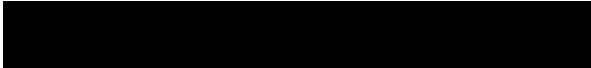
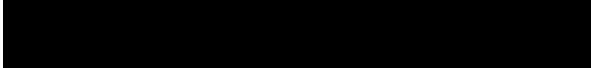

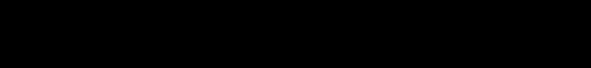
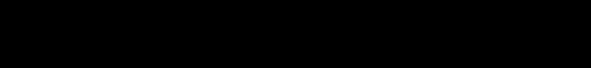

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Scheme Implementation Agreement

Details

Parties	Bidder and Target	
Bidder or Aussie Broadband	Name	Aussie Broadband Limited
	ACN	132 090 192
	Formed in	Australia
	Address	
	Email	
	Attention	
Target or Symbio	Name	Symbio Holdings Limited
	ACN	118 699 853
	Formed in	Australia
	Address	
	Email	
	Attention	
Governing law	New South Wales	
Recitals	A	Target and Bidder have agreed to merge by means of a members' scheme of arrangement under Part 5.1 of the Corporations Act.
	B	At the request of Bidder, Target intends to propose the Scheme and issue the Scheme Booklet.
	C	Target and Bidder have agreed to implement the Scheme on the terms and conditions of this document.

Scheme Implementation Agreement

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

Agreed Dividend means a cash dividend declared or determined after the date of this document of up to \$0.35 per Target Share, conditional on the Scheme becoming Effective.

ASIC means the Australian Securities & Investments Commission.

Associate has the meaning set out in section 12 of the Corporations Act, as if section 12(1) of the Corporations Act included a reference to this document.

ASX means ASX Limited, or the market operated by it, as the context requires.

ATO means the Australian Taxation Office.

Authorised Officer means a director or secretary of a party, or any other person nominated by a party to act as an Authorised Officer for the purposes of this document.

Bidder Board means the board of directors of Bidder.

Bidder Due Diligence Information means all information disclosed by or on behalf of Bidder and its Representatives to Target or its Representatives in writing (including all written responses to requests for information and any disclosure letter) as at 5.00pm on the date that is one Business Days prior to the date of this document (or another date and time agreed by Target and Bidder in writing).

Bidder EBITDA means the earnings before interest, tax, depreciation and amortisation of the Bidder Group and excludes transaction expenses, integration costs, fair value adjustments and one-off costs.

Bidder Group means Bidder and its Subsidiaries.

Bidder Indemnified Parties means Bidder, its officers, employees and advisers, its Related Bodies Corporate and the officers, employees and advisers of each of its Related Bodies Corporate.

Bidder Information means the information regarding Bidder as is required to be included in the Scheme Booklet under the Corporations Act, Corporations Regulations or ASIC Regulatory Guide 60. Bidder Information does not include information about the Target Group (except to the extent it relates to any statement of intention relating to the Target Group following the Effective Date).

Bidder Material Adverse Effect means a Specified Event which has, has had, or is reasonably likely to have, either individually or when aggregated with any Specified Events of a similar kind or category, the effect of diminishing the Bidder EBITDA by at least \$26,000,000, but does not include:

- (a) any matter Disclosed (or which ought reasonably have been expected to arise from a matter, event or circumstance which was so Disclosed);
- (b) any matter, event or circumstance arising from changes in general economic or political conditions, the securities market in general or law;
- (c) any change in taxation, interest rates or general economic conditions which impact on Target and Bidder in a similar manner;
- (d) any change in generally accepted accounting principles or the interpretation of them;
- (e) any change occurring directly or indirectly as a result of any matter, event or circumstance required by this document, the Scheme or the transactions contemplated by them; or
- (f) any change occurring with the written consent of Target.

Bidder Prescribed Event means, except to the extent contemplated by this document or the Scheme, any of the following events:

- (a) **(conversion)** Bidder converts all or any of its shares into a larger or smaller number of shares;
- (b) **(reduction of share capital)** Bidder or another member of the Bidder Group resolves to reduce its share capital in any way or resolves to reclassify, combine, split or redeem or repurchase directly or indirectly any of its shares;
- (c) **(buy-back)** Bidder or another member of the Bidder Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** Bidder makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie);
- (e) **(issuing or granting shares or options)** any member of the Bidder Group:
 - (i) issues shares;
 - (ii) grants an option over its shares; or
 - (iii) agrees to make such an issue or grant such an option,

in each case to a person outside the Bidder Group, but excluding a capital raise to be conducted in conjunction with the execution of this document to raise up to Bidder's placement capacity under Listing Rule 7.1 and a share purchase plan that satisfies the conditions in ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547;
- (f) **(securities or other instruments)** any member of the Bidder Group issues or agrees to issue securities or other instruments convertible into shares or debt securities in each case to a person outside the Bidder Group other than as Disclosed;

- (g) **(constitution)** Bidder adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (h) **(disposals)** any member of the Bidder Group disposes, or agrees to dispose of the whole or a substantial part of its business or property;
- (i) **(Encumbrances)** other than in the ordinary course of business and consistent with past practice, any member of the Bidder Group creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or property;
- (j) **(acquisitions, disposals or tenders)** any member of the Bidder Group:
 - (i) acquires or disposes of;
 - (ii) agrees to acquire or dispose of; or
 - (iii) offers, proposes, announces a bid or tenders for,
 - any business, assets, entity or undertaking the value of which exceeds \$2,500,000; or
- (k) **(Insolvency)** Bidder or any of its Related Bodies Corporate becomes Insolvent,

provided that a Bidder Prescribed Event listed in items (a) to (k) will not occur:

- (l) where the event was Disclosed (or which ought reasonably to have been expected to arise from a matter, event or circumstance which was so Disclosed);
- (m) to the extent any member of Bidder Group is required to undertake the event in connection with the Scheme or this document, or is otherwise expressly permitted or contemplated by the Scheme or this document;
- (n) where the event is the periodic issue of shares, options or rights under an employee share, option or performance rights plan in place at the date of this document, consistent with past practice;
- (o) where the event is required by law, regulation, changes in generally accepted accounting principles, or by an order of a court or Regulatory Authority; or
- (p) where Target has requested or approved in writing the proposed event (which approval will not be unreasonably withheld, delayed or conditioned).

Bidder Representations and Warranties means the representations and warranties of Bidder set out in clause 11.3.

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

Break Fee means \$2,600,000.

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

Cash means cash (whether in hand or credited to any account of Target or any member of the Target Group) with any financial institution or organisation or company deposits and cash equivalents of Target or any member of the Target Group, on a consolidated basis including cheques received by, honoured and

made payable to Target or any member of the Target Group prior to the implementation of the Scheme, but excluding:

- (a) any cash and cash equivalents held by Target or any member of the Target Group in escrow or trust for any other person; and
- (b) restricted cash, that is cash reserved for a specific purpose and therefore not readily available for immediate or general business (including restricted cash for bank guarantees, funds deposited with vendors/suppliers, utility companies, and cash deposited under protest).

Class Ruling means a binding public ruling issued by the Commissioner of Taxation pursuant to Division 358 of Schedule 1 to the TAA and as described in the class ruling CR 2001/1.

Competing Transaction means a proposal, transaction or arrangement (whether by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale or issue of securities, joint venture or otherwise) which, if completed, would mean a person (other than Bidder or its Related Bodies Corporate) whether alone or together with its Associates would:

- (a) directly or indirectly, acquire an interest or Relevant Interest in or become the holder of 20% or more of the Target Shares (other than as custodian, nominee or bare trustee);
- (b) acquire control of Target, within the meaning of section 50AA of the Corporations Act;
- (c) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in all or a substantial part or a material part of the assets of or business conducted by the Target Group; or
- (d) otherwise acquire or merge (including by a reverse takeover bid or dual listed company structure) with Target.

Competitively Sensitive Information has the meaning given in the Confidentiality Deed.

Conditions Precedent means the conditions precedent set out in clause 3.1.

Confidentiality Deed means the Confidentiality Deed between the parties dated 20 September 2023

Controller has the meaning it has in the Corporations Act.

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

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

Costs includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

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

Data Room means the virtual data room hosted by Ansarada in connection with the Scheme, available at https://dataroom.ansarada.com/_mvc/g7qfmx1snuko%7C139086/6867272/spa/documents.

Deed Poll means a deed poll substantially in the form of Annexure B to this document.

Details means the section of this document headed “Details”.

Disclosed means fairly disclosed:

- (a) by or on behalf of Target in writing to Bidder, or by or on behalf of Bidder in writing to Target (as applicable), prior to the date of this document;
- (b) in the Target Due Diligence Information or the Bidder Due Diligence Information (as applicable); or
- (c) in any announcement made by Target or Bidder (as applicable) on ASX prior to the date of this document.

Effective, when used in relation to the Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Election Form has the meaning given in the Scheme.

Election Date has the meaning given in the Scheme.

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

End Date means 5.00pm on 30 April 2024 or such other date as is agreed by Bidder and Target in writing.

Exclusivity Deed means the exclusivity deed dated 29 September 2023 between Target and Bidder.

Exclusivity Period means the period from and including the date of this document to the earlier of:

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

First Court Date means the first day on which an application made to the Court, in accordance with clause 5.2(h), for orders under section 411(1) of the Corporations Act convening the Scheme Meeting is heard.

GST means goods and services tax as defined in the GST Act.

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

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

Implementation Date means the 5th Business Day following the Record Date.

Incoming Directors means each person notified by Bidder to Target in writing no later than 5 Business Days before the Implementation Date.

Independent Expert means the independent expert appointed by Target under clause 5.2(c).

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update or supplementary report, stating whether in the Independent Expert's opinion the Scheme is in the best interests of Target Shareholders.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction.

Listing Rules means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

Losses means all claims, demands, damages, losses, costs, expenses and liabilities.

Material Contract means:

- (a) in relation to a contract or commitment requiring payments by the Target Group, a contract or commitment requiring payments over the term of the contract in excess of \$1,500,000, and excludes an employment agreement entered into by the Target Group; or

- (b) in relation to a contract or commitment projecting revenue for the Target Group, a contract or commitment projecting revenue over the term of the contract in excess of \$2,500,000.

New Bidder Shares means the Bidder Shares to be issued to Scheme Participants under the Scheme.

Outgoing Directors means all directors on the Target Board and the board of each other Target Group member, other than any Incoming Directors.

PPS Register means the Personal Property Securities Register established under the PPSA.

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

Record Date means 5.00pm on the 2nd Business Day following the Effective Date or such other date as Target and Bidder agree.

Register means the share register of Target and **Registry** has a corresponding meaning.

Regulator's Draft means the draft of the Scheme Booklet in a form acceptable to both parties which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.

Regulatory Approval means any approval of a Regulatory Authority to the Scheme or any aspect of it which Bidder and Target, each acting reasonably, agree in writing is necessary or desirable to implement the Scheme without material impact on the combined business of the Bidder Group and the Target Group (taken as a whole).

Regulatory Authority includes:

- (a) ASX, ACCC, ASIC and the Takeovers Panel;
- (b) a government or governmental, semi-governmental or judicial entity or authority;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (d) any regulatory organisation established under statute.

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

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

Representative means, in relation to a party:

- (a) a Related Body Corporate;
- (b) a director, officer or employee of the party or any of the party's Related Bodies Corporate; or
- (c) an adviser to the party or any of the party's Related Bodies Corporate, where an "adviser" means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant who provides advisory services in a professional capacity and who has been engaged by that entity.

Scheme means the scheme of arrangement under part 5.1 of the Corporations Act under which all the Target Shares will be transferred to Bidder substantially in the form of Annexure A together with any amendment or modification made pursuant to section 411(6) of the Corporations Act.

Scheme Booklet means, in respect of the Scheme, the information booklet to be approved by the Court and despatched to Target Shareholders which includes the Scheme, an explanatory statement complying with the requirements of the Corporations Act and notices of meeting and proxy forms.

Scheme Consideration has the meaning given in the Scheme.

Scheme Meeting means the meeting to be convened by the Court at which Target Shareholders will vote on the Scheme.

Scheme Participants means each person who is a Target Shareholder at the Record Date.

Second Court Date means the day on which the Court makes an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme.

Specified Event means an event, occurrence or matter that:

- (a) occurs after the date of this document;
- (b) occurs before the date of this document but is only announced or publicly disclosed after the date of this document; or
- (c) will or is likely to occur after the date of this document and which has not been publicly announced prior to the date of this document.

Subsidiary of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act; and
- (b) is part of a consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares or would be, if the first entity was required to prepare consolidated financial statements.

A trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.

Superior Proposal means a genuine Competing Transaction which the Target Board, acting in good faith, and after taking advice from its legal and financial advisers, determines is:

- (a) reasonably capable of being completed taking into account all aspects of the Competing Transaction, including its conditions; and
- (b) if completed substantially in accordance with its terms, is more favourable to Target Shareholders than the Scheme, taking into account all aspects of the Competing Transaction, including the identity, reputation and financial condition of the person making such proposal, legal, regulatory and financial matters, certainty and any other matters affecting the probability of the relevant proposal being completed in accordance with its terms.

TAA means the *Taxation Administration Act 1953* (Cth).

Target Board means the board of directors of Target.

Target Due Diligence Information means the contents of the Data Room, as at 5.00pm on Sunday 29 October 2023 (or another date and time agreed by Target and Bidder in writing).

Target ESS Interest means an existing option or performance right issued under an employee incentive plan operated by the Target as at the date of this document, which includes the Target Options and the Target Performance Rights.

Target ESS Interest Holder means a holder of Target ESS Interests.

Target ESS Interest Proposal means the proposal for certain Target ESS Interests (as agreed between the parties in writing on or before the date of this document), conditional on the Scheme becoming Effective, to on or prior to the Effective Date be:

- (a) vested such that:
 - (i) those Target ESS Interests are or become Target Shares that are not subject to vesting requirements or related restrictions; or
 - (ii) cash equivalent payments are made to the relevant former Target ESS Interest Holder in respect of those Target ESS Interests; or
- (b) otherwise vested, forfeited, lapsed, cancelled or waived (as applicable), including arising from, or following, the provision of a cash equivalent payment to the holder of the relevant Target ESS Interests,

with such proposal to be given effect subject to:

- (c) the existing terms of the relevant Target ESS Interests;
- (d) any regulatory or legal requirements or restrictions including the Listing Rules (and subject to any waivers that can be obtained); and
- (e) any amendments considered necessary or desirable by the Target (acting reasonably) to give effect to that proposal,

or as otherwise agreed between the parties in writing.

Target Group means Target and its Subsidiaries.

Target Indemnified Parties means Target, its officers, employees, and advisers and its Related Bodies Corporate and the officers, employees and advisers of each of its Related Bodies Corporate.

Target Information means all information contained in the Scheme Booklet other than the Bidder Information and the Independent Expert's Report.

Target Material Adverse Effect means a Specified Event which has, has had, or is reasonably likely to have, either individually or when aggregated with any Specified Events of a similar kind or category, the effect of diminishing the Target Underlying EBITDA by at least \$4,800,000, but does not include:

- (a) any matter Disclosed (or which ought reasonably have been expected to arise from a matter, event or circumstance which was so Disclosed);

- (b) any matter, event or circumstance arising from changes in general economic or political conditions, the securities market in general or law;
- (c) any change in taxation, interest rates or general economic conditions which impact on Target and Bidder in a similar manner;
- (d) any change in generally accepted accounting principles or the interpretation of them;
- (e) any change occurring directly or indirectly as a result of any matter, event or circumstance required by this document, the Scheme or the transactions contemplated by them;
- (f) any matter, event or circumstance arising from a payment:
 - (i) of any Transaction Costs incurred by the Target;
 - (ii) as a result of purchasing run-off insurance policy (of the type, scope and length contemplated by clause 7.6); or
 - (iii) made in accordance with clause 4.5; or
- (a) any change occurring with the written consent of Bidder.

Target Option means an option to acquire a Target Share.

Target Performance Right means a right to acquire a Target Share granted under Target's executive or employee performance rights plans, subject to the terms of such plan.

Target Prescribed Event means, except to the extent contemplated by this document or the Scheme, any of the following events:

- (a) **(conversion)** Target converts all or any of its shares into a larger or smaller number of shares;
- (b) **(reduction of share capital)** Target or another member of the Target Group resolves to reduce its share capital in any way or resolves to reclassify, combine, split or redeem or repurchase directly or indirectly any of its shares;
- (c) **(buy-back)** Target or another member of the Target Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** Target makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie) other than the Agreed Dividend (or in connection with a repatriation of funds through the Target Group to pay the Agreed Dividend);
- (e) **(issuing or granting shares or options)** any member of the Target Group:
 - (i) issues shares;
 - (ii) grants an option over its shares; or

- (iii) agrees to make such an issue or grant such an option,
in each case to a person outside the Target Group other than as Disclosed;
- (f) **(securities or other instruments)** any member of the Target Group issues or agrees to issue securities or other instruments convertible into shares or debt securities in each case to a person outside the Target Group other than as Disclosed;
- (g) **(constitution)** Target adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (h) **(disposals)** any member of the Target Group disposes, or agrees to dispose of the whole or a substantial part of its business or property;
- (i) **(Encumbrances)** other than in the ordinary course of business and consistent with past practice any member of the Target Group creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or property;
- (j) **(acquisitions, disposals or tenders)** any member of the Target Group:
 - (i) acquires or disposes of;
 - (ii) agrees to acquire or dispose of; or
 - (iii) offers, proposes, announces a bid or tenders for,
any business, assets, entity or undertaking the value of which exceeds \$2,500,000; or
- (k) **(Insolvency)** Target or any of its Related Bodies Corporate becomes Insolvent,

provided that a Target Prescribed Event listed in items (a) to (k) will not occur:

- (l) where the event was Disclosed (or which ought reasonably to have been expected to arise from a matter, event or circumstance which was so Disclosed);
- (m) to the extent any member of Target Group is required to undertake the event in connection with the Scheme or this document, or is otherwise expressly permitted or contemplated by the Scheme or this document;
- (n) where the event is the issue of shares:
 - (i) on the exercise of rights or options under an employee or executive share scheme, which rights or options (i) had vested in the ordinary course and were capable of exercise in accordance with the terms of the relevant plan, or (ii) were vested in accordance with clause 4.5; or
 - (ii) pursuant to the Target's Employee Share Gift Plan, consistent with past practice;
- (o) where the event relates to:
 - (i) the determination or payment by Target of the Agreed Dividend (including funding or repatriating funds through the Target Group to pay the Agreed Dividend); or

- (ii) a distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie) where the recipient of that distribution is the Target or another member of the Target Group;
- (p) where the event is required by law, regulation, changes in generally accepted accounting principles, or by an order of a court or Regulatory Authority; or
- (q) where Bidder has requested or approved in writing the proposed event (which approval will not be unreasonably withheld, delayed or conditioned).

Target Representations and Warranties means the representations and warranties of Target set out in clauses 9.1 and 11.1.

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

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

Target Underlying EBITDA means the earnings before interest, tax, depreciation and amortisation of the Target Group, excluding restructure and impairment costs, gain or loss on sales of businesses, net interest, share scheme and earn-out expenses, acquisition costs and one-off costs.

Tax means any tax, levy, charge, excise, GST, impost, rates, duty, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any fiscal Regulatory Authority and includes any interest, fine, penalty, charge or other amount imposed by any fiscal Regulatory Authority on or in respect of any of the above.

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

Taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any authority together with any fines, penalties and interest in connection with them.

Third Party means any person other than Bidder or any of its Related Bodies Corporate.

Timetable means the indicative timetable set out in Schedule 1 subject to any amendments agreed by the parties in writing.

Transaction Costs means all financial, taxation, legal and accounting adviser costs payable or paid by a Target Group member whether on its own account or for any other person in relation to the Scheme, including the negotiation, preparation, execution and completion of this document and any documents entered into or signed in connection with the Scheme, for the period up to and including the Effective Date.

Voting Power has the meaning it has in section 610 of the Corporations Act.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;

- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Sydney time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);
- (j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (k) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (l) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually; and
- (m) a reference to any thing (including an amount) is a reference to the whole and each part of it.

2 Agreement to propose and implement Scheme

2.1 Target to propose Scheme

Target agrees to propose the Scheme on and subject to the terms and conditions of this document.

2.2 Agreement to implement Scheme

The parties agree to implement the Scheme on the terms and conditions of this document.

3 Conditions Precedent

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder under clause 4.3 are not binding, until each of the following

Conditions Precedent are satisfied or waived to the extent and in the manner set out in this clause.

Condition Precedent	Party entitled to benefit	Party responsible
(a) (ASIC and ASX) before 8.00am on the Second Court Date, ASIC and ASX issue or provide any consents or approvals, or have done any other acts, which the parties agree are reasonably necessary or desirable to implement the Scheme, and those consents, approvals or other acts have not been withdrawn or revoked at that time.	Both	Both
(b) (Shareholder approval) Target Shareholders approve the Scheme by the requisite majorities in accordance with the Corporations Act or clause 3.6 applies.	Cannot be waived	Target
(c) (Class Ruling) Before 8.00am on the Second Court Date, Target has received confirmation from the ATO that it is prepared to issue a Class Ruling, in a form and substance satisfactory to Target (acting reasonably), confirming that: <ul style="list-style-type: none"> <li data-bbox="544 1048 1054 1352">(i) qualifying Australian resident Target Shareholders who hold their Target Shares on capital account will be eligible to choose scrip-for-scrip roll-over relief under subdivision 124-M of the Tax Act to the extent to which they receive New Bidder Shares in exchange for their Target Shares under the Scheme; and <li data-bbox="544 1384 1054 1877">(ii) to the extent the Agreed Dividend is paid, the Agreed Dividend: <ul style="list-style-type: none"> <li data-bbox="639 1480 1054 1659">(A) is to be treated as a frankable distribution and is permitted to be franked to the maximum possible extent in accordance with Part 3-6 of the Tax Act; and <li data-bbox="639 1691 1054 1877">(B) will not be treated as capital proceeds under Part 3-1 of the Tax Act for the disposal of the Target Shares by Target Shareholders under the Scheme. 	Target	Target
(d) (Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.	Cannot be waived	Target

Condition Precedent	Party entitled to benefit	Party responsible
(e) (Regulatory intervention) no Court or Australian Regulatory Authority has issued or taken steps to issue an order, temporary restraining order, preliminary or permanent injunction, decree or ruling or taken any action enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Scheme and no such order, decree, ruling, other action or refusal is in effect as at 8.00am on the Second Court Date.	Both	Both
(f) (Independent Expert) the Independent Expert issues a report which concludes that the Scheme is in the best interests of Scheme Participants before the date on which the Scheme Booklet is lodged with ASIC.	Target	Target
(g) (No Target Prescribed Event) no Target Prescribed Event occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(h) (No Bidder Prescribed Event) no Bidder Prescribed Event occurs between the date of this document and 8.00am on the Second Court Date.	Target	Bidder
(i) (No Target Material Adverse Effect) no Target Material Adverse Effect occurs between the date of this document and 8.00am on the Second Court Date.	Bidder	Target
(j) (No Bidder Material Adverse Effect) no Bidder Material Adverse Effect occurs between the date of this document and 8.00am on the Second Court Date.	Target	Bidder
(k) (Target Representations and Warranties) the Target Representations and Warranties are true and correct in all material respects at all times between the date of this document and as at 8.00am on the Second Court Date, except where expressed to be operative at another date.	Bidder	Target
(l) (Bidder Representations and Warranties) the Bidder Representations and Warranties are true and correct in all material respects at all times between the date of this document and as at 8.00am on the Second Court Date, except where expressed to be operative at another date.	Target	Bidder

Condition Precedent	Party entitled to benefit	Party responsible
(m) (New Bidder Shares) the New Bidder Shares to be issued pursuant to the Scheme are approved for official quotation by ASX, subject to customary conditions by, and such approval has not been withdrawn, suspended or revoked before, 8.00am on the Second Court Date.	Target	Bidder

3.2 Reasonable endeavours

Each of Target and Bidder agree to use reasonable endeavours to procure that:

- (a) each of the Conditions Precedent for which it is a party responsible (as noted in clause 3.1):
 - (i) is satisfied as soon as practicable after the date of this document; and
 - (ii) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
- (b) there is no occurrence that would prevent the Condition Precedent for which it is a party responsible being satisfied.

3.3 Regulatory matters

Without limiting clause 3.2, each party:

- (a) **(applying for Regulatory Approvals)** must promptly apply for all relevant Regulatory Approvals and provide each other party with a copy of those applications (provided that any commercially sensitive information may be redacted from the copy provided);
- (b) **(Regulatory Approvals process)** must take all steps it is responsible for as part of the Regulatory Approval process, including responding to requests for information at the earliest practicable time;
- (c) **(representation)** has the right to be represented and make submissions at any meeting with any Regulatory Authority relating to a Regulatory Approval;
- (d) **(consultation)** must consult with the other party in advance in relation to all communications (whether written or oral, and whether direct or via a Representative) with any Regulatory Authority relating to any Regulatory Approval and:
 - (i) provide the other party with drafts of any material written communications to be sent to a Regulatory Authority and make any amendments as the other party reasonably requires; and
 - (ii) provide copies of any material written communications sent to or received from a Regulatory Authority to the other party promptly upon despatch or receipt (as the case may be),

in each case to the extent it is reasonable to do so; and

- (e) **(Regulatory Authority)** must promptly offer to the relevant Regulatory Authority, and agree or accept, all undertakings, commitments and conditions necessary or appropriate in order to obtain the approval or consent (as the case may be) as soon as possible, unless it would be unreasonable to do so.

3.4 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by the party or parties entitled to the benefit of that Condition Precedent as noted in clause 3.1 and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.4 may do so in its absolute discretion.
- (c) If either Target or Bidder waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause 3.4, then:
 - (i) subject to clause 3.4(c)(ii), that waiver precludes that party from suing the other for any breach of this document arising as a result of the breach or non-fulfilment of that Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that Condition Precedent; but
 - (ii) if the waiver of the Condition Precedent is itself conditional and the other party:
 - (A) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with clause 3.4(c)(i); or
 - (B) does not accept the condition, the Condition Precedent has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
 - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.5 Notices in relation to Conditions Precedent

Each party must:

- (a) **(notice of satisfaction)** promptly notify the other of satisfaction of a Condition Precedent and must keep the other informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent;
- (b) **(notice of failure)** immediately give written notice to the other of a breach or non-fulfilment of a Condition Precedent, or of any event which will prevent a Condition Precedent being satisfied;
- (c) **(notice of waiver)** upon receipt of a notice given under clause 3.5(b), give written notice to the other party as soon as possible (and in any event before 5.00pm on the day before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of any Condition

Precedent resulting from the occurrence of that event, specifying the Condition Precedent in question; and

- (d) **(Scheme Meeting or Second Court Date)** where it considers that a Condition Precedent (which the other party is responsible for satisfying) may not be satisfied by the Scheme Meeting or the Second Court Date, promptly give the other party notice.

3.6 Deferral of Second Court Date

If the Condition Precedent in clause 3.1(b) is not satisfied only because of a failure to obtain the majority required by section 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice to the other within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that section, provided the party giving notice has in good faith reasonably formed the view that the prospect of the Court exercising its discretion in that way is reasonable. If such a notice is provided by either party, the Target must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such admissions to the Court and file such evidence as counsel engaged by the Target to represent it in Court proceedings relating to the Scheme, in consultation with Bidder, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

3.7 Consultation on failure of Condition Precedent

If:

- (a) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this document by the time or date specified in this document for the satisfaction of the Condition Precedent;
- (b) there is an act, failure to act or occurrence which will prevent a Condition Precedent being satisfied by the time or date specified in this document for the satisfaction of the Condition Precedent (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this document); or
- (c) if it becomes more likely than not that the Scheme will not become Effective on or before the End Date,

the parties must consult in good faith with a view to determine whether:

- (d) the Scheme may proceed by way of alternative means or methods;
- (e) to extend the relevant time for satisfaction of the Condition Precedent or to adjourn or change the date of an application to the Court; or
- (f) to extend the End Date.

3.8 Failure to agree

If the parties are unable to reach agreement under clause 3.7 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):

- (a) subject to clause 3.8(b), either party may terminate this document (and that termination will be in accordance with clause 12.1(e)(i)); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this document (and that termination will be in accordance with clause 12.1(e)(ii)),

in each case before 8.00am on the Second Court Date.

A party will not be entitled to terminate this document under this clause if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of a breach of this document by that party or a deliberate act or omission of that party.

4 Transaction steps

4.1 Scheme

Target must propose a scheme of arrangement under which:

- (a) all the Target Shares held by Scheme Participants at the Record Date will be transferred to Bidder; and
- (b) each Scheme Participant will be entitled to receive the Scheme Consideration.

4.2 Scheme Consideration

- (a) The Scheme Consideration to be provided in respect of each Target Share is as described in the Scheme.
- (b) Each Scheme Participant is entitled to receive the Scheme Consideration in respect of each Target Share held by that Scheme Participant, in accordance with the terms of this document, the Scheme and the Deed Poll.
- (c) Subject to the terms of the Scheme, Bidder undertakes and warrants to Target that, in consideration for the transfer to Bidder of each Target Share held by a Scheme Participant under the terms of the Scheme, Bidder will, on the Implementation Date:
 - (i) accept that transfer; and
 - (ii) provide to each Scheme Participant the Scheme Consideration for each Target Share in accordance with the terms of this document, the Scheme and the Deed Poll.

4.3 Scheme Consideration election mechanism

- (a) Target must ensure that an Election Form is made available to Target Shareholders with the Scheme Booklet sent to each of them.

- (b) The Election Form must include the relevant matters set out in the Scheme and must otherwise be in a form agreed by the parties in writing.
- (c) Target must procure that, to the extent practicable, Target Shareholders who acquire Target Shares after the date of the despatch of the Scheme Booklet and Election Form receive an Election Form on request to Target.

4.4 Provision of election updates and Target Share information

- (a) In order to facilitate the provision of the Scheme Consideration, Target must provide, or procure the provision of, to Bidder:
 - (i) reasonable written updates of the elections that have been received in the period up to the Election Date;
 - (ii) written details of the final elections made by each Scheme Participant, within 1 Business Day after the Election Date; and
 - (iii) a complete copy of the Register as at the Record Date (which must include the name, registered address and registered holding of each Target Shareholder as at the Record Date), within 2 Business Days after the Record Date.
- (b) The details and information to be provided under clause 4.4(a) must be provided in such form as Bidder may reasonably require.

4.5 Employee incentives

- (a) Target and Bidder agree to use their respective best endeavours to implement the Target ESS Interest Proposal by taking all actions contemplated by the Target ESS Interest Proposal.
- (b) Without limiting clause 4.5(a), Target must ensure that, by no later than the Effective Date, there are no outstanding Target Options or Target Performance Rights.
- (c) In order to comply with its obligation under clause 4.5(b), Target must, in accordance with the Target ESS Interest Proposal:
 - (i) cause:
 - (A) some or all of the outstanding Target ESS Interests to vest and, following such vesting, cause the relevant number of Target Shares to be transferred or issued (as applicable) to the relevant former Target ESS Interest Holder in sufficient time to allow the relevant former Target ESS Interest Holder to participate in the Scheme; or
 - (B) cash equivalent payments to be made to the relevant former Target ESS Interest Holder; and
 - (ii) take such action as may be necessary to vest, forfeit, cause to lapse or cancel (as applicable) any outstanding Target ESS Interest which it does not cause to vest, forfeit, lapse or cancel in accordance with clause 4.5(c)(i) (if any).

4.6 New Bidder Shares to rank equally

Bidder covenants in favour of Target (in its own right and on behalf of the Scheme Participants) that:

- (a) the New Bidder Shares will, on their issue, rank equally in all respects with all other Bidder Shares on issue at the Effective Date, and the New Bidder Shares issued under the Scheme will be entitled to participate in and receive any dividends, any distribution of capital and any other entitlements accruing in respect of Bidder Shares after the Implementation Date;
- (b) it will do everything reasonably necessary to ensure that the New Bidder Shares issued under the Scheme will be listed for quotation on the official list of ASX with effect as soon as reasonably practicable after the Record Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+2) settlement basis; and
- (c) on issue, each New Bidder Share will be fully paid and free from any Encumbrance.

4.7 No amendment to the 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 Scheme without the prior written consent of Bidder (not to be unreasonably withheld or delayed).

4.8 Australian Tax roll-over

Bidder:

- (a) acknowledges that each Target Shareholder who is an Australian resident shareholder who holds their Target Shares on capital account is expected to seek roll-over relief under subdivision 124-M of the Tax Act, to the extent permitted under the Tax Act; and
- (b) undertakes that it will not make a choice to deny roll-over relief to the Target Shareholders under subsection 124-795(4) of the Tax Act.

4.9 Agreed Dividend

- (a) Subject to clause 4.9(b), Bidder acknowledges and agrees that at any time prior to the Implementation Date, Target may (in its absolute discretion) announce, declare and pay to Target Shareholders, the Agreed Dividend.
- (b) If Target announces, declares and pays the Agreed Dividend in accordance with clause 4.9(a), the Agreed Dividend must be paid in accordance with the requirements of the Corporations Act.

5 Implementation

5.1 General obligations

Target and Bidder must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers); and
- (b) procure that its officers and advisers work in good faith and in a timely and co-operative fashion with the other party (including by attending meetings and by providing information),

to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and in accordance with the Timetable.

5.2 Target's obligations

Target must take all reasonable steps to implement the Scheme on a basis consistent with this document as soon as reasonably practicable and must:

- (a) **(announce directors' recommendation)** following execution of this document, announce, in form agreed between Target and Bidder (on the basis of statements made to Target by each member of the Target Board) that:
 - (i) the Target Board intends to unanimously recommend to Scheme Participants that the Scheme be approved; and
 - (ii) each Target Board member who holds Target Shares, intends to vote, or cause to be voted, his or her Target Shares in favour of the Scheme,
 subject to:
 - (iii) the Independent Expert concluding, and continuing to conclude, that the Scheme is in the best interests of Target Shareholders; and
 - (iv) there being no Superior Proposal.
- (b) **(preparation of Scheme Booklet)** subject to clause 5.2(e)(i), as soon as practicable after the date of this document, prepare and despatch the Scheme Booklet:
 - (i) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules; and
 - (ii) which includes a statement by the Target Board:
 - (A) unanimously recommending that Target Shareholders vote in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal; and
 - (B) that each Target Board member who holds Target Shares intends to vote his or her Target Shares in favour of the Scheme subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide any assistance and information reasonably requested by the

Independent Expert to enable the Independent Expert to prepare its report for the Scheme Booklet as soon as practicable;

- (d) **(section 411(17)(b) statement)** apply to ASIC for the production of a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (e) **(consultation with Bidder)** consult with Bidder as to the content and presentation of:
 - (i) the Scheme Booklet, which includes:
 - (A) allowing Bidder a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet (accepting that any review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to Bidder);
 - (B) taking any reasonable comments made by Bidder into account in good faith when producing a revised draft of the Scheme Booklet;
 - (C) providing to Bidder a revised draft of the Scheme Booklet within a reasonable time before the draft of the Scheme Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised; and
 - (D) obtaining Bidder's consent to the inclusion of the Bidder Information (including in respect of the form and context in which the Bidder Information appears in the Scheme Booklet); and
 - (ii) documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating processes, affidavits, submissions and draft minutes of Court orders), and consider in good faith any comments on, or suggested amendments to, those documents from Bidder prior to filing those documents with the Court;
- (f) **(lodgement of Regulator's Draft)**
 - (i) no later than 14 days before the First Court Date, provide the Regulator's Draft of the Scheme Booklet to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder immediately thereafter; and
 - (ii) keep Bidder reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Bidder in good faith prior to taking any steps or actions to address those material issues (provided that, where those issues relate to Bidder Information, Target must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld);
- (g) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, Target becomes aware:

- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
- (ii) of information that is required to be disclosed to Target Shareholders under any applicable law but was not included in the Scheme Booklet,

promptly consult with Bidder in good faith as to the need for, and the form of, any supplementary disclosure to Target Shareholders, and make any disclosure that Target considers reasonably necessary in the circumstances, having regard to applicable laws and to ensure that there would be no breach of clause 11.1(g) if it applied as at the date that information arose;

- (h) **(Court application)** apply to the Court for an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting;
- (i) **(send Scheme Booklet)** send the Scheme Booklet to Target Shareholders as soon as practicable after the Court orders Target to convene the Scheme Meeting;
- (j) **(Scheme Meeting)** convene the Scheme Meeting to agree to the Scheme in accordance with any orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (k) **(director's voting)** use its reasonable endeavours to procure that each member of the Target Board votes any Target Shares in which they have a Relevant Interest in favour of the Scheme, subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Target Shareholders and there being no Superior Proposal;
- (l) **(Register changes)** inform Bidder as soon as practicable and in any event within 2 Business Days of any changes to the Register involving a Target Shareholder increasing its Voting Power in Target Shares by 1% or more;
- (m) **(Registry details)** subject to the terms of the Scheme, provide:
 - (i) all necessary information in the possession of Target or the Registry (as applicable) about the Target Shareholders which Bidder requires in order to solicit votes at the Scheme Meeting; and
 - (ii) all necessary directions to the Registry promptly to provide any information that Bidder requires in relation to the Register, including any sub-register, and where requested by Bidder, Target must procure whatever information to be provided in the electronic form as is reasonably requested by Bidder;
- (n) **(proxy solicitation)** if requested by Bidder, retain a proxy solicitation services firm to assist Target to undertake reasonable actions to solicit votes at the Scheme Meeting and provide Bidder with copies of or access to information regarding the Scheme Meeting generated by that firm, including promptly advising Bidder, at times that Bidder may reasonably request and at least on a daily basis on each of the last 5 Business Days prior to the date of the Scheme Meeting, as to the aggregate tally of the votes received by Target in respect of the Scheme;

- (o) **(Court approval)** subject to all Conditions Precedent, other than paragraph (d) in clause 3.1 being satisfied or waived in accordance with this document, apply to the Court for an order approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (p) **(Conditions Precedent certificate)** at the hearing on the Second Court Date, provide to the Court (through its counsel):
 - (i) a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of matters within Target's knowledge) whether or not the Conditions Precedent for which it is responsible, as noted in clause 3.1 (other than paragraph (d)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Bidder by 5.00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Bidder under clause 5.3(f);
- (q) **(lodge copy of Court order)** lodge with ASIC an office copy of the Court order approving the Scheme as approved by the Target Shareholders at the Scheme Meeting in accordance with section 411(10) of the Corporations Act on the day after that office copy is received (or any later date agreed in writing by Bidder);
- (r) **(Register)** close the Register as at the Record Date to determine the identity of Scheme Participants and their entitlements to Scheme Consideration;
- (s) **(Class Ruling)** promptly prepare and lodge its application for the Class Ruling, and provide any assistance and information reasonably requested by the ATO to enable the ATO to prepare the Class Ruling as soon as practicable;
- (t) **(instruments of transfer)** subject to Bidder satisfying its obligations under clause 4.3, on the Implementation Date:
 - (i) execute proper instruments of transfer and effect the transfer of Target Shares to Bidder in accordance with the Scheme; and
 - (ii) register all transfers of Target Shares held by Scheme Participants to Bidder;
- (u) **(Suspension of trading)** apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date;
- (v) **(listing)** take all reasonable steps to maintain Target's listing on ASX, notwithstanding any suspension of the quotation of Target Shares, up to and including the Implementation Date, including making appropriate applications to ASX and ASIC; and
- (w) **(other steps)** do all other things necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

5.3 Bidder's obligations

Bidder must take all reasonable steps to assist Target to implement the Scheme on a basis consistent with this document and as soon as reasonably practicable, and in particular must:

- (a) **(Bidder Information)** prepare and promptly provide to Target for inclusion in the Scheme Booklet the Bidder Information (in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules) and consent to the inclusion of that information in the Scheme Booklet;
- (b) **(further Bidder Information)** promptly provide to Target any further or new Bidder Information as may arise after the Scheme Booklet has been sent to Target Shareholders and until the date of the Scheme Meeting as may be necessary to ensure that the Bidder Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and to ensure that there would be no breach of clause 11.3(g) if it applied as at the date on which such further or new Bidder Information arose;
- (c) **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (d) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its counsel, Bidder must undertake (if requested by the court) to do all things and take all steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this document and the Scheme;
- (e) **(Deed Poll)** prior to the Scheme Booklet being sent, sign and deliver the Deed Poll;
- (f) **(Conditions Precedent certificate)** before 8.00am on the Second Court Date, provide to Target for provision to the Court at the hearing on that date a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of matters within Bidder's knowledge) whether or not the Conditions Precedent for which Bidder is responsible, as noted in clause 3.1 (other than paragraph (d)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Target by 5.00pm on the Business Day prior to the Second Court Date;
- (g) **(Share transfer)** if the Scheme becomes Effective, accept a transfer of the Target Shares as contemplated by clause 4.2(c)(i);
- (h) **(official quotation)** procure that the New Bidder Shares to be issued pursuant to the Scheme are approved for official quotation by ASX, subject to any conditions which ASX may reasonably require and which are acceptable to both Bidder and Target, acting reasonably and promptly;
- (i) **(Scheme Consideration)** if the Scheme becomes Effective:
 - (i) register, or cause to be registered, the Scheme Participants as the holders of New Bidder Shares to which the Scheme Participants are entitled under the Scheme; and
 - (ii) pay or procure the payment of the Scheme Consideration in the manner and amount contemplated by clause 4.2(c)(ii) and the terms of the Scheme; and
- (j) **(other steps)** do all things within its power that are necessary to give effect to the Scheme and the orders of the Court approving the Scheme.

5.4 Scheme Booklet responsibility statement

The responsibility statement to appear in the Scheme Booklet, in a form to be agreed by the parties, will contain words to the effect of:

- (a) Target has prepared, and is responsible for, the content of the Scheme Booklet other than, to the maximum extent permitted by law, the Bidder Information, the Independent Expert's Report or any other report or letter issued to Target by a third party; and
- (b) Bidder has prepared, and is responsible for, the Bidder Information in the Scheme Booklet (and no other part of the Scheme Booklet) and that Target and its directors and officers do not assume any responsibility for the accuracy or completeness of the sections of the Scheme Booklet that Bidder has prepared and has responsibility for.

5.5 Disagreement on content of Scheme Booklet

If Bidder and Target disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after reasonable consultation, then:

- (a) if the disagreement relates to the form or content of the Bidder Information contained in the Scheme Booklet, Target will make any amendments as Bidder reasonably requires; and
- (b) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the Target Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.

5.6 Verification

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

5.7 Conduct of Court proceeding

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

5.8 Appeal process

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

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

in which case either party may terminate this document in accordance with clause 12.1(e)(iii).

5.9 No partnership or joint venture

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

6 Target Board recommendation

6.1 No withdrawal of change

Target must use its best endeavours to procure that none of its directors withdraws, or changes their recommendation in favour of the Scheme, unless:

- (a) there is a Superior Proposal;
- (b) the withdrawal or change of a member of the Target Board occurs because of a requirement of a court of competent jurisdiction, ASIC or the Takeovers Panel that the relevant member of the Target Board abstains from making a recommendation that Target Shareholders vote in favour of the Scheme after the date of this document; or
- (c) the Independent Expert concludes that the Scheme is not in the best interests of Target Shareholders, or adversely changes its previously given opinion with the effect that the Expert concludes that the Scheme is not in the best interests of Target Shareholders,

and, in the case of the circumstances described in clause 6.1(a) and clause 6.1(c) only, the Target Board determines in good faith having received expert advice in writing from its legal advisors, (who must be reputable advisers experienced in transactions of this nature) that they must do so because of their fiduciary or statutory duties to Target Shareholders.

6.2 Withdrawal or change of recommendation

Without limiting clause 9, if a member of the Target Board proposes to withdraw or change its recommendation in accordance with clause 6.1(c):

- (a) Target must notify Bidder in writing immediately; and
- (b) the parties must consult in good faith for 2 Business Days after the date on which the notification in clause 6.2(a) is given to consider and determine whether the recommendation in place at the time can be maintained. To the extent permitted by law, Target must use its best endeavours to procure that recommendation is not withdrawn or changed in accordance with clause 6.1 until the end of the consultation period.

7 Directors and employees

7.1 Release of Target and Target directors and officers

Subject to the Corporations Act, Bidder releases its rights, and agrees with Target that it will not make a claim, against any Target Indemnified Party (other than Target and its Related Bodies Corporate) as at the date of this document and from time to time in connection with:

- (a) any breach of any representations and warranties of Target or any other member of Target Group in this document; or
- (b) any disclosures containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.1 limits Bidder's rights to terminate this document under clause 12.1.

7.2 Benefit for Target Indemnified Parties

Target receives and holds the benefit of this clause to the extent it relates to each Target Indemnified Party on behalf of each of them.

7.3 Release of Bidder and Bidder directors and officers

Subject to the Corporations Act, Target releases its rights, and agrees with Bidder that it will not make a claim, against any Bidder Indemnified Party (other than Bidder and its Related Bodies Corporate) as at the date of this document and from time to time in connection with:

- (a) any breach of any representations and warranties of Bidder or any other member of the Bidder Group in this document; or
- (b) any disclosure containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. Nothing in this clause 7.3 limits Target's rights to terminate this document under clause 12.1.

7.4 Benefit for Bidder Indemnified Parties

Bidder receives and holds the benefit of this clause to the extent it relates to each Bidder Indemnified Party on behalf of each of them.

7.5 Appointment/retirement of Target directors

On the Implementation Date, but subject to the Scheme Consideration having been paid to the Scheme Participants and receipt by Target of signed consents to act, Target must use its reasonable endeavours to:

- (a) cause the appointment of each Incoming Director to the Target Board and to the board of each other member of the Target Group; and
- (b) procure that each of the Outgoing Directors retire from the Target Board and to the board of each other member of the Target Group,

in each case, in accordance with the Target's and each other Target Group member's constitution, the Corporations Act and the Listing Rules and, in the case of a Target Group member incorporated in a jurisdiction outside Australia, the laws of that jurisdiction.

7.6 Target Group insurance

- (a) Subject to the Scheme becoming Effective and subject to the Corporations Act, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:
- (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this document that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Bidder Group;
 - (ii) procure that Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that the run-off insurance cover placed pursuant to clause 7.6(b) are maintained, subject to clause 7.7, for a period of 7 years after the Implementation Date; and
 - (iii) and will procure that Target and each other member of the Target Group at any time after the Implementation Date, not do anything or fail to do anything within its reasonable control which would prejudice or adversely affect any run-off insurance cover placed pursuant to clause 7.6(b).
- (b) Bidder acknowledges that notwithstanding any other provision of this document, Target may, prior to the Implementation Date, enter into, and pay in full the premium in respect of:
- (i) a directors' and officers' run-off insurance policy(ies) for a period of up to 7 years on and from the Implementation Date for the retiring directors and officers and other individuals and entities who are insured under the existing directors' and officers' insurance policy(ies) for the Target Group ("**D&O run-off policy**"); and
 - (ii) a technology and cyber run-off insurance policy for a period of up to 7 years on and from the Implementation Date for the individuals and entities who are insured under the existing technology and cyber insurance policy for the Target Group,

in respect of acts or omissions occurring in the period up to and including the Implementation Date and on the same or substantially the same scope and terms as the existing insurance policies in place in respect of the Target Group at the date of this document and that any reasonable actions to facilitate those run off insurance policies will not be a Target Prescribed Event or a breach of any provision of this document.

7.7 Period of undertaking

The undertakings contained in clause 7.6 are given until the earlier of the end of the relevant period specified in that clause or the relevant member of the Target Group ceasing to be part of the Bidder Group.

7.8 Benefit of undertaking for Target Group

Target acknowledges that it receives and holds the benefit of clause 7.6 to the extent it relates to each director and officer of a member of the Target Group on behalf of each of them.

8 Conduct of business

8.1 Overview

Subject to clause 8.4, from the date of this document up to and including the Implementation Date:

- (a) Target must, and must cause each member of the Target Group to, conduct its business in the ordinary course and in substantially the same manner as previously conducted.
- (b) Bidder must, and must cause each member of the Bidder Group to, conduct its business in the ordinary course and in substantially the same manner as previously conducted.

8.2 Target specific obligations

Without limiting clause 8.1 and subject to clause 8.4, other than with the prior approval of Bidder (which approval must not be unreasonably withheld or delayed) or as required by this document, Target must, during the period contemplated by clause 8.1, use all reasonable endeavours to ensure that Target and each member of the Target Group:

- (a) **(business and assets)** maintains the condition of its business and assets;
- (b) **(directors, officers and employees)** keeps available the overall services of its directors, officers and employees;
- (c) **(relationships)** preserves its relationships with material customers, suppliers, licensors, licensees, joint venturers and others with whom it has material business dealings; and
- (d) **(cash)** manage its working capital requirements in the ordinary course consistent with past practice including ensuring that, to the extent within the reasonable control of Target, there is no material decrease in the amount of Cash in the Target Group other than in the ordinary course of business and consistent with budgets and projections Disclosed to Bidder prior to the date of this document.

8.3 Target prohibited actions

Subject to clause 8.4, other than with the prior approval of Bidder (which approval must not be unreasonably withheld or delayed) or as required by this document, Target must not, and must ensure that each member of the Target Group does not, during the period referred to in clause 8.1:

- (a) **(commitments and settlements)** other than in the ordinary course of business and consistent with past practice:
 - (i) enter into a Material Contract;
 - (ii) terminates or amends in a material manner, a Material Contract;

- (iii) in respect of contracts falling within paragraph (b) of the definition of Material Contract, elect not to exercise an option to renew a Material Contract or takes any action which would result in a Material Contract not being automatically renewed;
 - (iv) waives a material third party default by a counterparty of a Material Contract; or
 - (v) accepting as a settlement or compromise of a material matter (relating to an amount in excess of \$2,500,000) less than the full compensation due to Target or a Subsidiary of Target;
- (b) **(employment agreements)** either:
- (i) subject to clause 8.3(b)(viii), increase the remuneration of (including with regard to superannuation benefits) or benefits provided to or pays any bonus (other than in accordance with existing arrangements, as Disclosed, and in the ordinary course) to, any of its directors;
 - (ii) pays any bonus (other than in accordance with existing arrangements, as Disclosed, and in the ordinary course) any of its employees;
 - (iii) issue any securities or options to any of its directors or employees;
 - (iv) materially vary the employment agreements with any of its directors or employees (except, in respect of base salary, where doing so is not restricted by clause 8.3(b)(viii));
 - (v) pay a director, executive or employee:
 - (A) a termination payment, other than as provided for in an existing employment contract in place as at the date of this document, but excluding any redundancy payment in connection with any redundancies of employees made in the ordinary course and consistent with historical practices of the Target Group over the 24 month period preceding the date of this document or required by law; or
 - (B) a retention payment (other than in accordance with existing arrangements, as Disclosed);
 - (vi) hire (other than as a replacement appointee for an existing role and subject to clause 8.3(b)(viii)) or terminate (other than for cause, or a redundancy made in the ordinary course and consistent with historical practices of the Target Group over the 24 month period preceding the date of this document) any employee with a base salary of \$140,000 or higher;
 - (vii) hire any employee, which is not a replacement appointee for an existing role (where 'existing role' means a role where an employee performed that role at any time within the 12 months prior to the date of this document), and who has a base salary of less than \$140,000, if doing so would mean the aggregate base salary amount payable to the Target Group's employees and contractors (excluding suppliers in the ordinary course of business), when aggregated with any increases in base remuneration referred to in clause 8.3(b)(viii), increases by more

than the amount agreed in writing between the parties (on a per annum basis), from date of this document, above the Target Group's aggregate base salary amount recorded in the payroll records of Target at 16 November 2023; or

- (viii) increase the base salary of any existing employees or contractors, or hire any replacement employees or contractors for an increased base salary above the base salary of the prior holder of that role, if doing so would mean that either:
 - (A) the revised base salary amount payable to that individual employee or contractor increases by more than the percentage agreed in writing between the parties, when compared to:
 - (aa) in relation to an existing employee or contractor – the base salary amount payable to that employee or contractor prior to the adjustment; or
 - (ab) in relation to a replacement employee or contractor – the base salary amount payable to the relevant employee or contractor, which that replacement employee or contractor is employed or engaged (as the case may be) to replace; or
 - (B) the aggregate base salary amount payable to the Target Group's employees and contractors (excluding suppliers in the ordinary course of business but including any new employees referred to in clause 8.3(b)(vii)), increases by more than the amount agreed in writing between the parties (on a per annum basis), from date of this document, above the Target Group's aggregate base salary amount recorded in the payroll records of Target at 16 November 2023; or
- (c) **(agree)** agree to do, or allow to be done, any of the matters set out above.

8.4 Exceptions to conduct of business provisions

Nothing in this clause 8 restricts the ability of Target or any a member of the Target Group to take any action which:

- (a) is expressly required, permitted or otherwise contemplated by this document or the Scheme;
- (b) is required by law, by an order of a court or Regulatory Authority or its contractual obligations (to the extent existing at the date of this document);
- (c) is consistent with past practices of the Target Group in the 12 months prior to the date of this document;
- (d) is required to reasonably and prudently respond to an emergency or disaster affecting the Target Group (including the risk of personal injury or damage to property);
- (e) has been Disclosed to Bidder;

- (f) is the issue of shares:
 - (i) on the exercise of rights or options under an employee or executive share scheme, which rights or options (A) had vested in the ordinary course and were capable of exercise in accordance with the terms of the relevant plan, or (B) were vested in accordance with clause 4.5; or
 - (ii) pursuant to the Target's Employee Share Gift Plan, consistent with past practice;
- (g) relates to:
 - (i) the determination or payment by Target of the Agreed Dividend (including funding or repatriating funds through the Target Group to pay the Agreed Dividend); or
 - (ii) a distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie) where the recipient of that distribution is the Target or another member of the Target Group;
- (h) constitutes a payment:
 - (i) of any Transaction Costs incurred by the Target;
 - (ii) as a result of purchasing run-off insurance policy (of the type, scope and length contemplated by clause 7.6); or
 - (iii) made in accordance with clause 4.5; or
- (i) has been agreed to in writing by Bidder (such agreement not to be unreasonably withheld, delayed or conditioned).

8.5 Access to people and Target Information

Between the date of this document and the Implementation Date, Target must provide Bidder and its officers and advisers with reasonable access to Target's officers and advisers and documents, records, and other information (subject to any existing confidentiality obligations owed to third parties, and applicable competition and privacy laws) which Bidder reasonably requires for the purposes of:

- (a) applying for all relevant Regulatory Approvals; or
- (b) implementing the Scheme (including to satisfy a request from any debt financier of Bidder or any Related Body Corporate of Bidder),

provided that the Target may, in good faith and acting reasonably, withhold or redact any Competitively Sensitive Information.

8.6 Change of control

- (a) As soon as practicable after the date of this document, the parties must seek to identify any change of control or similar provisions in leases and Material Contracts to which Target or a member of the Target Group is a party which may be triggered by the implementation of the Scheme.
- (b) In respect of any lease or Material Contract identified under clause 8.6(a), the parties agree that:

- (i) Target and Bidder will, each acting reasonably, agree upon a proposed course of action and then jointly initiate contact with the relevant landlord or counterparty and request that they provide any consents required;
- (ii) neither Bidder nor its Representatives may contact any landlord or counterparty without Target's express written approval; and
- (iii) each party must cooperate with, and provide reasonable assistance to, the other party to obtain such consents as expeditiously as possible, including by:
 - (A) promptly providing any information reasonably required by landlords or counterparties; and
 - (B) making its Representatives available, where necessary, to meet with landlords or counterparties to deal with issues arising in relation to the change of control of Target,

but nothing in this clause 8.6(b)(iii) requires Target to incur material expense.

- (c) For the avoidance of doubt, a failure by a member of Target Group to obtain any landlord or third party consent will not, by itself, constitute or result in:
 - (i) a breach of this document by Target, or otherwise give rise to any right for Bidder to terminate this document;
 - (ii) a Target Material Adverse Effect or Target Prescribed Event; or
 - (iii) any liability of Target or a Target Indemnified Party,

and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this document.

8.7 Existing financing and security

Target must cooperate with, and undertake all steps reasonably required or requested by, Bidder in connection with any repayment of existing debt of the Target Group as may be required in connection with the Scheme, including:

- (a) liaising with Bidder in good faith in relation to the using of the existing cash reserves of Target for this purpose;
- (b) issuing prepayment, cancellation and other notices or consent requests in relation to existing Target Group debt facilities and closing out any hedging positions;
- (c) using all reasonable endeavours to procure:
 - (i) deeds of release, discharges of real property mortgages and registrations on the PPS Register (or any other relevant security register in other jurisdictions as applicable) from secured parties in relation to any Encumbrance granted by a member of the Target Group in favour of that party and procuring the return of any title documents held by a secured party; and
 - (ii) the termination or replacement of any letters of credit, bank guarantees, financial undertakings or similar instruments

outstanding in connection with such repayment, discharge or termination,

subject always to clause 8.4 and Target not being required to actually effect such repayment until the Implementation Date.

9 Exclusivity

9.1 Termination of existing discussions

- (a) Target represents and warrants in favour of Bidder that as at the date of this document, each of Target, its Related Bodies Corporate and each of their Representatives has:
 - (i) terminated all other negotiations and discussions with each Third Party in relation to any actual, anticipated, proposed or potential Competing Transaction;
 - (ii) ceased the provision of any due diligence access and the making available of any non-public information in relation to Target and its business to any Third Party, where the due diligence access and provision of non-public information was for the purposes of, or related to, a potential Competing Transaction; and
 - (iii) required any Third Party to whom non-public information has been provided or made available to immediately return or destroy that non-public information in accordance with, and subject to, any agreed terms of confidentiality, where the information was provided or made available for the purposes of, or related to, a potential Competing Transaction.
- (b) Subject to clause 9.5, during the Exclusivity Period, Target agrees not to waive, and to enforce in full, any standstill obligations of any Third Parties.

9.2 No-shop

During the Exclusivity Period, Target must ensure that neither it nor any of its Representatives directly or indirectly:

- (a) solicits, invites, encourages or initiates any enquiries, discussions or proposals with a view to obtaining any offer, proposal or expression of interest from any person in relation to a Competing Transaction; or
- (b) communicates any intention to do any of the things referred to in clause 9.2(a).

9.3 No-talk

Subject to clause 9.5, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives:

- (a) participates in negotiations or discussions with any other person regarding;
- (b) enter into any agreement, arrangement or understanding; or
- (c) communicate any intention to do any of those things,

in relation to, or which may reasonably be expected to lead to, a Competing Transaction, even if that person's Competing Transaction was not directly or indirectly solicited, invited, encouraged or initiated by Target or any of its Representatives or the person has publicly announced the Competing Transaction.

9.4 No due diligence

- (a) Subject to clauses 9.5 and 9.6, during the Exclusivity Period, except with the prior written consent of Bidder, Target must not, and must ensure that its Representatives do not, directly or indirectly:
 - (i) solicit, invite, initiate, encourage, facilitate or permit any other person other than Bidder to undertake due diligence investigations on Target or any of its Related Bodies Corporate or any of their respective businesses or operations, in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction; or
 - (ii) make available to any other person, or permit any other person to receive, other than Bidder (in the course of due diligence investigations or otherwise), any non-public information relating to Target or any of its Related Bodies Corporate or any of their respective businesses or operations, in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction.
- (b) Target must not, during the Exclusivity Period, provide access to due diligence information of the type contemplated in clause 9.4(a) to any person who has not agreed to a standstill on terms no more favourable to that person than those applicable to Bidder under the Exclusivity Deed.

9.5 Exceptions

Clauses 9.1(b), 9.3, 9.4(a) and 9.7(b) do not apply to the extent that these restrict Target or the Target Board from taking or refusing to take any action with respect to a genuine Competing Transaction (which was not solicited, invited, encouraged or initiated by Target in contravention of clause 9.2) provided that the Target Board has determined, in good faith that:

- (a) after consultation with its financial advisors, such a genuine Competing Transaction is, or could reasonably be considered to become, a Superior Proposal; and
- (b) after receiving written legal advice from its external legal advisers (who must be reputable advisers experienced in transactions of this nature), failing to respond to such a genuine Competing Transaction would be reasonably likely to constitute a breach of the Target Board's fiduciary or statutory obligations.

9.6 Further exceptions

Nothing in this document prevents Target from:

- (a) continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme or its business generally; or

- (b) fulfilling its continuous disclosure requirements.

9.7 Notice of unsolicited approach

- (a) During the Exclusivity Period, Target must inform Bidder and provide Bidder with all material details of the following actions promptly (and in any event within 24 hours) if:
 - (i) Target receives any unsolicited approach with respect to any Competing Transaction;
 - (ii) Target receives any request for information relating to Target or any of its Related Bodies Corporate or any of their respective businesses or operations or any request for access to any non-public information of Target or any of its Related Bodies Corporate or any of their respective businesses or operations, which Target has reasonable grounds to suspect may relate to a current or future Competing Transaction; and
 - (iii) a proposal is put to Target or any of its Related Bodies Corporate or any of their Representatives by any person to engage in any activity that would, if carried out, breach Target's obligations in clauses 9.2 or 9.3.
- (b) Subject to clause 9.5, notice given under clause 9.7(a) must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 9.7(a)(i), or who made the relevant request for information referred to in clause 9.7(a)(ii); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and break or reimbursement fee (if any), or any other similar terms) of any Competing Transaction or any proposed Competing Transaction (to the extent known).
- (c) During the Exclusivity Period, Target must promptly provide Bidder with:
 - (i) in the case of written materials, a copy of; or
 - (ii) in any other case, a written statement of,

any non-public information relating to Target, its Related Bodies Corporate, or any of their respective businesses and operations provided by the Target to any person in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Transaction and which differs materially from, or is more extensive than, the information which may have been provided to Bidder.
- (d) Bidder agrees that:
 - (i) any information received under clause 9.7(a) is Confidential Information (as such term is defined in the Confidentiality Deed) and subject to the terms of the Confidentiality Deed; and
 - (ii) it must not, and must ensure that its Representatives do not, contact the Third Party that made the actual, proposed or

potential Competing Transaction for any purpose relating to the Scheme, the Competing Transaction or any similar transaction.

9.8 Matching right

- (a) Without limiting clauses 9.2 and 9.3, during the Exclusivity Period, Target:
- (i) must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a Third Party, Target or both proposes or propose to undertake or give effect to an actual, anticipated, proposed or potential Competing Transaction; and
 - (ii) must use its best endeavours to procure that none of the members of the Target Board publicly recommend an actual, anticipated, proposed or potential Competing Transaction (or recommend against the Scheme),
- unless:
- (iii) the Target Board acting in good faith and in order to satisfy what the Target Board considers to be its statutory or fiduciary duties (having received written advice from a leading commercial law firm or senior counsel who is a reputable adviser experienced in transactions of this nature), determines that the Competing Transaction would be or would be likely to be an actual, anticipated, proposed or potential Superior Proposal;
 - (iv) Target has provided Bidder with the material terms and conditions of the actual, anticipated, proposed or potential Competing Transaction, including price and the identity of the third party making the actual, anticipated, proposed or potential Competing Transaction;
 - (v) Target has given Bidder at least 5 Business Days after the date of the provision of the information referred to in clause 9.8(a)(iv) to provide a matching or superior proposal to the terms of the actual, anticipated, proposed or potential Competing Transaction; and
 - (vi) Bidder has not provided Target with a matching or superior proposal to the terms of the actual, anticipated, proposed or potential Competing Transaction by the expiry of the 5 Business Day period referred to in clause 9.8(a)(v).
- (b) Target acknowledges and agrees that each successive modification of any actual, anticipated, proposed or potential Competing Transaction will constitute a new actual, anticipated, proposed or potential Competing Transaction for the purposes of the requirements under clause 9.7 and clause 9.8 and accordingly, during the Exclusivity Period, Target must comply with clause 9.7 and clause 9.8(a)(i) and 9.8(a)(ii) in respect of any new actual, anticipated, proposed or potential Competing Transaction unless clauses 9.8(a)(iii) to 9.8(a)(vi) apply.

9.9 Bidder counterproposal

If Bidder proposes to Target a new proposal that constitutes a matching or superior proposal to the Competing Transaction (“**Counterproposal**”) by the expiry of the 5 Business Day period referred to in clause 9.8(a)(v), during the Exclusivity Period, Target must procure that the Target Board consider the

Counterproposal and if the Target Board, acting reasonably and in good faith, determines that the Counterproposal would provide an equivalent or superior outcome for Target Shareholders as a whole compared with the Competing Transaction, taking into account all of the terms and conditions of the Counterproposal, then:

- (a) Target and Bidder must use their best endeavours to agree the amendments to this document and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Counterproposal and to implement the Counterproposal, in each case as soon as reasonably practicable; and
- (b) Target must use its best endeavours to procure that each of the directors of Target continues to recommend the Scheme (as modified by the Counterproposal) to Target Shareholders.

9.10 Target Board determination

Despite any provision in this document, a statement by Target or the Target Board to the effect that:

- (a) the Target Board has determined that a Competing Transaction is a Superior Proposal and commenced the matching right process set out in clause 9.8; or
- (b) Target Shareholders should take no action pending the completion of the matching right process set out in clause 9.8,

does not of itself:

- (c) constitute a change, withdrawal, modification or qualification of the recommendation by the Target Board or an endorsement of a Competing Transaction;
- (d) contravene this document; or
- (e) give rise to a termination right under clause 12.1.

9.11 Compliance with law

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

- (a) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Target Board;
- (b) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
- (c) was, or is, or would be, unlawful for any other reason,

then, only to the extent determined by the court or Takeovers Panel, Target will not be obliged to comply with that part of the provision of clause 9.

9.12 Legal advice

Target acknowledges that it has received legal advice on this document and the operation of this clause.

10 Break Fee

10.1 Background

This clause 10 has been agreed in circumstances where:

- (a) Bidder and Target believe that the Scheme will provide significant benefits to Bidder, Target and their respective shareholders, and Bidder and Target acknowledge that, if they enter into this document and the Scheme is subsequently not implemented, Bidder will incur significant costs, including those set out in clause 10.5;
- (b) Bidder requested that provision be made for the Break Fee, without which Bidder would not have entered into this document;
- (c) both the Bidder Board and Target Board believe that it is appropriate for both parties to agree to the payment referred to in this clause 10 to secure Bidder's participation in the Scheme; and
- (d) both parties have received legal advice on this document and the operation of this clause 10.

10.2 Payment by Target to Bidder

Target agrees to pay the Break Fee to Bidder without withholding or set off:

- (a) **(Competing Transaction)** if on or before the End Date a Competing Transaction is announced and within 12 months of that announcement the third party who announced or made the Competing Transaction (or any of its Associates):
 - (i) completes a Competing Transaction; or
 - (ii) acquires a Relevant Interest in more than 50% of Target;
- (b) **(change of recommendation)** if the Scheme does not proceed because any member of the Target Board fails to recommend the Scheme or withdraws their recommendation, adversely changes or qualifies their recommendation or otherwise makes a public statement indicating that he or she no longer supports the Scheme, except where the change of recommendation or statement is made after the Independent Expert concludes that in the opinion of the Independent Expert the Scheme is not in the best interests of Target Shareholders; or
- (c) **(termination)** Bidder validly terminates this document in accordance with:
 - (i) clause 12.1(c); or
 - (ii) clause 12.1(e)(i) or 12.1(e)(ii) and the failure to satisfy the relevant Condition Precedent resulted from a breach of this document by Target or a deliberate act or omission of Target.

10.3 No amount payable if Scheme becomes Effective

Notwithstanding the occurrence of any event in clause 10.2, if the Scheme becomes Effective:

- (a) no amount is payable by Target under clause 10.2; and

- (b) if any amount has already been paid under clause 10.2 it must be refunded by Bidder.

10.4 Timing of payment

- (a) A demand by Bidder for payment of the Break Fee under clause 10.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of Bidder into which Target must pay the Break Fee.
- (b) Target must pay the Break Fee to Bidder under clause 10.2 within 10 Business Days of receipt by Target of a valid demand for payment from Bidder under clause 10.4(a).

The demand may only be made after the occurrence of an event referred to in clause 10.2.

10.5 Nature of payment

The Break Fee is an amount to compensate Bidder for:

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

The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under clause 10.2.

10.6 Reduction in amount payable

- (a) The Break Fee is reduced by an amount equal to the amount which is recovered by Bidder as a result of a claim against Target pursuant to any other remedies available to Bidder under this document including pursuant to clause 11.1.
- (b) Where the Break Fee has already been paid, Bidder must, within 2 Business Days of the event contemplated by clause 10.6(a) which would have reduced the amount payable, refund an amount to Target which is equivalent to that calculated under clause 10.6(a).

10.7 Target's limitation of liability

Notwithstanding any other provision of this document but subject to clauses 4.2 and 10.8:

- (a) the maximum aggregate liability of Target to Bidder under or in connection with this document including in respect of any breach or repudiation of this document will be an amount equal to the Break Fee; and
- (b) the payment by Target of the Break Fee represents the sole, maximum and absolute amount of liability of Target and the Target Indemnified Parties in aggregate under or in connection with this document and no further damages, fees, expenses or reimbursements of any kind will be payable by Target or the Target Indemnified Parties in connection with this document.

Nothing in this clause affects Bidder's right to specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law as a remedy for a breach or threatened breach of this document by any party.

10.8 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the amount payable under clause 10.2:

- (a) is unlawful or would if performed be, unlawful;
- (b) involves a breach of the duties of the Target Board; or
- (c) constitutes unacceptable circumstances within the meaning of the Corporations Act,

then Target's obligation to pay the applicable amount or part of the amount payable under clause 10.2 does not apply and if Bidder has received any such part of the payment due under clause 10.2 it must refund it within 5 Business Days of such final determination.

The parties must not make or cause or permit to be made any application to a Court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in this clause 10.8.

11 Representations and warranties

11.1 Target's representations and warranties

Target represents and warrants to Bidder (on its own behalf and separately as trustee or nominee for each of the Bidder directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;

- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Target Information contained in the Scheme Booklet will be included in good faith and on the understanding that Bidder and its directors will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (g) **(Target Information)** the Target Information provided in accordance with this document and included in the Scheme Booklet as at the date of the Scheme Booklet will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(disclosure)** Target has not knowingly or recklessly:
 - (i) omitted to disclose information to Bidder prior to the date of this document, the disclosure of which might reasonably be expected to have resulted in Bidder not entering into this document or not agreeing to implement the Scheme, or entering into this document on materially different terms;
 - (ii) deliberately omitted anything from the Target Due Diligence Information such as to make any part of that information materially false or misleading in any material respect; or
 - (iii) included anything materially false or misleading in the Target Due Diligence Information;
- (i) **(continuous disclosure)** Target is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure (other than the transaction contemplated by this document);
- (j) **(opinions)** any statement of opinion or belief contained in the Target Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) **(provision of information to Independent Expert)** all information provided by or on behalf of Target to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent

Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;

- (l) **(securities)** Target's issued securities as at the date of this document are:
 - (i) 86,010,170 Target Shares;
 - (ii) 2,042,292 Target Options; and
 - (iii) 401,649 Target Performance Rights,and other than as Disclosed it has not issued or agreed to issue any other securities or instruments which are still outstanding, and which may convert into Target Shares;
- (m) **(Insolvency event)** no member of the Target Group is Insolvent; and
- (n) **(Transaction costs)** Target's genuine estimate of the Transaction Costs as at the date of this document is as Disclosed in document 01.02.09 in the Data Room, provided that this estimate does not take into account Transaction Costs arising where Target receives a Competing Transaction or where a Target Group member has, acting reasonably and in good faith, incurred additional costs due to obligations or conditions imposed by Bidder, or changes arising from the Scheme or Class Ruling process.

11.2 Target's indemnity

Subject to clause 10.7, Target indemnifies the Bidder Indemnified Parties against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 11.1 not being true and correct.

11.3 Bidder's representations and warranties

Bidder represents and warrants to Target (on its own behalf and separately as trustee or nominee for each of the Target directors) that each of the following statements is true and correct in all material respects as at the date of this document and as at 5.00pm on the Business Day immediately prior to the Second Court Date:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;

- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(reliance)** the Bidder Information provided to Target for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that Target and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (g) **(Bidder Information)** the Bidder Information provided in accordance with this document and included in the Scheme Booklet, as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(disclosure)** Bidder has not knowingly or recklessly:
 - (i) omitted to disclose information to Target prior to the date of this document, the disclosure of which might reasonably be expected to have resulted in Target not entering into this document or not agreeing to implement the Scheme, or entering into this document on materially different terms;
 - (ii) deliberately omitted anything from the Bidder Due Diligence Information such as to make any part of that information materially false or misleading in any material respect; or
 - (iii) included anything materially false or misleading in the Bidder Due Diligence Information;
- (i) **(continuous disclosure)** Bidder is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure (other than the transaction contemplated by this document);
- (j) **(opinions)** any statement of opinion or belief contained in the Bidder Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) **(provision of information to Independent Expert)** all information provided by or on behalf of Bidder to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (l) **(securities)** Bidder's issued securities as at the date of this document are:
 - (i) 239,209,360 Bidder Shares;
 - (ii) 3,311,400 options; and
 - (iii) 37,704 performance rights,and other than as Disclosed it has not issued or agreed to issue any other securities or instruments which are still outstanding, and which may convert into Bidder Shares;

- (m) **(no dealing with Target Shareholders)** neither it nor any of its associates has any agreement, arrangement or understanding with any Target Shareholder under which that Target Shareholder (or an associate of that Target Shareholder) would be entitled to receive consideration for their Target Shares different from the Scheme Consideration or under which the Target Shareholder agrees to vote in favour of the Scheme or against any Competing Transaction;
- (n) **(reasonable basis)** it has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll;
- (o) **(unconditional cash reserves)** Bidder will have available to it on an unconditional basis (other than, on the Second Court Date, conditions relating to the approval of the Court and other conditions within the sole control of Bidder) sufficient cash reserves to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll; and
- (p) **(Insolvency event)** no member of the Bidder Group is Insolvent.

11.4 Bidder's indemnity

Bidder indemnifies the Target Indemnified Parties against all Losses incurred directly or indirectly as a result of any of the representations and warranties in clause 11.3 not being true and correct.

12 Termination

12.1 Termination events

This document may be terminated:

- (a) **(End Date)** by either party, if the Scheme has not become Effective on or before the End Date;
- (b) **(lack of support)** by Bidder at any time prior to 8.00am on the Second Court Date if any member of the Target Board changes its recommendation to the Scheme Participants that they vote in favour of the resolution to approve the Scheme, including any adverse modification to its recommendation, or otherwise makes a public statement indicating that it no longer supports the Scheme;
- (c) **(material breach)** by either Bidder or Target at any time prior to 8.00am on the Second Court Date, if the other is in material breach of a term of this document (including any representation and warranty not being true and correct), taken in the context of the Scheme as a whole, provided that Bidder or Target (as the case may be) has, if practicable, given notice to the other setting out the relevant circumstances and the relevant circumstances continue to exist 5 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time such notice is given;
- (d) **(Competing Transaction)** by Target at any time prior to 8:00am on the Second Court Date if the Target Board determines that a Competing Transaction that was not solicited, invited, encouraged or initiated in breach of clause 9.2 is a Superior Proposal;

- (e) **(consultation or appeal failure)** in accordance with and pursuant to:
 - (i) clause 3.8(a);
 - (ii) clause 3.8(b); or
 - (iii) clause 5.8; or
- (f) **(agreement)** if agreed to in writing by Bidder and Target.

12.2 Termination

Where a party has a right to terminate this document, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this document.

12.3 Effect of Termination

If this document is terminated by either party, or if this document otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this document, other than the obligations set out in this clause and in clauses 5.8, 10.2, and 13 to 19 (inclusive) will immediately cease to be of further force and effect without further liability of any party to the other, provided that nothing in this clause releases any party from liability for any pre-termination breach of this document.

12.4 Damages

Subject to clause 10.7, and in addition to the right of termination under clause 12.1 where there is no appropriate remedy for the breach in this document (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this document.

13 Public announcements

13.1 Public announcement of Scheme

Immediately after signing this document, Target and Bidder will issue separate public announcements of the proposed Scheme.

13.2 Required disclosure

Where a party is required by any applicable law or any Listing Rule to make any announcement or make any disclosure in connection with the Scheme, it must use all reasonable endeavours, to the extent possible, to consult with the other party prior to making the relevant disclosure.

13.3 Other announcements

Subject to clauses 13.1 and 13.2, no party may make any public announcement or disclosure in connection with the Scheme (including disclosure to a Regulatory Authority) other than in a form approved by each party (acting reasonably). Each party will use all reasonable endeavours to provide such approval as soon as practicable.

14 Confidential Information

14.1 Confidentiality Deed

Each party acknowledges and agrees that it continues to be bound by the Confidentiality Deed in respect of all information received by it from the other party on, before or after the date of this document.

14.2 Survival of obligations

This rights and obligations of the parties to the Confidentiality Deed survive termination (for whatever reason) of this document.

15 Notices and other communications

15.1 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

15.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or
- (c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

15.3 When effective

Communications take effect from the time they are received or taken to be received under clause 15.4 (“When taken to be received”) (whichever happens first) unless a later time is specified in the communication.

15.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 2 Business Days after posting;
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or

- (ii) 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed (which excludes any response generated by or at the instigation of the recipient such as an 'out of office' message),

whichever happens first.

15.5 Receipt outside business hours

Despite anything else in this clause 15, if communications are received or taken to be received under clause 15.4 (“When taken to be received”) after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

16 GST

16.1 Definitions and interpretation

For the purposes of this clause:

- (a) a term which has a defined meaning in the GST Act has the same meaning when used in this clause, unless the contrary intention appears; and
- (b) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

16.2 GST exclusive

Unless this document expressly states otherwise, all consideration to be provided under this document is exclusive of GST.

16.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply in connection with this document, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply (“**GST Amount**”).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

16.4 Adjustment events

If an adjustment event arises for a supply made in connection with this document, the GST Amount must be recalculated to reflect that adjustment. The supplier or the recipient (as the case may be) agrees to make any payments necessary to reflect the adjustment and the supplier agrees to issue an adjustment note.

16.5 Reimbursements

Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this document which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 16.3 will apply to the reduced payment.

17 Costs

17.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document, except for amounts covered by clause 17.2 (“Stamp duty and registration fees”).

17.2 Stamp duty and registration fees

Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnifies Target against, and agrees to reimburse and compensate it for, any liability in respect of stamp duty under clause 17.2(a).

Bidder agrees to pay amounts due to Target under this clause within 3 Business Days of demand from Bidder.

18 Withholding Tax

Bidder acknowledges and agrees that it shall not pay an amount to the Commissioner of Taxation under Subdivision 14-D of the TAA with respect to a Target Shareholder.

19 General

19.1 Variation and waiver

A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

19.2 Consents, approvals or waivers

By giving any approval, consent or waiver a party does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

19.3 Discretion in exercising rights

Unless this document expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

19.4 Partial exercising of rights

Unless this document expressly states otherwise, if a party does not exercise a right, power or remedy in connection with this document fully or at a given time, they may still exercise it later.

19.5 Conflict of interest

Each party may exercise their rights, powers and remedies in connection with this document even if this involves a conflict of duty or they have a personal interest in their exercise.

19.6 Remedies cumulative

Except as expressly provided in this document, the rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

19.7 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document.

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

19.8 Inconsistent law

To the extent the law permits, this document prevails to the extent it is inconsistent with any law.

19.9 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this document with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

19.10 Counterparts

This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the document.

19.11 Entire agreement

This document constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

19.12 Further steps

Each party agrees to do anything (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed), which the other party asks and considers necessary to:

- (a) bind the party and any other person intended to be bound under this document; or
- (b) show whether the party is complying with this document.

19.13 No liability for loss

Unless this document expressly states otherwise, a party is not liable for any loss, liability or costs arising in connection with the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, power or remedy in connection with this document.

19.14 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

19.15 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this document or any part of it.

19.16 Assignment

A party may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of the other party.

19.17 Enforceability

For the purpose of this document:

- (a) Target is taken to be acting as agent and trustee on behalf of and for the benefit of all Target Indemnified Parties; and
- (b) Bidder is taken to be acting as agent and trustee on behalf of and for the benefit of all Bidder Indemnified Parties,

and all of those persons are to this extent taken to be parties to this document.

19.18 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document, except for representations or inducements expressly set out in this document;

- (b) it does not enter into this document in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this document; and
- (c) clauses 19.18(a) and 19.18(b) above do not prejudice any rights a party may have in relation to information which had been filed by the other party with ASIC or ASX.

20 Governing law

20.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

20.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address for service of notices under clause 15.2 ("Delivery").

EXECUTED as an agreement

Scheme Implementation Agreement

Schedule 1 Timetable (clause 5.1)

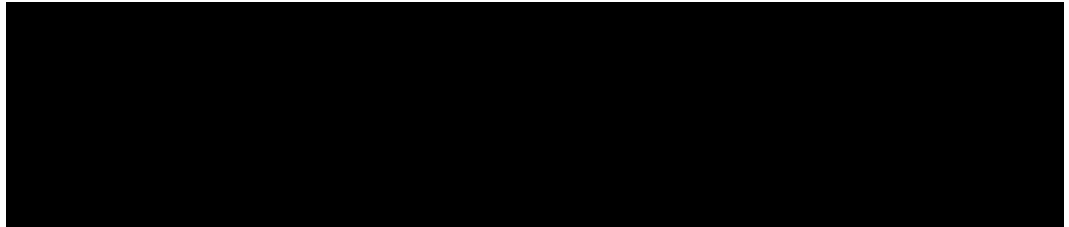
Event	Indicative date
Lodge Scheme Booklet with ASIC and ASX	Monday 4 December 2023
First Court Date	Wednesday 20 December 2023
Printing and despatch of Scheme Booklet	Friday 22 December 2023
Election Date	Early February 2024
Scheme Meeting held	Early February 2024
Second Court Date	Mid February 2024
Lodge Court order with ASIC (Effective Date)	Mid February 2024
Last day of trading in Target Shares on ASX	(1 Business Day after Second Court Date)
Commencement of trading of New Bidder Shares on ASX on a deferred settlement basis	Mid February 2024
Record date for the Agreed Dividend*	(1 Business Day after Effective Date)
Record Date for the Scheme	Mid February 2024 (2 Business Days after Effective Date)
Implementation Date	Mid-late February 2024
Payment of the Agreed Dividend*	(5 Business Days after Record Date for the Scheme)

**Subject to the Target Board declaring the Agreed Dividend*

Scheme Implementation Agreement

Signing page

EXECUTED by Aussie Broadband Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) by a director and secretary/director:



EXECUTED by Symbio Holdings Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) by a director and secretary/director:

.....
Signature of director

.....
Signature of director/ secretary

.....
Name of director (please print)

.....
Name of director/ secretary (please print)

Scheme Implementation Agreement

Signing page

EXECUTED by Aussie Broadband Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) by a director and secretary/director:

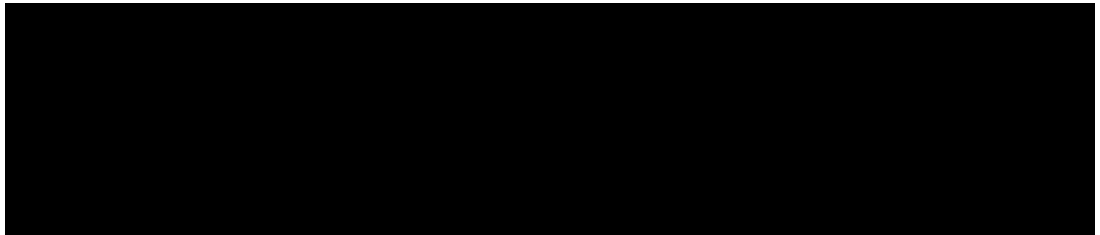
.....
Signature of director

.....
Signature of director/ secretary

.....
Name of director (please print)

.....
Name of director/ secretary (please print)

EXECUTED by Symbio Holdings Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) by a director and secretary/director:



Scheme Implementation Agreement

Annexure A Scheme of Arrangement

Scheme of Arrangement

Dated

Symbio Holdings Limited (ACN 118 699 853) (“**Target**”)

Scheme Participants

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Scheme of Arrangement

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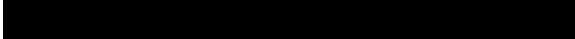
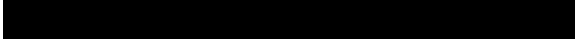
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Scheme of Arrangement

Details

Parties

Target	Name	Symbio Holdings Limited
	ACN	118 699 853
	Formed in	Australia
	Address	
	Email	
	Attention	
Scheme Participants	Each person registered as a holder of fully paid ordinary shares in Target as at the Record Date.	
Governing law	New South Wales	

- Recitals**
- A** Target and Bidder have agreed by executing the Scheme Implementation Agreement to implement the terms of this document.
 - B** This document imposes obligations on Bidder that Bidder has agreed to but does not impose an obligation on Bidder to perform those obligations.
 - C** The Bidder has executed the Deed Poll for the purpose of covenanting in favour of the Scheme Participants to perform (or procure the performance) of its obligations as contemplated by this document.

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ABB Reference Share Price means \$3.92.

ACCC means the Australian Competition and Consumer Commission.

Aggregate Maximum Cash Consideration means the aggregate amount of Scheme Cash Consideration payable to Scheme Participants who have made a valid Maximum Cash Consideration Election, and excludes (for the avoidance of doubt):

- (a) any Scheme Cash Consideration payable to Foreign Scheme Holders and Small Holders; and
- (b) any Scheme Cash Consideration payable to Scheme Participants who have made a valid Default Consideration Election (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

Aggregate Maximum Scrip Consideration means the aggregate number of Bidder Shares to be provided to Scheme Participants who have made a valid Maximum Scrip Consideration Election. For the avoidance of doubt, this excludes any Bidder Shares to be provided to Scheme Participants who have made a valid Default Consideration Election (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

Agreed Dividend Amount means the amount per Target Share of any cash dividend declared or determined after the date of the Scheme Implementation Agreement of up to \$0.35.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited or the market operated by it, as the context requires.

Available Cash Consideration means a cash amount equal to:

- (a) $(\$2.26 - ADA) \times n$

where:

ADA = the Agreed Dividend Amount (if any); and

n = the number of Scheme Shares on issue as at the Record Date

- (b) less the aggregate of the Scheme Cash Consideration payable to:
 - (i) Foreign Scheme Shareholders;
 - (ii) Small Holders; and

- (iii) Scheme Participants who have elected to receive Default Consideration (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

Available Scrip Consideration means:

- (a) a number of Bidder Shares equal to:

$$0.192 \times n$$

where:

n = the number of Scheme Shares on issue as at the Record Date

- (b) less any Bidder Shares to be provided to Scheme Participants who have elected to receive Default Consideration (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

Bidder means Aussie Broadband Limited (ACN 132 090 192).

Bidder Constitution means the constitution of the Bidder.

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

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

Cash Scaleback Mechanism means the scaleback mechanism set out in clause 6.6.

CHES means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.

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

Court means the Federal Court of Australia, or such other court of competent jurisdiction under the Corporations Act agreed in writing by Bidder and Target.

Deed Poll means the deed poll dated [insert date] executed by Bidder substantially in the form of Annexure C of the Scheme Implementation Agreement or as otherwise agreed by Bidder and Target under which Bidder covenants in favour of each Scheme Participant to perform certain actions attributed to Bidder under this Scheme.

Default Consideration means for each Scheme Share held by a Scheme Participant:

- (a) a cash amount which is calculated as follows:

$$\$2.26 - ADA,$$

where **ADA** means the Agreed Dividend Amount (if any); plus

- (b) 0.192 Bidder Shares

Default Consideration Election means an election by a Target Shareholder to receive the Default Consideration.

Details means the section of this Scheme headed "Details".

Effective, when used in relation to this Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Election means:

- (a) a Maximum Cash Consideration Election;
- (b) a Maximum Scrip Consideration Election; or
- (c) a Default Consideration Election.

Election Date means 5.00pm on the fifth Business Day before the date of the Scheme Meeting (unless ASIC requires an earlier date, in which case such earlier date shall apply), or such other date as the Target and the Bidder agree in writing.

Election Form means a form issued by the Target for the purposes of a Scheme Participant (other than a Foreign Scheme Shareholder) making an Election.

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

End Date means the "End Date" determined in accordance with the Scheme Implementation Agreement, or such other date as is agreed by Bidder and Target in writing.

Foreign Scheme Shareholder means a Scheme Participant whose address in the Register as at the Record Date is a place outside Australia or New Zealand, unless the Target and the Bidder agree in writing that it is lawful and not unduly onerous or impractical to issue Bidder Shares to the Scheme Participant if that Scheme Participant so elects under this Scheme.

Immediately Available Funds means by immediate electronic funds transfer or other form of cleared funds acceptable to Target.

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

Listing Rules means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

Marketable Parcel means a parcel of Bidder Shares having a value of not less than \$500 based on the closing price of Bidder Shares on the ASX on the day prior to the Record Date (Sydney time).

Maximum Cash Consideration means for each Scheme Share held by the Scheme Participant, a cash amount equal to \$3.01264 less the Agreed Dividend Amount (if any), subject to the Scaleback Arrangements and the terms and conditions of this Scheme.

Maximum Cash Consideration Election means an election by a Target Shareholder to receive Maximum Cash Consideration.

Maximum Scrip Consideration means for each Scheme Share held by the Scheme Participant, a number of Bidder Shares (which for the avoidance of doubt, includes a number less than one) calculated in accordance with the following formula (subject to the Scaleback Arrangements and the terms and conditions of this Scheme):

$$\frac{\$3.01264 - \text{Agreed Dividend Amount (if any)}}{\text{ABB Reference Share Price}}$$

Maximum Scrip Consideration Election means an election by a Target Shareholder to receive Maximum Scrip Consideration.

Operating Rules means the official operating rules of ASX.

Record Date means the second Business Day following the Effective Date or such other date as Target and Bidder agree in writing.

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

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

Registry means Link Market Services Limited (ABN 54 083 214 537).

Regulatory Authority includes:

- (a) ASX, ACCC, ASIC;
- (b) a government or governmental, semi-governmental or judicial entity or authority;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (d) any regulatory organisation established under statute.

Scaleback Arrangements means:

- (a) the Cash Scaleback Mechanism; and
- (b) the Scrip Scaleback Mechanism,

which are designed to give effect to clause 6.1(b).

Scheme means this scheme of arrangement between Target and Scheme Participants under which all of the Scheme Shares will be transferred to Bidder under Part 5.1 of the Corporations Act as described in clause 6 of this Scheme, in consideration for the Scheme Consideration, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Target and Bidder in accordance with this Scheme.

Scheme Booklet means the information booklet to be approved by the Court and despatched to Target Shareholders which includes this Scheme, an explanatory statement complying with the requirements of the Corporations Act and notices of meeting and proxy forms.

Scheme Cash Consideration means for each Scheme Share held by a Scheme Participant, the component of the Scheme Consideration which comprises cash,

calculated in accordance with, and subject to the terms and conditions in the Scheme.

Scheme Consideration means, depending on the relevant Scheme Participant's Election and subject to the Scaleback Arrangements and the terms of the Scheme, the consideration to be provided to each Scheme Participant for the transfer to the Bidder of each Scheme Share, being for each Scheme Share, either:

- (a) Maximum Cash Consideration;
- (b) Maximum Scrip Consideration; or
- (c) the Default Consideration.

Scheme Implementation Agreement means the scheme implementation agreement dated 2023 between Target and Bidder under which, amongst other things, Target has agreed to propose this Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to this Scheme.

Scheme Meeting means the meeting of Target Shareholders, ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act at which Target Shareholders will vote on this Scheme and includes any such meeting convened following adjournment or postponement of that meeting.

Scheme Participant means each person who is a Target Shareholder on the Record Date.

Scheme Scrip Consideration means for each Scheme Share held by a Scheme Participant, the component of the Scheme Consideration which comprises Bidder Shares, the number of which is calculated in accordance with, and subject to the terms and conditions in this Scheme.

Scheme Share means a Target Share held by a Scheme Participant as at the Record Date and, for the avoidance of doubt, includes any Target Shares issued on or before the Record Date.

Scrip Scaleback Mechanism means the scaleback mechanism set out in clause 6.7.

Scrip Scaleback Percentage has the meaning given in clause 6.7(c).

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

Settlement Rules means the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd.

Share Scheme Transfer means, for each Scheme Participant, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Participant for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares.

Small Holder has the meaning given to it in clause 6.5(c) of this Scheme.

Subsidiary has the meaning given to it in the Corporations Act.

Target Employee Rights means an instrument or right, including any performance share right, deferred share right, call option or similar right, which upon vesting or conversion or satisfaction of any condition (as applicable) entitles the holder to have a Target Share transferred or issued to them.

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

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

Trust Account means the Australian dollar denominated trust account with an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)) operated by or on behalf of Target to hold the Scheme Consideration on trust for the purpose of paying the Scheme Consideration to the Scheme Participants in accordance with clause 6.8 of this Scheme.

Unclaimed Money Act means the *Unclaimed Money Act 1995* (NSW).

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Sydney time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);
- (j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (k) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (l) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;

- (m) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (n) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (o) if a party must do something under this document on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day; and
- (p) if the day on which a party must do something under this document is not a Business Day, the party must do it on the next Business Day.

2 Preliminary

2.1 Target

Target is:

- (a) a public company limited by shares;
- (b) incorporated in Australia and registered in New South Wales; and
- (c) admitted to the official list of the ASX and Target Shares are officially quoted for trading on the stock market conducted by ASX.

As at the date of the Scheme Implementation Agreement, Target's issued securities are:

- (a) Target Shares: 86,010,170; and
- (b) Target Employee Rights: 2,443,941, comprising 401,649 performance rights and 2,042,292 options.

2.2 Bidder

Bidder is:

- (a) a public company limited by shares;
- (b) incorporated in Australia and registered in Victoria; and
- (c) admitted to the official list of the ASX and Bidder Shares are officially quoted for trading on the stock market conducted by ASX.

As at the date of the Scheme Implementation Agreement, Bidder's issued securities are:

- (a) 239,209,360 Bidder Shares;
- (b) 3,311,400 options; and
- (c) 37,704 performance rights.

2.3 If Scheme becomes Effective

If this Scheme becomes Effective:

- (a) in consideration of the transfer of each Scheme Share to Bidder, Target will procure Bidder to provide (or procure the provision of) the Scheme Consideration to Target on behalf of each Scheme Participant in accordance with the terms of this Scheme and the Deed Poll;
- (b) all Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder on the Implementation Date; and
- (c) Target will enter the name of Bidder in the Register in respect of all of the Scheme Shares transferred to Bidder in accordance with the terms of this Scheme.

2.4 General

- (a) Target and Bidder have agreed by executing the Scheme Implementation Agreement to implement this Scheme.
- (b) This Scheme attributes actions to Bidder but does not itself impose an obligation on it to perform those actions, as Bidder is not a party to this Scheme. Bidder has executed the Deed Poll for the purposes of covenanting in favour of the Scheme Participants to perform its obligations as contemplated by this Scheme, including to provide the Scheme Consideration to the Scheme Participants.

3 Conditions precedent

3.1 Conditions precedent to Scheme

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

- (a) as at 8.00am on the Second Court Date, neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms;
- (b) all of the conditions precedent in clause 3.1 of the Scheme Implementation Agreement having been satisfied or waived (other than the conditions precedent in clauses 3.1(b) and 3.1(d) which cannot be waived) in accordance with the terms of the Scheme Implementation Agreement;
- (c) the Court having approved this Scheme, with or without any modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, Target and Bidder having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act;
- (d) subject to clause 12.1, such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme and agreed to by Bidder and Target having been satisfied or waived; and
- (e) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme on or before the End Date (or any later date Target and Bidder agree in writing in accordance with the Scheme Implementation Agreement).

3.2 Conditions precedent and operation of clauses 5 and 6

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the operation of clauses 5 and 6 of this Scheme (other than, in respect of clause 5.1 of this Scheme only, the condition precedent in clause 3.1(e) of this Scheme).

3.3 Certificate in relation to conditions precedent

Before 8.00am on the Second Court Date, each of Target and Bidder must provide to the Court a certificate signed by a duly authorised representative (or such other evidence as the Court requests) confirming (in respect of matters within their knowledge) whether or not the conditions precedent set out in clause 3.1(a) and clause 3.1(b) of this Scheme have been satisfied or waived as at that time.

The certificate referred to in this clause 3.3 will constitute conclusive evidence (in the absence of manifest error) of whether the conditions precedent referred to in clause 3.1(a) and clause 3.1(b) of this Scheme have been satisfied or waived as at 8.00am on the Second Court Date.

4 Scheme

4.1 Effective Date

Subject to clause 4.2 this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

4.2 End Date

- (a) Unless Target and Bidder otherwise agree in writing this Scheme will lapse and be of no further force or effect if:
- (i) the Effective Date does not occur on or before the End Date (or any later date Target and Bidder agree in writing in accordance with the Scheme Implementation Agreement); or
 - (ii) the Scheme Implementation Agreement or the Deed Poll is terminated in accordance with their terms before the Scheme becomes Effective.
- (b) Without limiting any rights under the Scheme Implementation Agreement, if any of the events referred to in clause 4.2(a) occur, Target and Bidder are each released from:
- (i) any further obligation to take steps to implement this Scheme; and
 - (ii) any liability with respect to this Scheme.

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 of this Scheme (other than the condition precedent in clause 3.1(e) of this Scheme) are satisfied, Target must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible, and in any event by no later than 5.00pm on the first Business Day after the day on

which the Court approves this Scheme or such later time as Bidder and Target agree in writing.

5.2 Transfer and registration of Scheme Shares

On the Implementation Date, but subject to the provision of the Scheme Consideration for the Scheme Shares in accordance with clause 6 of this Scheme and Bidder having provided Target with written confirmation of the provision of the Scheme Consideration:

- (a) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Bidder without the need for any further act by any Scheme Participant (other than acts performed by Target as attorney and agent for Scheme Participants under clause 8 of this Scheme) by:
 - (i) Target delivering to Bidder a duly completed and executed Share Scheme Transfer executed on behalf of the Scheme Participants; and
 - (ii) Bidder duly executing the Share Scheme Transfer and delivering it to Target for registration; and
- (b) immediately following receipt of the duly executed Share Scheme Transfer, but subject to the stamping of the Share Scheme Transfer (if required) Target must enter, or procure the entry of, the name of Bidder in the Register in respect of all of the Scheme Shares transferred to Bidder in accordance with the terms of this Scheme.

5.3 Title and rights in Scheme Shares

- (a) Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 6 of this Scheme, on and from the Implementation Date, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme, pending registration by Target of Bidder in the Register as the holder of the Scheme Shares.
- (b) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer, vest in Bidder free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind.

5.4 Scheme Participants' agreements

Under this Scheme, each Scheme Participant:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Bidder in accordance with the terms of this Scheme;
- (b) agrees to the variation, cancellation or modification of the rights attached to its Target Shares constituted by, or resulting from, this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any holding statement or share certificates relating to its Target Shares;
- (d) who holds its Target Shares in a CHESS Holding (as defined in the Settlement Rules) agrees to the conversion of those Target Shares to an Issuer Sponsored Holding (as defined in the Settlement Rules), and irrevocably authorises Bidder to do anything necessary, expedient or

incidental (whether required by the Settlement Rules or otherwise) to effect or facilitate that conversion; and

- (e) acknowledges that this Scheme binds Target and all Scheme Participants (including those who do not attend the Scheme Meeting or do not vote at the Scheme Meeting or vote against the Scheme at the Scheme Meeting) and to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Target.

5.5 Warranty by Scheme Participants

Each Scheme Participant warrants to Bidder and is deemed to have authorised Target to warrant to Bidder as agent and attorney for the Scheme Participant by virtue of this clause 5.5, that:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those shares) transferred to Bidder under this Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances or any other third party interest or restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to Bidder under this Scheme.

6 Scheme Consideration

6.1 Consideration under the Scheme

- (a) On the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of their Scheme Shares in accordance with this clause 6.
- (b) Notwithstanding any other provision of this Scheme:
 - (i) the aggregate Scheme Cash Consideration to be paid by Bidder under the terms of this Scheme will not exceed the amount calculated under paragraph (a) of the definition of Available Cash Consideration; and
 - (ii) the aggregate Scheme Scrip Consideration to be provided by Bidder under the terms of this Scheme will not exceed the number of Bidder Shares calculated under paragraph (a) of the definition of Available Scrip Consideration.

6.2 Election procedure

- (a) Each Target Shareholder (other than a Foreign Scheme Shareholder) will be entitled to make an Election.
- (b) All Elections will take effect in accordance with this Scheme to the extent that any Target Shareholder who makes an Election qualifies as a Scheme Participant.
- (c) Target must ensure that the Scheme Booklet is accompanied with an Election Form.
- (d) Subject to clause 6.2(h), an Election may only be made in accordance with the terms and conditions stated on the Election Form for it to be

valid and must be completed and returned in writing to the address specified on the Election Form before the Election Date.

- (e) A Target Shareholder which makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received on or before the Election Date.
- (f) An Election must be made in accordance with the terms and conditions of the Election Form and this clause 6.2, and an Election not so made will not be a valid election for the purpose of this Scheme and will not be recognised by Bidder or Target for any purpose (provided that Bidder may, with the agreement of Target, waive this requirement and may, with the agreement of Target, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Election, and any such decision will be conclusive and binding on Bidder, Target and the relevant Scheme Participant).
- (g) Subject to clause 6.2(h), if a Target Shareholder makes an Election, that Election will be deemed to apply in respect of the Target Shareholder's entire registered holding of Target Shares at the Record Date, regardless of whether the Target Shareholder's holding of Target Shares at the Record Date is greater or less than the Target Shareholder's holding at the time it made its Election.
- (h) A Target Shareholder who is noted on the Register as holding one or more parcels of Target Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections under this clause 6.2 in relation to each of those parcels of Target Shares (subject to providing to Bidder and Target any substantiating information they reasonably require), and if it does so it will be treated as a separate Scheme Participant in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holding), provided that if, at the Record Date, it holds fewer Target Shares than it held at the time that it made the Election, then, unless it has at the time of any sale of Target Shares notified Target whether the Target Shares sold relate to any such separate Election (and if so which separate Election the Target Shares sold relate to), it will be treated as not having made a valid Election in respect of any of its Target Shares (or will be treated in any other manner that Bidder and Target agree is fair to the Target Shareholder in all the circumstances acting reasonably).
- (i) The parties agree that the Election Form will include the following terms and conditions:
 - (i) Foreign Scheme Shareholders may not make an Election and that any purported Election by such persons will be of no effect and clause 6.5 will apply to such persons;
 - (ii) if a Target Shareholder (who is not a Foreign Scheme Shareholder) does not make a valid Election, clause 6.4 will apply to that person;
 - (iii) Target Shareholders who receive Scheme Scrip Consideration agree to become members of Bidder from the Implementation Date and become bound by the Bidder Constitution pursuant to this Scheme;
 - (iv) Target Shareholders who receive Scheme Scrip Consideration will have such Scheme Scrip Consideration issued having the same holding name and address and other details as the holding of the relevant Scheme Shares; and

- (v) such other terms and conditions as Bidder reasonably requires to be stated on the Election Form.

6.3 Scheme Consideration if valid Election made

Subject to the Scaleback Arrangements, if a Target Shareholder makes a valid Election that Target Shareholder will be entitled to receive the Scheme Consideration as nominated by their Election.

6.4 Scheme Consideration if valid Election not made

If a Target Shareholder (not being a Foreign Scheme Shareholder or Small Holder) does not make a valid Election, the Scheme Consideration payable to that Target Shareholder will be the Default Consideration.

6.5 Scheme Consideration for Foreign Scheme Shareholders and Small Holders

Notwithstanding any other provision of this Scheme:

- (a) if a Scheme Participant is a Foreign Scheme Shareholder, the Scheme Consideration payable to that Scheme Participant will be the Maximum Cash Consideration, which will not be subject to the Cash Scaleback Mechanism;
- (b) Bidder has no obligation to provide, and will not provide under the Scheme, any Scheme Scrip Consideration to Foreign Scheme Shareholders regardless of the Election made by the Foreign Scheme Shareholders; and
- (c) a Scheme Participant will be deemed to have elected Maximum Cash Consideration (which will not be subject to the Cash Scaleback Mechanism) if:
 - (i) the Scheme Scrip Consideration to which it is entitled comprises a number of Bidder Shares that is less than a Marketable Parcel; and
 - (ii) the Scheme Participant has not completed the appropriate section of the Election Form indicating that they wish to receive their Scheme Scrip Consideration even where it comprises a number of Bidder Shares that is less than a Marketable Parcel,

(such person being a “**Small Holder**”).

6.6 Cash Scaleback Mechanism

If:

- (a) a Scheme Participant (other than a Foreign Scheme Shareholder or a Small Holder) has made a valid Maximum Cash Consideration Election on or before the Election Date; and
- (b) the Aggregate Maximum Cash Consideration exceeds the Available Cash Consideration,

then, the Scheme Participant will receive the following as Scheme Consideration for each Scheme Share held:

- (c) a cash amount which is calculated as follows:

$$(\$3.01264 - ADA) \times \left(\frac{C}{D}\right)$$

where:

ADA = the Agreed Dividend Amount (if any);

C = the Available Cash Consideration; and

D = the Aggregate Maximum Cash Consideration; plus

(d) a number of Bidder Shares which is calculated as follows:

$$\frac{\$3.01264 - (SCC + ADA)}{ABB \text{ Reference Share Price}}$$

where:

(i) SCC means Scheme Cash Consideration calculated in accordance with clause 6.6(c); and

(ii) ADA means the Agreed Dividend Amount (if any).

6.7 Scrip Scaleback Mechanism

If:

(a) a Scheme Participant (other than a Foreign Scheme Shareholder or a Small Holder) has made a valid Maximum Scrip Consideration Election on or before the Election Date; and

(b) the Aggregate Maximum Scrip Consideration exceeds the Available Scrip Consideration,

then, the Scheme Participant will receive the following as Scheme Consideration for each Scheme Share held:

(c) the number of Bidder Shares which is calculated as follows:

$$\left(\frac{\$3.01264 - ADA}{ABB \text{ Share Price}}\right) \times \left(\frac{C}{D}\right)$$

where:

ADA = the Agreed Dividend Amount (if any);

C = the Available Scrip Consideration; and

D = the Aggregate Maximum Scrip Consideration; *plus*

(d) a cash amount which is calculated as follows:

$$\$3.01264 - (SSC + ADA)$$

where:

(i) SSC means the number of Bidder Shares calculated in accordance with clause 6.7(c) multiplied by the ABB Reference Share Price; and

- (ii) ADA means the Agreed Dividend Amount (if any).

6.8 Payment of Scheme Cash Consideration

- (a) Bidder must, by no later than the Business Day before the Implementation Date, deposit (or procure the deposit) in Immediately Available Funds the aggregate amount of the Scheme Cash Consideration payable to all Scheme Participants into the Trust Account (except that the amount of any interest on the amount deposited (less bank fees and other charges) will be to Bidder's account).
- (b) On the Implementation Date, and subject to funds having been deposited by Bidder in accordance with clause 6.8(a) of this Scheme, Target must pay or procure the payment to each Scheme Participant an amount equal to the aggregate amount of the Scheme Cash Consideration due to that Scheme Participant in respect of its Scheme Shares in accordance with this Scheme on the Implementation Date from the Trust Account.
- (c) The obligations of Target under clause 6.8(b) will be satisfied by Target (in its absolute discretion), and despite any election referred to in clause 6.8(c)(i) or authority referred to in clause 6.8(c)(ii) made or given by the Scheme Participant:
 - (i) paying, or procuring the payment of, the relevant amount in A\$ by electronic means to a bank account nominated by the Scheme Participant, where the Scheme Participant has made a valid election prior to the Record Date in accordance with the requirements of the Registry to receive dividend payments from Target to that bank account;
 - (ii) paying, or procuring the payment of, the relevant amount in A\$ by electronic means to a bank account nominated by the Scheme Participant by an appropriate authority from the Scheme Participant to Target; or
 - (iii) dispatching, or procuring the dispatch of, a cheque drawn on an Australian bank for the relevant amount in A\$ to each Scheme Participant by pre-paid ordinary post (or, if the address of the Scheme Participant in the Register is outside Australia, by pre-paid airmail post) to their address recorded in the Register on the Record Date, such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 6.13).
- (d) If:
 - (i) a Scheme Participant does not have a Registered Address and no account has been notified in accordance with clause 6.8(c)(i) or a deposit into such account is rejected or refunded; or
 - (ii) a cheque issued under this clause 6.8 has been cancelled in accordance with clause 6.10(a)(i),

Target as the trustee for the Scheme Participants may credit the amount payable to the relevant Scheme Participant to a separate bank account of Target ("**Separate Account**") to be held until the Scheme Participant claims the amount or the amount is dealt with under the Unclaimed Money Act. If the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Participant claims the amount or the amount is dealt with under the

Unclaimed Money Act. Until such time as the amount is dealt with under the Unclaimed Money Act, Target must hold the amount on trust for the relevant Scheme Participant, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the relevant Scheme Participant when credited to the Separate Account or Trust Account (as applicable). Target must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- (e) If, following satisfaction of Target's obligations under clause 6.8(d), there is a surplus in the amount held by Target as trustee for the Scheme Participants in the Trust Account, that surplus must be paid by Target to Bidder.
- (f) Target must pay any accrued interest (less bank fees and other charges) under clause 6.8(a) to any account nominated by Bidder following satisfaction of Target's obligations under this clause 6.8.

6.9 Provision of Scheme Scrip Consideration

- (a) Bidder must, before 12.00pm (or such later time as Bidder and Target may agree in writing) on the Implementation Date, procure that:
 - (i) Bidder issues the Bidder Shares to each Scheme Participant who is entitled under this Scheme to be issued the Bidder Shares; and
 - (ii) the name and address of each such Scheme Participant is entered in Bidder's register of shareholders (as maintained by Bidder or its agent) as the holder of those Bidder Shares with the same holding name and address and other details as the holding of the relevant Target Shares.
- (b) On or before the date that is 5 Business Days after the Implementation Date, Bidder must send or procure the sending of a holding statement (or equivalent document) to the Registered Address of each Scheme Participant to whom Bidder Shares are issued under this Scheme, reflecting the issue of such Bidder Shares.
- (c) Bidder must ensure that the Bidder Shares issued in accordance with this Scheme, at the time they are issued:
 - (i) have the rights set out in the Bidder Constitution;
 - (ii) rank equally in all respects among themselves and with all other Bidder Shares on issue in Bidder; and
 - (iii) are fully paid, duly and validly issued in accordance with all applicable laws and free from any Encumbrance.

6.10 Unclaimed monies

- (a) Target may cancel a cheque issued under clause 6.8 of this Scheme if the cheque:
 - (i) is returned to Target; or
 - (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.

- (b) During the period of 1 year commencing on the Implementation Date, on request in writing from a Scheme Participant to Target or the Registry (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 6.10.
- (c) The Unclaimed Money Act will apply in relation to any Scheme Consideration which becomes “unclaimed money” (as defined in section 3 of the Unclaimed Money Act). Any interest or other benefit accruing from the unclaimed Scheme Consideration will be to the benefit of Bidder.

6.11 Fractional entitlements and splitting

Where the calculation of the Scheme Consideration to be issued to a particular Scheme Participant would result in the Scheme Participant becoming entitled to:

- (a) a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent; and/or
- (b) a fraction of a Bidder Share, that fractional entitlement will be rounded down to the nearest whole number of Bidder Shares.

6.12 Orders of a court or Regulatory Authority

In the case of notice having been given to Target (or the Registry) of an order made by or a requirement of a court of competent jurisdiction or other Regulatory Authority which:

- (a) requires consideration to be provided to a third party (either through payment of a sum or issuance of a security) in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable or required to be issued to that Scheme Participant in accordance with clause 6 of this Scheme, then Target or Bidder (as applicable) will be entitled to pay or issue that consideration (or procure that it is paid or issued) in accordance with that order or direction; or
- (b) would prevent Target from providing consideration to any particular Scheme Participant in accordance with clause 6 of this Scheme, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Target will be entitled to (as applicable):
 - (i) retain an amount, in Australian dollars, equal to the cash component of the Scheme Consideration to which that Scheme Participant would otherwise be entitled to under this clause 6; and
 - (ii) direct Bidder not to issue, or to provide to a trustee or nominee, such number of Bidder Shares as that Scheme Participant would otherwise be entitled to under this clause 6,

until such time as provision of the consideration in accordance with clause 6 of this Scheme is permitted by that order or otherwise by law.

- (c) To the extent that amounts are so deducted or withheld in accordance with this clause 6.12, such deducted or withheld amounts will be treated for all purposes under this Scheme as having been paid to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts are actually remitted as required.

6.13 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 6.13(c), any amount comprising the Scheme Cash Consideration payable in respect of those Scheme Shares is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Register as at the Record Date or to the joint holders; and
- (b) any Bidder Shares to be provided under this Scheme as part of the Scheme Scrip Consideration must be provided to and registered in the names of the joint holders; and
- (c) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in Scheme Shares or other alterations to the Register will only be recognised by Target 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 relevant Scheme Shares on or before the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings are received on or before the Record Date at the place where the Register is kept,

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

7.2 Register

Target must register registrable transmission applications or transfers of the Scheme Shares in accordance with clause 7.1(b) before the Record Date provided that, for the avoidance of doubt, nothing in this clause 7.2 requires Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a 'marketable parcel' (for the purposes of this clause 7.2, 'marketable parcel' has the meaning given in the Operating Rules).

7.3 No disposals after Effective Date

- (a) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Effective Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever.

- (b) Target will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Shares received after the Record Date (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title).

7.4 Maintenance of Target Register

For the purpose of determining entitlements to the Scheme Consideration, Target will maintain the Register in accordance with the provisions of this clause 7.4 until the Scheme Consideration has been paid to the Scheme Participants and Bidder has been entered in the Register as the holder of all the Scheme Shares. The Register in this form will solely determine entitlements to the Scheme Consideration.

7.5 Effect of certificates and holding statements

Subject to provision of the Scheme Consideration and registration of the transfer to Bidder contemplated in clauses 5.2 and 7.4 of this Scheme, any statements of holding in respect of Scheme Shares will cease to have effect after the Record Date as documents of title in respect of those shares (other than statements of holding in favour of Bidder and its successors in title). After the Record Date, each entry current on the Register as at the Record Date (other than entries in respect of Bidder or its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration.

7.6 Details of Scheme Participants

- (a) Target must provide, or procure the provision, to Bidder, details of any Election made by Target Shareholders, on the Business Day after the Election Date, including the name and address of each Target Shareholder who has made a valid Election and the number of Bidder Shares that the Bidder must issue to those Target Shareholders to meet its obligations under the Scheme in accordance with those Target Shareholders' Elections subject to the terms of this Scheme, including the Scaleback Arrangements.
- (b) Within 3 Business Days after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Register at the Record Date are available to Bidder in such form as Bidder reasonably requires.

7.7 Quotation of Target Shares

Target must apply to ASX to suspend trading on ASX of Target Shares with effect from the close of trading on the Effective Date.

7.8 Termination of quotation of Target Shares

After the Scheme has been fully implemented, Target will apply:

- (a) for termination of the official quotation of Target Shares on ASX; and
- (b) to have itself removed from the official list of the ASX.

8 Appointment of Target as attorney for implementation of Scheme

Each Scheme Participant, without the need for any further act by any Scheme Participant, irrevocably appoints Target and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of:

- (a) executing any document or doing or taking any other act necessary, desirable or expedient, or incidental to give effect to this Scheme and the transactions contemplated by it including executing and delivering any Share Scheme Transfer; and
- (b) on and from the Effective Date enforcing the Deed Poll against Bidder (and Target undertakes in favour of each Scheme Participant that it will enforce the Deed Poll against Bidder on behalf of, and as agent and attorney of, each Scheme Participant),

and Target accepts such appointment. Target, as attorney and agent of each Scheme Participant, may sub-delegate any of its functions, authorities or powers under this clause 8 to all or any of its directors or officers (jointly, individually or jointly and individually).

9 Appointment of Bidder as attorney in respect of Scheme Shares

Immediately upon the provision of the Scheme Consideration to each Scheme Participant in the manner contemplated by clause 6, until Bidder is registered as the holder of all Scheme Shares in the Register, each Scheme Participant, without the need for any further act by any Scheme Participant:

- (a) irrevocably appoints Bidder as its agent and attorney (and irrevocably appoints Bidder in such capacity) to appoint any director or officer nominated by Bidder as its sole proxy, and where applicable corporate representative to:
 - (i) attend Target Shareholders' meetings;
 - (ii) exercise the votes attaching to the Scheme Shares; and
 - (iii) sign any Target Shareholders' resolution;
- (b) must not attend or vote at any Target Shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any Target Shareholders' resolution (whether in person, by proxy or by corporate representative) other than pursuant to clause 9(a);
- (c) must take all other action in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 9(a), Bidder and any officer or agent nominated by Bidder under clause 9(a) may act in the best interests of Bidder as the intended registered holder of Target Shares.

10 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by a Scheme Participant to Target binding or deemed binding between the Scheme Participant and Target relating to Target or Target Shares, including instructions, notifications or elections relating to:

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

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

11 Notices

11.1 Accidental omission

The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Target Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

11.2 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

11.3 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or
- (c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

11.4 When effective

Communications take effect from the time they are received or taken to be received under clause 11.5 (whichever happens first) unless a later time is specified in the communication.

11.5 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 2 Business Days after posting; or
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed (which excludes any response generated by or at the instigation of the recipient such as an 'out of office' message),

whichever happens first.

11.6 Receipt outside business hours

Despite anything else in this clause 11, if communications are received or taken to be received under clause 11.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

12 General

12.1 Variations, alterations and conditions

- (a) Target may, with the prior consent of Bidder, by its counsel or solicitor, consent on behalf of all persons concerned to those variations, alterations or conditions to this Scheme which the Court thinks fit to impose; and
- (b) each Scheme Participant agrees to any such variations, alterations or conditions which Target has consented to.

12.2 Further action by Target

Target will execute all documents and do all things (on its own behalf and on behalf of each Scheme Participant) necessary or expedient to implement, and perform its obligations under, this Scheme.

12.3 Authority and acknowledgement

Each of the Scheme Participants irrevocably consents to Target and Bidder doing all things necessary or expedient for or incidental to the implementation of this Scheme.

12.4 No liability when acting in good faith

Each Scheme Participant agrees that neither Target nor Bidder, nor any of their respective officers or employees, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

12.5 Enforcement of Deed Poll

Target undertakes in favour of each Scheme Participant to enforce the Deed Poll against Bidder on behalf of and as agent and attorney for the Scheme Participants.

12.6 Stamp duty

Bidder will:

- (a) pay all stamp duty (including any fines, penalties and interest) payable in connection with this Scheme or the transactions effected by or made under the Scheme; and
- (b) indemnify each Scheme Participant against any liability arising from failure to comply with clause 12.6(a),

subject to and in accordance with clause 7 of the Deed Poll.

13 Governing law

13.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

13.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address set out in the Details.

Scheme Implementation Agreement

Annexure B Deed Poll

Deed Poll

Dated

Given by Aussie Broadband Limited (ACN 132 090 192) ("**Bidder**")

In favour of each registered holder of fully paid ordinary shares in Symbio Holdings Limited (ACN 118 699 853) ("**Target**") as at the Record Date ("**Scheme Participants**")

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Deed Poll

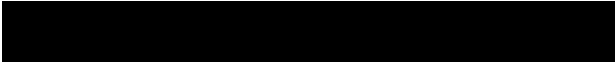
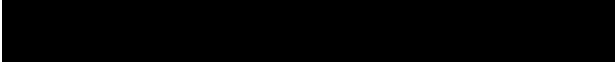
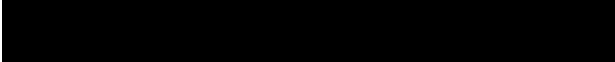
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Deed Poll

Details

Parties

Bidder	Name	Aussie Broadband Limited
	ACN	132 090 192
	Formed in	Australia
	Address	
	Email	
	Attention	

In favour of Each registered holder of fully paid ordinary shares in Target as at the Record Date.

Governing law New South Wales

- Recitals**
- A** The directors of Target have resolved that Target should propose the Scheme.
 - B** The effect of the Scheme will be that all Scheme Shares will be transferred to Bidder.
 - C** Target and Bidder have entered into the Scheme Implementation Agreement.
 - D** In the Scheme Implementation Agreement, Bidder agreed (amongst other things) to provide (or procure the provision of) the Scheme Consideration to Target on behalf of the Scheme Participants, subject to the satisfaction of certain conditions.
 - E** Bidder is entering into this deed poll for the purpose of undertaking in favour of Scheme Participants to perform its obligations under the Scheme and the Scheme Implementation Agreement.
-

Deed Poll

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

Scheme means the proposed scheme of arrangement between Target and Scheme Participants under which all the Scheme Shares will be transferred to Bidder under Part 5.1 of the Corporations Act, substantially in the form of Annexure A to this deed poll, or as otherwise agreed by Bidder and Target, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act, to the extent they are approved in writing by Target and Bidder.

Scheme Implementation Agreement means the scheme implementation agreement dated _____ 2023 between Target and Bidder under which, amongst other things, Target has agreed to propose the Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to the Scheme.

All other words and phrases used in this document have the same meaning as given to them in the Scheme.

1.2 General interpretation

Clause 1.2 of the Scheme applies to this document.

1.3 Nature of deed poll

Bidder acknowledges that:

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

2 Conditions precedent and termination

2.1 Conditions precedent

Bidder's obligations under clause 4 are subject to the Scheme becoming Effective.

2.2 Termination

Bidder's obligations under this document will automatically terminate and the terms of this document will be of no further force or effect if:

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

unless Target and Bidder otherwise agree.

2.3 Consequences of termination

If this document is terminated under clause 2.2, then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Participants:

- (a) Bidder is released from its obligations to further perform this document except those obligations contained in clause 7.1 and any other obligations which by their nature survive termination; and
- (b) each Scheme Participant retains the rights, powers or remedies they have against Bidder in respect of any breach of this document which occurs before it is terminated.

3 Performance of obligations generally

Subject to clause 2, the Bidder must:

- (a) comply with its obligations under the Scheme Implementation Agreement including to provide or procure the provision of the Scheme Consideration to each Scheme Participant, in accordance with the terms of the Scheme; and
- (b) undertake all other actions attributed to it under the Scheme, as if named as a party to the Scheme.

4 Scheme Consideration

4.1 Scheme Consideration

Subject to clause 2, Bidder undertakes in favour of each Scheme Participant to observe and perform all obligations contemplated of Bidder under the Scheme to provide or procure the provision of the Scheme Consideration to each Scheme Participant, in accordance with the Scheme.

4.2 Shares to rank equally

Bidder covenants in favour of each Scheme Participant that the Bidder Shares which are issued in accordance with the Scheme will:

- (a) have the rights set out in the Bidder Constitution;
- (b) rank equally in all respects among themselves and with all other Bidder Shares on issue in the Bidder; and
- (c) be fully paid, duly and validly issued in accordance with all applicable laws and free from any Encumbrance.

5 Representations and warranties

Bidder represents and warrants that:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;
- (b) **(power)** it has power to enter into this document, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (ii) any law binding on or applicable to it or its assets; or
 - (iii) any Encumbrance or material document binding on or applicable to it;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, to comply with its obligations and exercise its rights under it, and to allow them to be enforced;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms; and
- (f) **(solvency)** it is not Insolvent.

6 Continuing obligations

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

- (a) Bidder has fully performed its obligations under this document; or
- (b) the earlier termination of this document under clause 2.2.

7 Stamp duty

7.1 Stamp duty and registration fees

Bidder:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document or any other transaction contemplated by this document (including any fees, fines, penalties and interest in connection with any of these amounts); and
- (b) indemnifies each Scheme Participant against, and agrees to reimburse and compensate it, for any liability in respect of stamp duty under clause 7.1(a).

8 Notices and other communications

8.1 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

8.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or
- (c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

8.3 When effective

Communications take effect from the time they are received or taken to be received under clause 8.4 (whichever happens first) unless a later time is specified in the communication.

8.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 2 Business Days after posting; or
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed (which excludes any response generated by or at the instigation of the recipient such as an 'out of office' message),

whichever happens first.

8.5 Receipt outside business hours

Despite anything else in this clause 8, if communications are received or taken to be received under clause 8.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business

Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

9 General

9.1 Variation

A provision of this document or any right created under it may not be varied, altered or otherwise amended unless:

- (a) if the variation occurs before the First Court Date (as that term is defined in the Scheme Implementation Agreement) the variation is agreed to by Target and Bidder in writing; and
- (b) if the variation occurs on or after the First Court Date (as that term is defined in the Scheme Implementation Agreement), the variation is agreed to by Target and Bidder in writing and the Court indicates (either at the hearing on the First Court Date, at an interlocutory hearing or at the hearing on the Second Court Date) that the variation, alteration or amendment would not itself preclude approval of the Scheme,

in which event Bidder must enter into a further deed poll in favour of the Scheme Participants giving effect to the variation, alteration or amendment.

9.2 Partial exercising of rights

Unless this document expressly states otherwise, if Bidder does not exercise a right, power or remedy in connection with this document fully or at a given time, it may still exercise it later.

9.3 No waiver

A provision of this document, or any right, power or remedy created under it may not be varied or waived except in writing signed by the party to be bound.

No failure to exercise, nor any delay in exercising, any right, power or remedy by Bidder or by any Scheme Participant operates as a waiver. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy.

9.4 Remedies cumulative

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

9.5 Assignment or other dealings

Bidder and each Scheme Participant may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of Bidder and Target. Any purported dealing in contravention of this clause 9.5 is invalid.

9.6 Further steps

Bidder agrees to do anything including executing all documents and do all things (on its own behalf or on behalf of each Scheme Participant) at its own expense

necessary or expedient to give full effect to this document and the transactions contemplated by it.

9.7 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

10 Governing law and jurisdiction

10.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. Bidder submits to the non-exclusive jurisdiction of the courts of that place.

10.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on Bidder by being delivered or left at Bidder's address set out in the Details.

EXECUTED as a deed poll

Deed Poll

Signing page

DATED: _____

EXECUTED by **AUSSIE BROADBAND**)
LIMITED in accordance with section)
127(1) of the Corporations Act 2001)
(Cth) by authority of its directors:)

.....)
Signature of director)

.....)
Name of director (block letters))

.....)
Signature of director/company)
secretary)

.....)
Name of director/company secretary)
(block letters)

Deed Poll

Annexure A - Scheme